

Appendix A

26.a. Monitoring, auditing, evaluating, or otherwise reviewing performance of organizations such as law enforcement agencies, including experience monitoring settlements, consent decrees, or court orders.

Thurman Zollicoffer, Monitor

During my tenure as City Solicitor for the City of Baltimore I was involved in the managing and monitoring the outcomes of many Consent Decrees including the Thompson v. HUD federal class action. I was also involved in the Water and Waste Water Consent Decree with the City of Baltimore and the State of Maryland and the Department of Justice as well as the Susquehanna River Consent Decree with the Depart of Justice.

Each opportunity presented different challenges. The Thompson class action impacted commercial and residential development throughout the City and at times detrimentally affected development. The action was a decade old and the City decided that it was time to test the action on its merits and requested a trial before Judge Marvin Garbis. The City of Baltimore prevailed upon the merits that were not conceded in the Partial Consent Decree.

The Water and Waste Water Consent Decrees provided unique challenges to the infrastructure of the City as it was severely aged. The most challenging aspect of managing this Decree was trying to find a way to pay for the desperately needed infrastructure work without having to pass it on to the taxpayers in extremely high water bills.

The Susquehanna River Consent Decree offered the unique challenge of being sued by to other states New York and Virginia and trying to come to a reasonable compromise on how much water the City could draw off during drought months to lessen the impact on the City reservoirs.

Charles Campisi, Deputy Monitor & Section Lead: XIII. Supervision & XIV. Misconduct Investigations & Discipline

As Chief of NYPD Internal Affairs Bureau (IAB) was responsible for 700 investigators monitoring 41,000 sworn and 7,000 civilian staff for adherence to NYPD policies and laws .Legacy decentralized Internal Affairs Division (IAD) lacked strategies, standards, policies, training, supervision, technology and a desirable career path for law enforcement professionals. This resulted in low productivity - approximately 100 IA cases by approximately 100 dispersed investigators with very little proactive work. Reorganized IAD into IAB. Oversaw work to implement strategies, standards, policies, training, technology and career development. Worked collaboratively with the Community, District Attorneys and United States Attorney to streamline complaint process, investigate and prosecute police offenders to the full extent of state and federal law. Grew IAB to 700 investigators with materially increased capability and performance investigating cases, rapidly responding to incidents and administering consistently appropriate discipline. Major reductions in civilian complaints and officer involved shootings.

As Chief of IAB, worked closely from 1995 - 2014 with the Mayoral Commission to Combat Police

Corruption, "a permanent board to monitor and evaluate the anti-corruption programs, activities, commitment, and efforts of the New York City Police Department". Information sought by the Commission (and the CCRB) was originally dispersed throughout the department, sometimes difficult to understand for a civilian not trained in police procedure, and often in formats that differed from what the commission required. We worked with Commission lawyers to teach them police procedures, the requirements of *Garrity*, and put them through scenario based training to improve their knowledge from the perspective of both police, arrestees and others who interact with police. As we centralized operations for IAB through our Steering Committee as well as computer systems we became able to anticipate the Commission's requests and provide what was needed in a complete and timely manner. We worked to settle disagreements productively, getting the DA, US Attorney and Department of Justice involved as necessary. Amid intense scrutiny and political pressure related to high profile incidents (e.g. Abner Louima and Amadou Diallo). This contributed to a determination by the Department of Justice that it was not required to put a third party monitor in place..

Erek Barron, Esq., Communications & Outreach Lead

As Counsel for the US Senate Judiciary Committee my portfolio included oversight and evaluation of the US DOJ, including its various law enforcement components (FBI, DEA, ATF, etc.). This work involved collaborating with Congressional oversight arms, including the Government Accountability Office and the Congressional Research Service. As a state delegate, I have had a role in providing legislative oversight, monitoring, auditing, evaluating, and reviewing the performance of Maryland law enforcement statewide. Finally, as an attorney in private practice I have advised corporations in internal investigations and corporate compliance programs in response to government enforcement. Organizational and government oversight may frequently involve resistance, distrust, and friction and between and among separate branches of government, political parties, and competing government agencies and organizations. I have experience, using models of restorative justice and other communication models, in achieving the agreements and common understanding necessary to accomplishing the oversight objectives demanded by a court, elected officials, the public, and the media. My work in Congress and the Maryland General Assembly has resulted in successful oversight committee and caucus hearings that have resulted in criminal justice reform legislation and policy change statewide. As a practicing attorney I have also had direct responsibility for achieving the successful resolution of government enforcement actions through thorough internal investigations and comprehensive compliance program setup.

Jim Burch, Training Development Lead

As Acting Director of the Bureau of Justice Assistance, worked directly with the Superintendent of the New Orleans Police Department (NOPD), the Mayor's Office, and DOJ's Civil Rights Division to assist New Orleans in meeting the terms of the consent decree and to assist DOJ in ensuring that terms of the agreement would be met. One of the primary issues faced in this work was competing priorities between the then Superintendent (R. Serpas), the Mayor, and the Department of Justice. This involved issues around equipment availability, training and a community survey. The superintendent's first priority was to place dashcam recorders in all patrol vehicles, and in terms of the community survey, he had strong views on which survey he wanted to use within the city. The Department generally agreed that dashcams were important, but not necessarily to the degree that the superintendent believed, particularly when it came to costs that would preclude other work from

getting done. The Department also had other views on the community survey to be used, from the standpoint of efficacy and cost, as the superintendent preferred a survey he had previously used in another agency and the Department preferred a survey that had been used by another agency with strong success. I worked directly with the Mayor's Office and its budget officials to develop a funding strategy using local and federal funding that would allow the superintendent to accomplish his goals and satisfied the Department because the funding was identified to accomplish this goal in a way that was not detrimental to other priorities. Regarding the community survey, it was determined that neither the survey that the superintendent desired nor the survey the Department was encouraging was the most cost-effective solution and that other solutions existed that may provide lower costs as well as effective results. This assistance, in particular the technical guidance regarding the use of federal and local funds and awareness of alternative survey tools resulted in moving the agreement forward and averted more difficult interactions and relationships between the Mayor and the Department. Vitally important to the success of reform efforts is the understanding of federal and non-federal funding streams and how a diversified strategy can be leveraged to support reform goals that often involve substantial cost. During his DOJ career, Mr. Burch became accustomed to adhering to challenging timelines often provided by oversight committees in Congress and associated with Department litigation, such as a 9th Circuit case filed against the Department for failure to implement regulations as required under the Administrative Procedures Act. The court required the Department to issue final regulations in a very complex area within 90 days of the court's order, a deadline which Mr. Burch and a team of attorneys were able to meet. As a non-profit (Foundation) executive, Mr. Burch also understands the necessity of operating within budget parameters, as doing otherwise results in a loss to the organization.

Phill Lynn, Policy Development Lead

Have evaluated the performance, organization and/or management of 11 municipal or county law enforcement agencies and 5 state criminal justice agencies. In many cases, it is difficult for agencies to provide complete and accurate data due to poor officer recording of information or departmental deficiencies in collecting and compiling data. Municipal police agencies were provided with comprehensive reports detailing recommendation for improvement of services, operations, and management. In nearly all cases study findings and recommendations were adopted in accordance with the study's demands, objectives and agency needs.

Agencies include: Connecticut Municipal, Police Training Council; Dayton, Ohio, Police Department; Evanston, Illinois, Police Department; Fairfax County, Virginia, Sheriff's Department; Fort Lauderdale, Florida, Police Department; Little Rock, Arkansas, Police Department, Milwaukee, Wisconsin, Police Department; Minneapolis, Minnesota, Police Department; Montgomery County, Maryland, Police Department; Montgomery County, Maryland, Sheriff's Department; Pentagon Police Department, Arlington Virginia; Plano, Texas, Police Department; Shreveport, Louisiana, Police Department.

Harry Johnson, Esq., Legal & Quality Assurance & Section Lead, First Amendment Protected Activities

Counsel for Housing Authority of Baltimore City and Mayor and City Counsel in Thompson v. HUD, including negotiation of Partial Consent Decree between the Baltimore defendants, plaintiffs represented by the ACLU, and HUD. Provided opportunity for input from community groups who felt that the ACLU did not represent their interest; prepared City officials to interact with state

stakeholders, HUD and the Court to answer questions about implementation and impact of the Decree; appeared at public forums to explain the implementation of the Decree and the legal significance thereof.

Jesse Lee, PhD – Section Lead: II. Community Oversight Task Force & III. Community Policing & Engagement

Consulted with Bay Area Rapid Transit (BART) Police. Challenged to develop a plan that would capture the police services dedicated to integrity, responsiveness, accountability, justice, and public trust. My goal was to build and sustain creative and constructive partnerships with the community. At that time, there were conflicts in reference to the responses to demands for police services, such as conflicts on the number needed for additional staffing levels, based on the department data being inconsistent between the CAD, Record Management System (RMS), and other reports. Challenges included developing a plan that would capture the police services dedicated to integrity, responsiveness, accountability, justice and public trust; to build and sustain creative and constructive partnerships with the community. There were conflicts in reference to the responses to demands for police services and on the number needed for additional staffing levels. The department data was inconsistent between the CAD, RMS, and other Reports. Data and records audit was recommended and a policy was created. Suggested the reorganization and a new corresponding chart to share changes with stakeholders. The following changes were made: 1) transform the department from a program based to an individual based problem solving focus, delivered by patrol officers during uncommitted time, which was plentiful, 2) increased supervisory oversight of patrol response, 3) increased attention to maintenance of patrol vehicles to improve readiness posture, 4) expand the radio bandwidth to support both voice and data communications capabilities in support of patrol operations, 5) increase access from patrol vehicles to department IT systems to return patrol hours back to the field as opposed to in-station activities, 6) restructure to a workload balanced five (5) beat system, with patrol shifts at the 6-7 officer staff level, 7) create a well-crafted, data-driven patrol plan with measureable objectives, and 8) establish a formal system of directed patrols based on crime analysis, problem-solving officers, community requests, and patrol plan goals. Two years later, I was requested to perform a follow up review which resulted in the completion of over 90 percent of the recommendations.

Sidney Butcher, Esq. – Section Lead: IV. Stops, Searches, Arrests, and Voluntary Police-Community Interactions V. Impartial Policing

Led and participated in investigations of correctional officers. Handled civil matters where police officers are faced with excessive force claims. Distrust by community residents; dealing with a vulnerable population of witnesses/victims with criminal records and convicts of violent offenses with claims of law enforcement personnel corruption; managing political issues with federal, state, county and local governments. Short and long term investigations with undercover aspects to catch law enforcement personnel in the act. Building trust with victims so that they would believe in law enforcement. Successful prosecution and replacement of leadership in various positions Division Chief, Major Investigations Unit Baltimore City State's Attorney's Office 120 E. Baltimore Street Baltimore, Maryland 21202 443-984-6269 GCollins@statattorney.org

Frank Straub, PhD – Section Lead: VI. Responding To and Interacting With People With Behavioral Health Disabilities Or in Crisis & VII. Use of Force

Leading roles on the U.S. Department of Justice Collaborative Reform Initiative in the North Charleston, South Carolina Police Department in the aftermath of the officer involved shooting of Walter Scott; critical incident reviews: i) February 2017 riot in the Delaware Department of Corrections James T. Vaughn Correctional Center; ii) Charlotte Police Department's response to civil unrest in the aftermath of an officer involved shooting; iii) critical incident review of the Minneapolis Police Department's response to civil unrest and the 18-day occupation of the 4th Precinct in the aftermath of the officer involved shooting of Jamal Clark.

William P. Tartaglia – Section Lead: VIII. Interactions With Youth & XV. Coordination with Baltimore City Police Force

Team Member: Fort Lauderdale, Florida Police Department Management Study; Burbank, California Police Department Stud; Tucson, Arizona Police Department, Member of Team; Jersey City, NJ Police Management Study. Established a trusting and working relationship with each department in order to receive factual information and provide effective feedback in an effort to assist them in their efforts. By establishing a trusting relationship with the members, accurate information and input lead to helpful recommendations Implementation of recommendations

Doug Scott – Section Lead: XI. Handling of Reports of Sexual Assault & XII. Technology

Served as a Chief of Police for 17 years administratively responsible for agency wide performance. All personnel matters, appeals, civil litigation flowed through my office. Final policy approval also was my responsibility. Worked closely with both the Commonwealth Attorney (criminal matters) and the County Attorney (civil matters) involving PD personnel or actions. Civil actions, arrests of department personnel for criminal misconduct, major policy revisions, community engagement, dealing with elected officials Successful defense of lawsuits almost all dismissed in summary judgment phase of litigation. Successful prosecution & termination of department employees involved in criminal misconduct. Major policy revisions in sensitive subject matter to include use of force, internal investigations, vehicle pursuits and subject stops.

Reduced numbers of citizen complaints and officer involved deadly force encounters. Reduced number of officer injuries, accidents and civil actions.

26.b. Law Enforcement Practices – 1) Community Policing & Engagement

Thurman Zollicoffer, Monitor

As City Solicitor I was tasked to present the Mayor's Community Policing plan to many of Baltimore's neighborhoods and communities. I appeared in churches and schools to talk about a new policing plan. I also appeared at major community meeting to take questions about the Thompson Federal class action lawsuit and the relocation of public housing residents.

Community Policing was seen as a zero tolerance policy that originated in New York. The administration was focused on stemming the 300 plus homicide rate that had plagued the City for more than a decade.

A communication strategy was rolled out to get the public to buy into a concentrated focus of dealing with the most violent offenders.

Through positive community involvement as well as effective policing the murder rate and overall violent crime rate began to decline. The decrease in the homicide rate and violent crimes had a positive effect on new construction and investment in the City. Unfortunately some of those same policies may have contributed to the decades of systemic missteps by the Agency.

Unfortunately some of those same policies may have contributed to the decades of systemic missteps by the Agency.

Charles Campisi, Deputy Monitor & Section Lead: XIII. Supervision & XIV. Misconduct Investigations & Discipline

As Deputy Inspector of 6th Precinct (Greenwich Village), regularly interacted with a diverse and dynamic community. Engaged their support and participation through NYPD Community Council, Auxiliary Police, Community on Patrol, Chamber of Commerce programs and establishment of NYU Community Patrol (a class that earned student credit). As Chief of IAB taught 90 minute course at Civilian Police Academy. For high profile cases widely reported to the community IAB worked closely with NYPD executive command and Mayor's Office to clearly and rapidly present findings (e.g. Abner Louima, Amadou Diallo, Sean Bell). For Community Policing we wanted to make sure that we included our biggest critics and not just supporters. For high profile case need to rapidly and comprehensively perform professional investigation according to policies and procedures in face of intense media pressure and racial tensions raised by high profile incidents. We did outreach through many groups. Gave rides to people who needed rides to Citizen's Police Academy. Worked through uniform and radio issues for Auxiliary Police and Community on Patrol. Met NYU standards for academic credit. Put our highest performing investigators on the job to take all appropriate actions to quickly preserve evidence, interview witnesses and keep executive command and city political leaders properly informed. Increased community participation led to greater level of substantiated complaints and less unsubstantiated complaints. 6th Precinct awarded Unit Citations (highest honor in NYPD) for Community Policing and Robbery Reduction. Police were prosecuted to the fullest extent of the law in the Abner Louima case. Through proactive outreach to the community on the facts in climate of

intense scrutiny from media and community, NY avoided much of the potential civil unrest.
Erek Barron, Esq., Communications & Outreach Lead
As a former state and federal prosecutor I have a broad range of experience engaging with community stakeholders, victims, and other interested parties as it relates to policing practices. My experience as a prosecutor has also provided a range of opportunities to work hand-in-hand with law enforcement engaged in community policing practices and to prosecute cases based on those practices. Now, as an attorney in private practice, I am frequently called upon to evaluate policing practices for legal sufficiency in state and federal courts. As Counsel for the US Senate Judiciary Committee my portfolio for the Chairman of the Subcommittee on Crime and Drugs, included oversight of the DOJ Community Oriented Policing Services (COPS) Office and legislative improvements to the COPS statutory provisions. My role with the Senate Judiciary Committee also included serving as the Chairman's liaison to the law enforcement community, nationwide (including IACP, NOBLE, National FOP and others). Now, as a sitting lawmaker and member of the Legislative Black Caucus of Maryland, I am constantly engaged in evaluating state and local law enforcement practices and engaging with community stakeholders. A trust gap exists between certain communities and law enforcement. This gap is an impediment to public safety. Bridging the trust gap involves establishing greater accountability and transparency between law enforcement and the communities they serve. It also must involve building a true, ongoing partnership and relationship between law enforcement and the community. The formal and informal use of restorative justice and other models of problem-solving, along with open and ongoing communication can solve the most intractable challenges. As a prosecutor, I have successfully prosecuted violent crimes in partnership with cooperating witnesses. In some instances, cases were successfully resolved without prosecution but with the willing cooperation and help of the involved law enforcement officers and/or victims, if relevant.
Karen Amendola, PhD, Metrics & Standards Lead
Primary author of DC Metropolitan PD Biased Policing Community Survey (see attached).
Sean Bair, IT & Systems Development Lead
Hired as police officer under COPS MORE grant which required that I perform varied community policing and problem solving activities as part of my daily police duties. Current systems did not easily enable officers to log, track or report of his or her community policing and problem solving activities. Daily logs and radio traffic did not accurately reflect the level of effort officers were expending toward community activities. As a police officer I found a need for better capture of community policing data so developed "Auto Log" software which enabled all officers in Tempe to capture community policing activities and thus, allow analysts and the department to better report on the officer's community policies efforts. Tempe became a "best practices" agency for community policing activities. Several individuals from NIJ and the UK's Jill Dando Institute came to Tempe to study and report on our performance.
Jim Burch, Training Development Lead
Led the Police Foundation's review of the Wilmington (DE) Police Department's public safety strategies, which involved a substantial focus on the extent to which the city's community policing

was effective and on its community engagement strategies. Wilmington's view of community policing was a traditional one, relegating community policing to a small number of officers who work in the business district and in key neighborhoods, but having no Department-wide strategy for implementing community policing as a practice. Wilmington's community engagement philosophy was centered around the expectation that the community should contact the police department versus a two-way engagement. Its heavy-handed enforcement strategy made community engagement essential and yet it was essentially abandoned. Our evaluation of Wilmington's strategies revealed and communicated to the Department that the community felt disengaged and that it had essentially abandoned community policing altogether. We recommendation a re-commitment to community policing as a department-wide philosophy and a major reinvestment in community policing and engagement with particular and immediate emphasis in the areas targeted by high-impact enforcement operations such as "jump-out squads." In response to these recommendations, the Wilmington Chief acknowledged and reiterated that community policing was a department-wide expectation and operations philosophy and reinstated some aspects of community policing into crime hotspots.

Currently oversees the Police Data Initiative, a nationwide transparency initiative created during President Obama's Presidency to promote community engagement, trust and community policing. The PDI is operated by the Police Foundation and funded with support from the U.S. Department of Justice COPS Office.

Frank Dwyer, Research Lead & Section Lead - XVII. Staffing, Performance Evaluations and Promotions & XVIII. Officer Assistance and Support

As NYPD 7th precinct commander, coordinated outreach efforts with business, religious, education, government, and community leaders, including approximately 130 bars/clubs, six city housing developments, 25 Jewish synagogues, 10 Christian churches, three Buddhist temples, and one Muslim mosque. Regularly attended community and religious services and events. Community concerns regarding Terrorism post-911 and stereotyping of members of the Muslim community. Fear of anti-Semitic acts at Jewish synagogues. Community Complaints concerning noise and disorder from large number of bars/clubs Regularly visited mosque and synagogues; provided security details on holy days; worked with borough command to provide additional police resources when required; had crime prevention surveys conducted at religious institutions to increase safety. Established visitation program to schools. Held biannual meetings with all club and bar owners to address community concerns. Establish a bar/club enforcement unit to address quality of life conditions. Held monthly community meetings to address concerns. Increased community participation in precinct events. Established personal working relationship with each rabbi who headed a synagogue and the President and Imam of the Mosque. Increased enforcement at location with specific quality of life conditions.

Harry Johnson, Esq., Legal & Quality Assurance & Section Lead, First Amendment Protected Activities

As part of the WTP team retained to defend members of the Baltimore City Police Departments, various aspects of law enforcement practice are at issue in the litigation. Utilize discovery and trial techniques to flesh out the facts of the case and to provide the officers with a viable, reasonable defense which makes sense to jurors. We have won several cases on motions; in other cases, some

settlements have been achieved; others have gone to jury verdict.

Jesse Lee, PhD – Section Lead: II. Community Oversight Task Force & III. Community Policing & Engagement

There was significant community outrage do to the death of a citizen by the Police Department (BART). Worked on the NOBLE team that provided conflict resolution and prevention assistance to local officials, law enforcement authorities, clergy, and other community leaders. As the executive Director of Noble and IACP Manager of Police Services, I regularly interacted with diverse experiences throughout the USA and internationally providing community engagements for police chief's selections, community assessments on how police services were rendered, and management studies. Challenges include establishing trust and legitimacy; effectively identifying informal leaders from various community groups; avoiding community and group biases We did outreach utilizing church groups and community organizations. A list of nonprofit organizations was gathered from IRS and local government officials. We identified a neutral location where all stakeholders and parties involved felt comfortable; ground rules were sent out to stakeholders prior to the meeting (such as limited time to talk, opportunity to send questions prior to the meeting); solicited facilitators to address community issues were brought in to discuss how their communities resolved concerns, to show a model of how the transformation could occur within their community. Overall, it was essential to bring a global perspective to the meeting; which I was able to do through various networks. We increased community participation by being at a neutral location. By bringing external views and opinions to the meeting, it began to provide an established trust and legitimacy; the group felt valued, this increased communication between the Chief of Police and the local police department; in some instances, it allowed members to hire a new Police Chief; provided an outlet and framework for continuity of future meetings.

Sidney Butcher, Esq. – Section Lead: IV. Stops, Searches, Arrests, and Voluntary Police-Community Interactions V. Impartial Policing

As a former prosecutor I worked with victims and families affected by criminal cases in Baltimore City. In addition, I participated at community meetings to hear issues in various parts of the City. Based on complaints coordinated efforts with Baltimore city police department to target violent repeat offenders and dismantle drug shops. Also, part of the WTP team retained to defend members of the Baltimore City Police Department; various aspects of law enforcement practice are at issue in litigation. Also participate with the Community Conferencing Center to assist community with escalations of issues often involving the juvenile population. As a member of the American Bar Association Criminal Justice Section, I coordinated programs across the country about the criminal justice system focusing on expungement projects and how minor offenses can affect job growth and opportunities. Distrust of community members of police activity; general sense in litigation that the police do not treat citizens with respect; in some instances, physical injuries and/or death to the plaintiffs or family members. Utilize discovery and trial techniques to flesh out the facts of the case and to provide the officers with a viable, reasonable defense which makes sense to jurors. We have won several cases on motions; in other cases, some settlements have been achieved; others have gone to jury verdict.

Frank Straub, PhD – Section Lead: VI. Responding To and Interacting With People With Behavioral Health Disabilities Or in Crisis & VII. Use of Force

As Chief of Spokane Police Department: Reduced serious crime by over 8% in 2014, reversing six years of double-digit crime increases through data-driven enforcement and community engagement. In 2015, reduced serious crime by an additional 12%.; Established a Chronic Offender Unit to focus on the most active adult and juvenile property crime offenders. Target data-informed enforcement, diversion, and referrals to community-based services led to 20% reduction in residential burglaries, in part because of the Unit's efforts.; Led the creation of the City's first community court in collaboration with municipal court judges, public defenders, city prosecutors and service providers; Led the creation of the Family Justice Center in collaboration with YWCA, City and County Prosecutors' Offices, and the Spokane County Sheriff's Office to prevent and reduce domestic violence.; Established the Youth & Police Initiative to reduce youth involvement in gangs and violent crime. These programs were recognized in requests to speak at a White House Forum on Community Policing, Congressional Briefings and national conferences.

William P. Tartaglia – Section Lead: VIII. Interactions With Youth & XV. Coordination with Baltimore City Police Force

Established the Community Relations Supervisor within the Gang Division in an effort to establish relationships and provided education to the community leaders and parents of youth. This established trust with the community members. It takes time and determination. We made continuous efforts that built relationships. Education of youth and parents on gangs and feedback made an impact. This included educations and lectures on youth violence held at all levels including the NY State Youth Violence Conference. We would assist neighboring jurisdictions with Intel and training. Get feedback. The education of the parents is critical to the success of any youth program.

Doug Scott – Section Lead: XI. Handling of Reports of Sexual Assault & XII. Technology

Totally revised community policing strategy in Arlington. Created geographic based districts and teams to focus on specific issues. Worked closely with the schools and special interest groups to improve police presence and action.

Extremely diverse population and level of need required strategic approach to problem solving. There was no political will to increase the staffing level of the PD so almost all changes were accomplished through reorganization. Created a Citizen's Advisory Committee, increased outreach to targeted groups of previously skeptical citizens regarding police/community interaction. Improved citizen engagement and relations. Significant decrease of complaints about police misconduct. Exceptional citizen satisfaction among citizens related to community safety and law enforcement interactions.

26.b. Law Enforcement Practices – 2) Use of Force & Force Investigations

Thurman Zollicoffer, Monitor

As a prosecutor I was on the front line of dealing with police officers and determining if their actions were within the constitutional guidelines.

As Conflict Counsel I am tasked with defending officers who are accused of excessive force and constitutional violations on a daily basis. As a prosecutor it was a challenge to convince a distrusting community that officers were acting with conscience and upholding the law.

As conflict counsel in a post Freddie Gray Baltimore it is hard to get juries not to lump all officers into the same category. By working with officers and educating them to the law and its interpretations I saw better cases presented as better policing was effectuated. As conflict counsel we have been able to successfully defend officers by using video tape and expert witnesses to show that their actions were within the GO and accepted practices. We have worked hard with our clients to educate them on the strengths and weaknesses of their individual cases. We attempt to adequately evaluate cases that we believe should be settled to minimize risk to our clients while pushing those cases which we feel are meritorious and should lead to a defense verdict.

Charles Campisi, Deputy Monitor & Section Lead: XIII. Supervision & XIV. Misconduct Investigations & Discipline

IAB worked two types of cases: 1) Firearms discharges; and 2) serious uses of force that did not involve firearms. We would do preliminary work and if no real injury it would go to the Civilian Complaint Review Board (CCRB) who we would continue to work with very closely. The challenge was to get on the case as quickly as possible with specialty trained, equipped and supervised investigative teams. Need to determine if alcohol or drugs were involved, interview parties and preserve all evidence. We did Scenario based Use of Force Training and implementation of less than lethal weapons (e.g. Tasers, mace, OC spray, relying on emergency services (water cannon); shepherd's crook, netting, bean bag shot guns). At IA we established Rapid Response teams for all police involved shootings - each staffed by a Captain (or higher rank), on the scene within an hour and equipped with "call-out package" (a briefcase with forms, cameras, drug-testing kit, ballistics, forensics). The ability to deploy trained, equipped investigators within an hour led to more timely and accurate investigations for Use of Force.

Jim Burch, Training Development Lead

Burch currently leads an unprecedented national initiative in partnership with the Major Cities Chiefs Association to collect intensive, detailed information about every officer-involved shooting taking place within more than 50 of North America's largest police agencies. The intent of the initiative is to leverage one of the most comprehensive and detailed datasets ever developed to better understand how and why these use of force incidents occur and how to reduce their likelihood in the future. Many agencies do not collect all of the data this initiative is intended to collect, demonstrating an internal weakness within many of the largest police agencies in terms of understanding officer involved shootings. A web-based tool was created to collect this data and a process was established

to provide agencies with their own data back in a format suitable for analysis internally and a process was created to provide near immediate feedback to agencies on what is learned from this data (monthly and quarterly reports). Many executives have commented that this is the first time they have seen some of the data this initiative collects and the analysis it produces. As a result, at least one mid-Atlantic region agency has changed its internal practices to begin collecting and analyzing similar data to provide a more informed view of these incidents internally, on a proactive basis. See: "New Partnership Uses Research Data to Improve Understanding of Officer-Involved Shootings" by Burch & Cave. <http://cebcp.org/wp-content/TCmagazine/TC12-Spring2017>. Burch is currently leading a national DOJ evaluation of its officer safety training programs available through the VALOR Program. This evaluation will examine the effects of officer training on safety tactics, de-escalation techniques, responding to active shooter incidents, and effective pursuit and high-speed driving practices. Burch has served as a guest instructor at the FBI's National Academy and served on the FBI NA's National Advisory Board prior to his departure from DOJ. Mr. Burch was the lead developer of DOJ's original VALOR Officer Safety Training Program and has previously reviewed and assisted in developing officer training programs and curricula.

Frank Dwyer, Research Lead & Section Lead - XVII. Staffing, Performance Evaluations and Promotions & XVIII. Officer Assistance and Support

As Captain, member Brooklyn North Shooting team responded to police involved shootings. Participant in Evaluation Boards concerning shootings. Community concerns for quick resolution and determinations concerning shootings. Coordinated efforts with all responding units to ensure accurate assessment of incidents and appropriate determinations concerning legitimacy of use of force. Provided comprehensive reporting on incidents that allowed for appropriate understanding of events and use in determinations concerning discipline and liability.

Phill Lynn, Policy Development Lead

Developed a Model Policy on Use of Force that was updated 5 times in accordance with changes in law and best practices. This as with other Model Policies and Procedures was accompanied by a detailed discussion paper. Prepared a Model Policy on Investigation of Officer Involved Shootings, In-Custody Deaths, and Serious Uses of Force. Also, co-authored a comprehensive manual on Officer Involved Shooting Investigations for the US DOJ, COPS Office. In all cases of developing Model Policies and Discussion Papers, an advisory board of law enforcement professionals was used to review and discuss recommended procedures and best practices. In some cases, particular SMEs were invited to join for additional guidance. These quarterly meetings were extremely detailed and required a great deal of patience, sharing of opinions and, in many cases, compromise. Topics for Model Policies and their Discussion Papers were chosen to address the most critical issues facing law enforcement. Topics were chosen generally on the basis of criticality, that is, how frequently departments and officer actions result in lawsuits, citizen complaints, loss of community support, death or injury to officers and suspects, and related factors that negatively impact officers, their agencies, and their communities. In the case of all Model Policies developed for the IACP, they received wide national circulation. Survey results indicate their adoption or other use by thousands of police agencies. Reports also indicate that they have been cited on numerous occasions in court testimony. The Policy Center was cited in an IACP member survey as the second most valuable service of the association next to the annual conference.

Harry Johnson, Esq., Legal & Quality Assurance & Section Lead, First Amendment Protected Activities
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Sidney Butcher, Esq. – Section Lead: IV. Stops, Searches, Arrests, and Voluntary Police-Community Interactions V. Impartial Policing
Policing & Engagement – As a former prosecutor I worked with victims and families affected by criminal cases in Baltimore City. In addition, I participated at community meetings to hear issues in various parts of the City. Based on complaints coordinated efforts with Baltimore city police department to target violent repeat offenders and dismantle drug shops. Also, part of the WTP team retained to defend members of the Baltimore City Police Department; various aspects of law enforcement practice are at issue in litigation. Also participate with the Community Conferencing Center to assist community with escalations of issues often involving the juvenile population. As a member of the American Bar Association Criminal Justice Section, I coordinated programs across the country about the criminal justice system focusing on expungement projects and how minor offenses can affect job growth and opportunities.
Frank Straub, PhD – Section Lead: VI. Responding To and Interacting With People With Behavioral Health Disabilities Or in Crisis & VII. Use of Force
Leading roles on the U.S. Department of Justice Collaborative Reform Initiative in the North Charleston, South Carolina Police Department in the aftermath of the officer involved shooting of Walter Scott; critical incident reviews: i) February 2017 riot in the Delaware Department of Corrections James T. Vaughn Correctional Center; ii) Charlotte Police Department's response to civil unrest in the aftermath of an officer involved shooting; iii) critical incident review of the Minneapolis Police Department's response to civil unrest and the 18-day occupation of the 4th Precinct in the aftermath of the officer involved shooting of Jamal Clark.
Jim McMahon – Section Lead: IX. Transportation of Persons in Custody & XVI. Recruitment, Hiring & Retention
I was assigned Internal Affairs when I was a Staff Inspector. Investigated serious Use of Force Investigations. As Superintendent (Supt) adjudicated founded complaints. Spoke to all In-service schools about use of force and de-escalation issues. Challenges faced included Union contractual issues, first line supervision, and some aspects of training.
Doug Scott – Section Lead: XI. Handling of Reports of Sexual Assault & XII. Technology
For 17 years I reviewed and provided final disposition in all complaints of use of force or investigations of deadly force by officers. Prior to that as the Patrol Commander and as a Station

Commander & Shift or Unit Commander I investigated use of force incidents.

Working dual investigations (criminal/administrative) are always challenging. Coordination between the prosecutor and county attorney is sometimes difficult in terms of priority. In recent years increased demand for more transparency in terms of media releases on officer involved names and discipline history.

Some policy modification and training updates. Introduction of less than lethal equipment including tasers and bean bag rounds for shotguns. Improved tactical equipment, mandatory ballistic vest wearing policy. Multiple years without any firearm discharges or deadly encounters. Reduced officer injuries in high risk scenarios because of improved equipment, training and policies.

26.b. Law Enforcement Practices – 3) Practices for conducting and reviewing pedestrian and vehicle stops, frisk, searches and seizures

Thurman Zollicoffer, Monitor

As Conflict Counsel we frequently engage experts in the field of searches, seizures and stops. This was also a frequent issue as a prosecutor. Lack of appropriate training Due to our attorney client privilege any comment on direct communication is not possible. Teachable moments were shared with our clients to better inform their future decisions in like circumstances.

Charles Campisi, Deputy Monitor & Section Lead: XIII. Supervision & XIV. Misconduct Investigations & Discipline

IAB worked on complaints related to stops, frisks, searches and seizures that alleged that the officer violated a person's constitutional and civil rights and/or the policies and procedures of the department. There were inherent difficulties of detecting individuals making improper stops, frisks, searches and seizures from large force primarily reporting their activities on paper documents. We created an Early Warning System (IAPRO) with statistical data and a "League Leaders Report" where we would identify individuals with concentrated patterns of improper stops, frisks, searches and seizures by the main factor and methods of the officer's violation (i.e. motivated by race or gender; falsifying documents). We looked for vague, boilerplate or other questionable language on the reports as well as not credible actions (i.e. "smelling a gun two miles away"). We charged violators both criminally and administratively. Effective investigation and consistent contributed to better practices and less violations.

Jim Burch, Training Development Lead

Burch has authored two recent executive briefs on these topics to help in informing law enforcement executives on matters surrounding pedestrian and vehicle stops. These documents can be found at: <https://www.policefoundation.org/publication/5-things-on-analyzing-police-traffic-stop-data/> and <https://www.policefoundation.org/publication/5-things-you-need-to-know-about-stop-question-and-frisk>

Frank Dwyer, Research Lead & Section Lead - XVII. Staffing, Performance Evaluations and Promotions & XVIII. Officer Assistance and Support

As 7th Precinct commander/executive officer regularly reviewed reports of stop, question, frisk. Concerns about legality of S,Q,F. Conducted extensive training with supervisors/officers to ensure compliance with legal standards and focus in areas/conditions related to crime. Improved quality of stops and improved focus to areas and specific violent crimes.

Phill Lynn, Policy Development Lead

Developed Model Policies on Arrests, Motor Vehicle Stops, Motor Vehicle Searches, Use of Canines, Field Interviews and Pat Down Searches, Executing Search Warrants, Police Citizen Contacts, and

Transporting
Frank Straub, PhD – Section Lead: VI. Responding To and Interacting With People With Behavioral Health Disabilities Or in Crisis & VII. Use of Force
Conducting a five-year comprehensive review and analysis of all traffic and pedestrian stop data for the North Charleston Police Department as well as recommending best practices, policies and procedures as well as providing technical assistance during the Collaborative Reform Initiative. At Spokane Police Department: initiated a five-year review of traffic and pedestrian stops as well as arrests in collaboration with Eastern Washington University; established a community advisory committee to advise on police, procedures and practices to reduce the disproportionate impact on person of color.
Jim McMahon – Section Lead: IX. Transportation of Persons in Custody & XVI. Recruitment, Hiring & Retention
<p>The NYSP made few pedestrian stops, unless we were supporting local and City Law Enforcement in High Crime Areas. Traffic Stops resulted in over a million citations a year, not counting stops that did not result in a citation. The challenges involved: (1) the racial profiling allegations of the latter 1990's, and early 2000's targeting, in many instances, State Law Enforcement Agencies. (2) Allegations involving verbal abuse by Troopers during traffic stops. (3) Searches during traffic stops, especially consensual searches. The following measures were instituted: 1. We enhanced the Officer Interaction Program (charm school) identifying those troopers who had frequent complaints of verbal abuse (founded or in founded) placing the onus on their area commander to identify them so corrective action could be taken in a timely manner. 2. Installed in-car cameras in all patrol units. These were the early generations of in-car cameras, although bulky, with large cassettes they proved to be successful and showed for the most part, Troopers were courteous and professional. However, they did demonstrate safety concerns and other training issues that the Academy could use to rectify in future in-service schools. 3. The main area of complaints concerning traffic stops (especially ones that resulted in searches, and for the most part consent searches were the legality issues of the search and allegations that the searches showed disparate impact. We instituted several programs to address these issues. First, we devised a new consent search form that required the Trooper to fill out, and articulate, in his or her own words, the reasonable suspicion/probable cause they had to conduct the search. We also developed a search and seizure guide to address the constitutional requirements for search and seizure. Critical to this guide was the fact that the NYS Court of Appeals in its Debour Decision set a higher threshold for searches than the US Supreme Court. We were fortunate to have a State Police Counsel and former police officer who specialized in this area of constitutional issues, and, additionally was an outstanding trainer. Based on this we increased the hours in in-service training for constitutional Law training. Interestingly this training received some of the highest ratings on critique forms from the In-Service Troopers. In fact they asked to have the hours increased, which demonstrated to me the vast majority desired to do their job correctly. Last, I addressed the courtesy, racial profiling, and search issues each week at in-service school. Rarely as Superintendent did I miss speaking to In-service schools. I had a two hour block on the final day of the one week IS schools, and rarely ever missed have an open forum; 4. I issued a memorandum to all members of the NYSP dealing with racial profiling. I discussed why a minority, especially an African American, would perceive they were stopped because of their race, regardless if in fact they were</p>

stopped for a legitimate traffic concern. The memorandum discussed courtesy and the need to deescalate the situation. It was also clear that I would not tolerate racial profiling and was going to hold supervisors responsible and accountable; 5. Lastly, allegations of racial profiling were given priority status in the NYSP internal affairs unit.

William P. Tartaglia – Section Lead: VIII. Interactions With Youth & XV. Coordination with Baltimore City Police Force

Supervised thousands of arrests, search warrants and other tactics. Investigated numerous member of the service involved shooting incidents. In order to extract accurate information during the investigation, trust is required. A thorough investigation takes hard work in order to get all the facts. Relationship and reputation building is ongoing on a day to day basis. Investigations need to be fair and accurate and take time to get to the truth. Sensitive and high profile cases require experience. Continuously instructed members of the procedures and guidelines. Provide an accurate and factual account of the incident that often required serious recommendations.

Doug Scott – Section Lead: XI. Handling of Reports of Sexual Assault & XII. Technology

Improved training and strengthened policies to better document these encounters. Required documentation via field contact cards to explain the purpose for the stop and the duration primarily if an officer did a safety related frisk or attempted to get a consent search on a vehicle stop. Quarterly reports were disseminated by IA generated by IAPRO software analysis to commanders if any officer exceeded an established threshold for complaints of bias, use of force or other related potential unbecoming conduct. Engaging all levels of supervision is key to accountability when dealing with potentially hundreds of thousands of police citizen encounters annually.

26.b. Law Enforcement Practices – 4) Practices for conducting and reviewing arrests
Thurman Zollicoffer, Monitor
As a prosecutor your first assessment was reviewing the arrests and evaluating its constitutionality. Lack of appropriate training.
Charles Campisi, Deputy Monitor & Section Lead: XIII. Supervision & XIV. Misconduct Investigations & Discipline
IAB worked on complaints related to arrests that alleged that the officer violated a person's constitutional and civil rights and/or the policies and procedures of the department. We used similar methods to track violators this as described above regarding vehicle stops, frisk, searches and seizures. Effective and consistent investigation contributed to better practices and less violations.
Jim Burch, Training Development Lead
Strong working knowledge of arrests and familiarity with best practices through my federal career assisting state and local law enforcement and at the Police Foundation.
Frank Dwyer, Research Lead & Section Lead - XVII. Staffing, Performance Evaluations and Promotions & XVIII. Officer Assistance and Support
Reviewed 100's of arrests for quality and appropriateness as Commander of the 7 th Precinct and Deputy Commissioner for Operations. We continually trained and evaluated arrests with supervisors and individual officers as needed to improve quality. This improved the quality of arrests and improved officers' knowledge of law.
Phill Lynn, Policy Development Lead
See attached Model Policies on Arrests, Stop and Frisk, and Reporting Use of Force
Harry Johnson, Esq., Legal & Quality Assurance & Section Lead, First Amendment Protected Activities
Same as above
Sidney Butcher, Esq. – Section Lead: IV. Stops, Searches, Arrests, and Voluntary Police-Community Interactions V. Impartial Policing
Same as above.
Jim McMahon – Section Lead: IX. Transportation of Persons in Custody & XVI. Recruitment, Hiring & Retention
The NYSP used a multi-tiered approval approach, first and second line supervision and Headquarters review. In domestic violence cases, through a federal grants, we created specially trained supervisors who were required to review these investigations and do training etc. Our detective force case review involving major cases was even more involved, making sure all investigative leads were

covered and cases were not prematurely closed. (Road Troopers in the NYSP handled the vast majority of misdemeanor and violation cases. They conducted many of the preliminary investigation involving felonies. They were responsible for fingerprinting defendants they arrest, drawing up accusatory information's and arraigning the defendant before a local magistrate. They had to prepare arrest and investigative reports)

Doug Scott – Section Lead: XI. Handling of Reports of Sexual Assault & XII. Technology

Arrest procedure complaints not involving bias were conducted by first line supervision unless there was an allegation of bias or excessive force All final investigations were reviewed by IA personnel to ensure consistency on a department wide standard. IA review and entering all complaints investigated in IAPRO provided better tracking of potential problem employees

26.b. Law Enforcement Practices – 5) Crisis Intervention & De-escalation Techniques
Thurman Zollicoffer, Monitor
As City Solicitor I was tasked to deal with unions who threatened strike and civilian demonstrations Lack of communication and understanding of fiscal issues. Better communication and transparency allows collective bargaining units to understand economic impacts of certain decisions. Strikes averted and more frequent briefings of important issues.
Charles Campisi, Deputy Monitor & Section Lead: XIII. Supervision & XIV. Misconduct Investigations & Discipline
IAB worked on complaints related to police interactions with Emotionally Disturbed Persons (EDPs) that accused the officer of violating a person's constitutional and civil rights and/or the policies and procedures of the department. We cross-trained with Emergency Services Unit (ESU). Emotionally Disturbed Persons would become a danger to themselves and others (often but not always precipitated by not taking their medications). We provided specialty training to responders who otherwise may not have had a lot of experience with Emotionally Disturbed Persons and other people in crisis situations. We investigated cases where people didn't follow procedure and administered discipline as appropriate (i.e. suspensions, loss of vacation time). Effective investigation and consistent contributed to better practices and less violations.
Jim Burch, Training Development Lead
Working knowledge of Crisis Intervention Training (CIT) and familiarity with best practices through my federal career assisting state and local law enforcement and at the Police Foundation.
Frank Dwyer, Research Lead & Section Lead - XVII. Staffing, Performance Evaluations and Promotions & XVIII. Officer Assistance and Support
Trained in crisis intervention and de-escalation techniques, particularly for encounters with emotionally disturbed individuals. Responded to many incidents involving emotionally disturbed people and violent criminal individuals. Through training and my on the scene response to incidents I continually emphasized the minimum use of force, the need to negotiate and deescalate. In time as precinct Commanding Officer successfully addressed all incidents concerning violent emotionally disturbed persons without significant injury to officers or person taken into custody.
Frank Straub, PhD – Section Lead: VI. Responding To and Interacting With People With Behavioral Health Disabilities Or in Crisis & VII. Use of Force
As Chief of Spokane, WA: i) Required all commissioned members of the department to complete 40-hours of crisis intervention training; ii) Established a specialized crisis intervention team whose 15 members had in excess of 100-hours of crisis intervention training; and iii) Established a Mental Health Steering Committee. At White Plains PD, established the first police-mental health practitioner crisis response team in Westchester County.

Jim McMahon – Section Lead: IX. Transportation of Persons in Custody & XVI. Recruitment, Hiring & Retention

De-escalation issues accounted for the vast majority of all complaints against [NY State Police] troopers. My personal belief was that officers with a history of verbal abuse, without corrective action, frequently end up in physical altercations. These cases then result in questionable resisting arrest, and/or disorderly conduct charges. I discussed this issue at supervisory in-service schools, especially those involving first line supervisors. The remedy is that supervisors should know their people, take corrective action when misconduct is observed, and review resisting arrest, failure to comply, and disorderly conduct arrests closely, especially when they involve a physical altercation. As Superintendent i changed the basic school academy training from a rote based training concept to an adult based concept. We incorporated many scenarios and in some instances we used the Drama Class Students from SUNY Albany (next door to our academy). We had scenarios involving minorities which proved to be beneficial.

26.b. Law Enforcement Practices – 6) Bias-free policing, First Amendment protected speech and public assembly and related rights

Thurman Zollicoffer, Monitor

As City Solicitor, I have had to advise the Police Department on first amendment rights, public assembly and related rights. Groups picketing or marching for or in defense for many different causes from PETA, to the Women in Black. When you delineate safe boundaries for the expression of free speech and the right to assemble as defined by constitutional cases in the area you allow for free speech and assembly. Working with the ACLU to create safe boundaries for the public and free walkways while allowing for the maximum allowance of free assembly and free speech.

Charles Campisi, Deputy Monitor & Section Lead: XIII. Supervision & XIV. Misconduct Investigations & Discipline

IAB worked on complaints related to police interactions that accused the officer of violating a person's constitutional and civil rights and/or the policies and procedures of the department. NYC has hundreds of languages, cultures, races, religions and ethnicities in a very diverse city to which our officers needed to be sensitive. Potential for violent crime, crimes of opportunity and public disturbance at constitutionally protected public gatherings. We participated in in-service sensitivity, cultural awareness, de-escalation and executive development courses. We sent undercover officers of various races and ethnicities to test our officers. We tracked officers for bias-free policing and 1st amendment violations in our Early Warning System. We strictly enforced alcohol policies in the parks and other places where people would assemble. We worked with other city departments to ensure that organized protests did not block vehicular or pedestrian traffic and were otherwise safe. This reduced injuries, incidents and complaints at public assemblies.

Frank Dwyer, Research Lead & Section Lead - XVII. Staffing, Performance Evaluations and Promotions & XVIII. Officer Assistance and Support

Trained supervisors and officers concerning Bias free policing and first amendment rights. Policed many large scale demonstrations. Consistently worked with and trained officers to ensure that they had an appropriate understanding of bias free policing and individual rights. Officers with better understanding of laws and police regulations and improved community relations.

Phill Lynn, Policy Development Lead

These and related issues were addressed in the Model Policies on Unbiased Policing, Public Recording (video and photography) of Police Activities, Standards of Conduct, Interrogations and Confessions, Interviewing and Interrogating Juveniles, Brady Disclosure Requirements, Safeguarding the Rights and Wellbeing of Children of Arrested Parents, Crowd Management and Control, interacting with the Deaf and Hearing Impaired, Electronic Recording of Interrogations and Confessions, Eyewitness Identifications, and the use of Officer Body Worn Cameras.

Frank Straub, PhD – Section Lead: VI. Responding To and Interacting With People With Behavioral Health Disabilities Or in Crisis & VII. Use of Force

As Chief of Spokane, required all members of the department – commissioned and civilian – to complete 16-hours of bias free policing training.

Doug Scott – Section Lead: XI. Handling of Reports of Sexual Assault & XII. Technology

With our proximity to the national capitol, Arlington experienced an extremely high number of protests. Improving training and officer awareness of not infringing on a person's constitutional rights was a priority. Having specially training officers for civil disturbances (CDU) was necessary. Our agency was recognized as a leader for handling this type of incident and often provided training for others looking to improve their departments efforts to handle protests. Hundreds of languages, cultures, races, religions and ethnicities in a very diverse urban county to which our officers needed to be sensitive. Potential for violent crime, crimes of opportunity and public disturbance at constitutionally protected public gatherings. Engaging patrol supervision and encouraging the use of CDU trained personnel has been an effective solution. Lower injuries, incidents and complaints at public assemblies.

26.b. Law Enforcement Practices – 7) Intake, investigation, and adjudication of complaints of officer misconduct
Thurman Zollicoffer, Monitor
<p>Conflict Counsel</p> <p>City Solicitor</p> <p>Backlog of trial board complaints that inhibited officers from advancement and caused racial rancor. Ordered a review and dismissal of cases that lacked merit so that officers could have opportunities for advancement.</p>
Charles Campisi, Deputy Monitor & Section Lead: XIII. Supervision & XIV. Misconduct Investigations & Discipline
<p>Oversaw all complaints of officer misconduct at IAB. Reengineered organization and its processes to be more effective, timely and efficient. We had a high volume of diverse cases <i>with</i> merit and a high volume of cases <i>without</i> merit - <u>all</u> of which had to be taken seriously and properly addressed. We needed to speed up the review process, standardize the disciplinary matrix, prioritize resources and coordinate with District Attorneys and U.S. Attorneys. We built strategies and turnaround metrics for civilian complaints and issues that arose from various police operations (e.g. "aided" cases, accident reports, missing property). We worked with Fire/EMS and Medical Examiner to get their reports efficiently. With help of McKinsey & Company we built strategy and procedures around a series of Steering Committees that brought in team, borough and zone commanders to efficiently route and adjudicate cases. We standardized the disciplinary matrix and trained on it. We worked closely with prosecutors and established a specialty unit for federal prosecution (Group 25). IAB received Unit Citation, the highest Unit Award at NYPD, both for establishing the IAB unit and for its efficiency.</p>
Frank Dwyer, Research Lead & Section Lead - XVII. Staffing, Performance Evaluations and Promotions & XVIII. Officer Assistance and Support
<p>Conducted hundreds of investigations into allegations of police misconduct or rules violations in ranks of sergeant through deputy inspector. Prepared reports and made recommendations concerning discipline if required. Worked with officers to help them understand the mistakes they had made and how they should perform in the future. Ensured improved relations with the community through communication with community members concerning complaints.</p>
Phill Lynn, Policy Development Lead
<p>The means for receiving, processing, investigating, and adjudicating complaints of officer misconduct, both from civilians and by other officers, is addressed in the Model Policy on investigation of Employee Misconduct.</p>
Doug Scott – Section Lead: XI. Handling of Reports of Sexual Assault & XII. Technology
<p>I was the final review and had to approve all disciplinary recommendations for sustained complaints</p>

of officer misconduct Engaged internal affairs personnel if needed. All supervisors were trained to properly investigate this type of complaint. Commanders doing community presentations were directed to explain how to properly request an investigation involving suspected police misconduct. We updated our website and publications to address police/citizen interactions and "what to do if stopped by the police". Consistent reductions in complaints against dept. personnel and high community citizen satisfaction regarding police contact measured by annual surveys.

26.b. Law Enforcement Practices – 8) Civilian Oversight
Charles Campisi, Deputy Monitor & Section Lead: XIII. Supervision & XIV. Misconduct Investigations & Discipline
<p>As Chief of IAB, worked closely from 1995 - 2014 with the Mayoral Commission to Combat Police Corruption, "a permanent board to monitor and evaluate the anti-corruption programs, activities, commitment, and efforts of the New York City Police Department". Information sought by the Commission (and the CCRB) was originally dispersed throughout the department, sometimes difficult to understand for a civilian not trained in police procedure, and often in formats that differed from what the commission required. We worked with Commission lawyers to teach them police procedures, the requirements of <i>Garrity</i>, and put them through scenario based training to improve their knowledge from the perspective of both police, arrestees and others who interact with police. As we centralized operations for IAB through our Steering Committee as well as computer systems we became able to anticipate the Commission's requests and provide what was needed in a complete and timely manner. We worked to settle disagreements productively, getting the DA, US Attorney and Department of Justice involved as necessary. Amid intense scrutiny and political pressure related to high profile incidents (e.g. Abner Louima and Amadou Diallo), the Department of Justice found that it was unnecessary to require a third party monitor.</p>
Frank Dwyer, Research Lead & Section Lead - XVII. Staffing, Performance Evaluations and Promotions & XVIII. Officer Assistance and Support
<p>Currently serve on the NYC Civilian Complaint Review Board. Review 50 to 100 civilian allegations of police misconduct monthly. Through examination of cases ensure the law and proper police procedures were followed. Provide fair and equitable resolution to complaints through mediation, discipline or determination of proper conduct on officers' part.</p>
Phill Lynn, Policy Development Lead
<p>Prepared a comparative analysis of civilian oversight and review models as part of the IACP publication series "Project Response."</p>
Jesse Lee, PhD – Section Lead: II. Community Oversight Task Force & III. Community Policing & Engagement
<p>There was significant community outrage do to the death of a citizen by the Police Department (BART). Worked on the NOBLE team that provided conflict resolution and prevention assistance to local officials, law enforcement authorities, clergy, and other community leaders. As the executive Director of Noble and IACP Manager of Police Services, I regularly interacted with diverse experiences throughout the USA and internationally providing community engagements for police chief's selections, community assessments on how police services were rendered, and management studies. Challenges include establishing trust and legitimacy; effectively identifying informal leaders from various community groups; avoiding community and group biases</p> <p>We did outreach utilizing church groups and community organizations. A list of nonprofit</p>

organizations was gathered from IRS and local government officials. We identified a neutral location where all stakeholders and parties involved felt comfortable; ground rules were sent out to stakeholders prior to the meeting (such as limited time to talk, opportunity to send questions prior to the meeting); solicited facilitators to address community issues were brought in to discuss how their communities resolved concerns, to show a model of how the transformation could occur within their community. Overall, it was essential to bring a global perspective to the meeting; which I was able to do through various networks. We increased community participation by being at a neutral location. By bringing external views and opinions to the meeting, it began to provide an established trust and legitimacy; the group felt valued, this increased communication between the Chief of Police and the local police department; in some instances, it allowed members to hire a new Police Chief; provided an outlet and framework for continuity of future meetings.

Frank Straub, PhD – Section Lead: VI. Responding To and Interacting With People With Behavioral Health Disabilities Or in Crisis & VII. Use of Force

As Chief of Spokane: Established the Professional Standards Division led by a civilian director, Increased collaboration with the Police Ombudsman (civilian) and worked with the police union and city council to strengthen the Ombudsman’s authority and scope of responsibility. As Chief of Indianapolis Department of Public Safety: Established the Professional Standards Division led by a civilian director; Provided oversight to the Civilian Complaint Review Board.

Doug Scott – Section Lead: XI. Handling of Reports of Sexual Assault & XII. Technology

All of the departments I worked for had established Civil Service Commissions (Chief of Fairfax County, Fairfax City and Arlington, VA Police Departments). Their role was to serve as an appeal venue or review if an employee chose to take a grievance to them.

26.b. Law Enforcement Practices – 9) Police Youth Interactions

Charles Campisi, Deputy Monitor & Section Lead: XIII. Supervision & XIV. Misconduct Investigations & Discipline

IAB worked on complaints related to police interactions with youth that accused the officer of violating a person's constitutional and civil rights and/or the policies and procedures of the department. Key challenges were de-escalating situations with juveniles, handcuffing juveniles, keeping juveniles safe in holding cells. We participated in Specialized Youth Officer training. We assessed whether or not juveniles were put in separate holding cells, if department deployed female officers to interact with female juveniles. We also participated in youth outreach programs including school visits, career days, and Police Athletic League (PAL) after school programs.

Jim Burch, Training Development Lead

Served as Director of the Special Emphasis Division in the U.S. Department of Justice's Office of Juvenile Justice and Delinquency Prevention (OJJDP) a national office dedicated to these issues. In this role, Burch oversaw several national initiatives designed to improve police-youth interactions, including interactions designed to intervene in youth gang involvement. Many officers have insufficient knowledge and tools of youth development and approaches for interaction respectively. Supported and authorized additional training and skill building related to youth development and youth involvement in gang activity. A key example of this was demonstrating that many youth "involved" in crews and gangs don't actually commit crimes, but participate for social reasons as well as safety (protection) reasons. In many cases, these individuals will cease involvement if the right set of opportunities and accountability is provided. Multiple police agencies across several states implemented and tested a pilot model for improved police response to youth gang activity, Publications: Gang Members and Delinquent Behavior, OJJDP Youth Development Series, 1997 (Co-Author with T. P. Thornberry, Ph.D.) (<https://www.ncjrs.gov/app/publications/abstract.aspx?ID=165154>)

Frank Dwyer, Research Lead & Section Lead - XVII. Staffing, Performance Evaluations and Promotions & XVIII. Officer Assistance and Support

Developed youth programs at precinct level to increase police—community interaction. Worked as liaison to schools in precincts in Northern Brooklyn. Limited resources to dedicate to youth and school conditions. Utilized voluntary services (e.g., community members, nonprofit organizations) to raise funds and provide volunteers to engage with youth. Increased participation of youth programs by approximately 50%; greater engagement of community members; additional equipment and resources to youth in the community.

Phill Lynn, Policy Development Lead

Developed Model Policies on Interviews and Interrogations and Juveniles, Curfew Enforcement and the before mentioned comprehensive "Guide for Protecting Children of Arrested Parents" developed for the U.S. DOJ, COPS Office.

Jesse Lee, PhD – Section Lead: II. Community Oversight Task Force & III. Community Policing & Engagement
<p>Multi city Police and Youth Juvenile Justice Symposium. Community engagements focused on uncovering the causes of youth violence. NOBLE facilitated Youth Town Hall meetings in the following cities: Newark, Philadelphia, Baltimore, Richmond, St. Louis, Chicago, and Oakland. We worked on establishing legitimacy and trust; explaining the purpose of the interaction; identifying the core group of youth who would benefit the most from the meetings; ensuring that the meeting remained focused on the youth, rather than the adult concerns within the room.</p> <p>Partnered with Howard University to write a white paper that captured the themes of youth’s responses from around the country which provided what they considered as solutions for youth to reduce violence. 1) Distributed the white paper to all involved organizations across the nation, 2) new partnerships and relationships were founded, 3) nonprofit organizations were able to provide effective shared resources for the youth, 4) stakeholders received insight from the youth such as school administration, teachers, and legal authorities, 5) educators were able to develop curriculum to positively impact the youth based on the white paper, etc., and 6) provided recruitment opportunities for law enforcement organizations.</p>
Frank Straub, PhD – Section Lead: VI. Responding To and Interacting With People With Behavioral Health Disabilities Or in Crisis & VII. Use of Force
As Chief of Spokane: Established the Youth & Police Initiative to reduce youth involvement in gangs and violent crime; Expanded the Police Cadet and Explorer Program; Established the Police Athletic League; Co-Chair of the IACP Juvenile Justice Committee:
Jim McMahon – Section Lead: IX. Transportation of Persons in Custody & XVI. Recruitment, Hiring & Retention
We applied for and received a DOJ grant to place 100 [NYSP] troopers in rural and suburban schools. We involved the school Superintendents in the selection process. This program connected Troopers with the students and allowed the troopers to take action early on in volatile situations, especially after they gained the trust of the students. In the first year we had 17 suicide interventions based on information provided to troopers by students.
William P. Tartaglia – Section Lead: VIII. Interactions With Youth & XV. Coordination with Baltimore City Police Force
Established the Community Relations Supervisor within the Gang Division in an effort to establish relationships and provided education to the community leaders and parents of youth. This established trust with the community members. It takes time and determination. We made continuous efforts that built relationships. Education of youth and parents on gangs and feedback made an impact. This included educations and lectures on youth violence held at all levels including the NY State Youth Violence Conference. We would assist neighboring jurisdictions with Intel and training. Get feedback. The education of the parents is critical to the success of any youth program.
Doug Scott – Section Lead: XI. Handling of Reports of Sexual Assault & XII. Technology
We developed a strong presence in Arlington schools with school resource officers assigned to each

high school and middle school. Elementary schools had one officer for every 4 to 5 schools. Policies were established regarding detaining and questioning juveniles without the presence of a parent. Special policies existed to not transport detained juveniles with adult offenders. A Police Explorer Post was established and our Gang Unit held a youth soccer tournament annually.

26.b. Law Enforcement Practices – 10) Policy development and officer and staff training
Thurman Zollicoffer, Monitor
As City Solicitor I was involved in many ComStat meetings where Command staff would speak to officer training and development
Charles Campisi, Deputy Monitor & Section Lead: XIII. Supervision & XIV. Misconduct Investigations & Discipline
<p>Oversaw establishment of all policies and training for Internal Affairs Bureau. We created an IAB academy that trained over 5,000 individuals from within NYPD and throughout the country over a twenty-year period. Oversaw curriculum and personally taught at least one class a month. The challenge was re-engineering policies and training from the relatively dispersed Internal Affairs Division to the more centralized Internal Affairs Bureau. As IAB assignment was involuntary for the high-performers selected, we needed to ensure those individuals of an excellent career path (2 year commitment with 5 year review) and help them understand that they would gain skill sets that they could keep in IAB or take elsewhere in the department. We maintained and continuously improved procedures, systems and training to meet the contemporary needs of the department and its staff members.</p> <p>IAB became a place where people wanted to work and performed accordingly Earlier in my career I served as Deputy Inspector for the Police Cadet Corps, managing the recruitment, selection, hiring, training, field assignments, retention and promotion of over 400 college students into the New York City Police Department (1991-1993). The challenge was bringing diverse high quality recruits into a dangerous, difficult job with below average compensation and training such staff to the highest levels of performance and excellence at a time when crime was relatively high and morale was relatively low.</p>
Erek Barron, Esq., Communications & Outreach Lead
Same as above.
Jim Burch, Training Development Lead
Burch currently leads a partnership with the Commission on Accreditation in Law Enforcement Agencies (CALEA) to provide research and analysis related to national accreditation standards for the purpose of informing policy development in law enforcement. Examples include recent research on methods of assessing compliance with EEO requirements in hiring, decertification practices across the U.S and recommendations for improved law enforcement policies related to disciplinary records and background investigations, and encouraging policy development related to near miss reporting in law enforcement. Burch is currently leading a national DOJ evaluation of its officer safety training programs available through the VALOR Program. This evaluation will examine the effects of officer training on safety tactics, de-escalation techniques, responding to active shooter incidents, and effective pursuit and high-speed driving practices. Example Research Report:

http://www.calea.org/sites/default/files/NatlDecertificationIndex_PoliceFoundation.pdf .
Frank Dwyer, Research Lead & Section Lead - XVII. Staffing, Performance Evaluations and Promotions & XVIII. Officer Assistance and Support
Served in the Office of Management Analysis and Planning developing strategies for crime reduction. Taught as law instructor in police academy; taught in the newly promoted Captains training course. Continuing changes in the law and police procedure and the need to develop policy across a 50,000 person organization. Leveraged other governmental resources to assist in policy development and training. Increased training at the precinct level for officers and personally took part in the trainings. Changed training from didactic to interactive. Involved officers in peer review of each other's skills and tactics.
Phill Lynn, Policy Development Lead
As Director of the IACP National Law Enforcement Policy Center, prepared and published about 125 Model Policies and Discussion Papers. Also conducted staff training on policy development.
Harry Johnson, Esq., Legal & Quality Assurance & Section Lead, First Amendment Protected Activities
Same as above
Sidney Butcher, Esq. – Section Lead: IV. Stops, Searches, Arrests, and Voluntary Police-Community Interactions V. Impartial Policing
Same as above.
Jim McMahon – Section Lead: IX. Transportation of Persons in Custody & XVI. Recruitment, Hiring & Retention
As Superintendent, I continually stressed the importance of the Trooper and emphasized the importance of saving careers. The state spends thousands of dollars on testing, selection, and training for each member. It is a very good investment if the trooper stays on the force for 20 to 30 years. It is not a good investment if we lose the trooper because of personal issues that could have been corrected or support provided when necessary. In doing this we increased the Employee Assistance Program, we had members of the EAP talk at each in-service school. We encouraged peers, who are the first to know when a peer of theirs is having trouble, or mistreating the public to take action. Peers are very reluctant to go to a superior, therefore, we established a peer group counseling program. The counselor received 3 weeks of training, and came from all ranks including civilian workforce members. They would work closely with EAP and could insure the member received help. We conducted Sexual Harassment training for every member, and created a sexual harass training disc allowing all employees to completed training at their desktops. We also established an informal resolution process.
William P. Tartaglia – Section Lead: VIII. Interactions With Youth & XV. Coordination with Baltimore City Police Force
Inspector - Gang Division - Developed the Gang Strategy and Policies for the NYPD. Lectured at the

Detective Bureau Training, Police Academy Recruit Training, numerous conferences attended by federal and state agencies. The requirements were to provide useful and factual material. To obtain internal compliance from peers, subordinates and executive staff. A written policy developed with the assistance of many peers and others. Effective training development changes as you get feedback and learn more. It's an ongoing effort at training and gaining buy in from the community and members of the service

Doug Scott – Section Lead: XI. Handling of Reports of Sexual Assault & XII. Technology

All policy changes came to me for final approval. Many critical policy changes were implemented during my tenure with corresponding training including Use of Force, Vehicle Pursuits, Subject Stops & Detentions, Handling subjects demonstrating potential mental or physical disability. We maintained and continuously improved procedures, systems and training to meet the contemporary needs of the department and its staff members. We shared major policy changes with the elected officials, special interest groups and the media.

26.c. Assessing legal sufficiency and compliance with constitutional and other legal requirements

Thurman Zollicoffer, Monitor

As a prosecutor complying with the law of the land was primary. As City Solicitor I was tasked with the legal compliance of every City action. Federal Water and Waste Water Consent Decree,

Federal challenges to statutes and executive orders

Provided an economic strategy to comply with order to get massive infrastructure improvements.

Successfully defended the statutes personally and oversaw the redrafting of said ordinances and executive orders

Provided a workable solution to compliance with the Consent Decree;

Negotiated with the group challenging the statute and orders as unconstitutional to withdraw their suit if I could demonstrate that diversity would allow for greater participation by all and that there would not be a negative economic impact on their members.

Erek Barron, Esq., Communications & Outreach Lead

As a defense attorney and former state and federal prosecutor, I have broad legal experience assessing law enforcement compliance with legal requirements and I am frequently called upon to evaluate policing practices for legal sufficiency in state and federal courts. My experience in this area has resulted in my selection as a member of several local federal court CJA panels and provides me the opportunity to remain current on the state of the law.

Frank Dwyer, Research Lead & Section Lead - XVII. Staffing, Performance Evaluations and Promotions & XVIII. Officer Assistance and Support

Utilized experience of teaching law to evaluate legal sufficiency of arrests and summonses in review of precinct conditions and citywide operations. Encountered challenges presented by the diversity of interpretations that local police commands make concerning laws. Involved legal bureau and experienced commanders in developing standards used to determine legal sufficiency and compliance. Consistent enforcement and use of civil remedies without legal challenge. Particularly successful at addressing disorder and community issues caused by disorderly clubs and bars in the precinct.

Phill Lynn, Policy Development Lead

In reviewing scores of agency policy manuals I paid particular attention to the legal sufficiency of policy and procedure statements. This is particularly necessary in the case of policy statements on critical issues such as use of force. A large percentage of law enforcement agencies do not have access to the skills and knowledge to scrutinize the wording they use in their policies and procedures. Most do not have access to in house legal assistance. As such, policies are often not concise,

comprehensive, or clearly articulated, leaving officers without a full understanding of what the police agency wants them to do or how to respond in certain circumstances.

Policy development training that I have provided provides guidance in how to organize the policy development process, how to research policy topics, proper word selection, legal review, and precision in writing, organization, and related matters that result in clear, articulate policies and procedures that can form the basis for training and police practices. While training has been provided to hundreds of law enforcement agencies in a classroom setting, it was not possible to conduct a systematic follow-up of those agencies to determine whether training resulted in improvements to their policies and procedures.

Harry Johnson, Esq., Legal & Quality Assurance & Section Lead, First Amendment Protected Activities

Thompson v. HUD, previously described; representation of Baltimore City in redistricting; representation of Montgomery County, Maryland in constitutional challenges to zoning decisions. Thompson is an ongoing matter; successful in challenges to redistricting plan; representation of Montgomery County current.

Sidney Butcher, Esq. – Section Lead: IV. Stops, Searches, Arrests, and Voluntary Police-Community Interactions V. Impartial Policing

Same as above

26.d. Familiarity and understanding of local issues and conditions, including local experience and expertise with Baltimore’s diverse communities, and issues and challenges facing those communities

Thurman Zollicoffer, Monitor

Domiciled 53 years in the City; served the citizens of Baltimore as an Assistant States Attorney and City Solicitor.

Served on a multitude of boards and committees that benefit the City. This City needs an effective professional police force but equally the police force needs to have its morale strengthened in order to effectuate change and a whole hearted embracing of the credo “Serve and Protect”. It is the goal of this team to assist the police to understand that this Consent Decree is an opportunity to hit reset and forge new alliances and relationships with the community.

Harry Johnson, Esq., Legal & Quality Assurance & Section Lead, First Amendment Protected Activities

Served 12 years as a Board member of the Baltimore Community Foundation; served on the Neighborhoods committee, and chaired for 6 years the Race, Equity and Inclusion Committee; Board Chair, Greater Baltimore Healthcare, Inc.; Whitney M. Young Service Award, 2014, Maryland Council of the Boy Scouts of America; Wye Institute Baltimore Work Group on Racial Equity. For BCF, led effort to diversify Board; led training and educational efforts of Board and staff on racial equity issues; led effort that changed policies both internally and with others who we touched with our philanthropy. More diverse board; policies throughout organization viewed through a racial equity lens; same change in policy and viewpoint on Hospital Board, including first female Chief of Staff.

Jesse Lee, PhD – Section Lead: II. Community Oversight Task Force & III. Community Policing & Engagement

Community engagements focused on uncovering the causes of youth violence. NOBLE facilitated Youth Town Hall meetings in the following cities: Newark, Philadelphia, Baltimore, Richmond, St. Louis, Chicago, and Oakland. Establishing legitimacy and trust; explaining the purpose of the interaction; identifying the core group of youth who would benefit the most from the meetings; ensuring that the meeting remained focused on the youth, rather than the adult concerns within the room. Partnered with Howard University to write a white paper that captured the themes of youth’s responses from around the country which provided what they considered as solutions for youth to reduce violence. 1) Distributed the white paper to all involved organizations across the nation, 2) new partnerships and relationships were founded, 3) nonprofit organizations were able to provide effective shared resources for the youth, 4) stakeholders received insight from the youth such as school administration, teachers, and legal authorities, 5) educators were able to develop curriculum to positively impact the youth based on the white paper, etc., and 6) provided recruitment opportunities for law enforcement organizations.

Sidney Butcher, Esq. – Section Lead: IV. Stops, Searches, Arrests, and Voluntary Police-Community Interactions V. Impartial Policing

As a former prosecutor I worked with victims and families affected by criminal cases in Baltimore City. In addition, I participated at community meetings to hear issues in various parts of the City. Based on complaints coordinated efforts with Baltimore city police department to target violent repeat offenders and dismantle drug shops. Also, part of the WTP team retained to defend members of the Baltimore City Police Department; various aspects of law enforcement practice are at issue in litigation. Also participate with the Community Conferencing Center to assist community with escalations of issues often involving the juvenile population. As a member of the American Bar Association Criminal Justice Section, I coordinated programs across the country about the criminal justice system focusing on expungement projects and how minor offenses can affect job growth and opportunities. My work through local, state and national bar associations dealt directly with issues faced in Baltimore. Significant challenge in building trust and getting people to believe in the criminal justice system.

26.e. Criminology and statistical analysis, including internal and external benchmarking techniques, regression analysis, and other relevant statistical methods;

Thurman Zollicoffer, Monitor

City Solicitor I have familiarity with ComStat and CitiStat

Karen Amendola, PhD, Metrics & Standards Lead

Amendola has worked in policing for 25 years during which time she has conducted research in applied experimental psychology, using a variety of methods including experimental designs, quasi-experimental studies, survey research, and observational methods as well as relevant associated statistical analysis. She has conducted regression (MRC) analysis including linear and hierarchical, correlational studies. She has also relied on ANOVAs for experimental designs, and has done factor analysis. Her expertise is in the development of outcome measures, and conducting analysis of reliability and validity of instruments, measures, and scales (e.g. alpha and kappa coefficients, as well as various correlational measures for internal consistency and test-retest reliability as well as validation using content-oriented, criterion related (predictive and concurrent) validity.

Sean Bair, IT & Systems Development Lead

Wrote numerous software applications as crime analyst, officer and business owner to conduct tactical, strategic and administrative crime analysis. Knowledgeable on various statistical techniques as well as developed new statistical techniques for defense and law enforcement use. Received grant for PhD research and published findings in Journal of the Royal Statistical Society. Law enforcement and defense data is often very nominal and thus, doesn't lend itself to quantitative statistical techniques. It also can be very limited in sample size and detail. Data is captured for reporting purposes and often not for statistical or investigative purposes. My company developed several techniques and methods to overcome these limitations in defense and law enforcement data and have successfully implemented them in various public, private and defense applications. Success in law enforcement led to successes at the defense department where our statistical methods and techniques were able to kill/capture 700 insurgents and remove more than 12000 IEDs from the battlefield. These same techniques were then applied to data in the private sector (Wal-Mart, Target, Macy's etc.) with equal success. A pattern finding methodology "IZE" was developed and published as well as numerous other spatial, temporal, statistical and behavioral techniques invented and put into practice. "Tactical Crime Analysis: Research & Investigation" Paulsen, Bair, Helms, CRC Press

Frank Dwyer, Research Lead & Section Lead - XVII. Staffing, Performance Evaluations and Promotions & XVIII. Officer Assistance and Support

Worked with statistics throughout career in crime analysis and evaluating citywide conditions. Continually faced challenges of changing crime patterns and trends (as well as introduction of new methods of committing crime such as computer crimes). Utilized existing FBI categories and data collection. Modified these categories when in service of local community needs. Involved units with greater expertise in statistical analysis when necessary. Was able to consistently refine data collection and methodologies when assigned to coordinating City-wide CompStat program, thereby assisting

field commanders in identifying crime trends and quality of life issues more promptly.

Frank Straub, PhD – Section Lead: VI. Responding To and Interacting With People With Behavioral Health Disabilities Or in Crisis & VII. Use of Force

Ph.D. in Criminal Justice, City University of New York (1997); Police Foundation – Director of the National Police Applied Research and Data Platform.

26.f. Familiarity with federal, state, and local laws;
Thurman Zollicoffer, Monitor
City Solicitor Conflict Counsel No real challenges Keeping abreast of constant changes in the law and at times looking to change it when it does not adequately address equity. Personally assisted in drafting and changing statutes and also assisted in making new law in Maryland in reference to the LTGA. Judge Daniel Friedman, Associate Judge Court of the Special Appeals
Erek Barron, Esq., Communications & Outreach Lead
I am an active, practicing member of the Maryland and DC Bars and I am admitted to practice in Federal Courts in Maryland and the District of Columbia. I have been selected as a member of the CJA panels of the US Court of Appeals for the Fourth Circuit, the US District Court for Maryland, and the US District Court for DC. Moreover, I am a state delegate and member of the Maryland General Assembly. To keep up with developments in the law I regularly attend CLEs in Maryland and DC.
Jim Burch, Training Development Lead
As an Acting Assistant Director of ATF, Mr. Burch is very familiar with federal laws relating to firearms use and access.
Frank Dwyer, Research Lead & Section Lead - XVII. Staffing, Performance Evaluations and Promotions & XVIII. Officer Assistance and Support
Have overall familiarity with federal, state, and criminal laws from experience in teaching law and ongoing monitoring of media coverage of high profile police-community interaction as well as major court decisions. Partnered with legal staff to ensure familiarity and knowledge with these legal categories. Able to ensure police personnel enforced laws appropriately and respected civil rights.
Phill Lynn, Policy Development Lead
In the process of writing model policies and procedures for national consumption, maintained continued awareness and understanding of pertinent U.S. Supreme rulings, federal circuit rulings, and trends associated with district court rulings. It was not feasible to incorporate the varied differences in state and local laws and ordinances when writing Model Policies and Procedures from a national perspective. Departments using the Model Policies are always cautioned to ensure that their policies conform with state and local law.
Harry Johnson, Esq., Legal & Quality Assurance & Section Lead, First Amendment Protected Activities
Rated AV lawyer by Martindale Hubbell; Maryland Bar, 1979; DC Bar, 1986; admitted to practice in Federal Courts in Maryland and District of Columbia; member for 27 years, Standing Committee on Rules of Practice and Procedure, Court of Appeals of Maryland.

Sidney Butcher, Esq. – Section Lead: IV. Stops, Searches, Arrests, and Voluntary Police-Community Interactions V. Impartial Policing
As a member of the American Bar Association Criminal Justice Section, I have worked on best practices for law enforcement, prosecutors and defense bar. Many of these recommendations were adopted by the ABA.
William P. Tartaglia – Section Lead: VIII. Interactions With Youth & XV. Coordination with Baltimore City Police Force
23 Years of Service to the NYPD. 12 years of experience as Licensed Investigator.
Doug Scott – Section Lead: XI. Handling of Reports of Sexual Assault & XII. Technology
Although I have never served in a Maryland agency I have worked closed with Maryland Chiefs during my tenure on the Washington Metro Council of Governments Police Chiefs Committee.

26.g. Evaluating organizational change and institutional reform, including by applying qualitative and quantitative analyses to assess progress, performance, and outcomes

Thurman Zollicoffer, Monitor

City Solicitor Revamped the entire office bringing more technology and professionalism to the office.

Charles Campisi, Deputy Monitor & Section Lead: XIII. Supervision & XIV. Misconduct Investigations & Discipline

As Chief of IAB we consistently used qualitative and quantitative analyses to assess effectiveness of organization, policies, procedures and initiatives. One example challenge was the need to regularly drug test personnel without losing valuable employee time; We phased the program in - testing 10% of the department, then 20% and higher where there were greater temptations (e.g. the Narcotics Unit where we tested 50%). Issue was someone on the 8-4 tour would show up at 7:30 at the medical unit, could take them 90 minutes each and half a day was gone to the travel and the testing. We changed the testing to mobile situation and it would only take 15-30 minutes. This saved the department time and money while allowing more people to be regularly drug tested.

Karen Amendola, PhD, Metrics & Standards Lead

Amendola served as the project director for a number of organizational assessments (including policy review for civilian complaint filing and analysis), including staffing and personnel allocation, officer safety and wellness practices, recruitment, screening, selection, performance evaluation, and early warning system implementation, as well as ethical climate assessment and reviews of racial profiling via community surveys. Some of the agencies include: Detroit Michigan (Operational Review funded by COPS), Analysis of Police-Labor relations in St. Petersburg, FL (subsequent to the civil disturbances), supporting the Prince George's County Public Safety Department (associated with Blue Ribbon Commission on Police Accountability in which the ACLU and other community based organizations had input), Biased policing assessment in Washington, DC (metropolitan police, involving officers, community phone surveys, etc.). Numerous projects including operational reviews in Atlantic City, NJ, Bay St. Louis, MS, Inglewood, CA, Omaha, NE, and others. Most of these studies have had qualitative and quantitative components such as focus groups, surveys, observations, internal committees, etc.

Sean Bair, IT & Systems Development Lead

Applied numerous quantitative and qualitative methods to the study of business practices and law enforcement processes for efficiency and effectiveness. Dealing with extremely nominal data, missing or limited data sets, all in an effort to improve a process or study a phenomenon from business efforts, law enforcement matters, or defense department IED issues. Developed new data capture standards, developed data inference capabilities and applied new analytical techniques to work with the limited data available. Numerous positive outcomes including, specifically for the Defense Department, a 700 insurgent kill/capture metric and 85% "next event prediction" accuracy measurement based on data, methods and techniques developed. The removal of 12,425 IEDs from the battlefield as a result of team's analysis. <http://www.jieddo.mil>.

Jim Burch, Training Development Lead

Throughout his career at DOJ, Mr. Burch worked very closely with staff and executives of the Department's National Institute of Justice (NIJ) and the Bureau of Justice Statistics (BJS) to develop and support many national and local evaluations of criminal justice and law enforcement organizational change efforts as reform initiatives. This includes an initiative at ATF to consider how ATF practices have evolved and could evolve further in relation to scientific evidence of effectiveness in law enforcement operations. See: The Evolution toward Integrating Science and Evidence in U.S. Department of Justice Agencies —An Insider's Reflections, Translational Criminology, (Spring 2015), 2. (<http://cebcp.org/wp-content/TCmagazine/TC8-Spring2015>); Burch currently leads a partnership with the Commission on Accreditation in Law Enforcement Agencies (CALEA) to provide research and analysis related to national accreditation standards for the purpose of informing policy development in law enforcement. Examples include recent research on methods of assessing compliance with EEO requirements in hiring, decertification practices across the U.S and recommendations for improved law enforcement policies related to disciplinary records and background investigations, and encouraging policy development related to near miss reporting in law enforcement. Example Research Report: http://www.calea.org/sites/default/files/NatlDecertificationIndex_PoliceFoundation.pdf

Frank Dwyer, Research Lead & Section Lead - XVII. Staffing, Performance Evaluations and Promotions & XVIII. Officer Assistance and Support

Have experience through work of CompStat process utilizing qualitative and quantitative analysis to evaluate local and citywide programs. Examined other models for evaluating organizational change and reform. Adopted best practices from these categories when completing evaluations. Through use of qualitative analysis, interviews with community members, review of editorials, etc., able to ensure greater sensitivity and more positive working relationship between police and community.

Phill Lynn, Policy Development Lead

Provided recommendations and technical assistance to law enforcement agencies listed in items (a) and criminal justice agencies listed in item (q) of this document. Most organizational studies included both qualitative and quantitative feedback concerning progress on implementing changes and initiatives. Individual obstacles often arise when conducting agency evaluations that will likely result in change for the agency and employees. As such, there is a tendency for some personnel to be less than forthcoming with attitudes, opinions, and useful information. From the outset, it is essential to provide agency executives and staff with as much information as possible about the scope, design, and intent of the study through initial briefings and on-going updates on progress. When personnel understand that the intent of the study is designed to be constructive rather than threatening, and that they will be vital to the change process, a degree of trust can be established. It is also important to gain a sense of the agency culture. This has been done using ride-a-longs with a cross section of officers in various duty and area assignments. It is also helpful to have all personnel complete an anonymous survey to elicit baseline information as well as attitudes and opinions about their working environment, agency processes, policies, protocols, rules, and related matters. These measures have provided a greater degree of trust between those who are conducting the agency assessment and personnel who will be called upon to implement recommended changes. In some cases, personnel who have been closely involved with the evaluation have become agents of change within the

department and have championed specific tasks, responsibilities, and reforms.
Harry Johnson, Esq., Legal & Quality Assurance & Section Lead, First Amendment Protected Activities
I have been involved in Strategic Planning Processes at GBMC, BCF, my law firm, and the Maryland State Bar Associations.
Sidney Butcher, Esq. – Section Lead: IV. Stops, Searches, Arrests, and Voluntary Police-Community Interactions V. Impartial Policing
I have been involved in strategic planning processes at state’s attorney’s office, my role as President and/or board members of various boards dealing directly with Baltimore City community and with various bar organizations including Monumental City Bar Association.
Frank Straub, PhD – Section Lead: VI. Responding To and Interacting With People With Behavioral Health Disabilities Or in Crisis & VII. Use of Force
Developed and implemented CompStat in Spokane, Indianapolis and White Plains; Co-authored a book on Performance-based Police Management; Led department-wide reforms in Spokane, Indianapolis and White Plains.
Jim McMahon – Section Lead: IX. Transportation of Persons in Custody & XVI. Recruitment, Hiring & Retention
At NYSP we arranged to have a loaned executive from IBM to work with us on our Mission Statement. He led a quality project that resulted in our vision, mission priorities, and our values (what we do, who we are and what we stand for). Focus groups, led by our loaned executive, from all ranks had input. Once completed every member was issued a laminated card containing our mission and values. They were also displayed throughout headquarters and our academy.
William P. Tartaglia – Section Lead: VIII. Interactions With Youth & XV. Coordination with Baltimore City Police Force
Team Member: Fort Lauderdale, Florida Police Department Study; Burbank, California Police Department Study; Tucson, Arizona Police Department, Jersey City Police Study. Establishing a trusting and working relationship with each department in order to receive factual information and provide effective feedback in an effort to assist them in their efforts. By establishing a trusting relationship with the members, accurate information and input lead to helpful recommendations and result in implementation of recommendations.
Doug Scott – Section Lead: XI. Handling of Reports of Sexual Assault & XII. Technology
During my tenure in Arlington we adopted a published 3 to 5 year Strategic Plan. Budget & Staffing Annual goals were established and evaluated

26.h. Working with government agencies, including municipalities, elected officials, civilian oversight bodies, collective bargaining units, and other stakeholders interested in policing issues

Thurman Zollicoffer, Monitor

City Solicitor I met frequently with collective bargaining units addressed the City Council and represented the City before the State of Maryland during the legislative session. Facilitating a common message for the City to address the needs of both the legislative body and the executive. The first PILOT for large charitable organizations that garnered 20 Million dollars of income for the City.

Charles Campisi, Deputy Monitor & Section Lead: XIII. Supervision & XIV. Misconduct Investigations & Discipline

As Chief of IAB, worked closely from 1995 - 2014 with the Mayoral Commission to Combat Police Corruption, "a permanent board to monitor and evaluate the anti-corruption programs, activities, commitment, and efforts of the New York City Police Department". Information sought by the Commission (and the CCRB) was originally dispersed throughout the department, sometimes difficult to understand for a civilian not trained in police procedure, and often in formats that differed from what the commission required. We worked with Commission lawyers to teach them police procedures, the requirements of *Garrity*, and put them through scenario based training to improve their knowledge from the perspective of both police, arrestees and others who interact with police. As we centralized operations for IAB through our Steering Committee as well as computer systems we became able to anticipate the Commission's requests and provide what was needed in a complete and timely manner. We worked to settle disagreements productively, getting the DA, US Attorney and Department of Justice involved as necessary. Amid intense scrutiny and political pressure related to high profile incidents (e.g. Abner Louima and Amadou Diallo). This contributed to a determination by the Department of Justice that it was not required to put a third party monitor in place.

Erek Barron, Esq., Communications & Outreach Lead

I have experience working and collaborating at every level of government. As an attorney, I have represented local, state and federal government agencies and organizations, including, for example, the Maryland Black Mayors Association, Montgomery County, Prince George's County, the State's Attorneys Association, the State's Attorney's Offices for Baltimore City, Prince George's County, Montgomery County and Baltimore County. Moreover, as a member of the General Assembly I work with and have relationships with virtually every unit of government in Maryland.

Jim Burch, Training Development Lead

As Deputy Assistant Attorney General at the Office of Justice Programs and as Acting Director of BJA, Mr. Burch interacted and worked closely with hundreds of local elected and appointed officials on policing issues and has worked closely with community organizations and other stakeholders throughout his career. As Acting Assistant Director at ATF, Mr. Burch oversaw ATF's

Intergovernmental Affairs Unit, which was responsible for establishing liaison and strong relationships with industry and professional organizations from law enforcement and industry as well as working closely with state officials, prosecutors and law enforcement agencies in partnership.

Frank Dwyer, Research Lead & Section Lead - XVII. Staffing, Performance Evaluations and Promotions & XVIII. Officer Assistance and Support

Extensive experience coordinating with other government agencies. Coordination with Mayor's office. Represented Chief of Department at meetings internally and with other agencies (e.g., United Nations Landmark Security Committee, Interagency Event Planning Committee). Member of 15-person Citywide Emergency Critical Response Plan to Major Disasters. Police Department representative to the 11-member 9-11 World Trade Center Memorial Mission Statement Committee.

Phill Lynn, Policy Development Lead

Have worked with city and county executives, city and county councils, agency executives, federal officials, and municipal agencies that interact, or in some cases, should interact with their local police or criminal justice agencies. These took place during the conduct of studies identified in items (a) and (q) of this document. Two general types of challenges are often faced when dealing with these agencies and bodies—personal and political agendas, and factual misunderstandings or unfounded beliefs and perceptions. For example, often a mayor or county executive may press for an outside study of the effectiveness, efficiency, and management of their police agency because they are interested in a change of leadership or specific modifications to the department to restructure and/or save money. In other cases, they may be pressured by community groups to take specific actions for their benefit.

In other instances, community agencies or interest groups may have certain views and prejudices for local law enforcement that are not based in fact or an understanding of the nature, rules, and policies that guide police work.

In both situations, it is essential to identify any personal or political agendas, and to identify how negative perceptions held by city or county agencies, or by influential community interests have been established. Conducting candid, fact finding interviews with elected officials is essential, as are individual, group discussions and listening sessions with other community stakeholders.

Using an example on the federal level, in preparing the publication—a “Guide for Protecting Children of Arrested Parents” for the Bureau of Justice Assistance, it was necessary to engage some 15 federal agencies and stakeholders in both collective listening sessions and discussions, as well as on individual bases. The views, interests and concerns of these agencies were identified, responded to, and incorporated into, or recognized in, the final report and subsequent training. In some cases, highly divergent views and concerns held by individuals were driven by factors having more to do with protecting personal and agency “turf” and biases than the interests and goals of the study. Each of these were satisfied on an individual basis.

Engagement of individuals, agencies, and other stakeholders by a variety of means has been responsible for positive outcomes in the vast majority of cases.

Harry Johnson, Esq., Legal & Quality Assurance & Section Lead, First Amendment Protected Activities
I have represented Baltimore City, the Housing Authority of Baltimore City, and Montgomery County, and have been a member of both Trial Court and Appellate Court Nominating Commissions in Maryland. I have also been a member of the ABA Standing Committee on the Federal Judiciary, which works with the White House and the DOJ with regard to federal judicial nominations.
Sidney Butcher, Esq. – Section Lead: IV. Stops, Searches, Arrests, and Voluntary Police-Community Interactions V. Impartial Policing
Same as above
Doug Scott – Section Lead: XI. Handling of Reports of Sexual Assault & XII. Technology
COG Police Chiefs, VA Chiefs, PERF, N VA Chiefs, IACP. I never was reluctant to assume leadership roles or responsibilities. Balancing those activities with internal needs Secured millions of dollars in grant funding for dept. and regional needs.

26.i. Engaging effectively with diverse community stakeholders to promote civic participation, strategic partnerships, and community policing

Thurman Zollicoffer, Monitor

City Solicitor,

EBDI Chair,

Total Health Care, Chair

Baltimore City Aquarium, Engaging effectively with various stakeholders with differing views on success draws friction at times when economic growth is at the expense of older communities. Provided options for a balanced approach that allowed for economic investment but pushing MBE/WBE goals and minority equity stakeholders. Greater minority and female owned business goals achieved.

Charles Campisi, Deputy Monitor & Section Lead: XIII. Supervision & XIV. Misconduct Investigations & Discipline

As Deputy Inspector of 6th Precinct (Greenwich Village), regularly interacted with a diverse and dynamic community. Engaged their support and participation through NYPD Community Council, Auxiliary Police, Community on Patrol, Chamber of Commerce programs and establishment of NYU Community Patrol (for credit class). As Chief of IAB taught 90 minute course at Civilian Police Academy. For high profile cases widely reported to the community IAB worked closely with NYPD executive command and Mayor's Office to clearly and rapidly present findings (e.g. Abner Louima, Amadou Diallo, Sean Bell). For Community Policing we wanted to make sure that we included our biggest critics and not just supporters. For high profile case need to rapidly and comprehensively perform professional investigation according to policies and procedures in face of intense media pressure and racial tensions raised by high profile incidents. We did outreach through many groups. Gave rides to people who needed rides to Citizen's Police Academy. Worked through uniform and radio issues for Auxiliary Police and Community on Patrol. Met NYU standards for academic credit. Put our highest performing investigators on the job to take all appropriate actions to quickly preserve evidence, interview witnesses and keep executive command and city political leaders properly informed. Increased community participation led to greater level of substantiated complaints and less unsubstantiated complaints. 6th Precinct awarded Unit Citations (highest honor in NYPD) for Community Policing and Robbery Reduction. Police were prosecuted to the fullest extent of the law in the Abner Louima case. Through proactive outreach to the community on the facts in climate of intense scrutiny from media and community, NY avoided much of the potential civil unrest. Publication: "Building Trust Between the Police and the Citizens They Serve: An Internal Affairs Promising Practices Guide For Local Law Enforcement, International Association of Chiefs of Police Community Oriented Policing Services - U.S. Department of Justice (2009) (Co-Authoring in committee)

Erek Barron, Esq., Communications & Outreach Lead
As an experienced elected official and member of the Legislative Black Caucus and the Latino Caucus, I am proficient in engaging community stakeholders, including by organizing community meetings and town halls and by working with a variety of groups such as the NAACP, OSI, JOTF, and many others.
Jim Burch, Training Development Lead
In his currently role overseeing the Police Data Initiative, Mr. Burch often interfaces with organizations promoting police reform on the national level, such as the Open Society Foundation, the Policing Project, the Center for Policing Equity, the Ford Foundation and grassroots advocates and civic activists. While the end goal of fair and impartial policing is the same, these groups have very different strategies to achieve that goal, but dialog and cooperation where appropriate is often possible, if not understanding of diverse perspectives.
Frank Dwyer, Research Lead & Section Lead - XVII. Staffing, Performance Evaluations and Promotions & XVIII. Officer Assistance and Support
<p>As precinct commander, coordinated outreach efforts with business, religious, education, government, and community leaders, including approximately 130 bars/clubs, six city housing developments, 25 Jewish synagogues, 10 Christian churches, three Buddhist temples, and one Muslim mosque. Regularly attended community and religious services and events. Community concerns regarding Terrorism post-911 and stereotyping of members of the Muslim community. Fear of anti-Semitic acts at Jewish synagogues. Community Complaints concerning noise and disorder from large number of bars/clubs</p> <p>Regularly visited mosque and synagogues; provided security details on holy days; worked with borough command to provide additional police resources when required; had crime prevention surveys conducted at religious institutions to increase safety. Established visitation program to schools. Held biannual meetings with all club and bar owners to address community concerns. Establish a bar/club enforcement unit to address quality of life conditions. Held monthly community meetings to address concerns. Increased community participation in precinct events. Established personal working relationship with each rabbi who headed a synagogue and the President and Imam of the Mosque.</p> <p>Increased enforcement at location with specific quality of life conditions.</p>
Harry Johnson, Esq., Legal & Quality Assurance & Section Lead, First Amendment Protected Activities
BCF; GBMC; Boy Scouts; I also was a former Trustee of Baltimore Community College.
Doug Scott – Section Lead: XI. Handling of Reports of Sexual Assault & XII. Technology
Post Black Lives Matters arranged for specific meetings in predominantly African American neighborhoods. Discovered a disconnect between the older more senior residents who genuinely supported the police and younger residents that shared concerns and some allegations of police misconduct. We found a similar pattern in communities with higher Hispanic populations. Challenge was balancing enforcement practices in areas where criminal misconduct was most prevalent with voiced concerns of bias-based police targeting. Some personnel reassignment was necessary to regain trust in minority communities. Issues frequently traced back to specific potentially overly aggressive officers.

26.j. Mediation and dispute resolution, especially mediation of police complaints and neighborhood mediation
Thurman Zollicoffer, Monitor
City Solicitor EBDI Chair
Frank Dwyer, Research Lead & Section Lead - XVII. Staffing, Performance Evaluations and Promotions & XVIII. Officer Assistance and Support
Worked with community members to address quality of life and other conditions. Worked with local community boards to ensure sensitivity to community needs. Engaged with parties involved at non-police settings. Ensured adequate representation by non-police personnel to provide comfort for all parties involved. Sought to create understanding and trust followed by mutual win-win situations. Able to effectively resolve community concerns without the necessity of law enforcement or judicial interventions. Fostered a culture within the community where mediation of disputes was accepted.
Harry Johnson, Esq., Legal & Quality Assurance & Section Lead, First Amendment Protected Activities
Thompson v. HUD.
Jesse Lee, PhD – Section Lead: II. Community Oversight Task Force & III. Community Policing & Engagement
<p>There was significant community outrage do to the death of a citizen by the Police Department (BART). Worked on the NOBLE team that provided conflict resolution and prevention assistance to local officials, law enforcement authorities, clergy, and other community leaders. As the executive Director of Noble and IACP Manager of Police Services, I regularly interacted with diverse experiences throughout the USA and internationally providing community engagements for police chief's selections, community assessments on how police services were rendered, and management studies. Challenges include establishing trust and legitimacy; effectively identifying informal leaders from various community groups; avoiding community and group biases</p> <p>We did outreach utilizing church groups and community organizations. A list of nonprofit organizations was gathered from IRS and local government officials. We identified a neutral location where all stakeholders and parties involved felt comfortable; ground rules were sent out to stakeholders prior to the meeting (such as limited time to talk, opportunity to send questions prior to the meeting); solicited facilitators to address community issues were brought in to discuss how their communities resolved concerns, to show a model of how the transformation could occur within their community. Overall, it was essential to bring a global perspective to the meeting; which I was able to do through various networks. We increased community participation by being at a neutral location. By bringing external views and opinions to the meeting, it began to provide an established trust and legitimacy; the group felt valued, this increased communication between the Chief of Police and the</p>

local police department; in some instances, it allowed members to hire a new Police Chief; provided an outlet and framework for continuity of future meetings.
Sidney Butcher, Esq. – Section Lead: IV. Stops, Searches, Arrests, and Voluntary Police-Community Interactions V. Impartial Policing
Participate in Baltimore City Circuit Court volunteer mediator program, board member of Community Conference Center and presided over informal mediation in juvenile criminal matters. Past President of Monumental City Bar Association where all of our outreach was to the Baltimore City community
Frank Straub, PhD – Section Lead: VI. Responding To and Interacting With People With Behavioral Health Disabilities Or in Crisis & VII. Use of Force
See attached paper, Collaborative Reform in Spokane, WA: A case study and its implications for reform. Police Chief (October, 2015)

26.k. Use of technology and information systems, including data collection and management, and analytical tools, to support and enhance law enforcement practices

Charles Campisi, Deputy Monitor & Section Lead: XIII. Supervision & XIV. Misconduct Investigations & Discipline

Oversaw development of computer systems as chief of IAB. Our challenge was the need to proactively gather critical data from diverse and disparate NYPD computer systems as the legacy systems that didn't properly integrate data for IAB purposes. We needed to visually display hot spots, problem areas and trends to help identify problem areas and assess performance. We worked with IAPRO to form key elements of what evolved into the in house Internal Computer Investigative System (ICIS). At full functionality ICIS could draw from reports of all major functions of patrol, investigations and dispatch/records management and create hot spots. This gave us the ability to inform our management processes (i.e. steering committee) and individual cases/issues with greater speed and accuracy. We were able to automate the reports with charts, graphs and trends and save a lot of time.

Karen Amendola, PhD, Metrics & Standards Lead

Amendola has worked in policing for 25 years during which time she has conducted research in applied experimental psychology, using a variety of methods including experimental designs, quasi-experimental studies, survey research, and observational methods as well as relevant associated statistical analysis. She has conducted regression (MRC) analysis including linear and hierarchical, correlational studies. She has also relied on ANOVAs for experimental designs, and has done factor analysis. Her expertise is in the development of outcome measures, and conducting analysis of reliability and validity of instruments, measures, and scales (e.g. alpha and kappa coefficients, as well as various correlational measures for internal consistency and test-retest reliability as well as validation using content-oriented, criterion related (predictive and concurrent) validity.

Sean Bair, IT & Systems Development Lead

Developed means to extract, ingest and create common nomenclature of data from most every RMS & CAD systems across the US, Canada and Brazil (SIGO, Intergraph, Spillman, Motorola, Tiburon, etc.) for robust spatial, statistical, temporal and behavioral analysis. Developed first freely available national crime mapping website where departments can submit their data and have it viewed by citizens to promote community policing and transparency. Successfully ingested millions of records from thousands of agencies across the US and Canada for this national "crime mapping" system - RAIDSONline. Developed other analytical tools used by Wal-Mart, Target, Macy's, hundreds of police and sheriff departments worldwide as well as the department of defense. Disparate systems and data from agencies across the country caused taking data from one agency and 'merging' it with another agency in another state such that both agencies could easily view and make sense of each other's data was a challenge. A national nomenclature was developed after substantial statistical analysis against hundreds of police agencies data. This nomenclature went well beyond basic UCR or NIBR data by providing non-codified, "plain speak" text for anyone to view and run analysis against. Data was also extracted and inferred from free text data providing Modus Operandi information to agencies who only captured it through narratives. First of its kind national crime and CAD data sharing system able to view a single dataset across the entire US. Agencies were able to identify cross-

jurisdictional crime patterns and series and solve more cases.

Jim Burch, Training Development Lead

As Acting Director of the Bureau of Justice Assistance, Mr. Burch oversaw many DOJ initiatives to improve the use of technology and information systems to support law enforcement. As the Police Foundation's lead on the Police Data Initiative, Mr. Burch is in communication with as many as 136 law enforcement agencies around the U.S. about their data collection practices, systems and capabilities, including Baltimore Police Department's systems as a participant in the PDI. In the development of the Officer Involved Shooting data collection initiative, Mr. Burch interfaced closely with the FBI CJIS Division on its use of force data collection and participated in discussions with various law enforcement groups about the efficacy of such as collection. See: From the Acting Director: The Bureau of Justice Assistance: The DOJ's Global Initiative and Partnerships as the Keys to Success, The Police Chief, 76 (December 2009) <http://www.policechiefmagazine.org/from-the-acting-director-the-bureau-of-justice-assistance-the-dojs-global-initiative-and-partnerships-as-the-keys-to-success/>

As Vice President, Strategic Initiatives for the Police Foundation recently conducted a city-wide review of Wilmington (DE) public safety strategies at the request of the Governor of Delaware. Limited system and data availability made evaluation of the public safety strategies very challenging, particularly in light of public views and opinions that were not always aligned with the beliefs of city officials. A key example of this was the public's views that Wilmington's CCTV network was not operational or suffered from severe, system-wide outages and malfunctions. Because the city did not maintain electronic records of CCTV camera functional status, an audit of daily camera status logs was conducted. To maintain community trust and reliability of the audit, no advance notice of the audit was provided and daily status logs were selected randomly for review by project staff. The data collected including the number of functional cameras on the days audited, the nature of any noted problems, and the quality control process surrounding the daily logs. Data was assembled that showed that on most days, the vast majority of cameras were functional, but the footage was not being accessed by the police department due to the burdensome, manual processes involved in viewing the footage. This led the community to believe that the cameras didn't work because no footage was revealed even when crimes occurred directly under a camera. Our audit of the CCTV functional status led to recommendations for immediate steps to increase the number of functional cameras, recommendations to improve access to CCTV footage by investigators and to strengthen police policies related to use of CCTV footage and response to CCTV notifications, and recommendations to modernize the capabilities of the CCTV system in Wilmington. As a result of these recommendations, the State of Delaware authorized and funded a technical planning process to upgrade the CCTV system and the city took steps as recommended to improve access to cameras.

Frank Dwyer, Research Lead & Section Lead - XVII. Staffing, Performance Evaluations and Promotions & XVIII. Officer Assistance and Support

Through the CompStat process utilized data collection to collect and analyze local and citywide trends and the existing response to the identified conditions. Changes in crime patterns and community issues that need to be resolved that require the creation of alternative metrics. Utilized focus groups to determine what additional data and metrics would assist in mission success. Worked with computer technology personnel to develop programs to gather data and allow for appropriate

queries and metric definitions. Able to provide timely and accurate intelligence to field commanders to ensure rapid response to changing conditions.

Frank Straub, PhD – Section Lead: VI. Responding To and Interacting With People With Behavioral Health Disabilities Or in Crisis & VII. Use of Force

Indianapolis Department of Public Safety: Established the City's Real Time Crime Center; Spokane, Indianapolis and White Plains: Established CompStat process; Implemented CAD/RMS systems; Led public safety emergency communications and 911 centers.

Doug Scott – Section Lead: XI. Handling of Reports of Sexual Assault & XII. Technology

Major systems improvements to include fixing a dysfunctional CAD and RMS system. Spearheaded establishing a shared law enforcement data network LINX for the region that ultimately stretched from Baltimore to the Tidewater region of VA working closely with the NCIS and other partner agencies. Budget for these systems were major capital investments. These systems greatly enhanced information and lead analysis for officers and detectives.

26.I. Appearing in court as a judge, monitor, counsel, or expert witness, or providing other types of testimony
Thurman Zollicoffer, Monitor
Conflict Counsel, Assistant States Attorney, City Solicitor
Charles Campisi, Deputy Monitor & Section Lead: XIII. Supervision & XIV. Misconduct Investigations & Discipline
Numerous testimony over 41 years at NYPD.
Erek Barron, Esq., Communications & Outreach Lead
I am an experienced trial and appellate attorney, having appeared in state and federal courts throughout the country.
Harry Johnson, Esq., Legal & Quality Assurance & Section Lead, First Amendment Protected Activities
39 years of trial experience. I have also been retained to serve as an expert witness in legal malpractice cases.
Jesse Lee, PhD – Section Lead: II. Community Oversight Task Force & III. Community Policing & Engagement
Have testified in numerous cases over the span of my law enforcement career.
Sidney Butcher, Esq. – Section Lead: IV. Stops, Searches, Arrests, and Voluntary Police-Community Interactions V. Impartial Policing
I have almost 10 years of trial experience in state courts.
Doug Scott – Section Lead: XI. Handling of Reports of Sexual Assault & XII. Technology
Testified in criminal and civil court in many trials

26.m. Writing complex reports for dissemination to diverse audiences
Charles Campisi, Deputy Monitor & Section Lead: XIII. Supervision & XIV. Misconduct Investigations & Discipline
As 6th Precinct Commander wrote annual "State of the Command Report. As IAB Chief wrote Annual Report synopsizing all operations. Comprehensive reports for all major incidents and for specific issues (i.e. % of cases substantiated, etc.). The challenges were the need to obtain timely and accurate information from diverse human and data sources. Because complex and sensitive issues have a heightened potential for misinterpretation we rigorously enforced a policy of plain, assertive language. IAB had an excellent writing team that produced very useful reports for strategy, budgets and evidence.
Jim Burch, Training Development Lead
While Mr. Burch's involvement in writing the Wilmington public safety review report is certainly an example of this capability, there are others that can be pointed to. Specifically, Mr. Burch served as the lead writer of a report for the Commission on Accreditation in Law Enforcement (CALEA) that is intended for a wide law enforcement audience regarding the complex subject of compliance analysis related to Equal Employment Opportunity in Law Enforcement Hiring. The report was intended to explain and demystify the identification of a concept known as Total Available Workforce (TAW). Many law enforcement agencies misunderstand this to mean that if they conduct recruiting in territories and other nations (e.g., Puerto Rico, Dominican Republic, etc.) that they are required to reflect the demographics of these areas within their TAW analysis. The paper Mr. Burch authored discussed this issue, discussed DOJ and OJP Civil Rights and EEO reviews of law enforcement hiring practices, and provided clear discussion and guidance to agencies on how to prepare their TAW and associated analysis. The paper can be found online at: http://www.calea.org/sites/default/files/TotalWorkForce_PoliceFoundation.pdf
Frank Dwyer, Research Lead & Section Lead - XVII. Staffing, Performance Evaluations and Promotions & XVIII. Officer Assistance and Support
Prepared written analytical reports evaluating NYPD programs and policies, as well as other departments (e.g., Wilmington Delaware). Need to write reports that address condition with sensitivity to needs of diverse audiences. Work with teams to gain appropriate background information and data for reports. Sought diversity of opinions on complex issues. Allowed time for multiple drafts and revisions of reports. Able to provide easily readable, comprehensive reports, with plans of action and specific goals.
Phill Lynn, Policy Development Lead
Have prepared detailed organization and management study reports and research papers and publications for the U.S. DOJ, the COPS Office, and other federal, state and local agencies as listed in items (a) and (q) of this document. Have also written and published more than 200 Training Keys—documents used for in-service training of law enforcement officers on a wide variety of patrol and

other operational topics. None of such significance as to be considered challenges.
Jesse Lee, PhD – Section Lead: II. Community Oversight Task Force & III. Community Policing & Engagement
<p>As the Executive Director of NOBLE and the Manager of Executive Management Studies wrote comprehensive reports on management studies, executive reports, national board reports</p> <p>Maintaining accurate information from multiple sources that needed to be verified to avoid any omissions or potentials errors or misleading information, that could be supported by evidence based resources.</p> <p>All reports encompassed detailed information that was readable for all levels; reports were completed in a timely manner and edited for errors and omissions. Provided the necessary information that supported the purpose of the report.</p>
Frank Straub, PhD – Section Lead: VI. Responding To and Interacting With People With Behavioral Health Disabilities Or in Crisis & VII. Use of Force
<p>Authored or co-authored critical incident reports regarding the San Bernardino Terrorist Attack, the Pulse Night Club Shooting, Kalamazoo Mass Shooting, Preliminary Report to the Governor of Delaware regarding the James T. Vaughn Correctional Center Riot, Occupation of the Minneapolis Police Department’s 4th Precinct.</p>
William P. Tartaglia – Section Lead: VIII. Interactions With Youth & XV. Coordination with Baltimore City Police Force
<p>Inspector - Gang Division</p> <p>Member of Team - Fort Lauderdale, Florida Police Department Study. Member of Team - Burbank, California Police Department Study. Member of Team - Tucson, Arizona Police Department, Member of Team - Jersey City Police Study</p> <p>President - JAT & Associates Inc. Writing comprehensive, accurate, understandable reports</p> <p>Developed excellent writing skills through many years of preparation of reports and testifying to accurate paperwork</p> <p>Always learning from each experience</p>
Doug Scott – Section Lead: XI. Handling of Reports of Sexual Assault & XII. Technology
<p>Conducted numerous investigations and written and edited many reports</p> <p>FOIA and other legal privacy issues</p>

26.n. Providing formal and informal feedback, technical assistance, training, and guidance to law enforcement agencies

Charles Campisi, Deputy Monitor & Section Lead: XIII. Supervision & XIV. Misconduct Investigations & Discipline

We maintained an IAB Course open to all law enforcement agencies. It's a two week long class (25 students at a time). We taught people how to be more efficient investigators: how to write reports, conduct investigations & surveillance. We certified them in how to do drug testing. We would teach every new police academy class and also have Executive Development sessions with captains.

Erek Barron, Esq., Communications & Outreach Lead

As an experienced criminal defense attorney and former prosecutor in state and federal courts, I have provided formal and informal guidance to a variety of law enforcement agencies.

Karen Amendola, PhD, Metrics & Standards Lead

Chief Behavioral Scientist of the Police Foundation. 25 years of experience in public safety research, testing, training, technology, and assessment. Has worked with dozens of local, state, and federal agencies. Authored or co-authored numerous publications including "Promoting Officer Integrity Through Early Engagements and Procedural Justice in the Seattle Police Department" (2016) and "Can you Build a Better Cop? Experimental Evidence on Supervision, Training, and Policing in the Community" (in press). Served as Associate Editor for Psychology and Law for the ten-volume Encyclopedia of Criminology and Criminal Justice published by Springer Verlag, New York (2014). Served as Chair of the National Partnership for Careers in Law, Public Safety, Corrections, and Security, the Innocence Project's Research Advisory Board, and is currently an appointee to the Third Circuit Court of Appeals Task Force on Eyewitness Identification.

Sean Bair, IT & Systems Development Lead

As president of BAIR Analytics, provided countless training, technical assistance and consultancy services to local, state, federal, defense and private sectors companies. Knowing the audience and the right delivery mechanism to satisfy the audience - TS/SCI powerpoints to Generals or front line soldiers, intelligence officers, Chiefs of Police, Mayors, citizens, business owners, etc. Developed several new methods for conveying extremely complex information, statistics, and material.

Jim Burch, Training Development Lead

While the Wilmington public safety review is a good recent example of this experience since 2015, it is important to note that this is my current role in the Police Foundation and this was a huge part of my role in DOJ for 20+ years. More specifically: As Vice President at the Police Foundation, Mr. Burch currently oversees multiple training and technical assistance efforts for law enforcement, including the Police Data Initiative and the Officer Involved shooting Initiative, which involve monthly and quarterly conversations with agencies about how to improve data collection and analysis, operations and policy and training. For example, the Police Foundation recently prepared a report to the Major

<p>Cities Chiefs on the role that distance plays in officer, subject, and bystander safety in OIS incidents. The analysis found, and Mr. Burch conveyed to the agencies, that while greater distances between officers and subjects when shootings occur does not increase risk of bystander injury (a counterintuitive finding), the closer the distance between the subject and the officer, the greater the risk of officer injury. This analysis was accompanied by guidance to agencies about the importance of continuing to train officers to create distance between them and armed subjects, the importance of finding cover and maintaining awareness of cover in call types frequently associated with OIS incidents, and the importance of scenario-based training. During his DOJ career, Mr. Burch reviewed and provided technical assistance to agencies and his lectures at the FBI National Academy all focused on providing practical and actionable guidance to officers in areas such as gang data collection and program development.</p>
<p>Frank Dwyer, Research Lead & Section Lead - XVII. Staffing, Performance Evaluations and Promotions & XVIII. Officer Assistance and Support</p>
<p>Through consulting engagements and with the NYPD, regularly reviewed policy and other documents, as well as visited police facilities to provide training, feedback and assistance regarding police procedures. Ongoing challenges of large number of needs and conditions that police need to address. Regularly called upon by others to review working documents and assist in preparation of training. Reputation for maintaining confidentiality that promotes collaboration. Able to provide critical feedback that assists in creation of appropriate policies and documents.</p>
<p>Phill Lynn, Policy Development Lead</p>
<p>Have provided formal and informal feedback, and technical assistance to law enforcement agencies during the conduct of organizational and management studies as detailed in items (a) and (q) of this document.</p> <p>Have conducted training to over 1200 law enforcement executives in regional classroom settings on the topic of “High Risk Policy Development.” These included topics such as use of force and force reporting, force investigations, officer involved shootings, officer conduct and disciplinary procedures, unbiased policing, early personnel warning systems, complaint processing and investigation, risk management, canine deployment, crisis intervention, and motor vehicle pursuits.</p>
<p>Jesse Lee, PhD – Section Lead: II. Community Oversight Task Force & III. Community Policing & Engagement</p>
<p>Teach students who are law enforcement practitioners as a doctoral level faculty; provide training nationally and internationally to leadership; instruct international officers from Africa and the U.K. Based on the diversity of the people that I teach and the expertise of the agency, there may be communication barriers, to include wiring and leaning styles. Law enforcement professionals overall interest in the topic/trainings may vary. We work to build a cohesive environment that allows all learners to learn from each other. It is important not to rush to judgment allowing for a professional work environment that allows for high emotional intelligence and critical thinking skills.</p>
<p>William P. Tartaglia – Section Lead: VIII. Interactions With Youth & XV. Coordination with Baltimore City Police Force</p>
<p>Member of Team - Fort Lauderdale, Florida Police Department Study. Member of Team - Burbank,</p>

California Police Department Study. Member of Team - Tucson, Arizona Police Department, Member of Team - Jersey City Police Study

Establishing a trusting and working relationship with each department in order to receive factual information and provide effective feedback in an effort to assist them in their efforts. By establishing a trusting relationship with the members, accurate information and input lead to helpful recommendations

Implementation of recommendations

Doug Scott – Section Lead: XI. Handling of Reports of Sexual Assault & XII. Technology

I have served as an Academy Instructor and an Academy Director. I currently teach criminal justice undergraduate courses at Marymount University and also teach Leadership Development Courses for Command Staff Officers at local police academies. Student engagement convincing the student there's value in what is being offered. Extremely positive student & peer evaluations

26.o. Reviewing policies, procedures, manuals, and other administrative orders or directives, and training programs related to law enforcement practices

Karen Amendola, PhD, Metrics & Standards Lead

Has reviewed policies and procedures related to civilian complaints, training in community policing (supervision, ethics, command level leadership training), communications, recruitment and hiring, polygraph and psychological testing, and other personnel practices (including the assessment of adverse impact in hiring and promotional practices) in numerous agencies nationwide.

Sean Bair, IT & Systems Development Lead

Directed national Crime Mapping & Analysis Program. Developed and delivered curriculum to more than 7,500 officers, investigators, and analysts across the nation. Taking very technical and complex analytical methods and software and developing curriculum to teach law enforcement and defense persons across a wide range of skill sets. Standardized curriculum using "watch, follow, teach" methodology. Continued NIJ funding, exceptional ratings from participants.

Jim Burch, Training Development Lead

Mr. Burch has a strong relationship to CALEA and frequently discusses and/or engages in the review of policies and programs related to accreditation for law enforcement agencies in the U.S. and Mexico. Mr. Burch recently assisted in the review and development of a model policy on law enforcement reporting of near miss incidents and previously oversaw DOJ's funding support for IACP's Model Policy Center, which involved input and review of proposed IACP model policies. In the late 1980's Mr. Burch also supported the Prince George's County Maryland Police Department's efforts to become accredited through the review and development of the agencies policies and practices.

Frank Dwyer, Research Lead & Section Lead - XVII. Staffing, Performance Evaluations and Promotions & XVIII. Officer Assistance and Support

Written many policy, procedural, and manual sections during police career. I was a member of the McKinsey Planning and Training committees evaluating response to 9-11 attack. Challenge of balancing needs to address specific conditions with historical understanding of community concerns, as well as need to adapt training to new policies and procedures. Conferred with policy experts to ensure comprehensive and accurate feedback was consistently provided. Conferred with various stakeholders to ensure their needs were addressed. Able to provide critical feedback that assists in creation of appropriate policies and documents.

Sidney Butcher, Esq. – Section Lead: IV. Stops, Searches, Arrests, and Voluntary Police-Community Interactions V. Impartial Policing

As a former prosecutor I worked with victims and families affected by criminal cases in Baltimore City. In addition, I participated at community meetings to hear issues in various parts of the City. Based on complaints coordinated efforts with Baltimore city police department to target violent repeat offenders and dismantle drug shops. Also, part of the WTP team retained to defend members of the

Baltimore City Police Department; various aspects of law enforcement practice are at issue in litigation. As a member of the American Bar Association Criminal Justice Section, I have worked on best practices for law enforcement, prosecutors and defense bar. Many of these recommendations were adopted by the ABA. My work through local, state and national bar associations dealt directly with issues faced in Baltimore.

26.p. Municipal budgets and budgeting processes
Thurman Zollicoffer, Monitor
<p>City Solicitor Staying within an ever shrinking budget</p> <p>Created a collections unit that included bankruptcy claims</p> <p>Collected enough revenue to become a budget neutral agency</p>
Charles Campisi, Deputy Monitor & Section Lead: XIII. Supervision & XIV. Misconduct Investigations & Discipline
<p>Responsible for preparing budget for 750 person unit along with Office of Management Analysis & Planning (approximately \$90 million for personnel and \$2 million for Other than Personnel (e.g. rental cars, rent, drug testing kits). Challenges included rapid year over year growth of the unit and structural changes in the NYPD (i.e. NYPD mergers with traffic enforcement, EMS & housing which would increase the number of officers that we monitored). Sometimes responsibilities would come to IA that weren't included in the budget. For example we developed a court room testimony monitoring program and eventually turned it over to the NYPD Criminal Justice Bureau.</p>
Frank Dwyer, Research Lead & Section Lead - XVII. Staffing, Performance Evaluations and Promotions & XVIII. Officer Assistance and Support
<p>Monitored and controlled overtime budget as commander of 7th Precinct. Need to balance budgetary implications with reality of numerous community issues that require police response. Developed specific guidelines to empower subordinates regarding their ability to authorize expenditures within budgetary limits. Established guidelines for when higher levels of authorization are required. Able to ensure commands functioned within all budgetary requirements.</p>
Frank Straub, PhD – Section Lead: VI. Responding To and Interacting With People With Behavioral Health Disabilities Or in Crisis & VII. Use of Force
<p>Spokane Police Department - \$55M budget; Indianapolis Department of Public Safety - \$425M budget; White Plains Department of Public Safety - \$55M budget</p>
Doug Scott – Section Lead: XI. Handling of Reports of Sexual Assault & XII. Technology
<p>I was personally responsible for presenting an annual budget and a presentation on the department budgetary needs 17 different times. I managed departments with over a \$100 million dollar annual budget down to a department with a \$7 million dollar annual budget. Trying to match strategic needs in staffing and growth with budgetary restrictions and reductions. Beyond personnel there is not much flexibility in a Police Department operating budget to achieve reductions. Being very specific with elected officials and the public about operational impact by not filling vacancies or reducing staffing.</p>

26.q. Completing projects within anticipated deadlines and budgets

Thurman Zollicoffer, Monitor

Counsel for Fortune 50 Client Company is sued frequently for catastrophic damages in the state of Maryland and the District of Columbia. Each year as a defense firm I start with a stated budget for the year for all defense litigation for the Company. We have stayed within the budget with exception only to unforeseen unbudgeted circumstances.

Successfully defended Fortune 50 Company for over 7 years in a very high verdict environment without a major verdict. Amy E. Worden, Dow Chemical Corporation,

Chris Bowman, Dow Chemical Corporation

Charles Campisi, Deputy Monitor & Section Lead: XIII. Supervision & XIV. Misconduct Investigations & Discipline

With the help of McKinsey we developed and operated a series of A, B & C Steering Committees to take in, manage and complete cases on time and on budget. This approach helped us determine if we needed to redeploy personnel resources from one borough to the other (in order to better manage workload and overtime expense) and helped us stay within budget.

Erek Barron, Esq., Communications & Outreach Lead

As an experienced practitioner in the federal courts, I understand the importance of meeting deadlines.

Karen Amendola, PhD, Metrics & Standards Lead

Ms. Amendola has worked in policing for 25 years during which time she has conducted research in applied experimental psychology, using a variety of methods including experimental designs, quasi-experimental studies, survey research, and observational methods as well as relevant associated statistical analysis. These projects must be completed on time and on budget.

Jim Burch, Training Development Lead

During his DOJ career, Mr. Burch became accustomed to adhering to challenging timelines often provided by oversight committees in Congress and associated with Department litigation, such as a 9th Circuit case filed against the Department for failure to implement regulations as required under the Administrative Procedures Act. The court required the Department to issue final regulations in a very complex area within 90 days of the court's order, a deadline which Mr. Burch and a team of attorneys were able to meet. As a non-profit (Foundation) executive, Mr. Burch also understands the necessity of operating within budget parameters, as doing otherwise results in a loss to the organization.

Frank Dwyer, Research Lead & Section Lead - XVII. Staffing, Performance Evaluations and Promotions & XVIII. Officer Assistance and Support

Completed many long-term projects both within the police department and in given time frame. Requirement to balance multiple projects simultaneously within deadline and budgets. Worked within committee systems to ensure adequate delegation of project content to multiple parties to achieve deadlines and satisfy budgetary constraints.
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Phill Lynn, Policy Development Lead
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Have a record of completing numerous diverse projects on time and within budget for municipal, state and federal agencies. Had limited staff support due to numerous competing projects among staff as well as my time constraints due to involvement in other projects during the same timeframe. Timelines and deliverables are best kept on track by early agreement with the client on a timeline for tracking progress on initiatives. Each milestone must also be allotted an approximate number of man hours to complete, so that associated costs can be tracked closely to stay within budget.

Municipal agency studies have been previously listed. On the state level, I have served as principal investigator on the following projects. Colorado: Developed functional requirements for a statewide correctional offender information system; Delaware: developed functional requirements for the state's offender-based corrections information system; Georgia: developed a tri-county correctional institution consolidation plan for Fulton and two surrounding counties; New Hampshire: served as principal investigator for evaluation of the state's probation and parole department; Virginia: developed capacity projections and a functional design for a new Fairfax County Detention Center.

Federal projects include the following. Department of Defense: evaluated, revised, and developed critical policies and procedures for The Pentagon Police Department, Force Protection Agency; U.S.D.O.J, COPS Office: developed a national Model Policy, Officer Study Guide, Instructor's Guide, and Video Training Program on Public Recording of Police Activities; also for the COPS Office, developed a national Model Policy and wrote "Guide for Protecting Children of Arrested Parents." Under a Presidential Initiative, for the U.S. DOJ, Office of Justice Programs, developed "National Guidelines and Policies for Procuring Law Enforcement Resources and Equipment (from federal agencies) under the Federal 1033 Program." Other federal projects have been completed on time and within budget for the U.S. DOJ, U.S. Department of Transportation; the U.S. Fish and Wildlife Enforcement Division, and the Army Corps of Engineers.
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Doug Scott – Section Lead: XI. Handling of Reports of Sexual Assault & XII. Technology

In 17 years leading police departments, I never exceeded our annual budget.

26.r. Any other qualifications the Monitor candidates believe are pertinent to fulfilling the duties of Monitor under the Consent Decree

Jim Burch, Training Development Lead

A key challenge to successful reform in these situations is leveraging the Department of Justice's existing resources for training, technical assistance, data collection and analysis, funding resources and more. Mr. Burch brings a particularly informed perspective of these resources and how they can be leveraged, which is critical to achieving compliance effectively, on time and within budget.

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I believe one of my greatest strengths is identifying staff talent, assigning them where they can best serve the agency and allow them to manage effectively. Staff training and development to include diversifying command assignments is key. As a result a number of my former commanders have become Chiefs of Police.

27. an ability to work collaboratively with the City, BPD, and DOJ to enable BPD to reach compliance with the Consent Decree, and the ability to do so in a cost effective manner.

As demonstrated in our strategic approach, technical approach and budget, collaboration and cost-effectiveness define the Consent Decree and what we will do as Monitor through our delivery of clear and constructive guidance, analysis, recommendations and reporting.

Our team members and our firm have a demonstrated history of working collaboratively and cost effectively with DOJ, BPD, across the Greater Baltimore community and with large, diverse communities throughout the country. This includes leadership and technical skills earned at organizations where collaboration amongst federal and local law enforcement defines the mission such as the *US Department of Justice Office of Community Oriented Policing Services (COPS Office)*, the *International Association of Chiefs of Police (IACP)* and the *Police Foundation*. Our Baltimore-based team has decades of experience working with the City of Baltimore, the State's Attorney's Office, the Maryland Assembly, the U.S. District Court of Maryland and across the civic, civil rights and economic development communities of Baltimore. Our team includes individuals who have held positions of authority and influence where collaboration and cost-effectiveness have been inseparable necessities for delivering essential government services. Our policy, academic and technical professionals have worked collaboratively with thousands of municipal organizations to deliver practical solutions to local challenges that have helped set standards across the country.

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**Final Report:
Promoting Officer Integrity Through Early Engagements and Procedural Justice
in the
Seattle Police Department**

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ABSTRACT

Academics have long argued that the use of procedural justice is a necessary component of effective policing; yet, there is scant evidence on how the goals of procedural justice can be implemented in a practical way and on whether training officers to “listen and explain with equity and dignity” (LEED) actually translates into quantifiable improvements in field outcomes that policy makers care about. The purpose of this study was to conduct an experimental evaluation of an innovative training program aimed at promoting the use of procedural justice by officers in the Seattle Police Department (SPD).

A High Risk Circumstance (HRC) model was developed to identify officers working in “behavioral hot spots” or areas where an officer was at a higher risk of becoming involved in a potentially problematic event. Identified officers were assigned to either treatment or control. The treatment consisted of a non-disciplinary meeting with their supervisors where they were exposed to procedural justice and the principles of LEED in an interactive manner. The officers were subsequently compared to their control counterparts (N= 320), on four measures of overall activity including: a) total CAD incidents responded to, b) percentage of CAD incidents initiated by the officer, c) minutes on scene, and d) whether or not a written report was filed. The officers were furthermore, compared on three primary measures of how they responded to incidents: a) percent of incidents resolved via an arrest, b) frequency of officer involvement in incidents involving force, and c) frequency of complaints filed against the officer. As a complement to the arrest analysis, the percent of incidents resolved via a citation, a verbal warning, or by rendering assistance was also examined.

The officers who participated in supervisory meetings appeared to engage in encounters with citizens with equal frequency as their colleagues. However, those who participated in the meetings were roughly 26% less likely to resolve an incident with an arrest one week after having a meeting when compared to their colleagues who did not participate. This effect is reasonably persistent, and the results suggest that officers who participated in the LEED debriefs were 12% less likely overall to resolve incidents via an arrest over the six-week period after the supervisory meetings. The results also suggest that in the longer run, officers who participated in the meetings were over 50% less likely to be involved in a use of force incident.

Overall, we did not find evidence that officers who had additional non-disciplinary supervisory meetings were any more or less likely to respond to, initiate, or document CAD incidents relative to their peers who worked in similar situations. We also found no substantive change in the amount of time officers were officially on-scene in a given incident. Furthermore, we did not find evidence that officers who participated in the meetings were less likely to garner complaints from the public.

We conclude that non-disciplinary LEED based supervisory meetings are a promising strategy for improving police legitimacy. Officers who had at least one meeting over a six month period in which they reviewed how they approached relatively standard citizen encounters appeared to be less likely to engage in behaviors that, while central to policing, have the potential to reduce legitimacy when abused (e.g. making arrests and use of force).

Executive Summary

One of the fundamental challenges of government is to identify how to promote the interests of its constituents while maintaining a monopoly on the legitimate use of force (North, 1981). This problem is particularly acute when it comes to the administration of criminal justice; how do law enforcement agencies convince the public that they are benevolent and trustworthy agents, while at the same time making arrests, and coercing citizens? Officers must strike a delicate balance. They must actively engage the public, and issue warnings, citations, or arrest those accused of violating the law. At the same time, officers must make sure that citizens feel like they are being treated fairly, equitably, and are protected from harm.

Academics have long argued that the use of procedural justice is a necessary component of effective policing. While few practitioners would argue that treating citizens fairly, equitably and respectfully is not important, there is scant evidence on how the goals of procedural justice can be implemented in a practical way, and even less evidence that training officers to “listen and explain with equity and dignity” (LEED) actually translates into quantifiable improvements in field outcomes that policy makers care about.

To that end, we conducted an experimental evaluation of a training program aimed at promoting the use of procedural justice by officers in the Seattle Police Department (SPD). The innovation of the training program was threefold. First, we applied insights from criminology and statistics to develop a new kind of Early Intervention System, which we call a High Risk Circumstance (HRC) model. This model identifies officers working in behavioral “hot spots,” small geographic areas where police officers are more likely to be involved in problematic citizen encounters such as assaults on police officers, intoxicated persons, etc. Second, sergeants trained in the concept of listening and explaining with equity and dignity (LEED) modeled this

approach to procedural justice in meetings with officers, in which the officers' were asked to discuss a recent encounter selected by the research team. This approach was designed to demonstrate a procedurally just encounter in hopes that it would translate to how officers interacted with members of the community and how they could interact with them in the future as well. Third, we provide experimental evidence on the impact of a feasible procedural justice training program that is based on two practical and quantifiable performance metrics: officer activity and incident outcomes.

The HRC Model

Our HRC model was calibrated using geographically identified, incident-level data and SPD human resource records from 2009. The model was used to assign a "risk score" to every incident recorded in the SPD's Computer Aided Dispatch (CAD) system, based on a 30 day history of events in close geographic and temporal (time of day and day of week) proximity to the incident in question.

The risk score was calculated as the frequency with which calls dispatched to that area over the past 30 days were based on 911 calls, reports of firearm involvement, officer safety notices added to calls, citizens in mental distress, domestic violence incidents, or if dispatchers frequently identified situations as substantively different from the way that officers cleared incidents. We also measured the number of officers who reported being injured in a particular block location (e.g., reported being bitten while making an arrest at a specific place) and whether or not the specific officer involved had more than the average number of sick days, secondary jobs, or overtime hours in the previous month. The contribution of each of these measures to predicted risk was based on their partial correlation with what we defined as "potentially problematic events." We operationalized "potentially problematic events" as those incidents in

which an officer used force, for which a citizen complaint was filed against the officer related to the incident, or for which an involved officer was injured.

During the field experiment, we identified officers on a bi-weekly basis who were involved in incidents in the top 12th percentile of predicted risk in their precinct based on the HRC model. SPD personnel suggested that 12 percent was the largest number of officers that could participate in the study without disrupting normal operations. Officers in the top percentile of risk were then randomly assigned to either a control group or a treatment group. In total, the experiment had 12 waves over the course of six months. Typically, officers participated in these meetings within 11 days of being notified that they were selected.

The Experimental Engagement

A total of 241 officers were assigned to treatment, and despite union and IRB rules mandating that officer participation in the engagements be voluntary, there was still a 91.7 percent compliance rate. Treatment in this experiment consisted of officers participating in a non-disciplinary LEED-based supervisory meeting, which we refer to as an “experimental engagement” throughout. Officers participating in these meetings were exposed to procedural justice techniques in an innovative and interactive manner.

Specifically, in the experimental engagement the officer was asked by his/her sergeant to discuss a recent substantive citizen encounter that had been selected by the supervisor from a list provided by the researcher. During this discussion, the sergeant actively modeled the use of procedural justice through his/her interactions with the officer, and also allowed the officer to contribute to the focus and timing of the meeting in a way that is atypical for the standard hierarchical structure of supervisory meetings. The sergeant also suggested moments in the encounter where the officer had the opportunity to implement procedural justice ideas in practice

but had failed to do so. The purpose of this was not to reprimand the officer or criticize; rather, the purpose was to prime them to recognize future similar opportunities where they could implement LEED in practice.

The aim of this innovative and interactive approach was to provide the officer with a two-fold reinforcement of how to implement procedural justice – specifically LEED concepts – in the field. During the meeting, a lieutenant oversaw the process, and if necessary, intervened with the sergeant in case he/she strayed from consistent application of the prescribed procedural justice techniques in which they had been trained.

At the conclusion of the engagement, officers were asked to fill out a confidential comment card about the experience and they were asked to mail it directly to the Police Foundation. Because completion of the comment cards was voluntary and anonymous, there was no opportunity for the researchers to follow-up with non-participating officers to request completion of the comment cards. Based on site visits conducted by the Police Foundation, it appears that encouragement by SPD personnel to complete these comment cards varied substantially, and this likely explains the low level of response we received.

Study Implementation

Over the course of 26 weeks from April 2013 through October 2013, a total of 221 procedural justice meetings were held. The research team conducted a total of five site visits during the field experiment, and observed a total of eight meetings. During those observations, it was clear that the collaborative approach to the meetings was unusual for many of the SPD officers, and while most sergeants and lieutenants engaged in good-faith efforts to conduct the meetings as they had been instructed, there was still substantial confusion about the purpose of the engagements by the officers. In particular, much of the confusion appeared to stem from the

officers' lack of understanding regarding the rationale for discussing the particular encounter selected, especially when the perception was that the chosen incident was benign or "a non-incident" as viewed by officers.

The final wave of the experiment was conducted on October 31, 2013. In order to evaluate the impact of the experimental engagements we received a dataset on all use of force incidents, filed complaints, and all CAD activity between January 1, 2013 and December 31, 2013. We then compared treated officers to their control counterparts (N= 320), on four measures of overall activity including: a) total CAD incidents responded to, b) percentage of CAD incidents initiated by the officer, c) minutes on scene, and d) whether or not a written report was filed. We also compared treated officers on three primary measures of how officers responded to incidents: a) percent of incidents resolved via an arrest, b) frequency of officer involvement in incidents involving force, and c) frequency of complaints filed against the officer. As a complement to our arrest analysis, we also examined the percent of incidents resolved via a citation, a verbal warning, or by rendering assistance.

Results

Overall, we did not find evidence that officers who participated in experimental engagements were any more or less likely to respond to, initiate, or document CAD incidents relative to their peers who worked in similar situations. We also found no substantive change in the amount of time officers were officially on-scene in a given incident. In addition to being statistically indistinguishable from control officers, we were able to rule out any impacts of the meetings on overall activity that were larger than a 7 percent change over a six-week period.

The officers who participated in supervisory meetings appeared to engage in encounters with citizens at an equal frequency as their colleagues; however, those in the treatment group

were roughly 26 percent less likely to resolve an incident with an arrest one week after participating in a non-disciplinary LEED meeting. This effect is reasonably persistent, and our results suggested that treated officers were 12 percent less likely overall to resolve incidents via an arrest over the six-week period after the experimental engagements took place. This is an important finding in the context of continuing concerns over use of force by police in a way that alienates citizens from the police such as when it appears unnecessary or excessive (Rosenbaum et al. 2005). While we did not find any evidence that officers were systematically resolving incidents in any particular alternate way, we did observe moderate short run increases in general “assistance rendered” dispositions, and longer-run imprecise increases in the number of citations given.

In addition, we also found evidence that in the longer run, treated officers were less likely to be involved in use of force incidents. While this effect was imprecisely estimated in the short run, when we compared officers over the entire sample period we estimated that engaged officers were over 30 percent less likely to be involved in a use of force incident. However, surprisingly, and in contrast to the observed reductions in arrests and use of force, we did not find evidence that treated officers were less likely to garner complaints from the public. We are unfortunately unable to draw any conclusions about this finding, as our estimates were statistically consistent with both large increases and large reductions in complaints.

We did not find compelling evidence, however, that the effect of the LEED meetings in the experimental engagements varied over time or location, or that more than one engagement over a six-month period resulted in an increasingly larger behavioral effect. We also did not identify a systematic pattern in effects across precincts but did find some evidence indicating that in the short run, treated officers in the East precinct spent more time on scene and had fewer

complaints filed against them than those in other precincts. Our site visits suggested that SPD officers were somewhat confused about the purpose of the non-disciplinary LEED-based supervisory meetings and that SPD personnel struggled with identifying a “substantive” incident to discuss in early rounds of the experiment. We think that this confusion stemmed from the fact that supervisory meetings in the SPD more typically occur when officers are involved in serious incidents in which there is a real threat of injury to citizens or themselves. Also, because of the language we used to describe qualifying incidents, specifically “high predicted risk,” we believe this may have led SPD officers to conclude that the specific incident selected for discussion should have involved a substantive encounter. Although we had emphasized to the supervisors the fact that the HRC model was not activated by a specific problematic incident but rather by the officers being in situations perceived as high risk, officers frequently expressed confusion as to why they were “discussing small stuff.” Despite the confusion regarding the nature of the incident selected for discussion, the feedback, albeit limited, provided by the officers in comment cards sent to researchers at the Police Foundation indicated that they were pleasantly surprised by the LEED interactions with their supervisors, reporting that they found them to be a positive change of pace from their typical meeting style. Indeed, it is likely that the culture of policing leads officers to believe that the only times in which supervisors want to talk to them is when they have done something wrong.

In sum, we identified officers based on predicted risk scores in an effort to maximize the potential plausible treatment effect by identifying officers who were most likely to disproportionately benefit from additional training in procedural justice. The logical implicit hypothesis was that the officers with the highest predicted risk scores would benefit more from having additional meetings than officers engaged in incidents with lower predicted risk scores.

In contrast, we found that the largest reduction in arrests occurred among officers with lower predicted risk scores. Over a six-week follow up period, the impact of supervisory meetings on arrests rates was roughly one-half the size among officers with one-half of a standard deviation higher predicted risk score. One potential interpretation of this result is that officers who work in the relatively lower risk areas when compared to higher risk areas are more likely to encounter situations in which the nature of the violation is less serious and less clear than in those situations encountered in higher risk areas and therefore, the feasibility of using discretion informed by procedural justice to resolve the situation over an arrest is might be higher.

Conclusion

One criticism of procedural justice training is that it may lead officers to pull back from the public in response to increased supervision or scrutiny, or what is more commonly referred to as “de-policing.” This withdrawal, however, could lead to reductions in pro-actively working to solve crime and disorder problems. In this experiment, the intervention was an experimental engagement consisting of a non-disciplinary supervisory meeting in which the sergeant modeled procedural justice using LEED concepts for the selected officers. Our results demonstrated that non-disciplinary supervisory meetings that emphasized procedural justice in this manner were not associated with a reduction in officer activity (“de-policing” or withdrawal) from baseline levels. Instead, the results of our study suggested that the intervention in Seattle had an impact on the outcome measures we sought to influence; namely, we observed that officers who were assigned to these meetings were less likely to be involved in incidents that resulted in citizen arrests or in the long run, use of force.

Overall, we concluded that non-disciplinary LEED based supervisory meetings are a promising strategy for improving police legitimacy. Officers who had at least one meeting over a six month period in which they reviewed how they approached relatively standard citizen encounters appeared to be less likely to engage in behaviors that, while central to policing, have the potential to reduce legitimacy when abused (e.g. making arrests and use of force). While we found little evidence of substantial costs for adopting this training program on a limited basis, agencies that choose to experiment with LEED based supervisory meetings should, nevertheless, carefully monitor their employees for signs of de-policing.

Introduction

Police departments are charged with enforcing the law while respecting the dignity of the people in the communities in which they serve. Officers have to strike a delicate balance. They must actively issue warnings, citations, or arrests to people accused of violating the law and at the same time, officers must make sure that citizens feel like they are being protected from undue harm and are being treated fairly and equitably.

In academic circles, this balance between toughness and fairness is referred to as procedural justice (Tyler, 1988) and the research literature suggests that it is the most important factor in public assessments of police legitimacy (Hinds & Murphy, 2007). Specifically, procedural justice “describes the idea that how individuals regard the justice system is tied more to the perceived fairness of the process and how they were treated, rather than to the perceived fairness of the outcome” (Tyler, 1998). Procedural justice directly contributes to the development and establishment of legitimacy, defined as “a property of an authority or institution [such as the police] that leads people to feel that the authority or institution is entitled to be deferred to and obeyed” (Sunshine & Tyler, 2003, p. 514).

The procedural justice process discussed in this report is typically referred to as LEED, an acronym for “Listen and Explain with Equity and Dignity.” Within psychology and criminology, the use of procedural justice is seen as a necessary component of police integrity in the community (Melekian, 2012; Sherman, 1998; Sunshine & Tyler, 2003; Tyler, 2005). In practice, police departments promote procedural justice by instructing recruits to use LEED concepts in their work, and then monitor their subsequent behavior on the job. This monitoring is increasingly being done with computer-based Early Intervention Systems (EIS), which typically track things like citizen complaints, sick days, commendations, and uses of force. Officers

flagged by EIS are further evaluated by at least one supervisor, who may recommend an additional departmental response (US DOJ, 2011).

Computer-based early intervention systems (EIS) are increasingly used by police agencies to identify officers who may benefit from mentoring or training in use of force techniques or cultural sensitivity. In 2003, 29% of law enforcement agencies surveyed by LEMAS reported using a computer-based monitoring system to identify at-risk officers. Four years later, 39% of surveyed agencies had such a system in place (US DOJ, BJS 2003, 2007). The diffusion of this particular technology is undoubtedly due, at least in part, to incentives put into place by the federal government; for example, the Civil Rights Division of the Department of Justice has recommended the adoption of an EIS program in practically all of its reviews of police department practices.¹

Statement of the Problem

By definition, EIS models identify a small number of officers who have already engaged in problematic behavior. Although not intended to be disciplinary, the fact that EIS systems are based on an individual's past actions has led many officers to view these systems in an adversarial way. From this standpoint, the use of EIS may actually be perceived as violating the tenets of procedural justice—something an officer has done automatically “triggers” some sort of disciplinary review (Amendola, 2006). Further, EIS systems typically do not take into account recent advances in criminology and statistics regarding the prediction of rare events and the concentration of crime and other problems in small geographic areas.

¹ These reports are available online at:

<http://www.justice.gov/crt/about/spl/findsettle.php#Law%20Enforcement%20Misc>

Recommendations on EIS systems are mentioned in all save the Pittsburgh Police Department review, which was the first conducted by the DOJ.

While EIS monitoring has allowed law enforcement agencies to focus more on prevention, the profession itself is still very much hinged on deterrence strategies despite evidence that other more procedurally minded strategies, such as community oriented policing, may be more effective (Sunshine & Tyler, 2003). The end result is that officers are still very much evaluated on quantitative measures such as numbers of arrests and clearance rates, or potentially problematic behavioral indicators such as the number of complaints or use of force incidents, rather than more qualitative measures such as public perceptions of their fairness, for instance. This has resulted in a palpable tension between the core tenets of procedural justice and some policing philosophies centered around order maintenance (Gau & Brunson, 2010) and raises questions of how to best integrate procedural justice within a police department and how to best measure its effects.

In addition, there is currently a disconnect between the laudable academic goal of using procedural justice and the practical implementation of LEED concepts by police officers. In reality, the culture of most police departments is centered on the measurable performance outcomes of arrests, index crimes, and clearance rates rather than the difficult-to-quantify concept of fairness. Enacting reforms to promote the use of LEED is further complicated by the fact that most officers believe they already listen and explain themselves, affording the subject with whom they are involved a great deal of respect; indeed, the majority of citizens who interact with police think that the officers behaved appropriately (BJS, 2011).² While police chiefs believe that the active promotion of procedural justice is important, if officers believe they are

² In an experimental analysis of procedural justice training in New York, “control group” officers who were asked to rank the quality of their own use of procedural justice gave themselves an average of 3.13 out of 5. Officers who had received explicit LEED training gave themselves 3.16 out of 5 (Rosenbaum & Lawrence, 2011).

already using LEED, and an enforcement-focused, statistics-oriented, binary-decision making culture is entrenched in so many departments, how exactly do commanders make it happen?

Over the past three years, the Seattle Police Department (SPD) has been working with local, state and federal law enforcement representatives to develop a comprehensive training curriculum to promote procedural justice for citizens based on LEED principles in order to enhance the public perception of fairness and legitimacy in policing. The initiative to develop curricula and adopt LEED as an overarching law enforcement value and ethos was the product of collaboration between (then) SPD Chief John Diaz, (then) Director of the Washington State Criminal Justice Training Academy Joe Haugh, and (then) King County Sheriff Sue Rahr, who is the current Director of the Washington State Criminal Justice Training Academy.

Unfortunately, current research at the time offered little guidance as to how the SPD should implement that program. Limited and mixed evidence from the field exists regarding exactly how the actions of a supervisor can encourage officers to use LEED concepts in their daily encounters with citizens (Mazerolle et al., 2011; Melekian, 2012; Rosenbaum & Lawrence 2011). Furthermore, there is scant evidence on the effectiveness of the traditional EIS models used in the promotion of positive officer behavior (Walker, 2000; Walker, Alpert, & Kenney, 2001).

As such, the purpose of this project was to design an experiment in which we could develop and test the efficacy of a supervisory intervention approach using LEED concepts to reduce problematic/negative encounters between police and citizens and increase police legitimacy. Our goals were to contribute to the academic literature and to inform police practice by bridging the gap between academic theory and practical policing with regard to procedural justice. Our specific objectives included: a) to develop a selection process based on

geographically based risk, a process we call the High Risk Circumstance Model); b) to develop an experimental intervention involving LEED principles, which we refer to as an “experimental engagement”; c) to randomly assign officers within the HRC selections to either the “experimental engagement” or “control” condition; d) to evaluate the impact of procedurally just (LEED-based) engagements on officers performance (via several outcome measures); and e) to broadly disseminate the findings.

Literature Review

Procedural justice. Empirical assessments of the model of legitimacy and procedural justice, while primarily based on survey research, have supported the importance of legitimacy and the role of procedural justice in promoting it. Tyler and colleagues have conducted much of this research (Sunshine & Tyler, 2003; Tyler, 1990, 2001, 2003; Tyler & Fagan, 2008; Tyler & Huo, 2002; Tyler & Wakslak, 2004) finding with high consistency that (a) higher levels of police legitimacy predict higher rates of citizen compliance, cooperation, and law abidingness; (b) feelings about procedural justice most powerfully predict legitimacy when compared to feelings about favorability and fairness of outcomes; and (c) citizens’ personal experiences of police processes have a strong impact on their general assessments of police legitimacy. A few survey-based studies by other researchers also lend general support to the legitimacy perspective (e.g. see Engel, 2005; Reisig, 2007; Reisig, Bratton, & Gertz, 2007).

Indeed, in order to ensure procedural justice and increase legitimacy, individuals accused of violating the law must perceive that (1) they are being treated fairly relative to others; (2) they are given the chance to explain or defend their behavior; and (3) their explanation is taken into account before any disciplinary action is taken. For example, Tyler’s 1990 study of Chicago residents’ satisfaction with the police found that peoples’ satisfaction was not tied to the outcome

of an encounter with the police but rather to their perception of how they were treated, a result that has been confirmed more recently (see e.g., Schulhofer, Tyler & Huq, 2011), and which calls for a procedural justice alternative to the assumptions that have guided traditional policing in America.

Early intervention systems (EIS). Computer-based early intervention systems (EIS), also known as early warning systems (EWS), are data driven programs that can provide timely data on officer performance. As such, these systems are increasingly used by police agencies to identify officers who may benefit from mentoring or training in appropriate use of force techniques, cultural sensitivity, or other relevant interventions, or who should be more closely monitored (Alpert & Walker, 2000). For example, in 2003, 29% of law enforcement agencies surveyed by LEMAS reported using a computer-based monitoring system to identify at-risk officers. Four years later, 39% of surveyed agencies had such a system in place (US DOJ, BJS 2003, 2007). The diffusion of this technology into police organizations is undoubtedly due, at least in part, to incentives put into place by the federal government and in particular, the Civil Rights division of the Department of Justice has recommended the adoption of an EIS program in practically all of its reviews of police department practices.³

While the specifics of each system differ across agencies, an EIS has three main components. These include the identification of officers with problematic behaviors, followed by both an intervention to correct the behavior and a follow-up process to assess the success of that intervention (Alpert and Walker, 2003). Examples of problematic behaviors or common triggers often flagged by EIS systems include being named in civil lawsuits, being involved in traffic

³ These reports are available online at:

<http://www.justice.gov/crt/about/spl/findsettle.php#Law%20Enforcement%20Misc>. Recommendations on EIS systems are mentioned in all save the Pittsburgh Police Department review, which was the first conducted by the DOJ.

accidents, or taking an excessive amount of sick days. In some cases, positive indicators such as receiving commendations or compliments from the public are also included in EIS. Most police departments track up to 20 behaviors, which include both positive and negative actions, by using a cumulative threshold system to identify officers that cross that threshold (Walker 2003). With multiple indicators, EIS systems are thought to provide a broader and more accurate base of information (Walker & Graham, 1998; Alpert and Walker, 2003).

When any officer accumulates sufficient numbers of any particular behavior(s) during a pre-specified time period, which are often compared to other similarly situated individuals, the EIS alerts a supervisor or manager that the officer might benefit from some sort of intervention like mentoring or training.⁴ What constitutes sufficient numbers of any given behavior varies by department, however. While some agencies use a department-wide model that sets a threshold at, for example, “three similar complaints in a year,” relying on these simple counts of all officers exceeding that threshold, other more sophisticated systems “use more robust analysis to set the threshold utilizing the standard deviation calculation [and] in these systems, officers are compared to their peer officers who work in similarly situated work environments...” (Ortiz & Amendola, 2005). These alternative deviation models focused on quantity of numbers that cross a threshold identify officers who are observably different from officers working similar beats at similar times⁵ and has become a expected standard for police. For example, in its reviews of twenty-six departments since 2004, the Department of Justice has tended to recommend

⁴ It is important to note that when we refer to training in this proposal (other than when referring to the department’s new supervisory training program), that it is not being used to indicate that direct provision of training is being proposed, but rather that it is for the purposes of implementing the experiment (e.g. training supervisors in how to conduct the intervention).

⁵ This is an incorporation of place in EIS, but as we will describe below, it is mathematically very different from the way we will use place.

department-wide threshold models, where officers are identified based on a number of different behaviors.

Unlike most EIS systems, which are typically housed in an internal affairs unit, the High Risk Circumstance (HRC) model developed in this study was not used as tool to alert supervisors of problematic behavior; rather it was used to identify officers who run an elevated risk of encountering dangerous persons or situations. More specifically, unlike the typical EIS system, this model is designed to expand the focus from identifying officers exhibiting behaviors considered to be problematic to identifying officers working in behavioral “hot spots,” or small geographic areas where they are more likely to be involved in problematic citizen encounters involving assaults on police officers, intoxicated persons, etc.

Furthermore, unlike with early warning systems where the most common type of intervention utilized for flagged officers is an informal counseling session between the officer and his or her immediate supervisor (Alpert & Walker, 2003), the design of this study utilized a similar type of intervention albeit with two key distinctions; that is, in the one-on-one engagements, officers and their supervisors often discussed an unremarkable event which would typically not be subject to discussion under standard practice. Additionally, not only were the officers prompted to reflect on their thought processes and actions during these encounters but their supervisors were trained to model LEED concepts for them in practice.

Methods

Sample

We sought to inform police management practices by drawing on cutting edge research in criminology on behavioral “hot spots,” which has demonstrably helped police departments proactively reduce crime (e.g. Sherman, Gartin, & Buerger, 1989; Sherman & Weisburd, 1995;

Weisburd, 2008; Braga & Weisburd, 2010). Specifically, we used geographically identified data already collected by the SPD to identify “behavioral” hot spots which we define as street segments where officers appear to be more likely to have problematic interactions with citizens. We use the Washington State Department of Transportation’s definition of a street segment, which is curb-cut to curb-cut. We defined problematic interactions as: (1) using physical force; (2) being the subject of a citizen complaint; or (3) sustaining a physical injury.

Using estimated parameters from this model, we then selected samples of officers who work in these behavioral hot spots. Note that only a small fraction of officers working in these “hot” street segments had actually engaged in any potentially problematic behavior. Indeed, the point of our model was not to identify officers who had engaged in problematic behavior but rather the point was to use geography to identify at-risk officers before an encounter occurred that could result in a problematic interaction with citizens. Officers identified by the HRC model as working in behavioral hot spots were randomly assigned to either a control group or an experimental engagement.

Identifying officers for the experimental engagement. As a first step in implementing the proposed project, the predicate trigger for randomly assigning sworn police officers to an experimental engagement was identified. We accomplished this through statistical analysis of the characteristics of police interactions, both routine and unusual, with a view towards ultimately determining the efficacy of the methods of engagement that cause or contribute to positive – or at least less problematic – encounters between the public and police. Our method of identifying officers for experimental engagement was inspired by the EIS currently being used by the SPD, but has an important conceptual difference; instead of identifying officers who have engaged in problematic encounters in the past, we sought to identify a larger pool of officers who,

statistically, were relatively more likely to engage in potentially problematic encounters in the future based on individual and contextual factors.

Instead of identifying officers based on any individual behavioral trigger, we identified officers for engagement based on their expected likelihood of being involved in a future problematic incident, which as noted above, we defined as either: (1) using force; (2) being named in a citizen complaint; or (3) sustaining physical injury. The expected likelihood of being involved in a problematic incident was calculated using a statistical model, described in detail below, that was calibrated to a small subset of an individual officer's actions, but primarily to the actions of other officers working in a similar environment.

Incorporating the experiences of similarly situated officers into an EIS is not an innovation per se, but the way in which we used the behavior of an officer's peers is. In the previously discussed deviation model, officers are identified by an EIS because their performance suffered relative to their immediate peer group. At first glance, using deviations from a group average as a way to identify low performing officers seems like a straightforward way to incorporate the external factors that affect an officer, particularly when there is imperfect information about individual officer activity (Walker, 2001).⁶ This approach is potentially problematic, however.

The problem with using a deviation approach to identify poor performers is that the lowest performer in a group is not necessarily the lowest performer in the department. For example, consider a simple scenario where four high performing officers and four low performing officers patrol two beats. If each beat is patrolled by two high performers and two

⁶ For the same reasons, this deviation approach is also a common technique used to test for racial profiling. Ridgeway and McDonald (2009) discuss this same critique of the deviation methodology in the racial profiling context.

low performers then a deviation based EIS system will work as intended; the two low performing officers on each beat will underperform relative to their peers. What if the first beat is patrolled by four high performing officers and the second beat is patrolled by four low performing officers, however? In this situation, no officers will be under performing relative to their peers, and the system will not identify any need for training; a group of officers will be dominated by low performers if they were all affected by an external factor, such as working the late shift in a popular bar district, or if they were all being poorly managed by the same supervisor. With regard to problematic officer behavior, we think there is good reason for concern about the deviation approach to officer identification.

In response to this concern, we proposed an EIS-style system that uses a place-based approach instead. Proactively identifying officers who work in areas where we know officers run into difficulty may be more effective at preventing problematic behavior before it starts. By positively emphasizing the characteristics of the places that officers work in, rather than discounting problematic encounters in areas where many officers run into difficulty, we explicitly incorporated advances in criminological theory, which has elevated the role of places and areas in crime, rather than simply focusing on individual characteristics (Eck & Weisburd, 1995, Sherman & Weisburd, 1995).

Behavioral “hot spots.” Specifically, we intended to identify “behavioral hot spots.” These behavioral hot spots had both a temporal and spatial dimension, in that we sought to empirically identify both geographic areas and times of day where officers appeared to be more likely to engage in potentially problematic behavior. For example, a city block that is home to many bars might be a behavioral hot spot during a 10 pm to 5 am shift, but not during an 8 am to 1 pm shift.

The high risk circumstances (HRC) model (overview). In order to distinguish these behavioral hot spots from criminal hot spots, and to emphasize the importance of the environment to any policing outcome, we refer to these areas as High Risk Circumstances (HRC). In lieu of targeting a few officers based on past performance, which is the focus of an EIS system, we focused on providing pro-active training for officers assigned to beats that, based on the experiences of their peers, could be more difficult to navigate. This is a critical difference from previous attempts to identify and correct problematic police behavior (Walker, 2003). The goal of the HRC model then is to identify a large number of officers who, based on the officer's own behavior, as well as characteristics of their work environment, may be involved in situations where they need to use force in the near future. Providing LEED training to officers who interact with citizens in HRC areas may help them avoid problematic performance in the first place.

The Intervention: Procedural Justice Experimental Engagement

Before we describe the engagement in more detail, it is important to carefully and purposefully describe the process that was proposed for promptly assigning officers and supervisors to either an engagement or control group. The term “engagement” was chosen with both care and purpose in mind. An “engagement,” as opposed to an “intervention” is neutral in terms of consequences to the involved parties. The Seattle Police Department has an EIS that is a product of and is governed by collective bargaining agreements, and which is uniformly triggered when threshold incidents prompt the intervention. While discipline cannot be imposed as an outcome of EIS, the assignment to an early intervention is nevertheless, widely viewed as the result of an accumulation of negative, or at least problematic, incidents. At a minimum, the processes we proposed could not in any way be perceived of as an application of EIS without significant collective bargaining implications. More specifically, the SPD is precluded from

undertaking discipline in any manner other than that prescribed in the due process provisions of collective bargaining agreements between the City and SPD sworn employees. Furthermore, the quality and value of sworn employee participation in this experimental program would have likely been tainted if the outcome of the assignment had been viewed as a negative referendum on the employee's actions or decision-making.

Pre-engagement procedural justice training for lieutenants. Prior to the start of our experiment, all SPD lieutenants were provided with classroom training and then asked to model LEED techniques for their sergeants. This entire procedure is detailed in **Appendix A** in which we describe the training lieutenants received in order to facilitate training of sergeants to conduct the experimental engagement.

Pre-engagement interventions. Prior to the start of our experiment, all SPD employees received a memo announcing the initiation of a new supervisory training program. This memo stated that over a six-month period, some officers would be asked to check-in with their supervisors to discuss their recent interactions with citizens. The memo also emphasized that the discussions would not be related to the officer's performance, but were intended to help the Police Foundation evaluate the new training method. Officers who were identified by our HRC system, and were assigned to the treatment (engagement) condition, were then asked to participate in a LEED incident walkthrough (the experimental intervention).

Assignment to treatment and control conditions. During the field experiment, we received an extract of CAD events from the Seattle Police Department Data Analysis Unit every two weeks. On the 9th of each month, we also received an extract of injuries, sick days, and secondary job permits from the Seattle Police Department's Human Resources Unit. The next

step was to construct event histories for all CAD calls, and estimated predicted risk scores for all priority 1 and priority 2 incidents, using the estimated logit parameters.

After predicting risk scores for all CAD incidents, we then excluded all officers identified by the agency as unlikely to comply. After excluding these officers, we then ranked the remaining officers in each precinct based on their highest predicted risk score over the previous two weeks. Officers in the 12th percentile of their precinct's distribution of risk were then randomly assigned to the engagement (treatment) or control group. A list of treated officers, along with the incident numbers of anywhere from one up to seven CAD incidents the officer was involved in (not necessarily high risk incidents) was then transmitted via secure FTP to the department who then notified the selected officers and their supervisors.

Officers selected by the HRC model and assigned to the engagement group were called in to meet with their supervisors in the presence of a lieutenant. The engagement can be thought of and described as a style of cognitive interview. "The cognitive interview technique is based on laboratory-tested principles of memory retrieval, knowledge representation, and communication" (Fisher, Geiselman, & Amador, 1989, p. 722) and was used by Fisher and Geiselman (2010) to increase eyewitness memory of crime victims and witnesses. In essence, the cognitive interview promotes a means of questioning that is more open. According to Fisher, et al. (1989):

The Cognitive Interview is a set of instructions given by the interviewer to the witness at the beginning of the interview. The goals of these instructions are (a) to encourage the witness to reinstate the context of the original event and (b) to search through memory by using a variety of retrieval routes (see Geiselman, et al., 1985, for specific details). (p. 722).

As such, the sergeants and officers interacted in a dynamic way, with each person's behavior influencing the other. For the interview to be considered successful, the two members needed to have coordinated their roles effectively while remaining sensitive one another.

The LEED engagement (experimental intervention). The experimental engagement was designed to be a short, 20 to 30-minute demonstration session by the sergeant in procedural justice for the officer, based on the officer's own experiences. While not an intensive treatment per se, the engagement was expected to “double-down” on LEED training. Not only would the sergeants point out where LEED could have been used but they would also model procedural justice for the officer during the engagement. This design not only provided the pedagogical benefit of modeling the desired behavior but in adhering to the tenets of procedural justice (such as making the officer feel validated and in control of the outcome of the encounter), the potential effectiveness of the engagement was expected to be maximized (Tyler & Fagan, 2008).

We hypothesized that LEED engagements would provide an important experience to officers who were identified by our HRC system, even if they had personally had only positive encounters with citizens. One of the benefits of cognitive interview techniques outlined in Fisher and Geiselman (1992) is to enhance the interviewee's ability to retrieve memories. Encouraging an officer to remember and reflect on an uneventful encounter with a citizen reminds him/her of both the successful and unsuccessful actions he/she took that contributed to the outcome of that interaction – what was it about this encounter that kept it from escalating into a more serious situation? In retrospect, when did LEED techniques help an officer? Were there any missed opportunities to use LEED? Instead of being mentally discarded, the particulars of a mundane

citizen interaction in a high-risk circumstance can be utilized to remind officers how to behave in the future.⁷

At the beginning of the engagement, the sergeant followed standard introductory instructions adapted from Rosenbaum and Lawrence (2011) and Fisher and Geiselman (1992). In essence, the officers were reminded that this interview was intended to help the supervisor sharpen his/her training skills, rather than discipline the officer. Officers were then asked to discuss an event that happened during their shift on a particular day, where the day in question contained an event with a high- predicted risk value. The entire script provided to sergeants for use during the experimental engagements is provided as **Appendix B**.

In order to comply with IRB protocol and union regulations, once the sergeant transferred control to the officer, the engagement was deemed “complete,” and the officer could choose to terminate the meeting without any further discussion. After the supervisory meeting occurred, the supervisory lieutenant reported the date of the engagement back to the department.

If the officer chose to continue, the rest of the engagement was designed to follow a structure that included either a physical or mental walk through, and focused on the methodology of the interviewer – a first-line sergeant who, as we will discuss below, was specially trained in conformity with the LEED principles. Specifically, as the sergeant walked through the incident with the officer, he or she was to explore whether there were opportunities to undertake – or impediments to introducing – the actions of listening and explaining, and whether, in the officer’s view, the encounter possessed the qualities of equity and dignity. While the sergeant

⁷ In situations where the officer does recount a stressful or negative citizen encounter, participating in the LEED walkthrough may provide the officer with an additional direct benefit. A long literature in psychology and management, dating back to the 1950s argues that people who participate in LEED interviews after stressful events are better able to handle demanding encounters, and feel more self-control in extreme situations (Kaplan, Iancu, & Bodner. 2001; Fisher & Geiselman, 2010).

was conducting the interview, lieutenants were present as supervisors for the sergeants. The presence of the lieutenant served two purposes. First, it reinforced the institutionalization of the procedural justice training already provided by the Seattle Police Department. Second, the trained lieutenants were available and able to intervene if a sergeant strayed from the procedural justice model during the interview, protecting experimental integrity.

The debriefing and walk through focused specifically on what happened and what the officer observed or believed, and how he/she responded. The sergeants were instructed not to pressure the officers to speculate about details, or observations about which they were unsure of or confused about. The sergeants were also instructed to expect gaps in conversation and silence while participants processed and searched through their memory and attempted to recall details and emotions. Indeed, as Koriat and Goldsmith (1996) have noted, it is important for participants to communicate only from recollections and not guess about details. Since recall accuracy is influenced by the format of the question, open-ended questions such as "describe the person," rather than "what was the person wearing or how tall was she" aimed to help officers recall the information. While sergeants were allowed to ask follow-up questions, the idea of the engagement was to have the officer recall information first on his/her own terms.

This engagement put the instructional focus on the sergeant, and the didactic model involved a kind of role reversal, where the involved officer was allowed to examine the success of the interviewing supervisor or commander in adhering to the LEED methodology. It is in the realm of this engagement that the officer interviewed was in turn, allowed to interview the sergeant about his/her own application of LEED principles.

By construction, the officers in our engagements had a higher probability of being involved in a potentially problematic event, but it is important to note that they may not have

actually been involved in a negative citizen encounter. The purpose of the engagement was to remind officers how they could use LEED concepts on the job, while the sergeant simultaneously modeled procedural justice for them in practice. The fact that sergeants used the LEED concepts themselves is critical. We know that people are more likely to obey laws when police officers use LEED (Sunshine & Tyler, 2003; Tyler & Fagan, 2008); therefore, we proposed that officers would be more receptive to the engagements if their supervisors used LEED concepts with them.

Outcome Measures

Using administrative data already collected by the SPD, we compared the post-engagement behavior of officers who worked in behavioral hot spots to a number of dimensions during one and six week periods (short run and long run). In addition to a follow-up survey of officers immediately after they participated in the LEED engagement, our primary analytic focus was on tractable and policy relevant measures of police performance and safety in the field. Officers in the treatment and control groups were compared based on the number and type of incidents that they responded to, their probability of using force or having a complaint filed against them, and the frequency with which they resolved incidents with a formal arrest, rather than a less disciplinary measure. Note that some of these outcomes have low base rates, but others measured more routine aspects of an officer's job. These were also outcomes already collected by the SPD.

ANALYSIS

Given the large number of officers involved, the experimental intervention relying on the use of LEED concepts was less disciplinary or corrective than most supervisory meetings, and survey results from officers confirmed that they did not feel they were being penalized or

disciplined during these engagements. Instead of simply telling officers they should treat citizens with respect, the engagement was designed to “show” the officers what they should be doing to promote the ideas of procedural justice in practice. In the presence of a specially trained lieutenant, the sergeant and officer discussed a recent interaction that the officer had with a member of the public. During this talk, the sergeant not only used LEED principles in discussing the interaction, but also pointed out how the officer either successfully or unsuccessfully used procedural justice at the time; in particular, by adapting their actions to their observations of the situation at hand. Simultaneously, the sergeant modeled desired behavior by treating the officers with respect, equity, and dignity, offering the officer the chance to dictate the pace of the meeting, and thereby allowing them to have more control over what is discussed than was typical for the department. Our procedural justice intervention was therefore, two-fold; not only were officers being reminded about what procedural justice actually means in practice, but they were also experiencing LEED, rather than being lectured by their superior on it.

The High Risk Circumstance (HRC) Statistical Model

The first step in developing an HRC system was to define exactly what types of behaviors we wanted officers to avoid. These behaviors were the dependent variables used to calibrate our statistical model. In the case of the SPD, our primary definition of such behaviors consisted of incidents in which an officer filed a use of force report, incidents in which an officer was named in a citizen complaint, and incidents in which the officer was injured.

We stress that use of force and citizen complaints are not always indicators of poor officer performance. Indeed, more often than not there is a legitimate and justifiable reason for an officer using force, and a high frequency of citizen complaints may reflect a retaliatory group of arrestees, or a department that is viewed as open and responsive by the public. We defined

these events as high risk, however, because the Department of Justice recommends that *any* use of force, and *any* citizen complaint, regardless of its legitimacy, be used as a precursor to an intervention in an EIS system (US DOJ, 2011). As this is how the DOJ defines a problematic encounter, we formally defined problematic behavior in the same way.

In any given week, there was a very low probability that an officer would engage in one of these risky events. In 2010, SPD officers reported using physical force of any sort in only 0.12% of all of their interactions with citizens, and only in roughly 2.6% of all arrests (Walsh, 2011). Out of approximately 1,261 SPD officers patrolling 51 beats that year, just about a third (n=461) used force at all, and only half of that group used force more than once. Given these statistics, we designed the HRC model in a way that identified officers who responded to any incident that had a high level of predicted risk, rather than an incident that actually involved a potentially problematic event.

During the experimental period, a predicted risk score was assigned to all CAD incidents on a biweekly basis. The predicted risk of any given incident involving officer ‘j’ was based on characteristics of all incidents occurring in or near the incident in the past 30 days, along with a rough measure of secondary jobs, sick days, and overtime worked by the individual officer over the previous calendar month. We defined events “near” a particular CAD incident as all events that occurred in the same census block and all events occurring on the same street segment as the CAD incident.

In order to construct the predicted risk score based on these location and officer-specific elements, we used data on all CAD incidents from 2010 to predict the likelihood that a potentially problematic event occurred. A potentially problematic event was defined as an incident in which an officer used force, an officer was injured, or a complaint was in the process

of being filed or was filed against an SPD officer who was working in that area on that day. In collaboration with SPD employees, we identified a number of data fields such as the number of 911 calls initiated from that area or the number of officers injured on that street segment during the previous month (see **Appendix C** for the complete list), which were used to predict risk and uncertainty associated with an encounter. All of these data fields are collected by the SPD as part of their normal operations.

We modeled predicted risk in four ways: a simple linear probability model, a logit model, a probit model, and a skewed logit model. We then compared the spatial distribution of predicted risk scores to the spatial distribution of actual risk scores across precincts and reporting areas using CAD and HR data from February and March of 2012.

In terms of capturing the relative frequency of complaints, force, and injury across districts, a standard logit model appeared to actually fit the data better than the other models. For example, there were 104,821 unexceptional CAD incidents in the SPD in February and March of 2012. The mean predicted risk score of these events was 0.0029, with a standard error of 0.000049. On the other hand, there were 309 incidents that were potentially problematic, and the mean predicted risk score of these events was 0.0442, with a standard error of 0.0126. Based on a t-test of the equality of these means, we are confident that there is no chance that these predicted risk scores are the same given that the risk score for problematic events is more than 71 standard deviations away from the mean of the unexceptional events.

We furthermore estimated the average predicted risk score, and potentially problematic event rate, in the different precincts and sectors of the SPD in those same two months, February and March 2012. These results are displayed in Table 1. The overall correlation in actual and predicted risk scores is 0.27 indicating that for the most part, places with higher risk scores do

have a higher rate of events within a precinct (for example, sector N in the North Precinct), but this is not always true. For instance, when the predicted risk score was different from the actual rate, this indicated that something excluded from the HRC model was important in predicting the rate at which officers were involved in potentially problematic events. For example, it could be the case that there were a large number of reports involving excessive alcohol consumption in sector U, which includes the University of Washington, but that interactions with college students rarely escalated to the point at which officers used force or were injured.

< Insert Table 1 About Here >

We then saved the estimated parameters of the logit model of potentially problematic circumstances. These saved parameters are reported in Table 2. Since the logit parameters themselves are not directly interpretable, in Table 3 we also present the estimated coefficients from a linear probability model along with the total impact the change in that particular data field would have on the total risk score for that incident.

< Insert Table 2 About Here >

< Insert Table 3 About Here >

For the most part, the signs and magnitudes of the HRC model are intuitive. At the census block level, there is a positive relationship between potentially problematic events and the number of 911 calls, incidents involving someone in mental distress (including alcohol or drug use), domestic violence, incidents identified by dispatchers that are higher priority than usual, and the frequency with which dispatchers identify an incident as less serious than the officer ultimately decides. Typically, conditional on the characteristics of the census block, the correlation between the incident's history at the street segment is actually negative; and, counter to the observed finding that crime "hot spots" are extremely small, this is more consistent with a

model in which reports of officer injuries or use of force incidents are general such as officers learning that someone was injured on the 900 block of Cherry Street or near a city park, rather than on 910 Cherry Street.

That said, while the net conditional effect of street segment level activity tended to reduce predicted risk when we focused on marginal effects that are statistically different from zero on their own (as reported in the 4th column of Table 3), street segment level activity was typically positively correlated with risk. For example, the net conditional correlation between domestic violence reports at the street segment level and risk was negative, but the correlation between street segment domestic violence incidents at the same time of day and the same day of the week was positive and highly unlikely to be zero. There was also a positive correlation between predicted risk and the fraction of incidents cleared as more serious than dispatched on the same street segment and the same day.

Officer level human resources data, which was collected with a lag, was less associated with risk. Only the number of injuries reported on a street segment in the previous month was found to be a statistically significant predictor of risk, suggesting strong spatial correlation in violence against SPD officers.

Two practical distinctions between HRC and EIS are worth highlighting. By construction, the roughly 100 officers a month that were selected had predicted risk probabilities greater than the 12th percentile of their precinct. This is much greater than the number of officers who are actually involved in a problematic event. Indeed, the point of the predicted risk measure was to identify and engage with more officers than an EIS system would. Because the HRC identifies more people than EIS, the engagement spurred by HRC identification must be less intensive than an engagement spurred by EIS identification. The second key distinction between

the process of experimental engagements undertaken and EIS is that the random assignment to an experimental engagement was essentially immediate, while review spurred by EIS may occur as many as six months following the first triggering event.

Post-engagement check for internal validity. Immediately following the engagement, officers were asked to fill out a short, confidential, comment card. This card consisted of nine closed ended questions regarding the officer's perceptions of the engagement, as well as an open-ended question soliciting comments about the engagement experience. This served as a post engagement check for internal validity for the researchers. The comment card is attached as **Appendix D.**

While the self-reported experiences of officers with the engagements were not the primary focus of our research, a qualitative and quantitative evaluation of these responses provided us with some evidence on the practicality of LEED style training, although the response rate was particularly low. This will be detailed later on in this report.

Site monitoring. During the course of the experiment, the Police Foundation research team made regular site visits to ensure that the experiment was being properly implemented, and to check-in on the processes for scheduling engagements, get feedback from the sergeants and lieutenants on the process, and to identify any issues or concerns that needed to be addressed by the agency or researchers. The research team including the Co-PIs, were expected to make two to four site visits each. While inevitably, there were some unforeseen issues that arose over the course of the experiment, we did not anticipate nor did we experience a large amount of attrition or difficulty with data collection. We were confident of this because the SPD had already been planning to implement LEED training, and also because the experiment was conducted within the framework of ordinary officer supervision and performance monitoring. In addition, the

research team had numerous preparatory discussions and meetings with SPD command staff during the planning of the experiment. As such, the purpose of these site-monitoring visits was more oriented towards documenting any unforeseen issues that may have developed over the course of the experiment.

Police Foundation Project Manager, Dr. Karen L. Amendola, and Research Associate, Maria D. Valdovinos conducted two multi-day site visits during the data collection phase, a number of weeks after the program had begun. Two additional multi-day site visits were conducted by co-PI David Weisburd and PI Emily Owens subsequently. Between all four site-monitoring visits, a total of eight engagements were observed, in addition to meetings and follow up with the deputy chief, and other lieutenants and sergeants, as well as a few officers who had previously participated in an engagement. A procedural justice engagement monitoring checklist was created using the training model designed for SPD sergeants to conduct the experimental engagements and as such, served as a check of how “fresh” the training was for the sergeants. The engagement monitoring process and checklist is provided as **Appendix E**.

Observations. During the monitoring sessions, it became clear that the incident selection process was not clearly explained to the officers, sergeants, or lieutenants. For the sergeants and the officers selected for the LEED debrief, there was a strong assumption that any incident with a “high risk circumstance” would be inherently substantive, or involve an arrest or citation. This was specifically counter to the intent of the model, which explicitly excluded any characteristics of the particular incident in question, and was intended to identify officers who regularly worked in areas where there was a higher risk of a potentially problematic event occurring. At times, this resulted in the selection of incidents in which the officer selected for the LEED debrief was not primarily involved (arrived after the incident was over, or arrived as backup) or which didn't last

long enough to warrant much discussion. One particular officer had been in an engagement twice before the engagement observed by the research team, and all three had seemed highly irrelevant to her. She expressed a desire to have discussed another incident she was involved in, which in her opinion was more relevant.

The underlying cause of this confusion in implementation was the unintended consequence of trying to “jump start” the supervisory meetings by suggesting an incident to discuss that was based on CAD data. This was most problematic during the first experimental round, where in one event, the incident with the highest predicted risk score was suggested, and the wording of the notification implied that the sole purpose of the meeting was to discuss that particular incident. In all other rounds, multiple incidents were proposed, first 4, and eventually up to 7. An assistant chief communicated to the lieutenants that it was acceptable for officers and sergeants to select any incident to discuss. PI Dr. Owens reinforced this point in individual meetings during her second site visit. While this collaboration between supervisor and officer is in fact one of the intended goals of the LEED model, it initially appeared to be the case that SPD employees viewed this selection of incidents, many of which were relatively mundane, or something the officer responded to only as backup, as a failure, or problem, with the underlying experimental methodology.

The researchers also observed a certain level of discomfort among the sergeants with the script. They observed them read straight from the script, although it was really meant to be used as a guide. As such, in several of the engagements observed, the interaction between sergeant and officer seemed a bit awkward. Indeed, there was a certain level of discomfort from both the sergeant and the officer. The sergeants seemed uncomfortable with how to use the script as a

guide and the officers participating in the experimental engagement seemed uncomfortable with critiquing the sergeant on his or her execution of the LEED debrief.

In addition to the discomfort with the script, the research team also observed minor oversights in how the study protocol was followed. For example, in one particular debrief observed, the officer was not provided with a comment card. In another debrief, the assigned lieutenant failed to be present. In another observation still, the officer debriefed was not aware of the LEED concept and what it stood for. The researchers agreed that refresher training was necessary to remedy these minor problems, and this sentiment was echoed and reinforced by department management personnel. Refresher training was conducted in week 6 of the experimental engagements.

EXPERIMENTAL EVALUATION RESULTS

Quantitative Analysis of Actual Field Outcomes

We now turn to the quantitative evaluation of the impact of LEED-based experimental engagements on officer outcomes, using administrative data regularly collected by the SPD. As described, randomization occurred at the precinct-wave level, creating 60 randomization blocks (five precincts, 12 waves). In order to construct a counterfactual outcome for each officer in the experimental condition that reflected this block randomization, we constructed performance measures from each of the eligible officers in that officer's precinct, using treatment dates for the officer. For example, in the Southwest precinct, the six officers who had responded to CAD incidents with the highest risk scores in the previous 14 days were identified as "eligible" in each experimental wave. In each wave, two were randomly chosen to be in the experimental group, and four were randomly assigned to the control group.

Summary statistics. As would be expected given the random allocation of officers to treatment and control conditions, across all precincts and all waves, the mean risk score for treated officers was very similar. For the treatment group, the mean risk was 0.116 (sd = 0.186), and for the control group 0.120 (sd = 0.195). Assignment was “blind” to whether or not the officers had been previously selected for either treatment or control. We should also note that the risk score of an incident is not related to the behavior of the responding officer or the outcome of the particular incident; rather, it is based on the history of events in the area of the incident, and the officer’s previous sick days, overtime, and secondary jobs. This means that any plausible effect of previous treatments should not affect whether or not an officer was selected. Of all treatment notifications sent, 75% were sent to officers who had never been selected for an engagement (compared to 79.8% of control officers), 21.7% had previously been notified once (compared to 13.9% of control officers), and 3.2 of treated officers (compared to 5.4% of control officers) had been selected twice before. Consistent with randomization, treated officers had been previously notified of being selected for a supervisory meeting 0.008 more times than control officers in the same experimental block, which is statistically indistinguishable from zero ($p=0.86$).

In each experimental wave, all treated officers were simultaneously notified of their selection, but engagements frequently occurred at different times depending on the work schedules of the officers, sergeants, and lieutenants. Almost all notifications were sent out on Monday morning (some were distributed on the Friday before). Figure 1 displays the distribution of the amount of time between notification and engagement. On average, engagements happened 14 days after notification, and 43% occurred within one week after notification emails were sent. Not surprisingly, there were also a relatively large number of engagements that occurred 11 days

after notification, which corresponds to the second Friday after a Monday notification was sent out and the last Friday before the next experimental wave would occur.

< Figure 1 about here >

The fact that officers participated in the engagements at different points in time introduces some complexity into our analysis, in particular, how we measured “post” outcomes for our control group. Figure 2 is a graphical description of our approach, based on the Southwest Precinct example of two treated officers and four control officers.

< Figure 2 about here >

Panel A of figure 2 identifies the pre and post periods for each of the two experimental groups created in each wave in the Southwest Precinct, based on the date of notification. Panel B identifies the pre and post periods based on the date of notification and the dates of engagement. We evaluated the impact of early engagement on policing outcomes by comparing on-the-job activity measures for officers in the experimental condition before they had been notified that they had been selected for engagement and the behavior of the same officers during two subsequent time periods, after they had been notified and after they had the engagement. Our experimental counterfactual is the change in behavior of control officers in the same experimental group over the same time periods.

For expository convenience, we refer to the set of one treated officer and four control officers as one “experimental group.” In the Southwest precinct, there were two experimental groups created in each wave, with a total of 10 officer level observations (two treated observations and eight control observations).

The comparison in Panel A (before and after notification) is similar to what is commonly referred to in the experimental literature as an “Intent to Treat” effect; in other words, some officers had engagements on the same day that they were notified of their selection, meaning that their next day at work was “treated,” and other officers were not yet treated, but were exposed to treatment eventually. The comparison in Panel B (before notification and after engagement) is similar to the “Treatment on the Treated.” This analogy is not exact, however, because in some ways, there are two different mechanisms at work; that is, officers who are notified that they have been selected for engagement may change their behavior in anticipation of a supervisory meeting, and the meeting itself may have a further change on their behavior. Differences in the two effects (after notification and after engagement) will reflect a combination of the differences between the intent to treat effect and treatment on the treated effect, plus a potential change in behavior due to anticipation of treatment. In addition to identifying two “post” periods, we also examined the change in officer behavior during two follow up windows: one week and six weeks after treatment.⁸ Each time period is bounded by the last day the officer was recorded as being active in CAD before the day of notification and by the first day after notification (or engagement) that the officer was active in CAD.

< Table 4 about here >

Table 4 presents some descriptive summary statistics for our measures of officer performance, with one observation per officer all measured prior to the initial treatment notification date. Overall there were a total of 240 experimental groups in our sample, one for each officer who was treated, and a total of 1,562 officer observations across treatment and control groups. For the majority of our analysis, we restrict our sample to 1,434 observations, as

⁸ More specifically, our follow up periods are 7 days and 44 days (one month and two weeks).

10 control officers were unlikely to be treated due to military, vacation, and sick leave. It is clear that there is very little difference across control and treatment groups on any of these dimensions, and in fact, the control and treatment groups are statistically indistinguishable with 95% confidence on all dimensions.⁹

Importantly, all of our outcome measures are recorded in existing data systems (CAD, AIM, and RMS) maintained by the SPD. SPD employees already collect these data in real time, and we had a plan in place to extract the relevant, officer-identified data with the SPD. We believe that the actual, measurable field performance of officers is ultimately the goal of any police training program.

Statistical power. We also include a power calculation in Table 4, where we estimate the probability of rejecting the null hypothesis (of no treatment effect) with 90% certainty, if the non-disciplinary supervisory meetings actually cause a 10% change in officer behavior. Our tests of officer activity have high levels of power, almost all over 80%. Our tests for incident response have lower levels of power, meaning that a failure to reject a null hypothesis should, for the most part, be interpreted as a failure to draw any conclusions, rather than finding a null effect of the engagements.

On average, selected officers responded to 40 CAD events in the one-week period before they were notified of their engagement. Of those incidents, the officer initiated 32% of them, and officers spent an average of 40 minutes on them from initial dispatch to their return to service. On average, 30% of incidents were serious enough for the officer to file a report, and 6.5%

⁹ This was statistically verified by re-estimating 20 modified versions of our central outcome equation, where the dependent variable was PreOutcome_{ijw} for each of our treatment windows and all outcomes. None of our pre-notification outcomes are statistically distinguishable with 95% confidence, and only one (CAD events resolved by issuing a non-criminal citation over one week period) was statistically precise at the 90% level of confidence ($p=0.083$).

resulted in an arrest being made; however, officers resolved most incidents simply by rendering assistance. In a given week, 0.003 complaints were filed against each officer, and each officer filed 0.2 reports about being involved in a use of force incident.

When we examined the six-week period before the treated officers were notified of their selection, we found that officers were involved in more CAD events, had more complaints filed against them, and were involved in more incidents where force is used, which is what we should see, since we are looking at a longer time period. Turning to the measures of typical incident outcomes for each officer, we find less of a difference from the shorter time window.

Quantitative Evaluation

Since we used a block randomization design with multiple experimental waves, a simple pre and post comparison of the mean outcomes would not take the experimental design into account. Instead, the proper way to identify the impact of treatment is to adjust the comparison of control and treatment outcomes for the experimental block level randomization, and for the fact that each individual officer appears in the sample multiple times. We have repeated observations per officer for two reasons: 1) because of the repeated use of control officers across the experimental blocks, and 2) because the same officers could be selected in multiple waves of the experiment.

The mathematical expression that describes both of these adjustments is below:

$$\text{PostOutcome}_{ijw} - \text{PreOutcome}_{ijw} = \alpha_{jw} + \beta \text{Engaged}_{ijw} + \varepsilon_{ijw}$$

Where $\text{PostOutcome}_{ijw} - \text{PreOutcome}_{ijw}$ is the pre-post difference in outcomes for officer i , in experimental group j , during treatment wave w . The experimental group specific intercept

α_{jw} essentially subtracts out the mean difference in outcomes for each officer in the experimental group. Note that this eliminates any variation in outcomes over time or across precincts that affects all of the officers in each experimental group, meaning that department-wide changes cannot be driving our results. The dummy variable Engaged_{ijw} is equal to one for treated officers only, meaning that β is the average difference in the treated officers from the untreated officers in their experimental group across all experimental groups.

The remaining unexplained component of the difference in outcome, ε_{ijw} , captures all other possible confounds of officer behavior and, by experimental design, is assumed to be uncorrelated with Engaged_{ijw} . This unexplained component will be correlated across pre-post outcomes for the same individual officer, and failure to take this into account will overstate the statistical precision of our estimates. We statistically corrected for this by clustering our standard errors at the officer level, explicitly allowing for this within-officer correlation. As a result, the estimated standard errors of our experimental effects are based on the number of unique officers in the experiment, rather than the number of observations.

The outcomes that we analyzed can be divided into two conceptual groups. “Officer Activity” measures reflect an officer’s engagement with the community. These include the number of CAD incidents the officer was involved in, the fraction of CAD incidents initiated by the officer (“on-views”), the average number of minutes an officer spent on-scene per incident, and the fraction of incidents for which the officer filed a report. A reduction in any of these measures would indicate that additional supervision is associated with lower levels of general officer activity and engagement with the community at large, which we define as de-policing. We also examined “Incident Outcome” measures, which included the fraction of incidents that resulted in an arrest, use of force, and citizen complaints. While a reduction in any of these

measures is not a clear policy goal, an excessive number of arrests, force, or complaints relative to the rate at which officers interact with the community in a more positive manner, is likely to reduce perceptions of police officer integrity. We also broke down the non-arrest outcome into citations issued, verbal warnings given, and assistance rendered.

Relative to arrests, use of force and complaints are infrequent events, and the low rate at which these occur makes it difficult to interpret the results of traditional statistical analysis techniques. Because of the low frequency of these particular incident outcomes, we also calculated an even longer run analysis period for these events, which consisted of the total number of force incidents and complaints recorded between May 1st and December 31st 2013 for each officer before and after treatment and notification.

Results. The following are the findings related to officer activity, incident outcomes, alternative means of case resolution, and effect heterogeneity.

Finding #1 – Officer activity. We do not find evidence that additional non-disciplinary supervisory meetings result in major de-policing. When officers learn they will be having a supervisory meeting, they may interact with people slightly more. Table 5 displays our estimates of the impact of LEED meetings on officer activity measures at one and six weeks before and after treatment. While officer activity is not necessarily a direct outcome of a LEED based supervisory meeting, one potential adverse impact of supervisory meetings is that officers respond by “de-policing.” While we are not aware of any formal evaluation regarding this type of change where officers stop initiating encounters with citizens and attempt to limit their time interacting with citizens when they do respond to calls, we are aware that it has been reported as a response to Early Intervention Systems or Early Warning Systems (Amendola, 2003).

< Table 5 about here >

In contrast to anecdotal reports on Early Intervention Systems, we find no evidence that treated officers reduced their activity in response to being notified about, or undergoing a LEED based supervisory meeting. In fact, our estimates suggest that, relative to otherwise similar officers, treated officers may have checked in on about two more incidents in the week after being notified or treated, although there is a 12 to 20% chance this difference could have been observed at random. When we extend our time period of analysis to six weeks before and after LEED meetings, we find even less evidence of a change in overall activity.

We also do not find evidence that SPD officers who have LEED based supervisory meetings are any more or less likely to initiate citizen encounters (see Table 6). When we look at the fraction of CAD incidents that are “on-views,” we observe a slight increase in officer activity in the week after they are notified that they will have a supervisory meeting, which is statistically significant at the 10% level. However, in the longer term, we do not observe any substantively meaningful increase or decrease in the propensity of treated officers to engage the public, relative to their peers.

< Table 6 about here >

Consistent with the absence of evidence that adding these additional supervisory meetings reduced the amount of contact SPD officers had with the public, we also do not observe a statistically significant change in the amount of time that SPD officers spend on call after being notified of or participating in an experimental engagement (see Table 7). Of course, our point estimates do consistently imply that engaged officers increased the amount of time they spent on scene by between 1 to 3 minutes, and there is only a 7% chance that the 1.6 minute increase in the average time spent on scene after participating in an experimental engagement would occur

simply by chance; however, this increase is very small relative to the pre-notification mean of 39 minutes from time of dispatch to when the officers returned to service.

< Table 7 about here >

Finally, we examined whether or not treated officers became less likely to involve themselves in serious incidents, where the “seriousness” of a given incident is determined by whether or not the officer filed a written report. Officers are required to file written reports every time they make an arrest, but also if they issue a citation or a ticket. Officers are not required to file a written report if they simply assist a person on scene, but filing a report does indicate that the officer considered the incident to be subjectively important enough to thoroughly document.

We found no evidence that LEED based supervisory meetings affected the probability that officers filed written reports about their on-the-job activities (see Table 8). Not only are the point estimates very close to zero at one week and six weeks after treatment, but the differences that we do observe would be expected to occur over 50% of the time in the long run if the intervention truly had no impact on the propensity of an officer to file a written report.

< Table 8 about here >

Overall, we conclude that concerns about LEED supervisory meetings resulting in depolicing are not supported by our experimental evidence. Comparing the activity of officers who were randomly assigned to have additional supervisory meetings with similar officers who were not selected, treated officers were involved in roughly the same number of incidents, initiated those incidents at roughly the same rate, spent about the same amount of time on scene, and appeared to be equally likely to file written reports after the encounters. Importantly, the estimated standard errors on these null estimates are also small relative to the sample means.

Failing to reject the null hypothesis of no treatment effect is not the same thing as concluding that there is no effect of treatment. If our standard errors are very large, it is possible that our “null” results would be consistent with substantial reductions in police activity. A holistic way to think about statistically insignificant results is to use the estimated standard errors to construct 95% confidence intervals around our point estimates. The upper and lower bounds of these confidence intervals reflect the largest possible treatment effects that could plausibly exist, based on our observed data. In other words, we now ask the question: how much de-policing could have actually occurred such that we would still generate our experimental results?

Based on the estimates and standard errors in Table 5, we can conclude with 95% certainty that the non-disciplinary LEED based supervisory meetings could have caused no more than a 2% reduction in the total incidents that an officer was involved with. Over a six-week period, we can rule out any more than a 6% reduction in total CAD activity as inconsistent with our data. With respect to officer-initiated incidents, the results in Table 6 suggest that there was at most an 11 % reduction in "on views" one week after participating in an experimental engagement. Over a six week period, we can reject any adverse treatment effect size larger than an 8% decrease.

Our results in Table 7 also allow us to rule out more than a 6% reduction in time on scene in the short term, and any effect size greater than a 2% reduction over the longer term is also statistically improbable. Finally, with regards to the probability that officers deem an incident significant enough to file a written report, in Table 8, we find no statistically significant change and can also rule out anything more than an 11% reduction in the probability that treated officers filed a report after one week. Over a six month period there was, at most, a 5% reduction in report writing.

Overall, we conclude that there is no evidence that non-disciplinary LEED based supervisory meetings affect the amount of engagement that officers have with the community. Of course, there are other ways in which police officers could engage in “de-policing” that could be elicited through other methods, such as detailed surveys. However, in terms of actual data that the SPD collects, and official metrics used to publicly characterize community engagement, we find no evidence of an adverse effect of these meetings, and are able to rule out very moderate effect sizes. We now turn to what the officer actually did while on scene by examining the final disposition of these incidents, as well as reports of force and citizen complaints.

Finding #2 – Incident outcomes. We find evidence that non-disciplinary supervisory meetings (the engagements) result in a reduction in the frequency with which officers resolve incidents by making an arrest. We also find evidence that, in the longer run, officers who have non-disciplinary supervisory meetings may be less likely to be involved in incidents where an officer uses physical force.

Arrests. The first outcome that we used to measure whether or not LEED supervisory meetings changed the way in which officers interacted with the public was the probability that a given CAD incident ended in an arrest (see Table 9). While reducing the number of arrests that officers make was not a goal of the experiment, if officers who have additional training in procedural justice techniques are able to resolve conflicts or suspicious scenarios without using their arrest powers, this may promote public perceptions of police integrity and fairness in the long run. Moreover, from the perspective of criminal justice costs, if incidents can be resolved without an arrest, the state is saved the additional costs of criminal justice processing, and the individual and their family does not incur any of the social costs (e.g. eligibility for subsidized housing, financial aid, employment restrictions) associated with potentially having a criminal

record. While we failed to find evidence of de-policing on the part of officers, the outcome of interest is the fraction of CAD incidents that end in arrest rather than total number of arrests, which officers could reduce by not engaging with the public.

< Table 9 about here >

We do find evidence that officers who participated in non-disciplinary LEED based supervisory meetings are less likely to resolve citizen encounters in non-disciplinary ways. While we do not observe a systematic change in the number of arrests per CAD incident made by officers one week after they are notified that they will be selected for participation in the experimental engagement, when we compare their CAD incidents before they were notified to after they have the supervisory meeting, we do observe that incidents are about 1 percentage point less likely to be resolved in a disciplinary way. When we compare how treated and control officers resolved CAD incidents over the 6 weeks before and after the engagements, we find that this 1% reduction is quite constant, and there is less than a 6% chance that this reduction could simply be due to chance.

Use of force. We now turn to the likelihood that treated officers are involved in incidents where force is used. Whenever an officer uses force to gain control of a citizen, that officer is required to fill out a specific use-of-force incident report. In addition, any officer involved in that incident is required to file a report. All of these filed reports are then reviewed by a series of supervisors in the SPD, and a committee determines whether or not the force was justified and is consistent with SPD policy. Our outcome is simply whether or not an officer filed a use of force report- not whether or not the officer actually used force, or whether or not the force was justified or deemed consistent with SPD policy.

We found little change in the likelihood that engaged officers, or those in the experimental condition, are involved in force incidents one week before or after engagements (see Table 10). This should not be surprising, as the likelihood that there would be any incident involving force over a one-week period is very low (fewer than 0.02 events on average, or less than 0.05% in any CAD incident). However, once we expand our follow up period to cover the six-week period after notification and engagement, we estimate that engaged officers are roughly 60% less likely to be involved in force incidents than control officers, and that there is only a 13% chance that a reduction of this size would be observed by chance. While not considered statistically significant by conventional standards, given the importance of force in public perceptions of legitimacy, the relative low power of the test, and the relatively low cost of this intervention, we consider this result highly promising, and suggestive of further experimental analysis.

< Table 10 about here >

Finally, we expanded our time frame to include the entire sample period, reducing the number of zero incidents that we observe in the data. Essentially, we are now comparing the temporal distribution of force events across control and treatment groups, and determining whether or not treated officers are less likely to be involved in force incidents at any time after their LEED based, non-disciplinary supervisory meeting when compared to the likelihood of the same prior to the meeting. Roughly one out of every two officers working in the highest risk circumstances are involved in events with force prior to engagement, and we estimate that there is essentially a 50% reduction in the likelihood that treated officers are involved in these potentially problematic situations after engagement. The precision of our estimates suggests that it is highly unlikely that we would observe this pattern of behavior simply as a matter of chance.

Our previous measures of officer activity and incident outcomes were all continuous variables, which primarily ranged from zero to one. Use of force, in contrast, is a much more restricted variable that takes on one of six values. If the observed average reduction in force was driven by one officer who was involved in six incidents prior to engagement and none afterwards, this might limit the interpretability of our results.

< Figure 3 about here >

In figure 3, we plot the distribution of the number of force incidents that control and treated officers are involved in prior to the treated officers being notified of selection. These distributions are quite similar, with most officers not being involved in force incidents with the exception of a small number of officers in both groups using force multiple times. In figure 4, we plot the pre-post difference in involvement in force incidents. This figure suggests that in fact, our identification of a reduction in force incidents appears to be driven by multiple treated officers engaging in roughly one less use of force incident after engagement, rather than one treated officer making a large change. This type of response seems more plausibly a result of additional supervisory meetings.

We confirm that outliers are not driving our results by replicating Table 10 using a “trimmed” sample of force incidents (See Table 11). In this sample, any officer who was involved in three or more incidents where force was used was recorded as being involved in exactly three force incidents. Not only did this help mitigate the influence of outliers but we also essentially ignored any change in the frequency with which officers who regularly use force do so (e.g. a change from five incidents to four incidents is treated as no change at all).

< Table 11 about here >

Even in this trimmed sample, we still observe a statistically unlikely reduction in the long run use of force by officers who had non-disciplinary LEED based supervisory meetings. In fact, the point estimate and precision is only slightly different from the full sample. This confirms the graphical analysis in figures 3 and 4, which suggested that LEED based supervisory meetings reduced the rate at which officers who were relatively less likely to use force became involved in it at all.

Because not every officer who filed a use of force report necessarily used force, our results must be interpreted carefully. Our data do not allow us to determine exactly which officer who filed a force report actually did, in fact, use force against a citizen; rather, what we observe is that the officer was involved in an incident where one or more officers used force to regain control of a situation. Therefore, what our results tell us is that officers who have had non-disciplinary LEED based supervisory meetings are less likely to be involved in an incident where any of the involved officers feel that physical force must be used to regain control of the situation. Only one officer using force may cause multiple officers to file force reports, but if any one officer is able to maintain control of a situation without resorting to physical force, it is plausible that no force will be used at all.

Our final incident outcome is the rate at which citizens file complaints about particular SPD officers. Like our measure of force, we only observe that a complaint was filed against an officer at a particular date; we do not observe whether or not the complaint was substantiated or not, and we are very limited in our ability to link a complaint to a particular CAD incident given that the people filing the complaint frequently do not report and likely do not know the specific incident number. As such, we merely observe that a complaint was filed in a particular time period. It is possible that complaints that happened prior to notification are complained about in

the “post” period. This sort of measurement error should affect both our control and treatment groups equally, and therefore, is not anticipated to affect our experimental estimates.

An additional source of measurement error is the possibility that citizens will file complaints about incidents that occurred in the “post” period after our sample window. If LEED based, non-disciplinary supervisory meetings affected officer behavior in a way that changed the amount of time it took for citizens to file complaints, this type of measurement error would affect our estimates. As our sample window gets larger, this type of measurement error is less likely to be a problem because we will be allowing for a longer period of time between incident and complaint.

While we did find evidence that officers were less likely to make arrests, and less likely to be involved in incidents where force was used, we find no evidence that officers who participated in experimental engagements have complaints filed against them at different rates than officers in the control groups (See Table 12). All of our point estimates are positive, and represent a reduction of roughly 15% of the pre-notification control mean on average. However, these estimates are also statistically imprecise, and we could not reject the null hypothesis that LEED based, non-disciplinary supervisory meetings increased complaints by more than 90%, or fell by over 70%, with 95% certainty. Therefore, we must conclude that the available evidence does not allow us to say anything about whether or not these additional meetings had any effect on the frequency with which citizens file complaints against SPD officers.

< Table 12 about here >

Finding #3 – Are officers systematically resolving incidents in other ways? Our results suggest that officers who have LEED based, non-disciplinary supervisory meetings are less likely to resolve CAD incidents by making an arrest, and are also less likely to be involved in use

of force incidents. If officers are systematically resolving incidents that previously would have resulted in an arrest in a less punitive way, then we might observe an increase in the fraction of CAD events resolved by issuing a non-criminal citation, a warning, or rendering assistance. There are also many other ways that police can resolve an interaction, although these four (arrest, non-criminal citation or infraction, warning, and assistance rendered) are the most common, and almost 90% of all incidents are resolved in this way. However, given that arrests are so infrequent (roughly 7% of all incidents), a large reduction in arrests may not produce a statistically detectable increase in any other non-arrest outcome.

Non-criminal citations. We begin by looking at the probability that an officer issues a ticket or citations (See Table 13). After making an arrest, this is plausibly the most serious way that an officer could resolve an incident; a formal record of the encounter with the individual is made, but there is no sense in which the individual is taken into police custody. We find no strong evidence that officers are systematically more or less likely to resolve incidents in this way after engagements, and can rule out with 95% certainty a 10% increase or 10% decrease in the short run, and anything larger than a 3% increase or 5% decrease in the longer run.

< Table 13 about here >

Verbal warnings. Turning to verbal warnings, we also fail to find statistical evidence that officers are systematically more likely to let citizens go with a verbal warning (see Table 14). In fact, the point estimates are consistently negative, so although no difference is statistically precise, there is a suggestive pattern that engaged officers may be more likely to document any citizen encounter in a formal way, rather than resolving incidents informally. Therefore, we cannot rule out potentially large short run changes in warnings issued (from a 40% increase to a 27% reduction), which is consistent with the power analysis in Table 4. In the longer run, there

may have also been an 11% increase in the probability that an officer clears an incident by issuing a verbal warning, but there could have also been a 17% reduction; thus, we can rule out any change larger than these two extremes.

< Table 14 about here >

Rendering assistance. The final outcome that we examined separately is entirely non-punitive; officers resolving incidents by reporting that they helped the citizen (See Table 15). This is how officers resolve the plurality of CAD calls (48% of all CAD calls in our sample are resolved this way). Our experimental results suggest that officers are potentially 3 to 13% more likely to resolve outcomes in this way after having LEED based non-disciplinary supervisory meetings, but none of the increases are statistically different from zero.

< Table 15 about here >

Finding #4 – Do we observe substantial effect heterogeneity? Finally, we examined our data for potential sources of heterogeneity. Specifically, we allowed for the treatment effects to vary by the number of times an individual officer was notified of their selection for treatment (up to three times), the value of the predicted risk score of the qualifying incident, precinct, and the experimental wave of assignment.

We find little evidence of systematic variation in the impact of additional non-disciplinary supervisory meetings across precincts or over time. We also find little evidence that more than one additional meeting over a six-month period has larger effects on behavior. There is some evidence that officers working in areas with the highest levels of predicted risk are less likely to change their behavior after additional non-disciplinary supervisory meetings.

There are four dimensions along which we expected to feasibly have heterogeneity in the impact of these supervisory meetings. Two are related to potential variation in implementation of the experimental supervisory meeting, and two are related to potential variation in the benefit of the meetings. We tested our central results (officer activity and incident outcomes) for each source of variation, and so it is important to keep in mind that, conservatively, the standard “critical thresholds” of statistical significance of 5% and 10% type-1 error probabilities are too high.¹⁰

Multiple supervisory meetings and officer activity. The first dimension we explored was whether or not officers who had multiple meetings behaved differently than those who had just one (see Table 16a). In practice, we tested this by allowing the impact of treatment to vary based on how many times, at the date of notification, the officer had previously been notified that they were selected for a supervisory meeting.

< Table 16a about here >

In panel A of Table 16, we present our results for officer activity. We find no compelling evidence that officers who previously had supervisory meetings responded any differently than officers having the first meeting. Even ignoring the potential for spurious statistically significant results, we find no statistically meaningful variation in the impact of additional meetings on the

¹⁰ Based on a simple Bonferroni correction for multiple hypotheses testing, the appropriate critical values could be as much as eight times lower (as there are two primary hypotheses times four sources of heterogeneity). However, to the extent that many of these tests represent variation in integrity of implementation, this simple correction will likely lead to under-rejection of the null hypothesis. In addition, and also importantly, as of these tests was anticipated at the outset of the study, it is arguable that the tests should be considered independent trials. In some sense, these comparisons may be viewed as additional sensitivity tests of the data.

number of incidents, the fraction of incidents that are initiated by the officer, the time spent on scene, or the fraction of incidents for which a report is written.

Multiple supervisory meetings and incident outcomes. In panel B of Table 16a, we test whether or not the resolution of the incident varies with the number of meetings the officer was involved in. While there is some limited evidence that there is a diminishing impact of meetings on force reports during the week after engagement, these effects are less evident over the longer run six-week follow-up period (See Table 16b).

< Table 16b about here >

Higher predicted risk scores and officer activity. All officers that were eligible for treatment responded to CAD incidents in areas where other SPD officers were involved in potentially problematic events at higher rates than other officers in their precinct. In Table 17a, we include the first order impact of predicted risk score, and an interaction of risk score and selection for treatment. In order to ease interpretation, risk scores are standardized to have a mean of zero and a standard deviation of one.

A priori, it is not clear whether or not, within that group, officers with higher predicted risk scores were more or less affected by the engagements; what matters instead is the frequency with which officers were involved in events that are marginally problematic. Intuitively, there are some circumstances where officers will always make arrests or always use force, and some circumstances where neither of those two things would ever happen. Additional training in procedural justice techniques will have the largest impact on incident outcomes in cases where interactions may or may not become problematic depending on the officer's skill in handling the situation.

< Table 17a about here >

In the short run (panel A), there is no evidence that officers who work in more or less “riskier” areas are disproportionately affected by engagements. However, once we turn to longer run, six-week outcomes, we find that officers who work in areas with higher predicted risk scores have lower reductions in arrest rates. Specifically, on average, engaged officers are 0.7 percentage points (roughly 10 percent) less likely to resolve an incident via arrest; however, treated officers who work in areas that are one standard deviation higher in predicted risk are equally as likely to resolve an incident via arrest as similar officers who did not have an additional supervisory meeting. Similarly, officers who work in areas that are one standard deviation less risky than average are 20% less likely to resolve incidents via arrest than their otherwise similar colleagues.

< Table 17b about here >

Heterogeneity in supervisory meetings by experimental wave. We are including all 12 experimental waves in our results, removing any variation in outcomes over time with our randomization group fixed effects. While these fixed effects will absorb the impact of many potential threats to treatment validity that affected both control and treated officers, it is possible that there could be heterogeneity in the impact of supervisory meetings over time.

In Table 18a we allow for the average impact of supervisory meetings to be different in every treatment wave. In the short term, we find some evidence that officers who had supervisory meetings became more active in the first wave of the experiment and that relative to the average change, the treatment effects in later waves are consistently lower, and in a few treatment waves, the impact on overall activity is statistically lower than average. We also find that, in the short run, reduction in the use of force was concentrated in the early treatment waves.

< Table 18a about here >

In the longer run (Table 18b), we find less evidence of variation in treatment effect over time, although it appears to be the case that the reductions in arrests and force incidents were smallest in the earlier waves of the experiment (waves two through four). This finding is consistent with the qualitative analysis, which suggested that some SPD officers were, at least initially, skeptical as to the purpose of the supervisory meetings and in particular, were skeptical about why “small stuff” was being discussed. During site visits by project staff, sergeants and lieutenants had the chance to discuss the engagements, and this may have improved the integrity of the experimental implementation over time. In addition, the deputy chief and project staff refined the type and number of incidents that could be suggested as possible events to discuss in the engagements during the first weeks of the experiment.

< Table 18b about here >

Heterogeneity in supervisory meetings by precinct. Randomization occurred at the precinct level, and our main effects can be interpreted as averages across all precincts. In Table 19a, we allow for the impact of supervisory meetings to vary across precincts. These results suggest that, in the short run, officers in the East precinct (the omitted precinct) responded to treatment by spending more time “out of service” after CAD incidents on average. Of course, the observed effect, roughly 20 additional minutes on scene for treated officers, is so large that it suggests a statistical anomaly. However, the change in the time that East precinct officers are spending on scene is still evident six weeks after engagement, although the effect size is smaller and more in line with plausible estimates of an increase in time spent talking to citizens (an additional 3 minutes on scene).

< Table 19a about here >

There is no strong evidence that officers in different precincts responded to incidents in a differential way after having supervisory meetings. One exception to this is the observation that treated officers in the East precinct were also less likely to have complaints filed against them relative to the average. However, given the low rate of any complaints being filed, we conclude that it is simply not clear that LEED based supervisory meetings are related to the likelihood that Seattle residents file complaints against police officers.

< Table 19b about here >

Qualitative Analysis of Officer Responses via Comment Cards

The proposed experimental engagements involved increasing the amount of monitoring that officers were subjected to. While there may be positive outcomes from this additional supervision, it is important to weigh evidence of any desired changes in officer activity against the costly burden that these meetings place on the SPD. Therefore, we conducted a qualitative evaluation of these engagements in order to both evaluate the integrity of the experimental implementation and also to provide context for interpreting the quantitative results. It is quite common for social scientists to rely on a 5% level of type one error as a universal threshold for “significance.” This broad-brush strategy ignores the fact that the actual cost of making a type I error varies dramatically across contexts. If engagements were viewed positively, or relatively innocuous by the officers, and there are signs of desirable effect on officer activity, then a higher level of type 1 error may be acceptable. In contrast, if engagements were viewed as particularly distracting or otherwise costly to officers, we would only consider improvements in officer activity to be meaningful for policy purposes if there was an incredibly low probability that they were generated by chance.

Response rate. There were a total of 67 comment cards received from participating

officers. While there was a box on the bottom left of the front of the comment card for the precinct to be filled in by the supervisors (not the officers themselves), it is clear that the supervisors did not get this message, as in any one precinct, the writing was in the same handwriting as the rest of the responses on the comment card. Of these 67 completed comment cards, only 64% (n = 43) included the precinct. For almost 7.5% (n = 5) responses, the front page of the comment card was left blank altogether, perhaps further demonstrating that the supervisors did not carefully instruct the officers in the completion of this task. It is not possible to estimate how the remaining 24 comment cards were distributed across precincts, nor whether the lack of completion had to do with concerns over confidentiality.

Assuming that there were equal numbers of interventions across the five precincts, we might expect a fairly equal distribution of responses/comment cards. However, the extent to which individuals respond to requests for feedback is motivated by a number of factors such as having strong views, feeling confident that one's individual responses cannot be identified, being encouraged by a supervisor, etc. In this study, the greatest number of precinct-identifiable responses came from the West precinct (n=15), with the remaining precincts ranging from 5 (South) to 9 respondents (East). The fact that over a third of responses that included a precinct identification came from the West precinct may reflect a higher level of expectations regarding confidentiality or some other factor. As such, we will examine the responses from that precinct compared to all others later in this section.

Item Analysis. The item analysis utilized the following response scale:

Response scale:

1 = not at all;

2 = to a very small degree;

3 = to some degree;

4 = to a pretty high degree;

5 = to a great degree; OR

n/a = not applicable

Item 1: To what extent did this meeting with this supervisor make you feel like what you had to say actually mattered to this supervisor?

< Table 20A about here >

These responses indicate that for the most part, officers felt to a pretty high degree that the meetings made them feel like their responses mattered to their supervisors.

Item 2: To what extent did this meeting with this supervisor make you wish more supervisors in the SPD used this type of feedback approach?

< Table 20B about here >

These responses indicate that officers were not that enthusiastic about this approach, or that perhaps, they already feel that supervisors in SPD use this type of approach.

Item 3: To what extent did this meeting with this supervisor make you feel more respected than in past supervisory meetings?

< Table 20C about here >

These responses indicate that for the most part, officers did not feel that this approach made them feel that much more respected than in the past. However, it may be that officers already felt a certain level of respect with the existing approach, so that not much improvement was needed.

Item 4: To what extent did this meeting with this supervisor feel like a fair and just system for providing feedback to officers?

< Table 20D about here >

These responses indicate that officers predominantly felt that these types of supervisory meetings feel like a fair and just feedback system.

Item 5: To what extent did this meeting with this supervisor help to stimulate your memory of the event(s)?

< Table 20E about here >

These responses indicate that for the most part, officers felt that these meetings stimulated their memory of the events to a moderately high degree.

Item 6: To what extent did this meeting with this supervisor allow you to recall specific details of the event(s)?

< Table 20F about here >

Again, these responses indicate that for the most part, officers felt that these meetings allowed them to recall specific details of the event to a moderate extent.

Item 7: To what extent did this meeting with this supervisor allow you the chance to explain your perspective without feeling judged?

< Table 20G about here >

These responses indicate that officers felt to a fairly strong extent that they were able to explain their perspectives without feeling judged.

Item 8: To what extent did this meeting with this supervisor make you feel you were being unduly criticized?

< Table 20H about here >

In reviewing these responses, it is unclear as to whether all officers read the question accurately. Because this item was reverse coded (higher score is a more negative response), and the fact that seven respondents had anomalous responses, this was the only question where a higher score corresponded to a more negative response, meaning that the actual mean may have been slightly lower). In any event, the mean of 1.42 and median of 1 suggests that most officers did not feel at all unduly criticized by the supervisor(s) in these meetings.

Item 9: To what extent did this meeting with this supervisor help you to understand ways in which you could improve future encounters?

< Table 20I about here >

These responses indicate that for the most part, officers only felt that the meetings helped them to understand ways to improve their behavior to a small degree. This could also be explained by the fact that a number of individuals felt that the incidents selected were of low priority, stress, and importance, and/or that individual debriefings are not as helpful as squad or larger group debriefings in terms of individual performance (see below).

Item 10: Please provide comments about this meeting or suggested improvements for future supervisory meetings.

There were 32 total comments provided in this section. Many (15) of the responses had to do with the selection of incidents for debriefing in these sessions. All of these respondents felt that the selection of mundane incidents of low criticality made the exercise less effective/ineffective. In reviewing the content of all 32 responses, we were able to code each response into at least one or sometimes two categories, resulting in 34 total responses across categories.

Responses. A description of each category, the total similar responses, and in some cases [an] example(s) are provided below:

1. Incidents too mundane, low stress, or not relevant (n = 15)

“...better to choose a significant incident”

“...more productive if used for a ‘high risk’ type of incident”

“[events were] nothing calls....mundane”

“incidents selected should not be done at random”; narrow to more dynamic situations

2. Good/great idea or tool (n = 7)

3. Need entire squad/all officers on scene (n = 4)

“...should also debrief as a group”

4. Current supervisors already do this (n = 3)

“[our precinct commanders] know our character and trust our judgment...”

5. Not beneficial (n = 2)

“...colossal waste of time...”

6. Confidentiality concerns (n = 2)

“...being cornered in a room ... does not lead to authentic answers”

7. Neutral (n = 1)

Comparison of West precinct to other identified precincts. At the outset, we noted that among the precincts identified by officers, there was a higher rate of return for those from the West Precinct. While it would be highly speculative to indicate the reasons for this, it nevertheless raised our concern that perhaps the West precinct differed in some way from the others (perhaps higher degree of trust in supervisors, being encouraged/pushed to respond to a greater degree, having a better organizational climate, etc.).

As such, we decided to analyze the means and standard deviations of the item responses from the West Precinct as compared to those from the other identified precincts (North, South, East, and Southwest). We present those results in Table 21 below:

< Table 21 about here >

The results indicate that in general, those in the West Precinct had more favorable views of the intervention, the supervisory approach, and its benefits except for item 4 where the responses were almost identical (West 3.71 vs. other 3.73) and where the West had a slightly higher standard deviation, indicating that both groups felt similarly about the justness of the supervisory session. For item 8 where the coding was reversed, those from the West Precinct had only a slightly lower score and virtually the same standard deviation, indicating that neither group felt more unduly criticized than the other precincts. Again, while we are not able to provide an explanation for these differences, they were nevertheless present in this sample.

Conclusions

General Findings

Our results suggest that short, non-punitive, supervisory meetings can lead to officers resolving more incidents in non-punitive ways. Importantly, we find that this general de-escalation of citizen encounters is not associated with a reduction in officer activity. Indeed, we failed to find evidence that officers responded to fewer events, or initiated fewer citizen encounters. We also failed to find evidence that officers responded to these meetings by limiting the amount of time they spend with citizens. Instead, officers appear to check in and out of incidents with roughly the same frequency. Furthermore, we failed to find evidence that officers are less likely to file written reports about incidents after meetings.

What we do observe is a reduction in the frequency with which officers are involved in serious, potentially problematic, encounters with citizens. Specifically, officers who are reminded to think about their own thought process and how they incorporate new information *while* talking to the citizen rather than beforehand are less likely to decide on resolving an incident via arrest. These officers are also less likely to be involved in an incident where physical force is needed to control a situation.

Conditional on officers engaging the public and continuing to deter crime through their physical presence (Nagin, 2013), it is difficult to argue why a reduction in force or arrests is not a desirable outcome. To the extent that the marginal arrest affected by training could have been resolved via citation or warning, rather than a clearly criminal incident that warranted formal charges, and because citizens always prefer not to be arrested, these supervisory meetings should promote public perceptions of police integrity in the long run. In addition, the officers who participated in the engagements generally perceived them to be, at worst, relatively innocuous meetings and, at best, a chance to interact with their supervisors in a way that made them feel that their experiences and perceptions were valued in the department

Limitations of the Study

To the best of our knowledge, this study is one of the first to examine the impact of procedural justice training on officer behavior in the field, rather than through citizen surveys. Measuring officer integrity through citizen surveys has the advantage of directly tracking how people view the police. However, there are very real costs associated with relying on surveys to evaluate police training programs. Most importantly, surveys that are representative of the population of an area will not be representative of people who actually interact with the police. Attempts to evaluate the impact of a police training program by quantifying a contemporaneous

change in the perceptions of people who did not interact with the police will inevitably find that the program had no impact.

A better approach would be to survey people who interacted with police officers before and after the training program. This method was used in Mazerolle, et al. (2012), one of the few studies that did find substantive effects on police perceptions after traffic stops. Surveying a representative sample of all people who have interacted with the police, rather than a sample of people who were arrested, is critical for the internal validity of the results; our results suggest that the marginal arrestee is likely to be more criminal or culpable, and therefore likely to be more dissatisfied with the police, after procedural justice training.

Implications For Further Research, Policy, & Practice

There are several positive contributions of this evaluation to the understanding of policing integrity. First, we developed an EIS system that draws from recent criminological insights about behavioral hot spots, and there is some evidence that officers working in areas of “marginal” risk – the lowest risk of a high risk group- were more likely to benefit from these additional meetings. Second, we demonstrated that even short supervisory meetings that take place at relatively low frequencies can promote the use of procedural justice in the field in a practical and efficient manner. Third, we measured the effect of procedural justice training on policing using quantifiable field outcomes - officer activity and incident outcomes - rather than inherently subjective self-reports by the officers. Finally, we hope that this project will foster further partnerships between researchers and police professionals. Beyond simple feedback, members of the Seattle Police Department collaborated with the Co-PIs in the development of many components of this proposal, and contributed a significant part of the human capital necessary for the project to succeed.

This research has tremendous potential to add knowledge to our efforts to promote police integrity by increasing legitimacy in police citizen interactions. There are also multiple potential extensions of this research that could benefit other departments. Our HRC model is based on sound criminological theory and sophisticated statistical modeling; to the best of our knowledge, we are one of the first to use behavioral hot spots as a key factor in identifying police who face situations where negative encounters are likely to arise.

Our experimental engagement was not only appropriate to this early identification of officers, but it promoted procedural justice in two ways. Sergeants encouraged officers to use LEED concepts during citizen encounters, and provided positive feedback to those already doing so during the engagements. Second, in a dimension that we believe is unique to our study, sergeants modeled procedural justice for the officers by using LEED during the intervention under the supervision of lieutenants who were trained in procedural justice. Like our HRC model, this too was motivated by recent advances in police research, which argue that people are more receptive to authority when procedural justice is used (Hickman, Piquero, Lawton, & Greene, 2001).

A final important component of our study was that we experimentally evaluated the impact of LEED techniques on tractable and policy relevant outcomes. In practice, procedural justice initiatives are often met with skepticism by the public and are considered to be little more than “political correctness run amok.”¹¹ We evaluated the impact of LEED using outcomes that, unlike self-reported “satisfaction with the police,” are easily quantified in a cost-benefit analysis, and which are more frequent, and therefore easier to plausibly measure than officer shootings or use of excessive force.

¹¹ <http://www.foxnews.com/us/2011/06/22/cop-killing-up-new-training-stresses-kindness/>

Although randomized control trials produce unbiased estimates of treatment effects, one limitation is that replication of these experimental results in other cities is necessary before strong policy decisions are made. However, we have demonstrated proof of the concept that it is indeed possible for police department leadership to make relatively minor changes to supervisory strategies, and have real, measurable effects on the frequency with which police officers resort to potentially problematic tactics. Additional research can either confirm that these results hold in other cities and in other settings, or find that the Seattle context was unique.

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APPENDICES

Appendix A: Training SPD Sergeants To Conduct Experimental Engagement

Background on the Training

Our supervisor training program, designed strictly for the purpose of overseeing the experimental intervention, was modeled off of the training programs laid out in Mazerolle et al. (2011), Rosenbaum and Lawrence (2011) and Fisher and Geiselman (1992). Mazerolle et al. (2011) and Rosenbaum and Lawrence (2011), hereafter referred to as MAZ and RL, evaluated the impact of procedural justice on citizen perceptions of fairness and respect for police by randomly assigning officers to use LEED concepts in their civilian interactions, either during random breathalyzer tests (MAZ) or during general police work (RL). There were some differences in the outcomes of these studies, with MAZ finding significant improvements in citizens' attitudes towards police, but RL finding that while some officers in the experimental group appeared to be more likely to use LEED concepts in the field, there was little effect on officers' beliefs about procedural justice. These disparate findings are potentially explained by differences in the project implementation. Initially, the MAZ research team held a group meeting with the officers working in the jurisdiction of interest, in which they explained the purpose of their study, the basic ideas behind procedural justice, and how they expected these ideas to be implemented in practice. Officers were given the chance to ask the MAZ research team questions about the experiment, and their participation, directly.

During the MAZ experiment, officers in the LEED group were provided with a procedural justice cue card that they kept with them in the field. This cue card not only reminded officers of important phrases such as “*We are pulling cars over today at random. You were not specifically singled out for this test,*” but also reminded officers to begin the encounter with neutral, non-judgmental greetings, and to end the citizen encounter by giving positive feedback

to the driver. Members of the MAZ research team also rode along with officers in both the treatment and control groups, in order to confirm that the experiment was being implemented properly.

RL, on the other hand, added twenty additional hours of classroom training in procedural justice techniques to the standard academy training of police recruits. The training began with a formal lecture on procedural justice from one officer and one university professor, and the remaining hours of training were more interactive. Trainees in the treated group watched pre-recorded or live re-enactments of police-citizen interactions where police did or did not use LEED concepts. They then participated in role-playing exercises and provided feedback on the role-playing of others.

The most obvious difference in the design of the MAZ and RL studies is the timing of the LEED training. While officers in the RL treatment almost certainly spent more time learning about procedural justice concepts, this training ended once they left the academy. MAZ officers, in contrast, were continually reminded of LEED concepts, by having both the cue card with them, and having the researchers present during their stops.

On the one hand, the MAZ experiment has a higher level of internal validity; for example, the research team was able to confirm that treated and control officers behaved as intended. On the other hand, the steps taken to increase internal validity arguably detracted from the external validity of MAZ relative to RL. In practice, officers will not necessarily carry a cue card around with them all the time, and will not have their behavior monitored by outside researchers. The RL treatment, which simply added classroom time to standard training, is almost certainly a better approximation of a policy that would actually be implemented in a police department.

Training Lieutenants to Model LEED for Sergeants

With the experiences of MAZ and RL in mind, our experimental implementation was designed to combine a relatively short period of classroom training for lieutenants, who then instructed sergeants under their command on how to model LEED techniques. With an eye towards external validity, lieutenants were told that research team members were not to be present during the engagements. Even as observers, the presence of the researchers alone would make the LEED engagement different from one that would be implemented in practice.

The presence of the lieutenant, however, ensured the validity of the project implementation, and also reinforced the institutionalization of the procedural justice training. In practice, the sustained involvement of lieutenants in an officer training program is less likely, but we believed that temporary lieutenant supervision could reasonably be part of the implementation of such a methodology in another police department.

Cognitive Interview Model

The LEED debrief training was developed after in-depth discussions about how using cognitive interviews could assist in the development of honest, complete and worthwhile information. Essentially, information received from officers, suspects, and witnesses is used to reconstruct a scene, situation or encounter and to form a description of what is known about a specific situation. A critical goal of the cognitive interview is to get each witness to provide accurate information, but there is no standard method or “best practice” to achieve this outcome (Maguire and Norris, 1994). There are many ways investigators attempt to elicit information and often, it is a “gut feeling” rather than a proven strategy based on evidence that is used by them to interact with individuals. The cognitive interview process provides the interviewee with an opportunity to recall facts more effectively and efficiently.

Thus, interviewers need to learn how to listen, ask questions and prompt subjects without being biased, leading or prejudiced. In this type of interview, it is the job of the interviewer to encourage the participant to do most of the mental work as he/she has the information sought by the interviewer. It is the interviewer's job to help the participant provide the information in a complete and unbiased manner. For example, memory concerning a threat should be more easily obtained when the participant is thinking about when he or she first perceived it, rather than when he or she is talking about the person posing the threat.

The Experimental Oversight Training Session

Using the tenets of cognitive interviewing, a deputy chief conducted a series of trial interviews with a small group of senior lieutenants, as well as some sergeants and officers. The train-the-trainer workbook and other informational materials were developed, tested, and modified in two follow-up rounds of mock interviews. The deputy chief met and trained all the participating lieutenants, who in turn trained the sergeants. Additionally, the lieutenants were tasked with maintaining the quality of the interviews conducted by the sergeants. The deputy chief was available to assist in maintaining quality control throughout the experimental period.

The program to train and implement the experimental engagement model ultimately involved the entire department, which was a rather momentous and important undertaking in and of itself. Among the significant transformational objectives of the project undertaken was involving the entirety of the officers in the Seattle Police Department – numbering about 1300 – in learning the principles of LEED, and the protocols of the experimental engagement.

The deputy chief and Co-PI Dr. Geoffrey Alpert conducted the initial supervisor training session for the twenty SPD lieutenants assigned to oversee the experimental intervention engagement sessions. The deputy chief introduced Dr. Alpert, and explained to the selected

supervisors that the SPD and Police Foundation were jointly conducting groundbreaking research on supervisory techniques, that might help both the department and the policing community at large. The deputy chief further emphasized that, while no employee was required to participate in this experiment, the SPD not only fully supported the research but was also an active participant in the development of the experiment. The lieutenants were then tasked with explaining and demonstrating these principles for the 3-4 sergeants under their command.

The process began with the introduction of the model by the Chief of Police and command staff to the department as a whole, and in-depth with department captains and lieutenants. The lieutenant rank was assigned to manage the program, and train sergeants in its structure and protocols. Sergeants then served as the interviewers and interlocutors, with their respective lieutenants in attendance as observers. To accomplish this, lieutenants and captains were asked to become familiar with the interview model (described below) through meetings and role-playing with the command staff, which included assistant and deputy chiefs, and were assisted by LEED instructors from the SPD Training Section. This helped to lay the foundation for a “train-the-trainer” approach. The lieutenants then imparted the interview model to their assigned sergeants, who were participated as interlocutors with officers randomly selected for experimental engagements.

This top down approach was utilized in order to ensure buy-in at every command and supervisory level of the SPD, and was efficient in its span and scope. The experimental engagements were focused on patrol officers, who were commanded by five captains and twenty lieutenants. The command staff of seven assistant or deputy chiefs was responsible for conducting the familiarization discussion with these 25 commanders, which roughly constituted a 1:4 instructional ratio. The 20 lieutenants, in turn, were responsible for training the

approximately seventy-two sergeants in Patrol, the Anti-Crime Team, Community Police Team and Footbeat/Bicycle Squads, again, roughly constituting a 1:4 instructional ratio. The patrol force itself, at the time, was comprised of both 911 and proactive officers distributed among 5 precincts, numbering approximately 680 sworn officers.

Training and implementation steps based upon the experimental engagement

model. As stated above, the training/implementation process *was* the model and vice versa. The steps towards completing this crucial process were as follows:

- A. The initial process of familiarization and project objectives proceeded from the Chief to all employees;
- B. The Command Staff (Assistant and Deputy Chiefs) assisted by LEED specialists from the SPD Training Section, followed the process described above to familiarize and practice the model with their Captains and Lieutenants; and
- C. The Lieutenants, following this “train the trainer” format, implemented the overall familiarization program with all precinct Sergeants.

These conversations were projected to take no more than two hours, and included opportunities for role-playing based upon the criteria of random assignment of officers to an EE. For example, there are abundant use-of-force reports, which could have been employed to illustrate the engagement model when random assignment is triggered by a TASER application or other trigger, for example.

Appendix B: The LEED Engagement Script

Training Module for the Experimental Engagement (EE) Model

The methodology followed “adult learning” principles: candid, respectful conversation; comprehensive review of the topics and learning points, with comprehension acknowledged at each point; and scenario based role-playing to examine and validate the model.

The “training” then consisted of modeling the engagement model itself. Briefly, the elements of the 6- part engagement – or conversation - were as follows:

I. Introduction and Overview of the LEED Engagement

II. Statement of Purpose: The supervisor explained that the officer was randomly selected for the engagement, and what the engagement consisted of. At the outset, the officer was reassured that the forthcoming engagement was not going to result in discipline, that the objectives included an examination from the officer’s perspective, and that respectful, candid facilitation was to govern the discussion. The sergeant was encouraged to use the processes and devices of conversational clarity – paraphrasing, echoing, presenting or responding to hypotheticals, and above all, to ask clarifying questions at any point of the engagement. The officer was informed that LEED principles would be introduced throughout his/her recapitulation of the incident in question, and moreover, that the sergeant was bound to employ those same LEED principles during the engagement itself. It was then disclosed that the observance of these overarching principles was one reason why the lieutenant was to be present.

III. Initial Narrative: The officer was to be asked to “walkthrough” the incident, which was chosen jointly by the sergeant and officer, with the aim being that it involved some interaction with a citizen but was not necessarily an incident that would otherwise be discussed in a supervisory setting. There could have been the option, dependent upon practical opportunity,

to physically return to the site of the incident itself (although this was not done). This initial narrative was to be in the officer's own words, and should have been relatively unimpeded. The sergeant was directed at this point to facilitate the full airing of the incident by the officer in his/her own words but could ask clarifying questions. The sergeant's principle task at this juncture was to identify and organize the follow-on interview, which is the crux of the engagement, as described below. Once the "walkthrough" was completed to the likes of both the officer and the sergeant, the actual engagement could commence.

IV. Cognitive Debrief: Following the walkthrough, the sergeant was tasked with facilitating a discussion of the officer's thought process, emotional state, assessment of threats and opportunities, and other factors in the officer's view which underpinned the decisions and outcomes of the incident. This first interplay between sergeant and officer was aimed at mutually arriving at a comprehensive understanding of the reason the incident resolved as it did, and set up the process to benchmark the elements of the incident against LEED principles.

V. LEED Debrief: Following the cognitive interview/debrief was the re-examination of the incident actions, decision points and factors in light of LEED principles. Specifically, any point in the interaction which may have allowed opportunities to provide explanation, or establish affirmations of respect and fairness, or simply involved listening, was to be discussed with a view towards answering a three prong test:

- 1) Were these opportunities exploited and successful? What contributed to the success?
- 2) Were these opportunities impossible to exploit because of other factors? What were those impediments or precluding factors?
- 3) Were there missed opportunities? What were the causal factors?

The sergeant was to then move through the engagement towards a seminal moment; that is, the determination of whether there were unexploited options to further the LEED principles of *Listening* and *Explaining* governed by the principles of *Equity* and *Dignity*.

VI. Reconciliation and Summary: At this point, the sergeant was to recede from the facilitator role exercised during the cognitive and LEED debriefs. The officer was to be encouraged to provide a summary assessment of the entire engagement, with specific attention paid to any lessons learned. The officer was also to be given an unimpeded opportunity to assess the quality of the interview according to LEED principles; namely, to respectfully provide impressions of the sergeant's adherence to LEED in his/her interaction with the officer. Again, the presence of the lieutenant, who previously acted as the sergeant's trainer and who was responsible to his/her captain and chief for management of the project, was to ensure that this reconciliation phase was governed by LEED principles.

Overview of the LEED Engagement

At the beginning of the engagement, the sergeant was asked to follow standard introductory instructions, adapted from Rosenbaum and Lawrence (2011) and Fisher and Geiselman (1992). These consisted of:

- (1) Thanking the officer for coming in to help you test this new supervisory training program: reminding them that they were selected randomly, participant identity and comments are confidential and non-attributive, and that this meeting is entirely meant to help examine new supervisory techniques.
- (2) Transferring control to the officer: telling the officer that you would like to discuss an interaction that they had on (date of flagged encounter) at around (time of flagged encounter), as reported in G.O. # _____. Letting the officer choose the starting point for

the narrative and give the account at his or her own speed and in his or her own words, not interrupting the officer, if at all possible. Listening actively to what he or she has to say. Allowing for pauses.

[The following script was provided to sergeants to help guide them through the debrief process].

Debrief Model Sample Script

Introduction script: Welcome officer and confirm baseline understandings of process and protections.

- Incident # _____ has been randomly selected for a debrief of the circumstances of the incident as perceived and reported by [you] the officer.
- In addition to being a random assignment, officer identity is anonymous and confidential. The department has no access to the identity of the participants in the debrief, and the involved officer will be coded by a code assigned and retained by Cornell university, which again will not be accessible to the department.
- No notes will be taken by the sergeant and lieutenant, and any subsequent documentation of training and equipment needs, tactics, best practices and other valuable insights intended to reduce officer risk in difficult encounters will not include personal identifying information. The watch/operations commander is charged with ensuring that confidentiality and officer anonymity is maintained at all points of this debriefing process.

At this point, the sergeant should inquire if the officer is aware of any complaint or investigation into the incident being examined, and terminate the debrief if the answer is yes.

- The debrief will take no more than 30 minutes, unless by mutual agreement between [you] the officer and [myself] the sergeant.
- Do you have any questions up to this point?

Sergeants received training on how to answer questions such as: 1) why are we doing it? 2) why all the protections? 3) why is the Lieutenant here? 4) what is LEED? And other questions as they arose regarding confidentiality and anonymity, what constituted a high-risk circumstance, why there was a random and control group, what the union jurisdiction was in this process etc.

- If there are not any questions [or any more questions] I will use some key questions to facilitate your analysis of G.O. #_____.

Series one script: Basic incident information, risk assessment and tactics

Officer orientation: Describing the incident and thought process in the real time framework of the incident as it unfolded

- How did the incident begin? What were your initial thoughts based on the information you had, or what you initially observed, about the risk factors of this scenario?
- What did you observe about the behavior, mental or emotional state of the subject you encountered? Were there other risk factors observed (drugs, alcohol)?
- Were there external or environmental factors you included in your risk assessment and preliminary tactical thought process? These could include anything which you factored into your size up of the incident [such as] weather conditions, lighting, traffic, presence of hostile (or supportive) bystanders, availability of back-up, confidence in the

capabilities of your secondary officers or partner, prior adverse publicity about the location, scenario or involved parties, etc.

- Describe your tactical approach. What was your thought process around how to address the scenario, and the behavior of the subject?
- Did your tactical approach work to address the risks you identified?
- Did your initial risk assessment change? In what way? Were you required to change tactics in response to a change in behavior or risk? What were those changes?
- [Did anything] occur during the encounter, which you would describe as surprising and unpredictable? [If so, what?] How did you respond to these unforeseen events?
- Are there other factors, indicators, risks or other information you consider important in your recollection of the incident?
- Please share your professional assessment of how this incident [was] resolved.

Series two: Post incident assessment and examination of options and needs
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***Officer orientation:** analysis of the incident in retrospect, with an emphasis on identifying ways to mitigate risk and improve department training and support*

- In hindsight, do you believe you had the information you needed to size up the situation, identify the risk factors and employ the tactics you needed to address the situation?
What, if anything, was missing?
- Do you consider the outcome of the incident to [have been] successful?
- How do you personally and professionally measure success?
- In hindsight, were there things you might have done differently? To put [it] another way, were there options to resolve the incident, which might have been effective?
- Were there options you wish you had? What are they?

- There is a lot of talk in the department around Procedural Justice, otherwise known as “LEED”. What do you know about it? How would you describe it? Based on what you know, how do you assess its utility, relevance or general value?
- How would you size up the options or opportunities to employ LEED tactics in the incident we are discussing?
- Using as your reference point the incident we are debriefing, what can or should the department do to improve your ability to carry out your duties? This is an open question [for example] training, staffing, deployment, equipment, supervision, command, communication, accountability etc. Nothing is off limits.

Note to sergeant: it might be wise to set a time parameter for this question. Remember the 30 minute debrief objective, although this can be exceeded by mutual agreement

- In your professional judgment, what are the greatest risks you confront in your role as patrol officer? And what are the most effective and significant ways the department can reduce those risks?

Series three: Debriefing the debrief

Officer orientation: *candid and constructively critical.*

- What questions were missed?
- What information do I [the sergeant] need to know to better meet my role and responsibility to supervise?
- Did this debrief meet your standards and expectations for respectfulness? Relevance? Value?
- How would you change this process? Should this debriefing model be continued? Expanded?

- Any other feedback is welcome.

[END OF SCRIPT]

Appendix C: The HRC Model

In the development of the High Risk Circumstance (HRC) model we applied insights from criminology and statistics to develop a new kind of Early Intervention System (EIS) focused on identifying a larger pool of officers who were statistically more likely to engage in potentially problematic encounters in the future based on individual and contextual factors rather than on identifying specific officers who had engaged in problematic encounters in the past.

Specifically, the HRC model identifies officers working in behavioral “hot spots,” or in other words, small geographic areas where police officers are more likely to be involved in problematic citizen encounters such as assaults on police officers, intoxicated persons, etc.

The HRC model developed for this experiment was calibrated using geographically identified, incident-level data and human resource records from 2009 collected by the Seattle Police Department (SPD). The first step in developing the HRC model was to define exactly what types of behaviors we wanted officers to avoid. These behaviors were the dependent variables used to calibrate the HRC statistical model. In the case of the SPD, our primary definition of such behaviors consisted of incidents in which an officer filed a use of force report, incidents in which an officer was named in a citizen complaint, and incidents in which the officer was injured.

The model was used to assign a “risk score” to every incident recorded in the SPD’s Computer Aided Dispatch (CAD) system, based on a 30 day history of events in close geographic and temporal (time of day and day of week) proximity to the incident in question.

In order to construct the predicted risk score based on these location and officer-specific elements, we used data on all CAD incidents from 2010 to predict the likelihood that a potentially problematic event occurred. A potentially problematic event was defined as an

incident in which an officer used force, an officer was injured, or a complaint was in the process of being filed or was filed against an SPD officer who was working in that area on that day. In collaboration with SPD employees, we identified the following data fields, which were used to predict risk and uncertainty associated with an encounter. All of these data fields are collected by the SPD as part of their normal operations. The final data fields included in the HRC model were:

1. The number of times officers had been dispatched to that area
2. The number of 911 calls initiated from that area
3. The number of events in that area involving someone in mental distress
4. The number of times events in that area have involved citizens with firearms
5. The number of times officers have responded to domestic violence incidents in that area
6. The number of times dispatchers have chosen to include officer safety warnings for officers deployed to that area
7. The fraction of events that are correctly described by the dispatcher to the officer
8. The fraction of events that are described by the officer as more urgent, or a higher priority call, than initially described by the dispatcher
9. The number of officers injured on that street segment during the previous month
10. Whether or not the involved officer had more than the average (median) number of sick days in the previous month
11. Whether or not the involved officer worked more than the average (median) amount of overtime in the previous month
12. Whether or not the involved officer had more than the average (median) number of second jobs during the previous month

Data fields 1 through 8 were defined at the census block and street segment level and at the day of the week and time of day (morning, afternoon, evening, and late night) period, in the 30 days prior to the current incident.

Appendix D: SPD COMMENT CARD

As part of a research project being conducted by the Police Foundation in Washington, DC, to examine various forms of feedback and supervisory training, we hope you will complete this study by completing and returning this comment card regarding this supervisory meeting. Your participation in this research is anonymous, and will only be used for research purposes. None of your responses will be connected to you and are being requested without your name or any identifying information.

Please CIRCLE the numerical response that best represents your reaction to the meeting you had with a Seattle Police Department Supervisor today in the most appropriate column. This survey is being read and tallied only by the PF research team.

	N/A Not at all	1 to a small degree	2 to a modest degree	3	4	5 to a great degree
To what extent did this meeting with this supervisor...						
1. help to stimulate your memory of the event(s)?	N/A	1	2	3	4	5
2. allow you to recall specific details of the event(s)?	N/A	1	2	3	4	5
3. feel like a fair and just system for providing feedback to officers?	N/A	1	2	3	4	5
4. make you feel more respected than in past supervisory meetings?	N/A	1	2	3	4	5
5. make you feel you were being unduly criticized?	N/A	1	2	3	4	5
6. help you to understand ways in which you could improve future encounters?	N/A	1	2	3	4	5
7. allow you the chance to explain your perspective without feeling judged?	N/A	1	2	3	4	5
8. make you feel like what you had to say actually mattered to this supervisor?	N/A	1	2	3	4	5
9. make you wish more supervisors in the SPD used this type of feedback approach?	N/A	1	2	3	4	5
10. Please provide any comments about this meeting or suggested improvements for future supervisory meetings:						

Police Foundation

Appendix D

This document is a research report submitted to the U.S. Department of Justice. This report has not been published by the Department. Opinions or points of view expressed are those of the author(s) and do not necessarily reflect the official position or policies of the U.S. Department of Justice.

Appendix E: Procedural Justice Engagement Monitoring Checklist

Purpose:

The purpose of this checklist is to ensure that the procedural justice experiment is being properly implemented during the engagement. The purpose of the engagement is to remind officers how they can use LEED concepts on the job, while simultaneously modeling procedural justice for them in practice.

Date: _____

Supervisor Name: _____

Beginning of Engagement

Start time: _____

End time: _____

Was the **officer** on time?

☐ Yes

☐ No

Was the **supervisor** on time?

☐ Yes

☐ No

At the beginning of the engagement, the sergeant will follow standard introductory instructions, adapted from established cognitive interview techniques. Please make note of the behaviors listed below that took place during your observation of the engagement.

A. Standard Introductory Instructions

- ☐ Lieutenant was present to observe engagement between sergeant and selected officer.
- ☐ Purpose of engagement was explained to officer (e.g. officer is helping test new supervisory training program).
- ☐ Officer was reminded that he/she was selected at random.
- ☐ Officer was ensured of the confidentiality of the meeting.
- ☐ Officer was given opportunity to ask questions and he/she received satisfactory answers to his/her questions.
- ☐ Officer was asked if he/she would be willing to participate.

B. Transfer of Control

- ☐ Flagged incident to be discussed identified to officer with minimal detail (only date and time of flagged encounter detailed).
- ☐ Officer was allowed to take the lead in explaining the identified incident without interruption.

Engagement (Incident Debrief)

Start time: _____

End time: _____

C. Incident walkthrough

- ☐ The officer was allowed to recall information about the identified incident on his/her own terms without pressure to speculate about details or observations about which they were unsure or confused.
- ☐ The officer explained what happened, what he/she observed or believed, and how he/she responded.
- ☐ After giving his/her account, the sergeant conducting the interview walked through the incident with the participant exploring whether there were opportunities to undertake OR impediments to introducing the actions of LISTENING, EXPLAINING, EQUITY and DIGNITY (LEED).
- ☐ The sergeant utilized the following questions to help the officer facilitate his/her walkthrough of the identified G.O.
 - ☐ How did the incident begin?
 - ☐ What were your initial thoughts based on the information you had, or what you initially observed about the risk factors of this scenario?
 - ☐ What did you observe about the behavior, mental or emotional state of the subject you encountered?
 - ☐ Were there other risk factors observed (drugs, alcohol)?
 - ☐ Were there external or environmental factors you included in your risk assessment and preliminary tactical thought process? These could include anything which you factored into your size up of the incident: weather conditions, lighting, traffic, presence of hostile (or supportive) bystanders, availability of back-up, confidence in the capabilities of your secondary

officers or partner, prior adverse publicity about the location, scenario or involved parties, etc.

- ☐ Describe your tactical approach. What was your thought process around how to address the scenario, and the behavior of the subject?
- ☐ Did your tactical approach work to address the risks you identified?
- ☐ Did your initial risk assessment change? In what way?
- ☐ Were you required to change tactics in response to a change in behavior or risk? What were those changes?
- ☐ What occurred during the encounter, which you would describe as surprising and unpredictable?
- ☐ How did you respond to these unforeseen events?
- ☐ Are there other factors, indicators, risks or other information you consider important in your recollection of the incident?
- ☐ Please share your professional assessment of how this incident resolved.

D. Post incident assessment and examination of options and needs

- ☐ Officer was given the opportunity to analyze the incident in retrospect with an emphasis on identifying ways to mitigate risk and improve department training and support.
- ☐ The sergeant utilized the following questions to help the officer facilitate his/her analysis of the identified G.O.
 - ☐ In hindsight, do you believe you had the information you needed to size up the situation, identify the risk factors and employ the tactics you needed to address the situation?
 - ☐ What, if anything, was missing?
 - ☐ Do you consider the outcome of the incident to be successful
 - ☐ How do you personally and professionally measure success?
 - ☐ In hindsight, were there things you might have done differently? To put in another way, were there options to resolve the incident, which might have been effective?
 - ☐ Were there options you wish you had? What are they?

- ☐ There is a lot of talk in the department around Procedural Justice, otherwise known as “LEED.”
- ☐ What do you know about it?
- ☐ How would you describe it?
- ☐ Based on what you know, how do you assess its utility, relevance or general value?
- ☐ How would you size up the options or opportunities to employ LEED tactics in the incident we are discussing?
- ☐ Using as your reference point the incident we are debriefing, what can or should the department do to improve your ability to carry out your duties? This is an open question: training, staffing, deployment, equipment, supervision, command, communication, accountability: nothing is off limits. *(Note to sergeant: it might be wise to set a time parameter for this question. Remember the 30 minute debrief objective, although this can be exceeded by mutual agreement)*
- ☐ In your professional judgment, what are the greatest risks you confront in your role as patrol officer?
- ☐ What are the most effective and significant ways the department can reduce those risks?

Post-Engagement

Start time: _____

End time: _____

E. Officer feedback and comment card

- ☐ The officer was given the opportunity to debrief the debrief and comment on the following:
 - ☐ What questions were missed?
 - ☐ What information does (the sergeant) need to know to better meet my role and responsibility to supervise?
 - ☐ Did this debrief meet your standards and expectations for respectfulness? Relevance? Value?

- ☐ How would you change this process? Should this debriefing model be continued? Expanded?
- ☐ Any other feedback is welcome.
- ☐ The officer was reaffirmed that all ideas, observations, proposals, and identified gaps and needs will be presented to department leadership without attribution or identifiers and that the lieutenant present was charged with ensuring that anonymity and confidentiality were preserved.
- ☐ Following the engagement the officer was asked to fill out a short confidential comment card on the engagement experience. The officer was advised that filling out the card was completely voluntary and that he/she could decline to answer any or all parts of the survey card.
- ☐ The officer was given the blue comment card cover sheet with the Police Foundation contact information on it to keep.

Body Language

Did supervisor cross his/her arms during the meeting (appearing closed off)?

Did the supervisor have sufficient eye contact with officer?

Did the officer cross his/her arms during the meeting (appearing defensive)?

Did the officer look away during much of the engagement?

Please make note of both the sergeant's and the officer's body language.

Additional Notes and Overall Observations

Did the supervisor pick out an incident that was of sufficient length for discussion?

Did the supervisor appear to take this seriously, and spend sufficient time in discussing the event? In other words, did the supervisor appear attentive?

Did the officer appear to take this seriously in terms of his/her responses?

Did the engagement appear non-disciplinary in nature?

Who appeared to be talking the most?

- ☐ Officer
- ☐ Supervisor
- ☐ About the same

FIGURES 1 - 4

Figure 1: Distribution of Time from Notification to Engagement

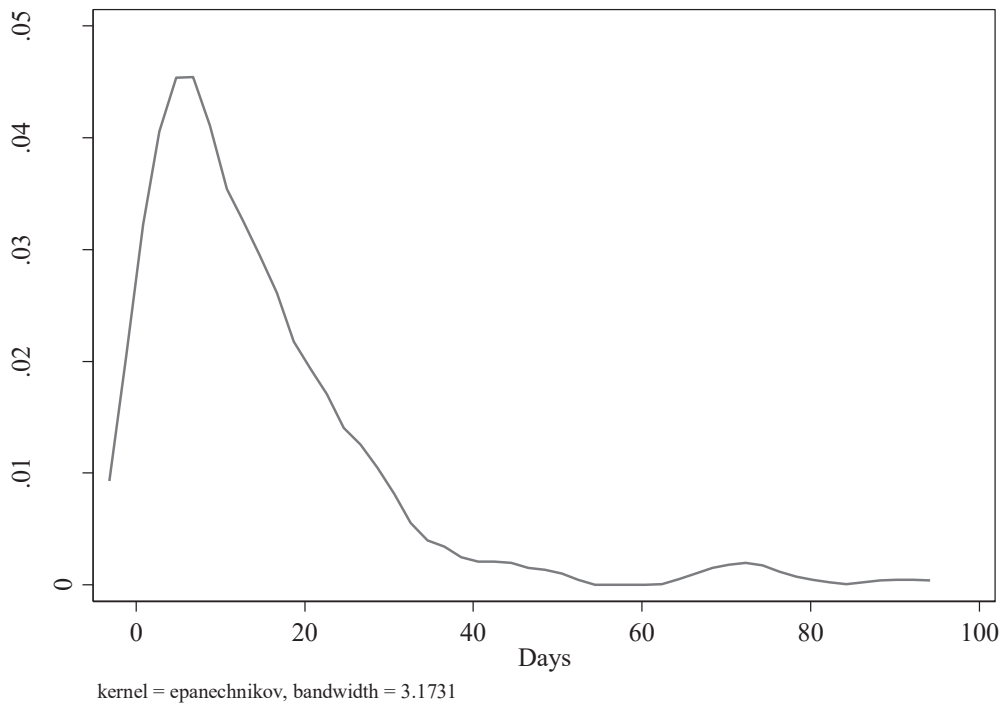
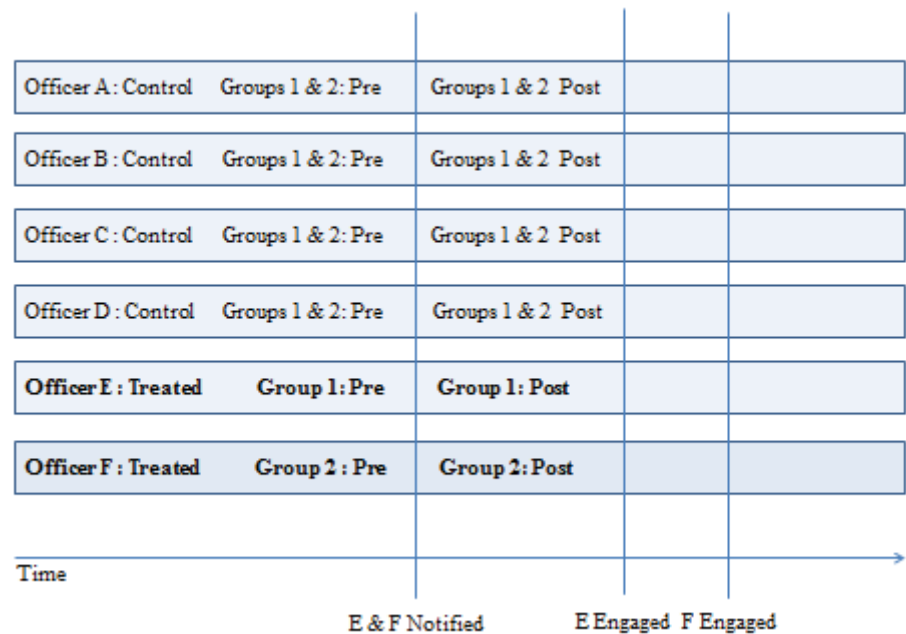


Figure 2: Construction of Experimental Groups, two treated officers and four control officers

Panel A: Time Period of Analysis: Before and After Notification



Panel B: Time Period of Analysis: Before Notification and After Engagement

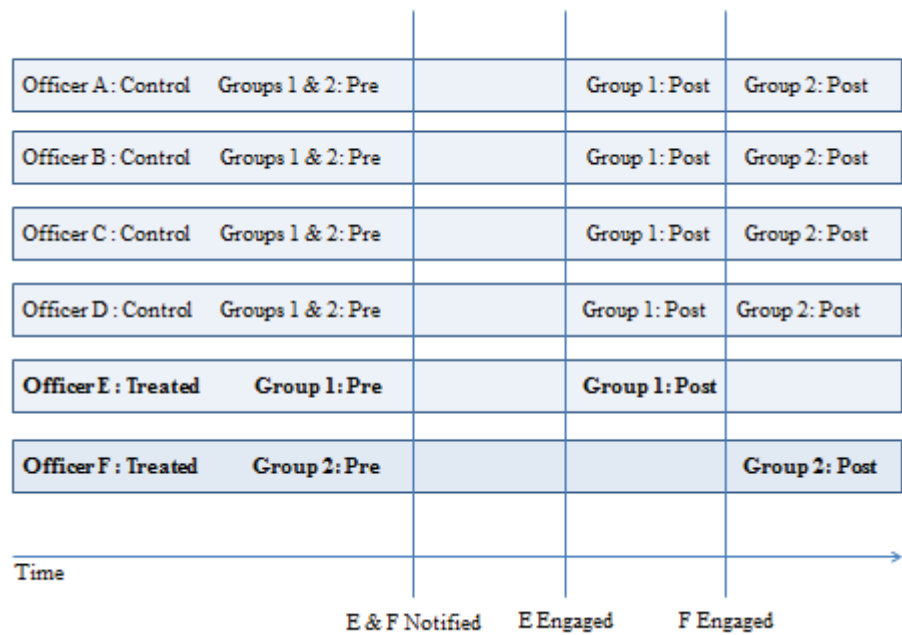


Figure 3: Probability Distribution of Force Incidents Prior to Notification

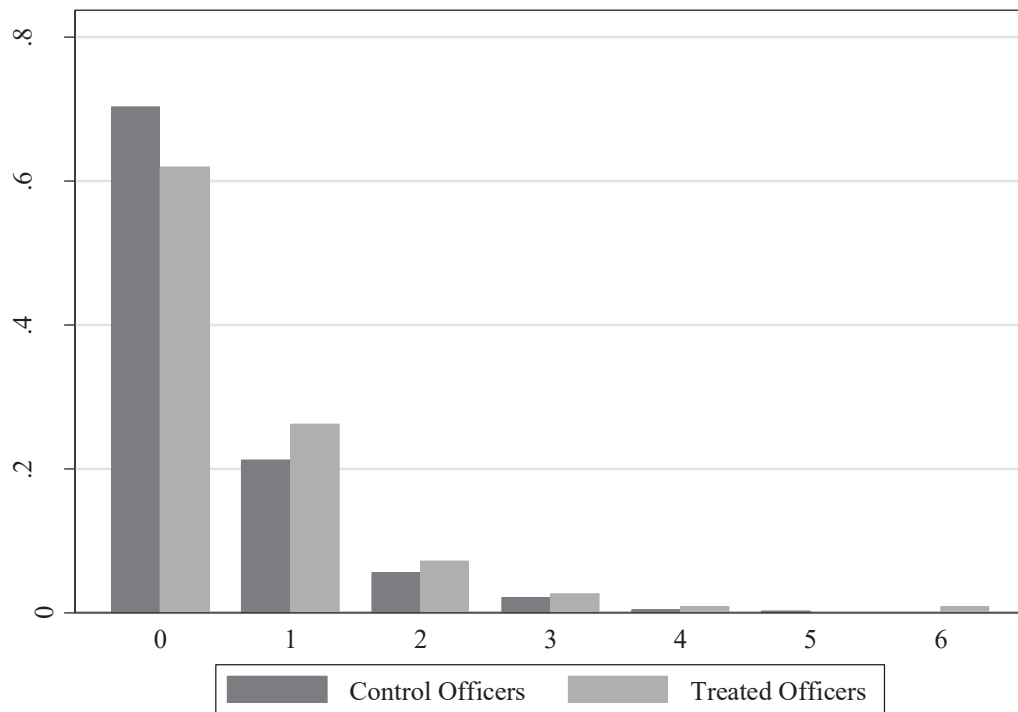
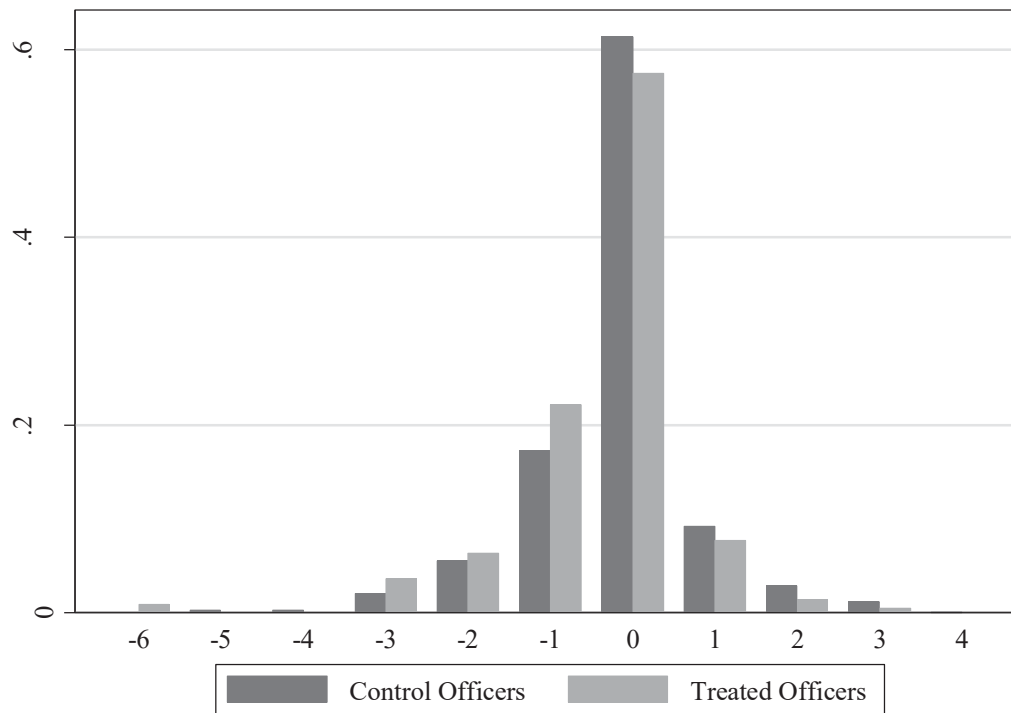


Figure 4: Probability Distribution of Change in Force Indents



TABLES 1 – 21

Table 1: Predicted Risk Scores and Actual Potentially Problematic Risk Rate in February and March, 2012 by Precinct and Sector

	Predicted Risk Score (x 1000)	Potentially Problematic Event Rate (x 1000)
North Precinct		
U	2.6155	3.4891
N	4.5568	3.0173
J	2.4954	1.4194
L	2.9134	0.9362
B	2.7077	0.6152
West Precinct		
K	3.1575	3.1177
Q	3.6729	2.6023
M	2.7027	2.0481
D	2.8757	1.718
East Precinct		
E	2.9366	3.8633
G	2.7828	1.1669
C	3.4295	0.948
South Precinct		
R	2.9115	2.1272
S	2.6894	1.8658
O	2.8435	1.7979
Southwest Precinct		
F	3.9204	1.4911
W	2.5005	0.5351

Table 2: HRC Model Logit Parameters

Parameter	Unit of Measurement	Logit Coefficient Weight
Fraction of Incidents assigned higher than typical priority codes	Census Block	-0.1670919
	Census Block, Day of the Week	-0.9552692
	Census Block, Time of Day	-0.1653143
	Census Block, Time of Day, Day of the Week	1.337767
	Street Segment	0.5420524
	Street Segment, Day of the Week	0.2930098
	Street Segment, Day of the Week, Time of Day	-0.2259336
	Street Segment, Time of Day	-0.4919433
Fraction of Incidents cleared as dispatched	Census Block	0.1067927
	Census Block, Day of the Week	0.339997
	Census Block, Time of Day	-0.2717843
	Census Block, Time of Day, Day of the Week	0.1583683
	Street Segment	0.2965052
	Street Segment, Day of the Week	-0.205414
	Street Segment, Day of the Week, Time of Day	-0.0021559
	Street Segment, Time of Day	-0.0608896
Fraction of Incidents cleared as more serious than as dispatched	Census Block	1.543565
	Census Block, Day of the Week	-3.413816
	Census Block, Time of Day	-2.016165
	Census Block, Time of Day, Day of the Week	4.614575
	Street Segment	-8.011918
	Street Segment, Day of the Week	4.912824
	Street Segment, Time of Day	1.467594
More than Average Overtime Hours	Officer	0.1796542
More than Average Second Jobs	Officer	0.0729175
More than Average Sick Days	Officer	-0.0505735
Previous Month's Injuries	Street Segment	3.690103
Number of 911 Calls	Census Block	-0.0155581
	Census Block, Day of the Week	0.022542
	Census Block, Day of the Week, Time of Day	-0.0477802
	Census Block, Time of Day	0.0557603
	Street Segment	-0.0320639
	Street Segment, Day of the Week	0.1481227
	Street Segment, Day of the Week, Time of Day	-0.2614739
	Street Segment, Time of Day	0.0030107

Number of CAD incidents

	Census Block	0.0100086
	Census Block, Day of the Week	-0.0625784
	Census Block, Day of the Week, Time of Day	-0.0036729
	Census Block, Time of Day	-0.0094977
	Street Segment	-0.0180991
	Street Segment, Day of the Week	0.1070731
	Street Segment, Day of the Week, Time of Day	0.0717182
	Street Segment, Time of Day	0.0028498
Number of Domestic Violence Incidents	Census Block	0.0285296
	Census Block, Day of the Week	0.7974532
	Census Block, Day of the Week, Time of Day	0.2102308
	Census Block, Time of Day	-0.5183722
	Street Segment	-0.0467877
	Street Segment, Day of the Week	-0.3350682
	Street Segment, Day of the Week, Time of Day	-1.035518
	Street Segment, Time of Day	0.6696225
Number of Firearm/Shots Fired Incidents	Census Block	-0.3283155
	Census Block, Day of the Week	-0.870897
	Census Block, Day of the Week, Time of Day	1.85194
	Census Block, Time of Day	0.7677631
	Street Segment	0.256366
	Street Segment, Day of the Week	1.078482
	Street Segment, Time of Day	-2.075535
Number of Incidents with Officer Safety Notes	Census Block	0.3484783
	Census Block, Day of the Week	0.2016767
	Census Block, Day of the Week, Time of Day	-1.879869
	Census Block, Time of Day	-0.5537603
	Street Segment	0.4296225
	Street Segment, Day of the Week	-2.067785
	Street Segment, Day of the Week, Time of Day	2.523242
	Street Segment, Time of Day	-0.0063393
Number of Mental Distress Incidents	Census Block	-0.1377365
	Census Block, Day of the Week	0.6080221
	Census Block, Day of the Week, Time of Day	-0.5015358
	Census Block, Time of Day	-0.0921126
	Street Segment	0.1380854
	Street Segment, Day of the Week	-0.6368511
	Street Segment, Day of the Week, Time of Day	0.4387145
	Street Segment, Time of Day	0.0920619

Table 3: Linear Probability Model Estimates of Predicted Risk

Location History (Past 30 Days)		Change in Predicted Risk Score x 1000	Probability Effect is Zero	<i>Estimated Total Effect of Events in Same Area, Same Time of Day Same Day of the Week x 1000</i>
Number of CAD incidents	Census Block	0.0214	50.40%	
	Census Block, Day of the Week	-0.1562	25.80%	
	Census Block, Day of the Week, Time of Day	0.00184	97.80%	
	Census Block, Time of Day	-0.0776	75.60%	-0.21056
	Street Segment	-0.0612	17.20%	
	Street Segment, Day of the Week	0.3766	5.40%	
	Street Segment, Day of the Week, Time of Day	0.0128	89.20%	
	Street Segment, Time of Day	0.1224	71.60%	0.24
Number of 911 Calls	Census Block	-0.0735	31.70%	
	Census Block, Day of the Week	0.1747	52.40%	
	Census Block, Day of the Week, Time of Day	0.1749	28.10%	
	Census Block, Time of Day	-0.2375	62.80%	0.0386
	Street Segment	-0.0532	58.50%	
	Street Segment, Day of the Week	0.2108	56.70%	
	Street Segment, Day of the Week, Time of Day	-0.033	87.50%	
	Street Segment, Time of Day	-0.4611	47.00%	-0.3
Number of Mental Distress Incidents	Census Block	-0.397	0.10%	
	Census Block, Day of the Week	1.8451	0.00%	
	Census Block, Day of the Week, Time of Day	-0.1309	60.10%	
	Census Block, Time of Day	-1.4595	4.20%	0.1423
	Street Segment	0.4896	0.50%	
	Street Segment, Day of the Week	-2.1107	0.00%	
	Street Segment, Day of the Week, Time of Day	0.1051	75.90%	
	Street Segment, Time of Day	1.4813	11.80%	-0.18

Number of Firearm/Shots Fired Incidents

	Census Block	-0.7767	42.80%	
	Census Block, Day of the Week	-2.9475	22.90%	
	Census Block, Day of the Week, Time of Day	1.9895	27.20%	
	Census Block, Time of Day	10.3493	2.00%	8.6146
	Street Segment	1.1857	35.00%	
	Street Segment, Day of the Week	2.236	47.20%	
	Street Segment, Day of the Week, Time of Day	-5.148	2.70%	
	Street Segment, Time of Day	-7.9138	16.20%	-1.03
Number of Domestic Violence Incidents	Census Block	0.128	63.50%	
	Census Block, Day of the Week	5.4019	0.00%	
	Census Block, Day of the Week, Time of Day	-1.7444	0.20%	
	Census Block, Time of Day	-2.4638	7.50%	1.3217
	Street Segment	-0.223	53.10%	
	Street Segment, Day of the Week	-3.0044	0.20%	
	Street Segment, Day of the Week, Time of Day	2.4672	0.00%	
	Street Segment, Time of Day	-1.44	40.50%	-0.88
Number of Incidents with Officer Safety Notes	Census Block	1.7738	0.90%	
	Census Block, Day of the Week	-0.114	94.80%	
	Census Block, Day of the Week, Time of Day	-2.1445	8.30%	
	Census Block, Time of Day	-7.4123	2.20%	-7.897
	Street Segment	1.3156	14.20%	
	Street Segment, Day of the Week	-5.2203	1.90%	
	Street Segment, Day of the Week, Time of Day	-0.468	77.30%	
	Street Segment, Time of Day	10.288	1.30%	-1.98

Fraction of Incidents assigned higher than typical priority codes	Census Block	-0.1961	85.70%	
	Census Block, Day of the Week	-2.3205	2.70%	
	Census Block, Day of the Week, Time of Day	-0.5943	54.80%	
	Census Block, Time of Day	4.1159	0.10%	1.005
	Street Segment	1.4927	12.80%	
	Street Segment, Day of the Week	0.4331	70.20%	
	Street Segment, Day of the Week, Time of Day	-1.1806	24.60%	
	Street Segment, Time of Day	-0.5127	72.40%	1.238
Fraction of Incidents cleared as dispatched	Census Block	0.2897	58.70%	
	Census Block, Day of the Week	0.8864	5.60%	
	Census Block, Day of the Week, Time of Day	-0.61	18.70%	
	Census Block, Time of Day	0.6726	21.90%	1.2387
	Street Segment	0.6943	14.20%	
	Street Segment, Day of the Week	-0.5107	31.20%	
	Street Segment, Day of the Week, Time of Day	-0.2208	64.30%	
	Street Segment, Time of Day	-0.2445	70.70%	0.957
Fraction of Incidents cleared as more serious than as dispatched	Census Block	2.5998	75.30%	
	Census Block, Day of the Week	-3.7729	59.50%	
	Census Block, Day of the Week, Time of Day	-12.5011	9.60%	
	Census Block, Time of Day	21.9534	0.80%	8.2792
	Street Segment	-6.331	33.40%	
	Street Segment, Day of the Week	16.6936	2.40%	
	Street Segment, Day of the Week, Time of Day	0.2292	97.50%	
	Street Segment, Time of Day	-21.7095	1.70%	-2.84
HR Data				
More than Average Second Jobs	Officer	0.2075	74.80%	
More than Average Sick Days	Officer	-0.0928	86.70%	
More than Average Overtime Hours	Officer	0.5884	35.00%	
Previous Month's Injuries	Street Segment	117.17	0.00%	

Table 4: Pre-Notification Officer Activity and Incident Outcomes

	One Week Prior				Six Weeks Prior		
	Treated	Control	Probability of <i>treatment and control mean drawn from the same population</i>		Treated	Control	<i>treatment and control drawn from the same population</i>
	<i>N=221</i>	<i>N=1213</i>		<i>10% treatment effect</i>	<i>N=221</i>	<i>N=1213</i>	
<i>Activity Measures</i>							
Incidents	43.33 (18.48)	40.32 (22.90)	0.232	0.89	210.73 (87.81)	205.87 (90.91)	0.00
Report Taken	0.299 (0.128)	0.283 (0.158)	0.188	0.89	0.292 (0.100)	0.287 (0.104)	0.00
On Views	0.318 (0.198)	0.325 (0.223)	0.378	0.71	0.314 (0.173)	0.319 (0.189)	0.00
Minutes On Scene	39.61 (15.85)	39.74 (23.57)	0.974	0.93	37.80 (12.69)	39.69 (17.94)	0.00
<i>Incident Outcomes</i>							
Arrests	0.070 (0.071)	0.060 (0.077)	0.391	0.31	0.065 (0.053)	0.062 (0.052)	0.00
Force Reports (total)	0.018 (0.134)	0.018 (0.134)	0.538	0.10	0.213 (0.481)	0.149 (0.450)	0.00
Number of Complaints (total)	0.00 (0.00)	0.004 (0.064)	0.307	0.11*	0.054 (0.280)	0.054 (0.227)	0.00
Citations	0.239 (0.117)	0.224 (0.131)	0.083	0.82	0.236 (0.086)	0.233 (0.090)	0.00
Warnings	0.051 (0.061)	0.052 (0.080)	0.732	0.30	0.050 (0.047)	0.049 (0.052)	0.00
Assistance Rendered	0.489 (0.139)	0.474 (0.181)	0.364	1.0	0.488 (0.113)	0.485 (0.105)	0.00

Standard Deviations in Parentheses.

* a standard error of 0.001 is assumed for the treatment group

Table 5: Number of CAD Events Involving Engaged Officers (n=1,434)

	One Week		Six Weeks	
	After Notification	After Engagement	After Notification	After Engagement
Effect of Supervisory Meeting	2.846 [1.819]	2.149 [1.920]	0.72 [6.611]	0.935 [6.084]
P(Effect = 0)	0.119	0.264	0.913	0.878
<i>Pre-Notification Control Mean</i>		40.32		205.87
R^2	0.161	0.175	0.199	0.273

Notes: The dependent variable is the linear difference in outcomes relative to pre-Notification period for each officer. All regressions include wave by treatment group fixed effects. Robust standard errors in outcomes within officer (320 clusters)

+ $p < .10$ * $p < .05$ ** $p < .01$ *** $p < .001$

Table 6: Percent of CAD Events Initiated by Officer (“On-Views”) (n=1,434)

	One Week		Six Weeks	
	After Notification	After Engagement	After Notification	After Engagement
Effect of Supervisory Meeting	0.0268+ [0.0139]	-0.0107 [0.0129]	-0.00589 [0.00768]	-0.00931 [0.00917]
P(Effect = 0)	0.0545	0.407	0.444	0.311
<i>Pre-Notification Control Mean</i>		0.325		0.319
<i>R</i> ²	0.218	0.203	0.277	0.314

Notes: The dependent variable is the linear difference in outcomes relative to pre-Notification period for each officer. All regressions include wave by treatment group fixed effects. Robust standard errors in outcomes within officer (320 clusters)

+ $p < .10$ * $p < .05$ ** $p < .01$ *** $p < .001$

Table 7: Average Estimated Time on Scene, in Minutes (n=1,434)

	One Week		Six Weeks	
	After Notification	After Engagement	After Notification	After Engagement
Effect of Supervisory Meeting	3.078 [2.752]	1.527 [2.115]	1.60+ [0.892]	0.962 [1.029]
P(Effect = 0)	0.264	0.723	0.074	0.350
<i>Pre-Notification Control Mean</i>		39.74		39.69
R^2	0.172	0.219	0.171	0.228

Notes: The dependent variable is the linear difference in outcomes relative to pre-Notification period for each officer. All regressions include wave by treatment group fixed effects. Robust standard errors in outcomes within officer (320 clusters)

+ $p < .10$ * $p < .05$ ** $p < .01$ *** $p < .001$

Table 8: Fraction of CAD Events with Written Report (n=1,434)

	One Week		Six Weeks	
	After Notification	After Engagement	After Notification	After Engagement
Effect of Supervisory Meeting	-0.00191 [0.0145]	-0.00417 [0.0137]	-0.00232 [0.00575]	-0.0036 [0.00609]
P(Effect = 0)	0.895	0.762	0.686	0.554
<i>Pre-Notification Control Mean</i>		0.283		0.287
R^2	0.156	0.190	0.224	0.282

Notes: The dependent variable is the linear difference in outcomes relative to pre-Notification period for each officer. All regressions include wave by treatment group fixed effects. Robust standard errors in outcomes within officer (320 clusters)

+ $p < .10$ * $p < .05$ ** $p < .01$ *** $p < .001$

Table 9: Fraction of CAD Events Resulting in Arrest (n=1,434)

	One Week		Six Weeks	
	After Notification	After Engagement	After Notification	After Engagement
Effect of Supervisory Meeting	-0.00112 [0.00645]	-0.0156* [0.00642]	-0.00572+ [0.00346]	-0.00749+ [0.00404]
P(Effect = 0)	0.862	0.0159	0.0995	0.0648
<i>Pre-Notification Control Mean</i>		0.060		0.062
R^2	0.254	0.220	0.185	0.179

Notes: The dependent variable is the linear difference in outcomes relative to pre-Notification period for each officer. All regressions include wave by treatment group fixed effects. Robust standard errors in outcomes within officer (320 clusters)

+ $p < .10$ * $p < .05$ ** $p < .01$ *** $p < .001$

Table 10: Use of Force Incidents (n=1,434)

	One Week		Six Weeks		Full Time Period	
	After Notification	After Engagement	After Notification	After Engagement	After Notification	After Engagement
Effect of Supervisory Meeting	-0.0117 [0.0216]	-0.0393 [0.0435]	-0.0738 [0.0486]	-0.062 [0.0489]	-0.207* [0.0890]	-0.187* [0.0904]
P(Effect = 0)	0.588	0.366	0.130	0.202	0.0207	0.0391
<i>Pre-Notification Control Mean</i>	0.0181		0.149		0.418	
R^2	0.213	0.325	0.169	0.348	0.366	0.368

Notes: The dependent variable is the linear difference in outcomes relative to pre-Notification period for each officer. All regressions include wave by treatment group fixed effects. Robust standard errors in outcomes within officer (320 clusters)

+ $p < .10$ * $p < .05$ ** $p < .01$ *** $p < .001$

Table 11: Use of Force Incidents, Trimmed Sample (n=1,434)

	One Week		Six Weeks		Full Time Period	
	After Notification	After Engagement	After Notification	After Engagement	After Notification	After Engagement
Effect of Supervisory Meeting	-0.00112 [0.00645]	-0.0393 [0.0435]	-0.0738 [0.0486]	-0.0625 [0.0489]	-0.173* [0.0795]	-0.158* [0.0784]
P(Effect = 0)	0.588	0.366	0.130	0.202	0.0302	0.0452
<i>Pre-Notification Control Mean</i>	0.0181		0.149		0.409	
R^2	0.213	0.325	0.166	0.184	0.368	0.367

Notes: The dependent variable is the linear difference in outcomes relative to pre-Notification period for each officer. All regressions include wave by treatment group fixed effects. Robust standard errors in outcomes within officer (320 clusters)

+ $p < .10$ * $p < .05$ ** $p < .01$ *** $p < .001$

Table 12: Citizen Complaints (n=1,434)

	One Week		Six Weeks		Full Time Period	
	After Notification	After Engagement	After Notification	After Engagement	After Notification	After Engagement
Effect of Supervisory Meeting	0.003 [0.00923]	0.0347 [0.0290]	0.0122 [0.0315]	0.031 [0.0319]	0.0128 [0.0483]	0.020 [0.0478]
P(Effect = 0)	0.746	0.231	0.700	0.337	0.791	0.676
<i>Pre-Notification Control Mean</i>	0.004		0.049		0.115	
R^2	0.328	0.216	0.218	0.197	0.25	0.25

Notes: The dependent variable is the linear difference in outcomes relative to pre-Notification period for each officer. All regressions include wave by treatment group fixed effects. Robust standard errors in outcomes within officer (320 clusters)

+ $p < .10$ * $p < .05$ ** $p < .01$ *** $p < .001$

Table 13: Fraction of CAD Events Resulting in Non-Criminal Infractions (n=1,434)

	One Week		Six Weeks	
	After Notification	After Engagement	After Notification	After Engagement
Effect of Supervisory Meeting	-0.0068 [0.0133]	0.00344 [0.0129]	0.0056 [0.00573]	0.0062 [0.00617]
P(Effect = 0)	0.609	0.789	0.33	0.316
<i>Pre-Notification Control Mean</i>		0.224		0.233
R^2	0.164	0.200	0.218	0.303

Notes: The dependent variable is the linear difference in outcomes relative to pre-Notification period for each officer. All regressions include wave by treatment group fixed effects. Robust standard errors in outcomes within officer (320 clusters)

+ $p < .10$ * $p < .05$ ** $p < .01$ *** $p < .001$

Table 14: Fraction of CAD Events Resulting in Verbal Warnings (n=1,434)

	One Week		Six Weeks	
	After Notification	After Engagement	After Notification	After Engagement
Effect of Supervisory Meeting	-0.00057 [0.0069]	0.00583 [0.00775]	-0.0027 [0.00287]	-0.000735 [0.00329]
P(Effect = 0)	0.935	0.453	0.347	0.823
<i>Pre-Notification Control Mean</i>		0.052		0.049
R^2	0.136	0.153	0.133	0.154

Notes: The dependent variable is the linear difference in outcomes relative to pre-Notification period for each officer. All regressions include wave by treatment group fixed effects. Robust standard errors in outcomes within officer (320 clusters)

+ $p < .10$ * $p < .05$ ** $p < .01$ *** $p < .001$

Table 15: Fraction of CAD Events Resulting in Assistance Rendered (n=1,434)

	One Week		Six Weeks	
	After Notification	After Engagement	After Notification	After Engagement
Effect of Supervisory Meeting	0.0229 [0.0151]	0.0295+ [0.0156]	0.00657 [0.00803]	-0.00186 [0.00804]
P(Effect = 0)	0.131	0.0594	0.414	0.817
<i>Pre-Notification Control Mean</i>		0.474		0.485
R^2	0.183	0.203	0.208	0.354

Notes: The dependent variable is the linear difference in outcomes relative to pre-Notification period for each officer. All regressions include wave by treatment group fixed effects. Robust standard errors in outcomes within officer (320 clusters)

+ $p < .10$ * $p < .05$ ** $p < .01$ *** $p < .001$

Table 16A: Effect Heterogeneity by Frequency of Meetings, One Week Outcomes (n=1,434)

Panel A: Officer Activity						
	After Notification				After Enga	
	Events	On Views	Time	Report	Events	On Views
Effect of Supervisory Meeting	2.358 [2.313]	0.0249 [0.0169]	4.131 [3.801]	-0.00482 [0.0171]	2.872 [2.235]	-0.00142 [0.0146]
Supervisory Meeting x One Previous Notification	-1.655 [6.770]	0.0109 [0.0404]	-6.657 [8.295]	0.0138 [0.0434]	-4.678 [5.906]	0.0042 [0.0441]
Supervisory Meeting x Two Previous Notifications	9.182 [12.95]	-0.0472 [0.0743]	-1.424 [7.510]	0.034 [0.0627]	-4.269 [11.32]	0.0224 [0.0643]
R^2	0.169	0.221	0.175	0.157	0.199	0.209
Panel B: Incident Outcomes						
	After Notification			After Enga		
	Arrests	Force	Complaints	Arrests	Force	Complaints
Effect of Supervisory Meeting	-0.0043 [0.00767]	-0.00463 [0.0245]	0.00729 [0.0110]	-0.0238** [0.00766]	-0.081 [0.054]	-0.0001 [0.0001]
Supervisory Meeting x One Previous Notification	0.015 [0.0231]	-0.00444 [0.0632]	-0.0222 [0.0168]	0.0367+ [0.0210]	0.190 [0.074]	-0.0001 [0.0001]
Supervisory Meeting x Two Previous Notifications	0.00131 [0.0259]	-0.0642 [0.111]	-0.00842 [0.0135]	0.0346 [0.0288]	0.177 [0.088]	-0.0001 [0.0001]
R^2	0.264	0.249	0.330	0.223	0.328	0.330

Notes: The dependent variable is the linear difference in outcomes relative to pre-Notification period for each officer. All regression treatment group fixed effects, and first order effects of previous notifications. Robust standard errors in outcomes within officer (320
+ $p < .10$ * $p < .05$ ** $p < .01$ *** $p < .001$

Table 16B: Effect Heterogeneity by Frequency of Meetings, Six Week Outcomes (n=1,434)

Panel A: Officer Activity						
	After Notification				After Enga	
	Events	On Views	Time	Report	Events	On Views
Effect of Supervisory Meeting	5.593 [7.702]	-0.0108 [0.00864]	1.980+ [1.100]	-0.00301 [0.00689]	4.706 [7.396]	-0.014 [0.00989]
Supervisory Meeting x One Previous Notification	-11.73 [22.85]	0.0204 [0.0183]	-2.933 [2.374]	-0.00343 [0.0153]	-4.406 [22.65]	0.0214 [0.0204]
Supervisory Meeting x Two Previous Notifications	-45.06 [48.94]	0.0423 [0.0419]	-0.0335 [2.966]	0.0269 [0.0248]	-44.91 [45.08]	0.0542 [0.0468]
R^2	0.213	0.229	0.177	0.286	0.284	0.323
Panel B: Incident Outcomes						
	After Notification			After Enga		
	Arrests	Force	Complaints	Arrests	Force	Complaints
Effect of Supervisory Meeting	-0.00599 [0.00399]	-0.103 [0.0633]	0.0158 [0.0345]	-0.00646 [0.00435]	-0.099 [0.063]	-0.099 [0.063]
Supervisory Meeting x One Previous Notification	-0.00574 [0.00938]	0.343+ [0.196]	-0.0403 [0.0644]	-0.0119 [0.0114]	0.353 [0.181]	0.353 [0.181]
Supervisory Meeting x Two Previous Notifications	0.00666 [0.0162]	-0.546+ [0.291]	-0.0922 [0.223]	0.00788 [0.0190]	-0.533 [0.288]	-0.533 [0.288]
R^2	0.196	0.193	0.235	0.184	0.208	0.208

Notes: The dependent variable is the linear difference in outcomes relative to pre-Notification period for each officer. All regression treatment group fixed effects, and first order effects of previous notifications. Robust standard errors in outcomes within officer (320
+ $p < .10$ * $p < .05$ ** $p < .01$ *** $p < .001$

Table 17A: Effect Heterogeneity by Predicted Risk Circumstance, One Week Outcomes (n=1,434)

Panel A: Officer Activity						
	After Notification				After Engagement	
	Events	On Views	Time	Report	Events	On Views
Effect of Supervisory Meeting	2.75 [1.812]	0.0269+ [0.0138]	3.227 [2.731]	-0.00172 [0.0144]	2.082 [1.907]	0.00357 [0.0124]
Supervisory Meeting x Predicted Risk	-3.323* [1.684]	0.0184 [0.0198]	1.1 [2.667]	0.0206 [0.0142]	0.0137 [1.968]	-0.00755 [0.0142]
R^2	0.164	0.22	0.175	0.157	0.195	0.203
Panel B: Incident Outcomes						
	After Notification			After Engagement		
	Arrests	Force	Complaints	Arrests	Force	Complaints
Effect of Supervisory Meeting	-0.000747 [0.00643]	-0.0112 [0.0214]	0.00287 [0.00923]	-0.0153* [0.00639]	-0.03 [0.043]	-0.03 [0.043]
Supervisory Meeting x Predicted Risk	0.0121 [0.00778]	0.0058 [0.0280]	-0.0102* [0.0051]	0.00841 [0.00775]	-0.01 [0.06]	-0.01 [0.06]
R^2	0.258	0.214	0.330	0.221	0.33	0.33

Notes: The dependent variable is the linear difference in outcomes relative to pre-Notification period for each officer. All regression coefficients are relative to the control group (officers in the treatment group fixed effects and first order effects of predicted risk). Robust standard errors in outcomes within officer (320 clusters).
+ $p < .10$ * $p < .05$ ** $p < .01$ *** $p < .001$

Table 17B: Effect Heterogeneity by Predicted Risk Circumstance, Six Week Outcomes (n=1,434)

Panel A: Officer Activity						
	After Notification				After Engagement	
	Events	On Views	Time	Report	Events	On Views
Effect of Supervisory Meeting	0.672 [6.575]	-0.00541 [0.00769]	1.554+ [0.883]	-0.00264 [0.00572]	1.046 [6.046]	-0.00889 [0.00921]
Supervisory Meeting x Predicted Risk	-1.09 [5.576]	0.00472 [0.00825]	-0.127 [1.248]	0.00369 [0.00557]	-0.228 [5.257]	0.00724 [0.00833]
R^2	0.199	0.281	0.174	0.231	0.273	0.316
Panel B: Incident Outcomes						
	After Notification			After Engagement		
	Arrests	Force	Complaints	Arrests	Force	Complaints
Effect of Supervisory Meeting	-0.00576+ [0.00345]	-0.0701 [0.0480]	0.0108 [0.0316]	-0.00754+ [0.00403]	-0.0571 [0.0480]	0.0108 [0.0316]
Supervisory Meeting x Predicted Risk	0.00750* [0.00293]	-0.0558 [0.0569]	0.0296 [0.0270]	0.00859** [0.00315]	-0.0271 [0.0770]	0.0296 [0.0270]
R^2	0.192	0.181	0.230	0.184	0.200	0.230

Notes: The dependent variable is the linear difference in outcomes relative to pre-Notification period for each officer. Predicted risk is a continuous variable ranging from 0 to 1. All regressions include wave by treatment group fixed effects and first order effects of predicted risk. Robust standard errors in outcomes within officer (320 clusters)

+ $p < .10$ * $p < .05$ ** $p < .01$ *** $p < .001$

Table 18A: Effect Heterogeneity by Treatment Wave, One Week Outcomes (n=1,434)

Panel A: Officer Activity								
	After Notification				After Engagement			
	Events	On Views	Time	Report	Events	On Views	Time	Report
Effect of Supervisory Meeting	11.02+ [6.012]	0.0237 [0.0472]	0.728 [7.602]	-0.0504 [0.0486]	13.42* [5.459]	-0.0301 [0.0492]	-4.639 [6.157]	-0.0414 [0.0428]
Supervisory Meeting x Wave 2	-11.82 [9.320]	-0.0475 [0.0573]	-3.436 [9.270]	-0.00752 [0.0588]	-15.32+ [7.793]	0.0294 [0.0604]	-1.971 [7.422]	-0.015 [0.0552]
Supervisory Meeting x Wave 3	-2.567 [8.686]	0.0922 [0.0876]	24.2 [16.68]	0.0401 [0.0770]	-5.519 [7.479]	0.00076 [0.0568]	11.74 [9.787]	-0.0335 [0.0589]
Supervisory Meeting x Wave 4	-11.47 [7.767]	0.0153 [0.0643]	-11.25 [19.66]	-0.0243 [0.0850]	-16.97* [8.446]	0.0335 [0.0701]	22.01+ [12.71]	-0.00194 [0.0706]
Supervisory Meeting x Wave 5	0.641 [10.39]	-0.0593 [0.0628]	-2.3 [12.66]	0.0309 [0.0604]	-8.293 [9.453]	-0.0029 [0.0705]	8.274 [11.31]	0.0344 [0.0559]
Supervisory Meeting x Wave 6	-3.382 [9.219]	-0.0443 [0.0597]	10.4 [12.98]	0.0521 [0.0607]	-13.05 [8.200]	0.00184 [0.0598]	1.072 [7.445]	0.0641 [0.0662]
Supervisory Meeting x Wave 7	-12.87 [8.109]	0.00417 [0.0656]	9.96 [9.209]	0.114+ [0.0636]	-11.02 [8.149]	-0.0211 [0.0755]	5.57 [10.60]	0.118+ [0.0616]
Supervisory Meeting x Wave 8	-16.03 [10.80]	-0.0236 [0.0654]	1.741 [8.876]	0.0647 [0.0670]	-17.22 [11.12]	0.0515 [0.0604]	5.331 [7.760]	0.059 [0.0601]
Supervisory Meeting x Wave 9	-17.00* [8.200]	-0.0507 [0.0681]	5.711 [9.011]	0.13 [0.0820]	-24.27** [8.285]	0.0438 [0.0758]	5.061 [9.670]	0.0769 [0.0681]
Supervisory Meeting x Wave 10	-5.598 [7.982]	0.0236 [0.0593]	-6.889 [9.221]	0.0524 [0.0649]	-3.893 [7.961]	0.0903 [0.0640]	2.503 [7.300]	0.044 [0.0590]
Supervisory Meeting x Wave 11	-13.61 [8.489]	-0.0195 [0.0688]	1.33 [8.781]	0.0904 [0.0667]	-10.97 [7.540]	0.0595 [0.0719]	5.947 [7.249]	0.064 [0.0541]
Supervisory Meeting x Wave 12	-6.173 [9.428]	0.122+ [0.0725]	-3.206 [12.53]	0.0461 [0.0708]	-10.42 [8.179]	0.122* [0.0596]	6.862 [7.822]	0.0442 [0.0666]
R ²	0.170	0.231	0.182	0.163	0.202	0.209	0.225	0.197

Panel B: Incident Outcomes

	After Notification			After Engagement		
	Arrests	Force	Complaints	Arrests	Force	Complaints
Effect of Supervisory Meeting	-0.0346+ [0.0199]	-0.197* [0.0917]	0 -	-0.0325+ [0.0190]	-0.440+ [0.242]	-0.159 [0.157]
Supervisory Meeting x Wave 2	0.0212 [0.0313]	0.127 [0.0967]	0 -	0.014 [0.0280]	0.635* [0.319]	0.101 [0.177]

Supervisory Meeting x Wave 3	0.0446 [0.0295]	0.204+ [0.112]	0 -	-0.0189 [0.0315]	0.173 [0.306]	0.181 [0.178]
Supervisory Meeting x Wave 4	0.0797* [0.0379]	0.283* [0.127]	0 -	-0.0033 [0.0317]	0.267 [0.266]	0.197 [0.190]
Supervisory Meeting x Wave 5	0.0122 [0.0277]	0.197* [0.0917]	0 -	0.0218 [0.0243]	0.448+ [0.267]	0.456* [0.208]
Supervisory Meeting x Wave 6	0.0116 [0.0287]	0.250+ [0.145]	0 -	0.0331 [0.0326]	0.447 [0.276]	-0.0185 [0.187]
Supervisory Meeting x Wave 7	0.0389 [0.0289]	0.292+ [0.152]	0 -	0.0205 [0.0335]	0.567* [0.269]	0.144 [0.167]
Supervisory Meeting x Wave 8	0.0520+ [0.0294]	0.241* [0.118]	0 -	0.0329 [0.0255]	0.533* [0.254]	0.410* [0.208]
Supervisory Meeting x Wave 9	0.0354 [0.0290]	0.148 [0.107]	0 -	-0.00725 [0.0395]	0.401 [0.245]	0.252 [0.174]
Supervisory Meeting x Wave 10	0.0239 [0.0310]	0.147 [0.102]	0 -	0.0640* [0.0323]	0.39 [0.247]	0.159 [0.172]
Supervisory Meeting x Wave 11	0.0402 [0.0286]	0.0951 [0.114]	0 -	0.0335 [0.0256]	0.504+ [0.260]	0.275 [0.184]
Supervisory Meeting x Wave 12	0.038 [0.0395]	0.197* [0.0917]	0 -	0.0135 [0.0258]	0.440+ [0.242]	0.159 [0.157]
R^2	0.263	0.225	0.360	0.226	0.337	0.240

Notes: The dependent variable is the linear difference in outcomes relative to pre-Notification period for each officer. All regressions include wave by treatment group fixed effects. Robust standard errors in outcomes within officer (320 clusters)

+ $p < .10$ * $p < .05$ ** $p < .01$ *** $p < .001$

Table 18B: Effect Heterogeneity by Treatment Wave, Six Week Outcomes (n=1,434)

Panel A: Officer Activity								
	After Notification				After Engagement			
	Events	On Views	Time	Report	Events	On Views	Time	Report
Effect of Supervisory Meeting	24.36 [19.81]	-0.00814 [0.0266]	0.0495 [3.830]	-0.0331 [0.0256]	38.66+ [21.82]	-0.0176 [0.0278]	-0.58 [3.748]	-0.0366 [0.0282]
Supervisory Meeting x Wave 2	-39.33 [26.05]	0.0151 [0.0332]	5.459 [4.531]	0.0490+ [0.0296]	-53.09* [26.51]	0.0308 [0.0350]	5.299 [4.589]	0.0572+ [0.0323]
Supervisory Meeting x Wave 3	-8.615 [25.71]	-0.0127 [0.0358]	0.269 [4.653]	0.0292 [0.0330]	-19.45 [28.09]	0.00903 [0.0367]	-0.684 [4.481]	0.0181 [0.0356]
Supervisory Meeting x Wave 4	-19.96 [34.43]	-0.00821 [0.0361]	0.7 [6.199]	0.00451 [0.0319]	-47.56 [34.91]	-0.00197 [0.0374]	2.179 [6.401]	0.0484 [0.0328]
Supervisory Meeting x Wave 5	-22.15 [34.46]	-0.0116 [0.0359]	2.561 [4.574]	0.0312 [0.0310]	-44.13 [37.29]	-0.00439 [0.0389]	3.92 [4.392]	0.0483 [0.0333]
Supervisory Meeting x Wave 6	-36.87 [29.37]	-0.0132 [0.0340]	0.61 [4.246]	0.0471 [0.0317]	-49.69 [31.59]	-0.00566 [0.0353]	0.61 [4.603]	0.0456 [0.0387]
Supervisory Meeting x Wave 7	16.81 [27.95]	0.00485 [0.0437]	-0.638 [5.980]	0.0295 [0.0308]	6.346 [29.19]	-0.0251 [0.0534]	-1.49 [6.101]	0.031 [0.0330]
Supervisory Meeting x Wave 8	-27.02 [35.41]	-0.0106 [0.0329]	0.753 [4.093]	0.0311 [0.0295]	-39.23 [34.79]	0.00356 [0.0363]	-0.0399 [4.119]	0.021 [0.0337]
Supervisory Meeting x Wave 9	-66.37+ [34.23]	-0.0245 [0.0383]	2.78 [5.294]	0.0334 [0.0344]	-78.68* [34.02]	0.0157 [0.0492]	4.592 [7.596]	0.0264 [0.0417]
Supervisory Meeting x Wave 10	-18.57 [28.75]	0.0377 [0.0343]	2.624 [4.443]	0.0415 [0.0326]	-35.17 [30.51]	0.0285 [0.0373]	2.434 [4.347]	0.0432 [0.0350]
Supervisory Meeting x Wave 11	-26.81 [30.69]	0.044 [0.0385]	2.362 [4.309]	0.0302 [0.0305]	-40.99 [33.30]	0.0606 [0.0413]	2.51 [4.208]	0.0305 [0.0333]
Supervisory Meeting x Wave 12	-42.11 [29.28]	0.00817 [0.0444]	1.464 [5.786]	0.0398 [0.0306]	-56.99+ [31.34]	-0.00226 [0.0433]	-0.0849 [4.494]	0.0242 [0.0350]
R ²	0.208	0.283	0.174	0.229	0.284	0.318	0.231	0.287

Panel B: Incident Outcomes						
	After Notification			After Engagement		
	Arrests	Force	Complaints	Arrests	Force	Complaints
Effect of Supervisory Meeting	-0.0217 [0.0141]	-0.381+ [0.217]	-0.0238 [0.0276]	-0.0296+ [0.0176]	-0.238 [0.199]	-0.0119 [0.0158]
Supervisory Meeting x Wave 2	0.0315* [0.0153]	0.690+ [0.365]	-0.133* [0.0672]	0.0369+ [0.0189]	0.702+ [0.376]	-0.0626 [0.0665]

Supervisory Meeting x Wave 3	0.0145 [0.0165]	0.0906 [0.275]	0.0455 [0.0570]	0.0222 [0.0198]	-0.0483 [0.297]	0.0419 [0.0481]
Supervisory Meeting x Wave 4	0.0157 [0.0168]	0.332 [0.299]	0.0563 [0.0874]	0.0396* [0.0196]	0.114 [0.253]	0.0335 [0.0807]
Supervisory Meeting x Wave 5	0.011 [0.0158]	0.0911 [0.296]	0.0194 [0.190]	0.029 [0.0189]	-0.0128 [0.257]	0.078 [0.194]
Supervisory Meeting x Wave 6	0.0147 [0.0197]	0.562 [0.373]	0.0238 [0.0513]	0.0207 [0.0214]	0.355 [0.301]	0.0119 [0.0460]
Supervisory Meeting x Wave 7	0.00478 [0.0191]	0.516 [0.319]	0.0392 [0.0637]	0.00737 [0.0225]	0.268 [0.274]	0.0799 [0.0760]
Supervisory Meeting x Wave 8	0.0191 [0.0167]	0.341 [0.244]	0.183 [0.120]	0.0151 [0.0212]	0.141 [0.226]	0.132 [0.130]
Supervisory Meeting x Wave 9	0.0147 [0.0282]	0.187 [0.251]	-0.00535 [0.115]	0.0275 [0.0368]	0.093 [0.229]	-0.0173 [0.113]
Supervisory Meeting x Wave 10	0.0295+ [0.0168]	0.185 [0.240]	0.0212 [0.108]	0.0358 [0.0222]	0.0424 [0.228]	-0.00519 [0.103]
Supervisory Meeting x Wave 11	0.0221 [0.0186]	0.32 [0.248]	0.0524 [0.136]	0.0261 [0.0220]	0.257 [0.229]	0.105 [0.133]
Supervisory Meeting x Wave 12	0.0142 [0.0207]	0.371 [0.239]	0.117 [0.0736]	0.00445 [0.0227]	0.228 [0.222]	0.105 [0.0699]
R^2	0.190	0.180	0.226	0.185	0.200	0.202

Notes: The dependent variable is the linear difference in outcomes relative to pre-Notification period for each officer. All regressions include wave by treatment group fixed effects. Robust standard errors in outcomes within officer (320 clusters)

+ $p < .10$ * $p < .05$ ** $p < .01$ *** $p < .001$

Table 19A: Effect Heterogeneity by Precinct, One Week Outcomes (n=1,434)

Panel A: Officer Activity								
	After Notification				After Engagement			
	Events	On Views	Time	Report	Events	On Views	Time	Report
Effect of Supervisory Meeting	0.077 [4.829]	0.0638 [0.0400]	20.53* [9.926]	-0.007 [0.0309]	-1.457 [5.374]	0.0339 [0.0289]	1.188 [4.984]	-0.0292 [0.0399]
Supervisory Meeting x North Precinct	3.436 [5.741]	-0.066 [0.0454]	-24.65* [11.59]	-0.0221 [0.0457]	6.556 [6.041]	-0.0393 [0.0386]	-0.155 [6.422]	-0.0135 [0.0504]
Supervisory Meeting x South Precinct	-5.468 [6.340]	-0.0352 [0.0580]	-8.357 [11.45]	-0.0018 [0.0476]	-4.428 [6.974]	-0.0112 [0.0437]	6.224 [7.824]	0.0585 [0.0518]
Supervisory Meeting x Southwest Precinct	6.023 [6.200]	-0.0768 [0.0482]	-19.94+ [11.65]	0.0572 [0.0534]	2.929 [6.363]	-0.0029 [0.0473]	-3.503 [7.767]	0.0847 [0.0584]
Supervisory Meeting x West Precinct	6.421 [6.126]	-0.0155 [0.0484]	-22.44* [10.47]	0.0203 [0.0374]	6.609 [6.861]	-0.0531 [0.0358]	-0.712 [6.231]	0.0381 [0.0438]
R^2	0.165	0.221	0.182	0.158	0.198	0.205	0.221	0.194
Panel B: Incident Outcomes								
	After Notification			After Engagement				
	Arrests	Force	Complaints	Arrests	Force	Complaints		
Effect of Supervisory Meeting	-0.00669 [0.0141]	-0.0814 [0.0495]	-0.0564+ [0.0339]	-0.0248 [0.0187]	-0.165 [0.109]	0.0457 [0.0593]		
Supervisory Meeting x North Precinct	0.00497 [0.0201]	0.0752 [0.0610]	0.0564+ [0.0339]	0.00463 [0.0233]	0.114 [0.123]	-0.0573 [0.0753]		
Supervisory Meeting x South Precinct	0.0052 [0.0204]	0.0844 [0.0586]	0.0564+ [0.0339]	0.0061 [0.0226]	0.0621 [0.127]	0.0353 [0.0906]		
Supervisory Meeting x Southwest Precinct	-0.00384 [0.0287]	0.0342 [0.103]	0.102* [0.0499]	0.024 [0.0267]	0.0911 [0.189]	-0.0353 [0.0909]		
Supervisory Meeting x West Precinct	0.0118 [0.0169]	0.101 [0.0671]	0.0782+ [0.0402]	0.0148 [0.0212]	0.235 [0.148]	0.0126 [0.0886]		
R^2	0.255	0.215	0.344	0.22	0.328	0.218		

Notes: The dependent variable is the linear difference in outcomes relative to pre-Notification period for each officer. All regressions include wave by treatment group fixed effects. Robust standard errors in outcomes within officer (320 clusters)

+ $p < .10$ * $p < .05$ ** $p < .01$ *** $p < .001$

Table 19B: Effect Heterogeneity by Precinct, Six Week Outcomes (n=1,434)

Panel A: Officer Activity								
	After Notification				After Engagement			
	Events	On Views	Time	Report	Events	On Views	Time	Report
Effect of Supervisory Meeting	19.53 [18.11]	0.0101 [0.0188]	3.064+ [1.843]	-0.0168 [0.0139]	19.75 [13.81]	0.00588 [0.0238]	2.246 [3.031]	-0.0152 [0.0184]
Supervisory Meeting x North Precinct	-16.41 [21.24]	-0.0213 [0.0228]	-3.539 [2.626]	0.0117 [0.0173]	-14.84 [17.59]	-0.0173 [0.0302]	-3.418 [3.779]	0.00513 [0.0221]
Supervisory Meeting x South Precinct	-47.20* [21.40]	-0.0121 [0.0262]	1.597 [2.815]	0.00906 [0.0199]	-53.5** [18.58]	-0.0052 [0.0320]	0.684 [3.704]	0.00866 [0.0237]
Supervisory Meeting x Southwest Precinct	-21.57 [21.30]	-0.007 [0.0309]	-3.174 [2.706]	0.023 [0.0238]	-22.05 [17.82]	-0.0015 [0.0343]	-2.308 [3.604]	0.02 [0.0268]
Supervisory Meeting x West Precinct	-15.17 [23.37]	-0.0229 [0.0246]	-1.147 [2.461]	0.0238 [0.0177]	-13.48 [19.00]	-0.0293 [0.0287]	-0.51 [3.457]	0.0219 [0.0206]
R^2	0.203	0.278	0.174	0.226	0.278	0.315	0.229	0.284
Panel B: Incident Outcomes								
	After Notification			After Engagement				
	Arrests	Force	Complaints	Arrests	Force	Complaints		
Effect of Supervisory Meeting	-0.0185+ [0.0110]	-0.239 [0.166]	-0.0839 [0.0911]	-0.0139 [0.0136]	-0.127 [0.220]	-0.0407 [0.0902]		
Supervisory Meeting x North Precinct	0.0116 [0.0128]	0.169 [0.179]	0.13 [0.0948]	-0.0004 [0.0163]	0.06 [0.227]	0.0993 [0.0946]		
Supervisory Meeting x South Precinct	0.02 [0.0131]	0.166 [0.187]	-0.0132 [0.139]	0.0134 [0.0155]	0.0599 [0.235]	-0.0602 [0.139]		
Supervisory Meeting x Southwest Precinct	0.00938 [0.0152]	0.075 [0.219]	0.104 [0.130]	0.00795 [0.0172]	-0.0502 [0.245]	0.0605 [0.129]		
Supervisory Meeting x West Precinct	0.0175 [0.0125]	0.266 [0.193]	0.159 [0.111]	0.0118 [0.0147]	0.137 [0.238]	0.145 [0.110]		
R^2	0.188	0.169	0.226	0.180	0.186	0.205		

Notes: The dependent variable is the linear difference in outcomes relative to pre-Notification period for each officer. All regressions include wave by treatment group fixed effects. Robust standard errors in outcomes within officer (320 clusters)

+ $p < .10$ * $p < .05$ ** $p < .01$ *** $p < .001$

Table 20A: Item Analysis (n= 61)

Item 1: To what extent did this meeting with this supervisor make you feel what you had to say actually mattered to this supervisor?

N:	61	Median:	4
Range:	1 to 5	SD:	1.05
Mean:	4.0	Skew:	-1.08

Table 20B: Item Analysis (n= 61)

Item 2: To what extent did this meeting with this supervisor make you wish more supervisors in the SPD used this type of feedback approach?

N:	61	Median:	3
Range:	1 to 5	SD:	1.33
Mean:	3.07	Skew:	-.08

Table 20C: Item Analysis (n= 56)

Item 3: To what extent did this meeting with this supervisor make you feel more respected than in past supervisory meetings?			
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N:	56	Median:	3
Range:	1 to 5	SD:	1.46
Mean:	2.75	Skew:	.05

Table 20D: Item Analysis (n= 56)

Item 4: To what extent did this meeting with this supervisor feel like a fair and just system for providing feedback to officers?

N:	56	Median:	4
Range:	1 to 5	SD:	1.13
Mean:	3.55	Skew:	-.85

Table 20E: Item Analysis (n= 65)

Item 5: To what extent did this meeting with this supervisor help to stimulate your memory of the event(s)?

N:	65	Median:	4
Range:	1 to 5	SD:	1.17
Mean:	3.48	Skew:	-.60

Table 20F: Item Analysis (n= 65)

Item 6: To what extent did this meeting with this supervisor allow you to recall specific details of the event(s)?

N:	65	Median:	4
Range:	1 to 5	SD:	1.20
Mean:	3.45	Skew:	-.60

Table 20G: Item Analysis (n= 64)

Item 7: To what extent did this meeting with this supervisor allow you the chance to explain your perspective without feeling judged?

N:	64	Median:	4
Range:	1 to 5	SD:	1.20
Mean:	3.89	Skew:	-1.04

Table 20H: Item Analysis (n= 66)

Item 8: To what extent did this meeting with this supervisor make you feel you were being unduly criticized?

N:	66	Median:	1
Range:	1 to 5	SD:	1.10
Mean:	1.42	Skew:	2.47

Table 20I: Item Analysis (n= 64)

Item 9: To what extent did this meeting with this supervisor help you to understand ways in which you could improve future encounters?

N:	64	Median:	3
Range:	1 to 5	SD:	1.26
Mean:	2.77	Skew:	.26

Table 21: West Precinct Responses Compared to All Others

Question #	WEST PRECINCT (n = 15)			ALL OTHER PRECINCTS (n=27)		
	Mean	Median	Std. Dev.	Mean	Median	Std. Dev.
1	4.27	4	.88	4.0	4	1.15
2	3.60	3	.99	3.15	3	1.38
3	3.47	4	1.46	3.04	3	1.17
4	3.71	4	1.14	3.73	4	1.02
5	3.73	4	1.28	3.48	4	1.23
6	3.80	4	1.15	3.41	3	1.23
7	4.50	5	.76	3.92	4	1.00
8	1.33	1	1.05	1.37	1	1.06
9	3.07	3	1.22	2.89	3	1.26

Detroit Police Department

FINAL REPORT

Comprehensive Assessment and Technical Assistance Services

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Executive Summary

Introduction

In June 1999, the U.S. Department of Justice (DOJ) hosted a conference on “Strengthening Police-Community Relationships.” The conference recognized that police are more effective when they have the trust and cooperation of the residents in their communities. In many communities, especially minority communities however, a lack of trust remains between law enforcement and local residents. This tension is exacerbated by allegations of police misconduct such as racial profiling or other forms of bias in the delivery of police services.

The conference highlighted the need to identify proactive police practices to build trust, enhance police integrity and reduce police misconduct. By being proactive about recognizing and addressing police bias, the police can go a long way towards strengthening police-community relationships and improving the quality of services delivered in the community. Nationwide attention has been paid to improving the quality of police services provided to community members in order to ensure fair, effective, and impartial policing consistent with the principles of democracy.

Understanding how the complex organizational matrix within the police bureaucracy functions to achieve institutional goals and objectives is pivotal to the determination of the effectiveness of the police in the twenty-first century. The historical responsibility for detection, prevention, and suppression of crime has not dissipated, and we have learned over the past three decades that the more effective our police are in interacting with the citizenry in positive and constructive ways, the greater the potential to enhance public confidence and trust in the police.

Since the 1999 conference, police agencies across the country have had to confront new challenges in large part due to the September 11, 2001 terrorist attacks. September 11 was a

watershed event for America and a critical point for assessing the role of the police in a dynamic and changing environment and, the increasing need for citizen cooperation.

This approach, commonly called community-oriented policing, is at the forefront of our crime control strategies. Community as defined by M. Scott Peck (1987) is:

[A group of individuals who have learned how to communicate honestly with each other, whose relationships go deeper than their masks of composure, and who have developed some significant commitment to rejoice together, mourn together, delight in each other, and make each others' condition their own]

A community must be consensual in arriving at solutions to problems. It must be aware of itself and the association must be respectful and safe for the solutions to be generated. In Detroit, the police have come to recognize that they alone cannot accomplish the task of making the city a safe place. The Detroit police understand that the community is the gatekeeper to information that is critical to the determination of whether or not they succeed or fail in the discharge of their responsibilities. People who live in the neighborhood know it best. They see signs of crime and suspicious activities. The intimacy of residents with their neighborhoods and the general goings-on there provides the potential for the police to obtain the type of information that will be vital to both crime control and the war on terror. The challenge is how to obtain this information without undermining public trust and confidence in the police.

The City of Detroit, Michigan, while committed to community-oriented policing, has the highest violent crime index and one of the highest homicide rates in the nation.¹ In addition, the city has paid out millions of dollars in legal settlements and judgments stemming from claims against the police department. At the outset of this project in 2002, the city had elected a young, reform-minded mayor who hired a police chief committed to the principles of community-

¹ Among 58 cities we examined all with populations of 300,000 or more

oriented policing. This new leadership team stood ready to take on the challenges faced by the city, and was committed to making significant changes and improvements in the delivery of police services and the management of the police organization.

The Project

The Police Foundation, with the support of Detroit officials, obtained funding from the Office of Community Oriented Policing Services (U.S. Department of Justice) to conduct a comprehensive assessment of the Detroit Police Department (DPD) in order to assist in identifying opportunities for improvement in operations and enhancement of services provided to the community. The assessment included an examination of the police department's climate, practices, and policies, as well as community outreach to obtain input about strengths and limitations. Specific emphasis was given to police-community relations, as well as those areas that may limit the ability of the police to be fully effective in delivering their services.

Two enormous challenges faced by the Detroit Police Department from the outset were a severe shortage of resources and a significant limitation on the police chief's authority imposed by the substantive and procedural aspects of the collective bargaining agreements. The strategies and methods used by the Police Foundation to reach out to union leaders and community-based organizations had a substantive impact in identifying areas where progress could be made.

Indeed, no study could commence without the police chief's approval, nor could one be successful without union support. In addition, the project would not have been possible without a substantial amount of input from key stakeholders. A diverse array of individuals and organizations participated in the review, including members of the community, its leaders, city officials, police leadership, union representatives, and a survey committee made up of sworn and civilian members of the department. These stakeholders provided useful insights into the nature

of the environment within which the police department functions and its impact on police operations. In the absence of this type of information, the model for the police operation in Detroit would be based upon the knowledge drawn from experiences in other police departments faced with fewer and less complex challenges.

Conclusions

Throughout the review, we identify issues that seem to be impacting on the DPD's ability to most effectively carry out its mission. While these are detailed and supported in each of the subsequent sections, the key concerns are identified in this section.

First and foremost, the mission, vision, and values of the department need to be fully institutionalized and communicated to all members of the department. It is evident from our review that not all department members know the mission, vision, and values and, of those that do, not all believe in them. The goals of senior management, commanders, supervisors and line officers are not fully aligned. If the department is to effectively achieve its mission and carry out its responsibilities according to its stated values, it is important that these values be conveyed to all department members not only formally, but informally as well. The best way to ensure that this occurs is through a strategic-planning process, but it did not appear evident that such a process had been undertaken anytime recently.

Second, the agency's overall efforts are not well-coordinated. Many personnel at all levels are not clear about what the driving focus of their activities should be or what is expected from them. This appears to be due in large part to a lack of communication both formally and informally. There is also a general sense of lack of responsibility for various outcomes in the department and community. Perhaps this has been the result of not being encouraged to provide input or make decisions, or from being discouraged for taking initiative in the past. Most

importantly, supervision and accountability are lacking. Supervisors do not receive sufficient training in managing people, and are limited in their authority to adequately control officer behavior. As a result, supervision appears inconsistent throughout the agency. The field training officer program is not really a program at all; there is little support, training, or guidance provided to those charged with the role of supervising new academy graduates.

The department's image in many parts of the community is poor. While we met with some residents and community members who have had positive interactions with many officers, there is a general sense that the department is viewed negatively among many. This is due in part to the way the media have portrayed and continue to portray the police (although not that different from many other U.S. cities); the lack of a departmental strategy to better promote positive work of the DPD; and the lack of repair of facilities and vehicles. In addition, the sometimes unkempt appearance of officers, the use of black 'scout cars'; and the unprofessional demeanor of some officers reflect poorly on all DPD officers, the department as a whole, and the profession of policing in general.

At the same time, the department has a good reputation for reaching out to young people in the community, and this role should be leveraged in order to better reach out to all members of the community. The department has not done a good job of promoting its positive work and accomplishments. The community tends to rely on what they hear on the news or read in the paper, and it is uncommon for the media to report on positive interactions and programs of the police.

Among the most commonly conveyed concern to our team was the assertion that the DPD is understaffed. While this may be true, no data whatsoever could be provided to us that supported this claim. On numerous occasions we requested electronic data from the DPD

associated with response to calls for service so that we could comprehensively assess all components of response time. However, useable data was never provided to us, raising concern that this is not something the department analyzes regularly. This is quite notable because response time appears to be the agency's top priority. As a result, the strategy for staffing and deployment does not seem to follow need but rather an arbitrary sense of what ought to be sufficient.

In many agencies throughout the country, a number of functions within police departments have become civilianized in an effort to improve efficiency and deploy more sworn personnel to field responsibilities. For some reason, this has not occurred in Detroit. It is hard to justify the need for sworn officers in a number of positions, when they don't require police powers to perform them. To the extent possible, sworn officers should be deployed in the field to respond to calls for service.

This leads to a key concern that permeated our review: there is a lack of data and information available to those responsible for ensuring that the agency's mission is achieved. Personnel need information in order to most effectively carry out their duties and responsibilities, yet many members of the DPD cannot answer basic questions about their role, as the data or answers are not available or provided to them. As a result, many individuals just go along with what they are told to do and are rarely given the opportunity to make suggestions or decisions about even the most basic issues.

A number of other issues associated with staffing raised the concern of our review team. First, there seems to be a high incidence of sick leave that should be better monitored and evaluated. Also, while there are policy restrictions on off-duty employment, it does not appear that supervisors regularly monitor this to ensure that it does not interfere with agency

responsibilities or policies. The necessity for two-officer cars at all times, while purportedly needed for officer safety, has not been fully established. A more thorough review of this practice should be conducted.

Starting salaries of DPD officers are among the five lowest of the 58 cities we reviewed with populations of 300,000 or more. Given the cost of living in Detroit as compared to these same cities, salaries do appear substandard. Furthermore, the rate of crime and violence in Detroit is among the highest, exposing DPD officers to greater risks than officers in most other law enforcement agencies we reviewed.

Facilities, vehicles, and other equipment appear to be in great need of attention. It is important that buildings be safe, clean, and well-maintained. When vehicles are not in proper working order, they can pose safety threats to officers and community members. Inoperable radios can also pose serious safety issues and drain already strapped resources. Each of these issues impact upon the ability of officers to safely and appropriately discharge their duties.

While many members of the department believe that there is a sense of overall camaraderie within the department, there does appear to be some divisiveness with the DPD culture. This is evident in terms of competitive, adversarial, or status-differential relationships, including those between management and the unions, civilian and sworn personnel, patrol versus bureau personnel, officers who live in Detroit and those who do not, and even the police and the community.

Another issue of great concern is the general lack of feedback provided by the department to its officers and to the community. Positive feedback is necessary for performance improvement of officers and can help to build trust and confidence of the community when given in response to reports or complaints filed by residents. Service ratings—the DPD's performance

evaluation system—do not seem to be true indicators of performance. The score includes a seniority component which has little, if anything, to do with actual performance. Furthermore, a number of recognition programs for officers have been eliminated, thereby reducing the amount of positive reinforcement afforded to personnel in the agency.

Recommendations

Recommendation # 1: The DPD leadership should re-examine its goals to ensure that the goals of senior management, commanders, line officers, and community are better aligned and communicated. Informal and formal expectations for performance have been unclear due to lack of a shared vision of what is important. In this examination, the department should consider if the goals communicated by upper management (e.g., community policing) are consistent with the message being sent by supervisors (e.g., just respond to calls for service).

Recommendation #2: The DPD should insist that officers display a professional, customer-service orientation in every interaction with members of the community, particularly those residents who come into the precincts to file complaints.

- 2.a In order to ensure the professionalism and reputation of the DPD and its officers, supervisors and commanders should be charged with routinely conducting field audits and inspections of all police-citizen encounters with the goal of ensuring that all citizens are treated with the utmost professionalism.
- 2.b The department should institutionalize the goals of community service in all of its communications, policies, and procedures.
- 2.c Additional training in communicating in diverse communities should be added as an in-service training course.

Recommendation #3: The department should engage a strategic-planning process if it has not already done so in the past year. Such an effort should involve community and department members. The U.S. Department of Justice, Office of Community Oriented Policing Services (COPS Office) developed and provided a strategic-planning training course through the Community Policing Consortium and the Police Foundation several years ago. The materials produced in that process may prove useful to the DPD as it moves forward with such a process.

Recommendation #4: The DPD should more fully explore its efficiency in patrol staffing and deployment. Our efforts to gain necessary information (i.e., response time data) was limited by the agency's inability to provide us with appropriately formatted data to complete the analysis. Such an assessment, preferably conducted by an organization that has done such analysis with other large police departments, should include a thorough review of calls for service, prioritization of the calls, the amount of time between citizens' calls, the phone being answered, the dispatch of a radio car, the time to the scene, and the time the officers takes to clear the calls.

It should also include a complete assessment of the volume of calls at various times throughout each day and over the course of a week, as well as an assessment of the number of cars that actually respond to the scene, in order to provide guidance as to the appropriate deployment strategy in each precinct and for each shift.

Recommendation #5: The DPD should enhance its capacity to work with the youth in Detroit. Much of the positive feedback received in this report was based on outreach to Detroit's youth. While many programs and activities may seem costly, there are a number of things that could be done to leverage and expand upon existing relationships.

Recommendation #6: The Field Training Officer Program should be completely redesigned to make it more effective in supporting the mission of the DPD. As supervisors are the most critical link to ensuring high quality, professional service delivery to members of the community, the way in which they are selected, trained, and monitored is critical to the agency's ability to accomplish its most central mission.

Recommendation #7: The DPD should promote its positive, community-based activities through a variety of channels. There are a number of positive steps the DPD has taken to improve its relationships with the community. However, most of these actions go uncelebrated or unrecognized even internally. It would be very helpful if the department could take steps to further professionalize its community and media relations areas by including civilian staff from the private sector who have experience in marketing, promotions, and/or media relations.

Recommendation #8: A facilities and equipment expert should be contracted to examine the safety, functionality, and appearance of the precinct buildings, as well as the functionality and repair of vehicles and officer-issued equipment (i.e. radios). Such an examination should include an assessment of the state of repair/disrepair of each building (structure, lighting, electrical, water, etc.), the layout of the precinct, and the aesthetic appeal of the precincts. It should also include an inventory of all service vehicles, their condition, year they were put into service, and expected out-of-service dates so as to provide a better projection of future equipment needs.

Recommendation #9: Leadership in the DPD should make every effort to ensure that the processes of assignments, transfers, and promotions are conducted in a highly objective, transparent fashion. Specifically, steps should be taken to increase the objectivity in these processes so that performance and merit are the criteria used to make such decisions. Individuals not selected for specialty assignments or promotions should be supplied with ample feedback on their performance that will provide developmental opportunities for those candidates in the future.

Recommendation #10: A salary survey should be conducted by an independent, outside organization to assess the appropriateness of DPD starting salaries. In our review, DPD ranked among the lowest paid nationally, disproportionate to the cost of living. In conducting such a survey, the contractor should consider equity as it relates to similarly situated jurisdictions, the local area agencies, the region of the U.S., and the impact of salaries on the ability to attract high quality candidates.

Recommendation #11: The DPD should improve its system for evaluating performance. Service ratings should be based solely on performance, which should be evaluated in as objective a fashion as possible. Credit should be given for community-based initiative and professionalism, including things like capacity to speak a second language or conducting outreach in the community (where possible). Feedback on performance should be provided on an ongoing basis, and where opportunities exist to gather developmental feedback (e.g., promotional tests), this should be provided to personnel in an appropriate manner.

Recommendation #12: The department should re-evaluate the responsibilities of many jobs assigned to sworn personnel to determine if they could be civilianized. Unless a job requires an authority granted only to police officers, it should be reclassified as a civilian position within the DPD. This will allow for the most effective and appropriate utilization of sworn police officers. This examination could be done in conjunction with the staffing and deployment analysis (*Recommendation #4 above*).

Recommendation #13: Precinct commanders should be provided with information on their performance and encouraged to coordinate with other units within DPD to obtain information relevant to crime control and prevention. They should also be empowered to make decisions consistent with data and information they have analyzed for the purposes of improving the operations of their precincts.

Recommendation #14: The DPD should conduct a thorough review of administrative practices to increase efficiency.

- 14.a Identify steps that could be taken to minimize redundancy in paperwork, reduce the number of revisions required for reports (through better instruction), focus on the content of reports as opposed to supervisory preferences in format.
- 14.b Conduct routine audits of sick leave.
- 14.c Improve monitoring of off-duty employment with the goal of reducing sick leave, and increasing safety.

Recommendation #15: The DPD should initiate a team-building program within the agency. Such an effort should be developed to ensure that social divisions within the culture are minimized and that individuals are encouraged to work cooperatively in carrying out their duties and responsibilities. This program could serve as a career development tool in encouraging individuals to develop their skills. This team-building program should not be isolated to supervisors or leaders but rather encourage interaction across levels. It could serve as a model for strengthening coordinated problem-solving and could eventually include team-building with social service providers and other community-based organizations.

Recommendation #16: The agency should reinitiate and/or establish a new formal recognition policy for recognizing officers. Inherent in this recommendation is the need to identify what performance is classified as exemplary, particularly within a community-policing context.

Chapter 1: Methodology

Overview

The Police Foundation conducted a comprehensive review and assessment of the Detroit Police Department (DPD) to examine the extent to which the department works effectively with the community in providing high quality, professional services and achieving its mission. The following assessment services were performed by the Police Foundation in cooperation with the Detroit Police Department, its members, and community representatives and members:

- Historical and Media Review
- Examination of Police Department Climate
- Analysis of Citizen Perceptions of Police
- Review of Operations Including Policies, Procedures, and Practices

Methods

The Police Foundation conducted a multi-stage process that was comprehensive, objective, and participatory. Specifically, the methodology involved collection and review of historical and current data within the department and community. At the heart of the process was the inclusion of DPD personnel and community members' input. This input was provided through a series of structured departmental focus groups, a culture and climate survey within the DPD, interviews with various commanders and department heads within the agency, several community-based forums, and meetings with members of various community groups and leaders. This process enabled us to: 1) identify key concerns of DPD personnel regarding departmental operations, 2) identify key citizen concerns with regard to police service expectations and delivery; 3) generate a sense of shared responsibility for police services within

the community; and 4) establish buy-in to the findings and recommendations as a result of the review.

Once the project commenced, the Police Foundation submitted an information request for documents, reports, and data necessary for the review. While a number of materials were received, many were not available or not available in an appropriate format (i.e., electronically for analysis purposes), or could not be found by DPD personnel. In January, 2003, the department assigned a liaison from the Management Services Bureau to work to support the project. Despite his tireless efforts throughout the project, much of the requested data were never provided. Later in the project, that representative left the agency and a new liaison was assigned who also worked cooperatively in supporting the project and trying to obtain information not yet received. Despite his hard work, all requested data were not provided. For those areas where data and/or information were not received, we did receive memoranda indicating the unavailability of the data.

Numerous site visits were conducted throughout the course of the project. Provided in Table 1 below are the dates and purposes of the on-site visits.

Table 1. Project Team Travel to Detroit

DATE	Purpose
Dec. 2002	Kick-off meeting with mayor, chief of police, director of COPS Office, president of Police Foundation
Jan. 2003	Met with top command staff to discuss project and information needs, DPD's priorities and needs, and project administration.
Feb. 2003	Began assessment of staffing, deployment, supervision, and human resource issues. Conducted interviews with commanders and other department personnel.
March 2003	Met with a number of deputy chiefs, precinct commanders, and inspectors as well as specialized unit commanders across multiple units, precincts, and divisions. ²
	Conducted job observations and went on ride-alongs with DPD officers in the 5 th , 6 th , 8 th , and 9 th precincts, and visited the recruiting center.
April 2003	Met with community groups.
May 2003	Met with DPD survey committee to begin climate survey process by defining appropriate areas to assess.
June 2003	Met with DPD survey committee to begin drafting survey instrument.
	Conducted focus groups with officers, investigators, sergeants, lieutenants, and inspectors.
July 2003	Presented a briefing to management (chief and other key command and executive staff members) regarding the status of the project and preliminary findings.
	Met with DPD survey committee to review and revise survey, and discuss confidentiality, administrative issues, and survey distribution.
August 2003	Along with members of the DPD survey committee, met with leadership of all unions to discuss the survey process.
	Came on site to meet with survey committee to finalize procedures, but were not able to, due to the major U.S. power blackout.
Sept. 2003	Along with members of the survey committee, conducted briefings at all the roll calls in every precinct to make personnel aware of the upcoming survey process.
2004 - 2005	Training courses delivered: grant writing and leadership

The following methods were used to collect information so that we could assess the historical context of police operations.

²These included: central services, major crimes, homicide, risk management, tactical operations, violent crimes task force, vice, communications, crowd control, mobile support, traffic, narcotics, organized crime, auto theft, science and technology bureau, and management services.

Historical and Media Review

- Review of articles and books on Detroit's social history including *Detroit Divided*, *Devil's Night*, and others.
- Reviewed reports from prior reviews (1998 consultant report, 1993 survey report).
- Conducted comprehensive print media review for the three-year period prior to the commencement of our review (October, 1999 – January 2003).

Examination of Police Department Climate

- Conducted focus groups with police officers.
- Established departmental survey committee made up of nine DPD members.
- Drafted a survey instrument with the survey committee.
- Met with union leadership to brief them on the upcoming survey.
- Administered survey instrument to all personnel.
- Analyzed and interpreted survey findings.

Analysis of Citizen Perceptions of Police

- Conducted focus groups with police officers.
- Hosted forums with community members.
- Held meetings with various community groups.
- Examined media accounts of police-community relations.

Review of Operations, Including Policies, Procedures, and Practices

- Held meetings with commanders, management staff, and other key personnel.
- Requested extensive documentation regarding policies, procedures, practices, and other relevant data.
- Examined information to identify issues, concerns, and/or promising practices.
- Compared population and crime trends across 58 cities throughout the U.S. that serve populations of 300,000 or more residents.
- Reviewed Detroit's number of sworn personnel, starting salary, and cost of living to determine its relative position in comparison to the other 57 jurisdictions.

Chapter 2:

Detroit and its Police Department

Changing Demographics

The City of Detroit is at the heart of a metropolitan area with over 4.5 million residents according to the 2000 U.S. Census. Yet, the population of the city itself has been in decline over the past decades. In 2000, the U.S. Census reported a population of 951,270, down about 7.5 percent from the 1990 Census. As we concluded this project in 2004, newspapers reported that residents were once again flocking away from the city, to the apparently more desirable suburban areas surrounding the city.

The city population decline is neither unique nor new to Detroit. Indeed, a number of Midwestern and Mid-Atlantic cities also saw reductions in population as shown in Table 2. The greatest reductions during the period 1990 to 2003 were seen in St. Louis, Baltimore, Cincinnati, Detroit, and Pittsburgh respectively. In the majority of cases, there was a significant increase in the population in the surrounding suburban areas likely due to lower taxes, lower crime rates, and better schools. However, other Midwestern cities saw modest increases, including Chicago (4.1 percent), Indianapolis (7.9 percent), and Columbus (14.7 percent). For most other major cities in the Northeast, South, Southwest, and West, population rates increased from just under 3 percent in Boston, to about 6 percent in Miami, and almost 20 percent in Omaha. Arizona and North Carolina cities showed the most growth; the Phoenix area swelled (up 43 percent in Phoenix and 52 percent in Mesa), and two cities in North Carolina saw tremendous increases—Raleigh with 49 percent growth, and Charlotte with almost 69 percent.

Detroit's recent population decline is certainly not the first for the city; indeed the city was plagued with massive flight to the suburbs during the 1940s and again in the post-civil rights

era. However, it is not possible to examine the roots of this trend without examining the social and racial history of the region.

**Table 2. Population Changes in Major³ U.S. Cities since 1990
(Decline to Growth)**

Location	% Change 1990 – 2003	2003 Population ⁴	% Change 1990 – 2000	2000 Population ⁵	1990 Population ⁶
1. St. Louis, MO	(-14.23%)	340,256	(-12.22%)	348,189	396,685
2. Baltimore, MD	(-12.43%)	644,554	(-11.53%)	651,154	736,014
3. Cincinnati, OH	(-10.92%)	324,297	(-9.0%)	331,285	364,040
4. Detroit, MI	(-9.72%)	927,766	(-7.46%)	951,270	1,027,974
5. Pittsburgh, PA	(-9.35%)	335,302	(-9.55%)	334,563	369,879
6. Cleveland, OH	(-7.35%)	468,446	(-5.38%)	478,403	505,616
7. Washington, DC	(-7.17%)	563,384	(-5.74%)	572,059	606,900
8. Toledo, OH	(-7.04%)	309,499	(-5.80%)	313,619	332,943
9. Philadelphia, PA	(-5.66%)	1,495,903	(-4.29%)	1,517,550	1,585,577
10. Milwaukee, WI	(-5.38%)	594,269	(-4.95%)	596,974	628,088
11. New Orleans, LA	(-4.39%)	475,128	(-2.47%)	484,674	496,938
12. Kansas City, MO	2.49%	445,965	1.47%	441,545	435,146
13. Boston, MA	2.70%	589,795	2.59%	589,141	574,283
14. Minneapolis, MN	2.77%	378,602	3.86%	382,618	368,383
15. Chicago, IL	4.12%	2,898,374	4.03%	2,896,016	2,783,726
16. Miami, FL	6.44%	381,651	1.09%	362,470	358,548
17. San Francisco, CA	6.64%	772,065	7.29%	776,733	723,959
18. Memphis, TN	7.13%	653,858	6.51%	650,100	610,337
19. Tulsa, OK	7.24%	393,907	7.01%	393,049	367,302
20. Indianapolis, IN	7.85%	800,167	6.74%	791,926	741,952
21. Nashville, TN	8.63%	554,888	11.57%	569,891	510,784
22. Oakland, CA	9.34%	407,003	7.32%	399,484	372,242
23. Atlanta, GA	9.40%	431,043	5.70%	416,474	394,017
24. Los Angeles, CA	10.14%	3,838,838	6.01%	3,694,820	3,485,398
25. New York, NY	10.59%	8,098,066	9.36%	8,008,278	7,322,564
26. Long Beach, CA	11.16%	477,368	7.47%	461,522	429,433
27. Seattle, WA	11.63%	576,296	9.13%	563,374	516,259
28. Virginia Beach, VA	11.80%	439,454	8.19%	425,257	393,069
29. El Paso, TX	13.79%	586,392	9.38%	563,662	515,342

³ We have classified major cities as those with 300,000 population or more in 2003

⁴ Source: 2003 Uniform Crime Report, FBI

⁵ Source: 2000 U. S. Census Bureau Report

⁶ Source: 1990 U. S. Census Bureau Report

30. Tampa, FL	14.60%	320,908	8.37%	303,447	280,015
31. San Diego, CA	14.61%	1,272,746	10.16%	1,223,400	1,110,549
32. Columbus, OH	14.73%	726,151	12.41%	711,470	632,910
33. San Jose, CA	16.32%	909,890	14.41%	894,943	782,248
34. Wichita, KS	17.14%	356,123	13.25%	344,284	304,011
35. Oklahoma City, OK	17.31%	521,681	13.81%	506,132	444,719
36. Santa Ana, CA	18.14%	347,016	15.06%	337,977	293,742
37. Sacramento, CA	19.07%	439,811	10.19%	407,018	369,365
38. Omaha, NE	19.62%	401,692	16.14%	390,007	335,795
39. Denver, CO	21.02%	565,905	18.61%	554,636	467,610
40. Albuquerque, NM	21.84%	468,764	16.60%	448,607	384,736
41. Dallas, TX	22.19%	1,230,302	18.05%	1,188,580	1,006,877
42. Jacksonville, FL	22.23%	776,417	15.80%	735,617	635,230
43. Riverside, CA	22.33%	277,103	12.65%	255,166	226,505
44. Portland, OR	24.68%	545,271	20.99%	529,121	437,319
45. Houston, TX	25.18%	2,041,081	19.81%	1,953,631	1,630,553
46. Anaheim, CA	26.17%	336,132	23.13%	328,014	266,406
47. Tucson, AZ	26.94%	514,618	20.06%	486,699	405,390
48. Fresno, CA	27.02%	449,898	20.74%	427,652	354,202
49. Fort Worth, TX	28.76%	576,339	19.45%	534,694	447,619
50. San Antonio, TX	29.58%	1,212,789	22.30%	1,144,646	935,933
51. Colorado Springs, CO	33.32%	374,818	28.37%	360,890	281,140
52. Arlington, TX	35.79%	355,385	27.22%	332,969	261,721
53. Phoenix, AZ	42.69%	1,403,228	34.33%	1,321,045	983,403
54. Raleigh, NC	49.15%	310,157	32.77%	276,093	207,951
55. Mesa, AZ	51.54%	436,569	37.59%	396,375	288,091
56. Charlotte, NC	68.72%	668,003	36.6%	540,828	395,934

*Honolulu and Las Vegas are not listed due to missing data

Historical Trends in Racial, Economic, and Social Divisions

A recent multi-city study of urban inequality conducted by the Russell Sage Foundation examined social and economic divisions in Atlanta, Boston, Detroit, and Los Angeles. This study resulted in a book series that included *Detroit Divided* (Farley, Danziger, and Holzer, 2000). This volume presents a marked and increasingly evident racial divide demonstrated by substantive demographic changes in Detroit and its surrounding suburbs in the latter half of the 20th century. For example, the black population living in the city of Detroit remained unchanged between 1950 and 1990 (84 percent vs. 83 percent), whereas there was a substantial decrease in

the white population, (from 58 percent to just 7 percent). As such, in 1950 blacks made up 16 percent of the city's population, but in 1990 that figure grew to 76 percent.

Not surprisingly, the economic divisions were also great. In 1950, the median income for blacks in the Detroit area was 72 percent of that for whites (\$19,095 vs. \$26,456); whereas by 1990, blacks earnings were just 48 percent those of whites (\$25,800 vs. \$54,180), or an increasing economic gap of one third (Ruggles and Sobeck, 1997). The authors of *Detroit Divided* note that in the 1990 Census, among the largest 77 cities, Detroit ranked first for percentage of households receiving public assistance; was the only large city in which the majority of households were headed by a single parent; and ranked at the bottom for median home value (\$25,600 vs. \$244,500 for Los Angeles). The well-researched book offered a broad and detailed look at how these racial, economic, and spatial divides became so entrenched due to historical trends, changing labor markets, persistent segregation, and pervasive racial animosity and mistrust. However, the authors indicate that the economic prospects for downtown are better now than they have been in decades, and outline an urban policy agenda focused on growth and vitality.

More recently, a 2002 article in the *Detroit News* also highlighted the large racial gap, calling it the "widest in the U.S." (Trowbridge, 2002). This report cited evidence from the *Detroit News*, the Brookings Institution, and the State University of New York, all of whom conducted separate analyses of the 1990 Census data. The report stated that Metropolitan Detroit had the highest nationwide level of neighborhood segregation between blacks and whites as measured by the index of dissimilarity, the most commonly used measure of segregation. Almost 90% of Black residents in the region lived in just five cities, including Detroit, Southfield, Pontiac, Inkster, or Highland Park, with the remaining 131,100 representing just 4

percent of all other communities (180 in total). Indeed, 115 cities or townships in the region are over 95% white. When comparing the concentration of Black residents living in the central city, Detroit again has the highest concentration at 75 percent (Trowbridge, 2002). Clearly, there seems to be substantive evidence regarding racial segregation and disparity in Detroit, not just physically but economically and socially as well.

Historical Trends in Civil Unrest

Throughout Detroit's history, racial issues drove the social climate of the city. "By the 1940s Detroit already had a long history of racial conflict. Race riots had occurred in 1863 and as recently as 1941" (PBS, American Experience). The 1863 riot was started by angry whites when Faulkner (a black male) was convicted of raping two girls whose stories were later recanted. Two major race riots in the 20th century (1943 and 1967) were manifestations of racial division and animosity toward black residents and have indelibly marred Detroit's history.

The key U.S. production center during World War II, Detroit was known at the time as the "arsenal of democracy," a term that would later be laden with irony in the wake of the 1943 riots.

In a *Detroit News* retrospective on the 1943 race riots, the authors detailed the ever increasing tensions in the World War II era in Detroit (Baulch and Zacharias, 2005)⁷. While blacks were recruited from the southern states to work in the factories, so too were whites, ripe with traditional prejudices. Racial strife was particularly pronounced over housing for black residents. While blacks and whites both enjoyed full employment in Detroit, their lifestyle experiences were much different. Blacks, excluded from all except one housing project (Brewster), "...lived in homes without indoor plumbing, yet they paid rent two to three times

higher than families in white districts.” A federal housing project named the Sojourner Truth (in memory of the black female leader during the Civil War), was delayed for over four months due to “mounting opposition” (Baulch and Zacharias, 2005) among whites. This opposition was marked by a cross burning, picketing, and a growing and largely armed mob of 1,200 white protestors upon the announcement that black residents would be allowed to move in. While this did not escalate to a full-scale riot, it “...was a warning of what was to come” (Baulch and Zacharias, 2005).

Similarly, a number of workplace uprisings occurred due to promotions of black workers (at the Packard plant in 1943), and the ongoing efforts of the Ku Klux Klan to intimidate Black workers. Protesting unfair conditions, blacks began a random “bumping campaign” in which they walked into whites to bump them off of sidewalks or in elevators.

Prior to the eventual riot of 1943, the local and national media expected trouble. Even *Life Magazine* (as cited in Baulch and Zacharias, 2005) called Detroit’s race dynamics “dynamite.” The riot was eventually sparked on June 20, 1943, by skirmishes on Belle Isle over ejection of two young blacks from Eastwood Park.

The Police and the Black Community in the 1940s

In addition to the racial divides demonstrated above, Detroit has evidenced a historical racial divide between the police and its black residents. The lines were drawn in the sand during the 1943 riots, when police began to search cars of blacks crossing to Belle Isle on June 20, while ignoring cars driven by whites. According to Baulch and Zacharias (2005), this riot “overwhelmed” the 2,000 city police officers and 150 state police troopers. Officers reportedly shot black looters in the backs as they ran from police, and another Black man was beaten by a white mob in front of four policemen who reportedly did not come to his aid. Federal troops in

armored cars eventually restored order, after a riot that lasted some 36 hours and claimed 34 lives, 25 of them black.

Over 1,800 arrests were made mostly for looting and again the majority of the arrestees were black. Even though seventeen black residents were killed by police, the police were criticized by the white community for their restraint in dealing with rioters, again evidencing the extreme racial animosity among some of the white population. The mayor at the time praised the police and indicated his impatience with black leaders “[whose] people do not and will not trust policemen” (Baulch and Zacharias, 2005). The NAACP spokesman at the time, Thurgood Marshall wrote a scathing report entitled *The Gestapo in Detroit* (1943) in which he criticized the police handling of the riots by unfairly targeting blacks and ignoring white atrocities, noting that the racist attitudes of many police helped ‘make a riot inevitable’⁸.

Social Changes in Detroit from the 1940s to 1960s

A number of other significant social trends occurred after the 1943 riots. The 12th Street neighborhood of Detroit saw a marked change in demographics from the 1940s to the 1960s, from less than 2 percent non-white residents in 1940, to 37 percent non-white in 1950, all the way to 96 percent non-white in 1960 (Sugrue, 1996). Racial tensions associated with housing continued; a 1944 suit by a white neighbor who cited deed restrictions on black ownership went all the way to the U.S. Supreme Court who in 1948 (*Shelley v. Kraemer* and *McGhee v. Sipes*) sided with the black residents, ultimately abolishing racial deed restrictions. Social acceptance did not follow suit; the 1950s was marked by a significant shift in demographics with a 50 percent increase in blacks in Detroit and a 25% percent decrease in the white population⁹. In

⁸ Vivian M. Baulch and Patricia Zacharias, “The 1943 Detroit race riots,” *Detroit News*, 18 May 2005, <http://www.detnews.com>.

⁹ Zena Simmons, “Major moments in Metro Detroit race relations,” *Detroit Free Press*, 14 January 2002.

fact, it took twenty years after the 1948 Supreme Court case before Congress passed the Fair Housing Act which barred discrimination in housing.

The Police and the Black Community in the 1960s

By the 1960s, tensions were increasing in a more pronounced fashion. During the 1960s, the police department's "big four" or "tac squad" roamed the streets searching for bars to raid and prostitutes to arrest. These elite four-man units frequently stopped youths who were driving or walking through the 12th Street neighborhood. They verbally degraded these youths, calling them 'boy' and [other racial epithets]...". (Fine, 1989). In 1967, almost a quarter million people (Blacks and whites) were led by Martin Luther King, Jr. in a protest march in Detroit over injustices, two months prior to the famed March on Washington.

Just two years after the notorious riot in the Watts section of Los Angeles, another major riot erupted in Detroit on July 23, 1967, this time spawned by a police raid of a "blind pig" (speakeasy) illegally selling alcohol after hours in a densely populated and low-income black area of Detroit. The riots erupted and quickly spread (*African American Registry*, 2005). The two-day riot resulted in 43 deaths, over 7,000 arrests, almost 1,400 buildings burned, and 1,700 stores looted, at a cost of about \$50 million. This riot was ultimately subdued by 17,000 army forces, the Michigan National Guard, and the Detroit police. Just weeks before, "H. Rap Brown foreshadowed the course of future events, stating that if 'Motown' didn't come around, 'we are going to burn you down'" (Rutgers University report). In a *Detroit Free Press* survey in 1968, black residents cited police brutality as the number one problem they faced in the period leading up to the 1967 riot, followed by poor housing.

The 1967 riot would not end racial tensions in Detroit. Indeed, yet another incident in 1969 between a black nationalist organization, the Republic of New Africa, and the police

resulted in a gun battle in which two officers were shot and over 100 organization members were arrested at a church. This incident fueled fear of militant blacks in the white community, and anger toward police among many black residents.

Among the most racially polarizing tactics of the Detroit Police Department at the time was the 1971 establishment of the infamous police unit called STRESS (acronym for Stop the Robberies, Ensure Safe Streets), who according to *Detroit News* reporters "...killed nearly two dozen people, most of them black, in a campaign against street crime" (Brand-Williams and Trowbridge, 2000). Even Court TV noted that, "Detroit's notorious STRESSforce, [was] disbanded in the 1970s, [after having] reportedly caused 20 deaths -- with 17 of the victims Black -- before it was ended by former Detroit mayor Coleman Young" (Court TV website, 1999). Indeed, many Detroiters attribute Young's successful political campaign to his commitment to disband the unit (see, e.g., Brand-Williams and Trowbridge, 2000; Sinclair and Donnelly, 2003). The 1973 election centered on race, crime, and policing issues, with Coleman Young easily winning the mayor's seat; the first of five terms. *The Detroit News* referred to him as "a racially polarizing figure" (Simmon).

While Young's tenure saw the greater racial integration of the Detroit Police Department, it was not without blemishes either. His push to integrate the DPD led to the hiring of many "unqualified and poorly trained candidates..." and in 1983 Young demanded undated letters of resignation from all top commanders leading to the departure of "...some of the force's brightest officers" (Sinclair and Donnelly, 2003). Yet, Young succeeded in building a department more reflective of the city's population. In the early 1970s, the department was less than 10% Black, but by the early 1990s, it was almost 70 percent black. William Hart, Young's appointee for police chief, and the first black chief in Detroit, was convicted for embezzlement from the city,

amidst numerous corruption allegations during the mayor's tenure (Farley, et al., 2000). Hart was sentenced to ten years in federal prison in 1992 for stealing more than \$2.3 million in police undercover funds (Detroit News, 2003). Sinclair and Donnelly's (2003) report seemed to suggest that the city had faltered under black leadership. In response to the racial undercurrents evident in that report, a Michigan State University professor wrote an editorial in which he accurately noted that "Detroit...was experiencing racial polarization, police brutality and more long before Young came to office" (Taylor, 2003).

And certainly Detroit was not alone in experiencing significant racial tensions. In a report following the Cincinnati riots of 2001, *Slate* reporter David Greenberg wrote an article entitled "Riot Act: The last century's racial disturbances have a common cause: police brutality (2001)." He cites a number of cases throughout the country in which civil disturbances were "sparked by friction between policemen and Black citizens" (2001), emphasizing the role of the police nationwide in exacerbating racial tensions.

The City of Detroit, its residents, and the police department have all paid a price for the socioeconomic influences, racial tensions, and animosity that have plagued the city throughout its history. That price has been realized in the destruction of human life, dignity, prosperity, and community. Economically, the city has been particularly hard hit by racial tensions that caused flight out of the city by residents and businesses, resulting in a diminished tax base for public services and schools.

Litigation against the city of Detroit and especially its police department over the past two decades has also taken a big toll. In published accounts, Detroit appears to have been hit particularly hard with \$8.6 million in settlements for the five-year period, 1995-2000 (Grant, Sinclair, Hansen, and Shepardson, 2000). Perhaps more astounding is the fact that from 1987 to

2000 “the city paid \$123 million to settle lawsuits stemming from complaints of police misconduct” (Sinclair and Donnelly, 2003). Additionally, the Michigan Supreme Court awarded a \$6.2 million judgment to two victims hit by cars being chased by police, as well as a \$6 million jury award for an officer-caused accident (Grant, et al., 2000). More recently, the introduction of two federal consent decrees against the City of Detroit police department and lock-up facilities in June 2003 will likely cost the city large sums of money in order to monitor its progress in complying with the decrees, and to implement new programs, policies, and training. The cost of the consent decrees has yet to be determined, but is further compounded by the dire economic straits the city faces in 2005.

Detroit and Its Police: 2000 and Beyond

While the socioeconomic and political history is clearly informative, it certainly does not provide a complete context for the issues, concerns, and problems facing the Detroit Police Department today. The Police Foundation review attempted to gain insights into policies, procedures, perceptions, programs, and other practices in order to make recommendations for improving police and community relations, to enhance the department’s ability to work more effectively within the community, and to increase the efficiency in the professional delivery of its services to the community.

The Detroit Police Department is organized into thirteen precincts, and its officers are deployed on three permanent eight-hour shifts, with steady non-work days. Most precinct commanders deploy some of their personnel on overlapping shifts, known as “power shifts” ,during the hours when most calls for service are requested. They also deploy units within individual precincts that are not responsible for responding to calls for service but will respond to emergency calls in some situations. These units include special operations, plain-clothes

officers, business and community relations officers, and environmental officers (mostly tasked with quality of life issues).

In order to examine Detroit's crime and policing issues, we looked at trends and then compared recent statistics to those reported for 57 other major U.S. cities serving populations of 300,000 or more. As detailed below, Detroit was fourth in the nation among the 58 cities in homicide and non-negligent manslaughter, and it had the highest violent crime index during 2003. The ratio of officers to residents, however, was somewhat consistent with the crime rate, the sixth highest in the country. Yet, the base salary rate for Detroit officers was among the lowest, with just three of the 58 large cities paying less than Detroit. Furthermore, Detroit's cost of living index (as of early 2005) was among the top 50 percent, making the living standard for Detroit officers lower than most other police in the country.

Crime and Policing Issues

During the latter half of the 20th century, Detroit experienced an enormous growth in homicides with a fairly level rate from under 10 per 100,000 residents from 1940 to the mid-1960s. By the mid-1970s, that rate had grown to more than 50 per 100,000, and over 60 per 100,000 in the 1990s, with a slight downward trend in the late 1990s. In 1983 and 1984, Detroit had the highest homicide rate in the nation, something "reminiscent of 1974, when a similar jump in the murder rate earned Detroit the moniker Murder City" (Sinclair and Donnelly, 2003). As of 2003, the Uniform Crime Reports published by the Federal Bureau of Investigation showed Detroit to have the fourth highest, among the 58 largest reporting, murder rate in the nation behind New Orleans, Washington, D.C., and Baltimore, even though it had dropped to below 40 murders per 100,000 residents, as shown in Table 3 below.

Table 3. Murder and Non-Negligent Manslaughter (NNM) in Major¹⁰ U.S. Cities (Highest to Lowest)

City	2003 Murder and NNM ¹¹	Murder & NNM Index*
1. New Orleans, LA	274	57.67
2. Washington, DC	248	44.01
3. Baltimore, MD	270	41.88
4. Detroit, MI	366	39.44
5. Atlanta, GA	149	34.56
6. Oakland, CA	109	26.78
7. Philadelphia, PA	348	23.26
8. Cincinnati, OH	71	21.89
9. St. Louis, MO	73	21.45
10. Pittsburgh, PA	67	19.98
11. Miami, FL	74	19.38
12. Memphis, TN	126	19.27
13. Kansas City, MO	82	18.39
14. Dallas, TX	226	18.36
15. Milwaukee, WI	109	18.34
16. Phoenix, AZ	241	17.17
17. Cleveland, OH	73	15.58
18. Tulsa, OK	61	15.49
19. Columbus, OH	109	15.01
20. Houston, TX	278	13.62
21. Los Angeles, CA	515	13.41
22. Indianapolis, IN	107	13.37
23. Nashville, TN	74	13.34
24. Tampa, FL	41	12.77
25. Minneapolis, MN	46	12.14
26. Jacksonville, FL	92	11.85
27. Las Vegas, NV	141	11.85
28. Denver, CO	63	11.13
29. Albuquerque, NM	51	10.88
30. Long Beach, CA	49	10.26
31. Fort Worth, TX	57	9.89
32. Charlotte-Mecklenburg, NC	66	9.88
33. Sacramento, CA	43	9.78

¹⁰ We have classified major cities as those with 300,000 population or more in 2003

¹¹ Source: 2003 Uniform Crime Report, FBI

***per 100,000 residents**

City	2003 Murder and NNM ¹²	Murder & NNM Index*
34. Oklahoma City, OK	49	9.39
35. Tucson, AZ	47	9.13
36. San Francisco, CA	69	8.93
37. Omaha, NE	35	8.71
38. Riverside, CA	24	8.66
39. Fresno, CA	37	8.22
40. New York, NY	597	7.37
41. San Antonio, TX	85	7.01
42. Toledo, OH	21	6.79
43. Boston, MA	39	6.61
44. Seattle, WA	34	5.89
45. Virginia Beach, VA	24	5.46
46. San Diego, CA	65	5.10
47. Wichita, KS	18	5.05
48. Portland, OR	27	4.95
49. Santa Ana, CA	17	4.90
50. Raleigh, NC	14	4.51
51. Colorado Springs, CO	16	4.27
52. El Paso, TX	21	3.58
53. Mesa, AZ	14	3.21
54. San Jose, CA	29	3.19
55. Anaheim, CA	9	2.68
56. Arlington, TX	9	2.53
57. Honolulu, HI	15	1.66
58. Chicago, IL	-	-

*per 100,000 residents

While fourth in murder/non-negligent manslaughter, Detroit was number one for violent crime, followed by Atlanta and Miami, as shown in the Table 4 below.

Table 4. Violent Crime and Crime Index in Major¹³ U.S. Cities

¹² Source: 2003 Uniform Crime Report, FBI

(Highest to Lowest)

City	2003 City Population ¹⁴	2003 Violent Crime ¹⁵	Crime Index (crimes per 1,000 residents)
1. Detroit, MI	927,766	18,724	20.18
2. Atlanta, GA	431,043	8,491	19.70
3. Miami, FL	381,651	7,157	18.75
4. St. Louis, MO	340,256	6,325	18.59
5. Tampa, FL	320,908	5,733	17.86
6. Baltimore, MD	644,554	11,183	17.35
7. Memphis, TN	653,858	10,297	15.75
8. Washington, DC	563,384	8,839	15.69
9. Nashville, TN	554,888	8,331	15.01
10. Oakland, CA	407,003	5,613	13.79
11. Kansas City, MO	445,965	6151	13.79
12. Philadelphia, PA	1,495,903	20,620	13.78
13. Dallas, TX	1,230,302	16,865	13.71
14. Cleveland, OH	468,446	6,200	13.24
15. Los Angeles, CA	3,838,838	48,824	12.72
16. Boston, MA	589,795	7,173	12.16
17. Minneapolis, MN	378,602	4,517	11.93
18. Houston, TX	2,041,081	23,988	11.75
19. Cincinnati, OH	324,297	3,643	11.23
20. Tulsa, OK	393,907	4,304	10.93
21. Charlotte-Mecklenburg, NC	668,003	7,194	10.77
22. Pittsburgh, PA	335,302	3,559	10.61
23. Toledo, OH	309,499	3,182	10.28
24. New Orleans, LA	475,128	4,596	9.67
25. Albuquerque, NM	468,764	4,439	9.47
26. Tucson, AZ	514,618	4,709	9.15
27. Milwaukee, WI	594,269	5,289	8.90
28. Oklahoma City, OK	521,681	4,642	8.90
29. Indianapolis, IN	800,167	7,069	8.83
30. Jacksonville, FL	776,417	6,729	8.67
31. Columbus, OH	726,151	6,215	8.56
32. Portland, OR	542,271	4,436	8.18
33. Fresno, CA	449,898	3,505	7.79
34. Sacramento, CA	439,811	3,420	7.78
35. Las Vegas, NV	1,189,388	9,158	7.70
36. Long Beach, CA	477,368	3,579	7.50
37. San Francisco, CA	772,065	5,725	7.42
38. New York, NY	8,098,066	59,448	7.35
City	2003 City Population¹⁶	2003 Violent Crime¹⁷	Crime Index (crimes per 1,000)

¹³ We have classified major cities as those with 300,000 population or more in 2003

¹⁴ Source: 2003 Uniform Crime Report, FBI

¹⁵ Source: 2003 Uniform Crime Report, FBI

			residents)
39. Phoenix, AZ	1,403,228	9,722	6.93
40. Riverside, CA	277,103	1,916	6.91
41. Seattle, WA	576,296	3,946	6.85
42. Omaha, NE	401,692	2,627	6.54
43. Fort Worth, TX	576,339	3,751	6.51
44. Raleigh, NC	310,157	2,004	6.46
45. Wichita, KS	356,123	2,227	6.25
46. Denver, CO	565,905	3,531	6.24
47. San Antonio, TX	1,212,789	7,252	5.98
48. El Paso, TX	586,392	3,502	5.97
49. San Diego, CA	1,272,746	7,366	5.79
50. Mesa, AZ	436,569	2,346	5.37
51. Arlington, TX	355,385	1,863	5.24
52. Santa Ana, CA	347,016	1,788	5.15
53. Colorado Springs, CO	374,818	1,730	4.62
54. Anaheim, CA	336,132	1,319	3.92
55. San Jose, CA	909,890	3,378	3.71
56. Honolulu, HI	905,301	2,606	2.88
57. Virginia Beach, VA	439,454	928	2.11

Note: Data from Chicago, IL not reported to UCR

Throughout our study, we heard comments from police and community members about the city having too few officers. However, as shown in Table 5, Detroit had the sixth highest number of officers per 10,000 residents among the major cities for which we had data in 2000, although it did have the highest crime index in 2003 (see Table 3). This suggests that the number of officers may not necessarily relate to crime rates.

At the same time, Detroit was among the lowest paying departments for starting officers (55 out of 58), just slightly ahead of El Paso, Wichita, and New Orleans (lowest paying), yet it was the only one of these four to be among the top half in cost of living (22 of 58), suggesting a disproportionate salary in comparison to cost of living, as shown in Table 6. Upon closer

Table 5. Number of Officers and Officers per 10,000 Residents in Major¹⁸ U.S. Cities (Highest to Lowest)¹⁹

¹⁶ Source: 2003 Uniform Crime Report, FBI

¹⁷ Source: 2003 Uniform Crime Report, FBI

¹⁸ We have classified major cities as those with 300,000 population or more in 2003

City	Number of Sworn Officers (2000)	Total Officers per 10,000 Residents (2000)
1. Washington, DC	3,612	63
2. New York, NY	40,435	50
3. Baltimore, MD	3,034	47
4. Philadelphia, PA	7,024	46
5. Chicago, IL	13,466	46
6. Detroit, MI	4,154	44
7. St. Louis, MO	1,489	43
8. Cleveland, OH	1,822	38
9. Boston, MA	2,164	37
10. Atlanta, GA	1,474	35
11. New Orleans, LA	1,664	34
12. Milwaukee, WI	1,998	33
13. Miami, FL	1,110	31
14. Tampa, FL	939	31
15. Cincinnati, OH	1,030	31
16. Pittsburgh, PA	1,036	31
17. Memphis, TN	1,904	29
18. San Francisco, CA	2,227	29
19. Kansas City, MO	1,253	28
20. Houston, TX	5,343	27
21. Denver, CO	1,489	27
22. Charlotte, NC	1,442	27
23. Columbus, OH	1,744	25
24. Los Angeles, CA	9,341	25
25. Dallas, TX	2,862	24
26. Minneapolis, MN	902	24
27. Fort Worth, TX	1,196	22
28. Nashville, TN	1,249	22
29. Raleigh, NC	594	22
30. Toledo, OH	690	22
31. Seattle, WA	1,261	22
32. Jacksonville, FL*	1,530	21
City	Number of Sworn Officers (2000)	Total Officers per 10,000 Residents (2000)
33. Tulsa, OK	819	21
34. Honolulu, HI	1,792	20
35. Oklahoma City, OK	1,011	20

¹⁹ Reaves, B. A. and Hickman, M. J. (2004). Law Enforcement Management and Administrative Statistics (LEMAS), 2000: Data for Individual State and Local Agencies with 100 or More Officers.

36. Phoenix, AZ	2,626	20
37. Albuquerque, NM	859	19
38. El Paso, TX	1,057	19
39. Long Beach, CA	881	19
40. Omaha, NE	750	19
41. Portland, OR	1,007	19
42. Tucson, AZ	928	19
43. Mesa, AZ	717	18
44. Oakland, CA	710	18
45. Wichita, KS	609	18
46. San Diego, CA	2,022	17
47. Virginia Beach, VA	721	17
48. Colorado Springs, CO	586	16
49. Fresno, CA	683	16
50. Las Vegas, NV	2,168	16
51. Sacramento, CA	650	16
52. San Antonio, TX	1,882	16
53. San Jose, CA	1,408	16
54. Arlington, TX	485	15
55. Indianapolis, IN	1,045	13
56. Anaheim, CA	397	12
57. Riverside, CA	301	12
58. Santa Ana, CA	404	12

* sheriff's office

examination, those ten agencies with the highest starting salaries are all rated among the seventeen highest areas for cost of living. However, among the ten with the lowest salaries, only Detroit falls in the top half in cost of living.

Table 6. Salary Base in Comparison to Cost of Living Indices in Major²⁰ U.S. Cities* (Highest to Lowest)

City	Base Annual Salary for an Entry-level Officer	Cost of Living Index
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*Note: Salaries are based on the LEMAS 2000, whereas the cost of living index was from the first quarter of 2005.

²⁰ We have classified major cities as those with 300,000 population or more in 2003

	(2000) ²¹	(Rank of 58 cities) ²²
1. Santa Ana, CA	\$62,112	152.8 (7,8)
2. Oakland, CA	\$53,172	150.7 (9)
3. San Francisco, CA	\$47,710	178.7 (2)
4. Long Beach, CA	\$46,932	153.7 (5,6)
5. Los Angeles, CA	\$46,307	153.7 (5,6)
6. San Jose, CA	\$46,280	167.2 (3)
7. Boston, MA	\$42,717	137.2 (12)
8. Anaheim, CA	\$42,224	152.8 (7,8)
9. Fresno, CA	\$41,976	117.9 (15)
10. Seattle, WA	\$41,244	116.5 (17)
11. Riverside, CA	\$40,488	117.4 (16)
12. Indianapolis, IN	\$39,801	92.7 (45)
13. Cleveland, OH	\$37,880	102.5 (23)
14. Mesa, AZ	\$37,600	96.8 (31,32)
15. Cincinnati, OH	\$37,487	94.5 (40)
16. Las Vegas, NV	\$37,217	110.6 (21)
17. Toledo, OH	\$36,531	97.2 (28)
18. San Diego, CA	\$36,524	146.9 (10)
19. Milwaukee, WI	\$35,465	101.8 (24)
20. Washington, DC	\$34,908	140.0 (11)
21. Fort Worth, TX	\$34,476	89.3 (51,52,53)
22. Arlington, TX	\$34,416	89.3 (51,52,53)
23. Tucson, AZ	\$33,915	96.2 (35)
24. Denver, CO	\$33,660	101.6 (25)
25. Chicago, IL	\$33,522	128.6 (13)
26. Honolulu, HI	\$33,348	156.9 (4)
27. Phoenix, AZ	\$33,093	96.8 (31,32)
28. Sacramento, CA	\$33,082	n/a
29. Portland, OR	\$32,989	111.3 (20)
City	Base Annual Salary for an Entry-level Officer (2000)²³	Cost of Living Index (Rank of 58 cities)²⁴
30. Memphis, TN	\$32,406	89.6 (50)
31. Minneapolis, MN	\$32,214	n/a
32. San Antonio, TX	\$31,896	87.9 (55)

²¹ Reaves, B. A. and Hickman, M. J. (2004). Law Enforcement Management and Administrative Statistics, 2000: Data for Individual State and Local Agencies with 100 or More Officers.

²² ACCRA Cost of Living Index, Comparative Data for 294 Urban Areas, Vol. 38 (1), May, 2005.

²³ Reaves, B. A. and Hickman, M. J. (2004). Law Enforcement Management and Administrative Statistics, 2000: Data for Individual State and Local Agencies with 100 or More Officers.

²⁴ ACCRA Cost of Living Index, Comparative Data for 294 Urban Areas, Vol. 38 (1), May, 2005.

33. Philadelphia, PA	\$31,710	123.2 (14)
34. Pittsburgh, PA	\$31,491	93.2 (44)
35. Albuquerque, NM	\$31,408	96.7 (33)
36. Tampa, FL	\$31,324	97.7 (27)
37. New York, NY	\$31,305	203.9 (1)
38. Baltimore, MD	\$31,000	112.4 (18)
39. Jacksonville, FL	\$30,972	92.3 (46)
40. Miami, FL	\$30,881	112.3 (19)
41. Atlanta, GA	\$30,783	96.0 (36)
42. Columbus, OH	\$30,763	100.1 (26)
43. Colorado Springs, CO	\$30,684	95.7 (37)
44. Omaha, NE	\$30,641	91.1 (49)
45. Raleigh, NC	\$30,618	93.8 (42)
46. Houston, TX	\$30,524	88.7 (54)
47. Virginia Beach, VA	\$30,199	97.1 (29)
48. Kansas City, MO	\$30,156	94.6 (39)
49. Nashville, TN	\$29,998	95.1 (38)
50. St. Louis, MO	\$29,674	96.3 (34)
51. Oklahoma City, OK	\$29,440	91.5 (48)
52. Dallas, TX	\$29,432	91.7 (47)
53. Tulsa, OK	\$29,398	n/a
54. Charlotte, NC	\$28,300	93.4 (43)
55. Detroit, MI	\$28,053	103.8 (22)
56. El Paso, TX	\$27,530	89.3 (51,52,53)
57. Wichita, KS	\$26,492	94.1 (41)
58. New Orleans, LA	\$25,164	96.9 (30)

Conclusion

Detroit's complex social and economic history has certainly been influenced by and had influence on the Detroit Police Department. Documented as the most racially divided city in the U.S. (Trowbridge, 2002), Detroit is also among the most violent. The Detroit Police Department is faced with a myriad of challenges in terms of crime prevention and control, economic limitations, external intervention, an overburdened criminal justice system, and an often mistrusting and unsupportive community. Among the strongest influences on the community and its perceptions is the media's coverage and treatment of the police. While some of that has been highlighted in this historical review, the next section of this report consists of a

comprehensive review of print media coverage over the period October 1999 through mid-January 2003. This media coverage clearly shows a pattern designed to evoke emotionality and increase polarization between the police and the community, through use of historical reminders of past racial divisions and/or police misconduct.

Chapter 3: *Print Media Review*

The Role of the Press

Abundant evidence, as we shall see, indicates that the Detroit media's unflattering portrayal of city police is a response to the many real problems of the city and the police department. Additionally, we acknowledge the extent to which Detroit newspapers typify a U.S. press that is generally critical of law enforcement. The caustic tenor of the U.S. press partially reflects the undeniable fact that sensational accounts of police violence and corruption sell more papers than informative but dry homilies on how police departments work and what they are actually doing to prevent misconduct (Williams, 1996). A critical press reflects growing public concern about the threat posed to civil liberties by the existence of racism and sexism in police departments and the potential excesses of public order policing against the poor and homeless (Boyle, 1999).

The press has responded to these concerns by providing a forum for public protest against police and information on how well police are fulfilling their responsibilities. Monitoring police accountability requires that the public be aware of the quality of police performance, it be able to judge it, and it demand a high standard of service from officers of the law. The media has an important role to play in creating this informed citizenry by giving readers the facts they need to make informed judgments about the officers who serve their community (Skolnick and McCoy, 1984). Detroit newspapers have identified with this model of the press as a vehicle for imparting knowledge about law enforcement and inspiring an informed public to demand change from its leaders.

Media Coverage during the Period of the Assessment

The comprehensive assessment we conducted in 2003 and 2004 required a media review commencing in October 1999 and continuing for three years through 2002.²⁵ The next section will be dedicated solely to that historical review of media coverage prior to our on-site work. However, it is important to note that the period during which we worked on-site to conduct our assessment also saw a number of highly publicized DPD issues. While we did not conduct a quantitative or qualitative assessment of these issues, we have outlined the major areas covered by the *Detroit Free Press* during the two years of our assessment below:

2003

- The longstanding need for a computerized early warning tracking system,²⁶ and the department's failure to deliver in early 2003.
- A scandal associated with the firing of Deputy Chief Gary Brown, head of the professional accountability bureau, for investigating alleged criminal activities involving the mayor, his family, and his security detail.²⁷
- The release of a confidential memo exposing the name of the source prompting the investigation of the Mayor in May, 2003, sparking harsh criticism by the Detroit Police Officers' Association President of the department's leadership.²⁸
- The characterization by federal justice department officials that DPD had 'embedded and entrenched problems,' among the worst seen in their 10 years of patterns and practices investigations,²⁹ and the ensuing consent decrees issued in June 2003.
- The concurrent (June 2003) indictment of 17 Detroit police officers on charges they stole drugs, firearms, and money from suspected drug dealers.

²⁵ Because we did not commence on-site activities until January 2003, the historical review was extended a few months to cover that period.

²⁶ First recommended by Merrick Bobb in his 1997 consulting report to the DPD.

²⁷ Ben Schmitt, M.L. Elrick, Erik Lords, and Alejandro Bodipo-Memba. Ex-Deputy Chief: Probe of Mayor Cost him His Job, *Detroit Free Press*, May 14, 2003.

²⁸ Jim Schaefer and Ben Schmitt, Cops Union Short on Morale, Trust. *Detroit Free Press*, May 31, 2003.

²⁹ Ben Schmitt and M.L. Elrick, "Detroit Police Called the Worst," *Detroit Free Press*, June 12, 2003.

This prompted protests from both sides—‘stop police brutality’ and ‘coalition against police persecution.’³⁰

- The establishment of a civil rights integrity bureau to work with the federal monitor who was overseeing compliance with the consent decrees.
- The ‘phase out’ of black patrol cars to be replaced by white ones to promote ‘customer-friendly service,’ and reduce the feeling of intimidation promoted by the black cars.³¹
- The resignation of Assistant Chief Timothy Black, a recruit of Chief Oliver’s from Phoenix in October, 2003.
- A lawsuit filed by Officer John Bennett who established a website ‘aimed at getting rid of the chief’ (firejerryo.com), and was suspended with pay, and subsequently fired.³²
- The resignation of Jerry Oliver, just 21 months after being appointed chief, amid controversy over the Chief’s carrying a loaded handgun in his baggage without declaring the weapon in advance.
 - He was praised by the mayor for his successes, including tightened disciplinary procedures; ‘This is a change in leadership, this is not a change in direction....We will continue strong disciplinary standards.’³³
 - The reactions were mixed; many police personnel celebrated the departure; ‘he wasn’t good for morale and he wasn’t good for the citizens,’ and many city, police, and criminal justice officials were saddened.³⁴
- The appointment of insider Ella Bully-Cummings as new Detroit police chief late in 2003, who made an immediate mark by issuing a new policy requiring officers to receive approval from Corporate Communications prior to speaking with the news media.³⁵

³⁰ Cecil Angel with contributions by the Associated Press, On Fort, 2 Sides of Street Tell 2 Sides of Police Story. *Detroit Free Press*, June 25, 2003.

³¹ Ben Schmitt, “Police Steer to an Upbeat Model,” *Detroit Free Press*, August 13, 2003.

³² Ben Schmitt, “Chief’s Web Foe Sues to Get Job Back,” *Detroit Free Press*, October 17, 2003.

³³ Ben Schmitt, “Detroit Chief Quits Amid Controversy,” *Detroit Free Press*, November 1, 2003.

³⁴ Suzette Hackney, Erik Lords, David Ashenfelter, Ben Schmitt, Naomi R. Patton, and John Masson, “Colleagues’ Reactions Mixed,” *Detroit Free Press*, November 1, 2003.

³⁵ Ben Schmitt, “Police Must Get OK To Talk To Media,” *Detroit Free Press*, November 22, 2003.

The year 2003 ended with a *Free Press* article that pegged the year as “not a good one for the Detroit Police Department,” citing nineteen indictments of DPD officers, the Justice Department’s findings, the arrest of the Detroit Police Officers’ Association President on suspicion of drunken driving, the indictment of a DPD sergeant and eighteen year veteran on thirteen bank robbery counts, the suspension of the officer who started the website which was full of criticisms of the chief.³⁶

2004

- Detroit recorded one of its best years in homicides in years for 2003 with just 361 (the lowest since 1967); however the ratio of homicides to population still put Detroit in the top five cities nationwide with the highest rates of homicide.
- The year kicked off with numerous shooting reports; 90 shootings in January, 12 shootings in 12 hours on the first of February, all resulting in a block-by-block crackdown by police, requiring all patrol officers to go from eight-hour shifts to twelve-hour shifts.³⁷
- 2,500 residents turned out at the Greater Grace Temple to question officials on the wave of violence.
- Extensive coverage of the corruption scandal; three officers pled guilty, eight were tried early in the year and acquitted in May, and the subsequent dropping of charges against the seven remaining officers.
- Two Detroit police officers were gunned down in February prompting new calls for gun control, policy changes related to in-car cameras, and the age at which applicants can become officers. An editorial claimed that Detroit was third in the nation for line-of-duty deaths of officers.
- In March, the mayor announced that the city would acquire the Michigan Central Depot for conversion to a state-of-the-art police headquarters.
- Chief publicly expressed her opinion at a meeting of the Urban League that city employees *should* live in the city, though not adopting any policy.

³⁶ *Detroit Free Press*, “Bad News Good News,” December 31, 2003.

³⁷ The 12 hour shifts were halted about a month later, due to budget restraints, according to coverage by the Free Press.

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- Accusations of ethnic intimidation were leveled against Detroit police by two Dearborn residents.
 - Reports citing the Federal Consent Decree Monitor's report that the city had complied with just a handful of almost 100 recommended reforms, with the *Free Press* claiming it "slow to change."³⁸
 - DPD's successful seizure of \$10 million in drugs in June.
 - A blow delivered to the police chief by a judge who ordered her to stop demoting or ousting high-ranking commanders.³⁹
 - A report that the mayor's chief of staff, cited for speeding behaved inappropriately, with the mayor claiming the stop to be a "set up."⁴⁰
 - The chief's reassignment of 30 DPD executives, and move of 25 officers from desk duty to the streets.
 - The mayor and chief announce "Operation Gun Stop," in which \$500 rewards would be given to those who turn in others carrying illegal guns.
 - Sweeping changes in use-of-force policy and procedure including:
 - Elimination of policy requiring off-duty officers to carry guns.
 - Announcement that department would issue collapsible batons to its officers.
 - Mayor and chief announce full scale recruitment campaign "Hiring in the Spirit of Service" funded by a grant from the Office of Community Oriented Policing, designed to recruit service-oriented Detroit residents (preferably).
 - An editorial claiming that the 2002 Uniform Crime Reports showed Detroit's homicide closure rate to be just 38 percent compared to 64 percent nationally.⁴¹

The year ended with an editorial "Silence the Guns," which described the 'Hugs Not Bullets' campaign of the Neighborhood Service Organization's Youth Initiative Project. This group worked with the Detroit Police Department to circulate an 8 x 4 foot peace postcard.

³⁸ David Ashenfelter and Nancy A. Youssef, "Monitor's Report: Detroit Police Slow to Change," *Detroit Free Press*, 2004.

³⁹ Ben Schmitt, "Order Protects Police Commanders," *Detroit Free Press*, July 19, 2004.

⁴⁰ Brian Dickerson, "Just Who the (Expletive) is this Woman?" *Detroit Free Press*, July 30, 2004.

⁴¹ Jeff Gerritt, "Victims of Violence: Detroit's Unsolved Homicides Cases Deny Families Closure," *Detroit Free Press*, September 24, 2004.

Summary

The *Detroit Free Press* coverage of issues in 2003 and 2004 presented a fairly thorough indication of the ongoing issues and changes that impacted upon our review, indeed some of which extended the 18-month review to a 24-month review. It can be readily seen that the majority of the coverage emphasized the crime problem and police department scandals, but also covered the changes in leadership, department reforms in policies and procedures, and some positive steps taken to improve police-community relations.

Detailed Methodology

In order to determine the appropriate print media for our review, we examined all print media sources covering Detroit and used the 2002 edition of the Gale Directory of Publications and Broadcast Media as our guide. From the broader list, we identified five major print media sources to review. Hence, our analysis draws on a comprehensive survey of articles covering the Detroit police that appeared in five representative Detroit newspapers between ***October 1, 1999 and January 14, 2003*** (a three-year history, plus the first several months of our on-site work)⁴².

The sources consulted for this review were:

- 1) ***Detroit News*** (daily; combined weekend edition with *Detroit Free Press*), by Gannett Publishing
- 2) ***Detroit Free Press*** (daily; combined weekend edition with *Detroit News*)
- 3) ***The Metro Times*** (weekly news, arts, entertainment)
- 4) ***The Michigan Chronicle*** (weekly black community newspaper)
- 5) ***The Michigan Citizen*** (local weekly focused on Pan-African issues)

⁴² The project officially began in the fall of 2002, hence the start date three years prior. We decided to carry a few months into the beginning of our project, as on-site assessment activities did not begin until 2003.

We recognize that these publications are just a few of the many available print sources, but we selected them based on their high rates of distribution and range of coverage and opinions. Coverage on the police was also found on a number of websites/sources as well.

Our review provides both a quantitative and qualitative analysis of how these five Detroit publications have portrayed the city's police department. It draws on a total of 1,396 articles that have been identified through a variety of search engines. We used *Detroit News Online* <http://www.detnews.com> and the Proquest Newsstand database to locate articles from the *Detroit News*. We used Ethnic NewsWatch, another ProQuest database, to find articles for both the *Michigan Chronicle* and the *Michigan Citizen*. We relied on *Metro Times Online* <http://www.metrotimes.com> to guide us through *Metro Times* coverage of the Detroit police. Our survey of the *Detroit Free Press* is based on a Boolean search of headlines and leads in the NewsLibrary database, which is located on the Web at <http://www.newslibrary.com>. All of the articles used in this review are available electronically with the exception of the *Detroit News* prior to 2000. We have relied on the microfilm collection at the Library of Congress, Washington, DC, to obtain articles on the police that appeared in the *Detroit News* in the last quarter of 1999.

The search focused on news stories in which the emphasis was on Detroit police. The quantitative analysis is based on 1,115 of the 1,396 articles collected, with 281 articles being excluded as of only peripheral focus. This portion of the review documents the number of articles, broken down by major topic, from each of the sources reviewed. Further, it presents our findings as to the overall "tone" of each article within each topical area. We have classified the overall tone of each article as positive, negative, or neutral in its focus on the DPD. We have taken a number of criteria into consideration in deciding which of these three classifications best

describes a given article. One criterion is the number of positive or negative comments on the police, whether by the journalist who wrote the article or by the sources he/she chose to cite. Another is the language employed to describe the police, particularly the use of pejorative catch phrases such as “brutality,” “fear,” “distrust,” “invading force,” and “army of occupation,” all of which would lead to a determination that the tone of the article was negative. Also salient is a journalist’s assessment of police management’s readiness to acknowledge the existence of a problem and willingness to address it by making positive changes. There is, of course, a certain amount of subjective judgment involved in making such assessments, even though we have tried to reach them as dispassionately as possible.

Overall, the quantitative analysis reveals that Detroit newspapers tend to convey a more negative impression of the police (44 percent of the articles vs. 31 percent positive), though they acknowledge the challenges of police work and the sacrifices made by officers who die or are injured in the line of duty. About 25 percent of the articles we reviewed were neither positive nor negative, and instead conveyed a fairly matter-of-fact, neutral tone.

Among the overwhelmingly negative coverage was that delivered by the *Michigan Citizen* (91 percent negative, 2 percent positive), as well as that of the *Metro Times* (77% negative, 18% positive). The *Detroit Free Press*, was also more negative in tone (41 percent negative, 30 percent positive), but less so than the aforementioned. On the other hand, both the *Detroit News* and the *Michigan Chronicle* were more balanced, with both having a *slightly* more positive focus (*Detroit News* 39 percent positive, 37 percent negative; the *Chronicle* 40 percent positive, 38 percent negative). These orientations of individual publications and some socioeconomic, political, and racial characteristics of their target audience should be taken into

consideration when assessing the tone of the articles. Readership profiles of each paper are provided as Appendix A.

In any event, it is unlikely that this basically negative tone is specific to the Detroit press, but rather the emphasis of most news sources available nationwide. Nevertheless, it does point out how the media can influence the public, and how this in turn can affect perceptions of police officers and the department. Detailed information on the number of articles, topic areas, and tone is provided as Appendix B.

The subsequent descriptive (qualitative) analysis explores the central themes addressed by the five publications. It combines and cuts across a number of issues rather than following the same format as the quantitative component of our review. The objective of this qualitative analysis is to compare and contrast the approaches taken by the various newspapers to problems that seemed of utmost concern to Detroiters during this period. The images of law enforcement that emerged varied significantly, based on the ideological perspectives of the various publications represented. These variations will emerge as we proceed through the policing issues that have most concerned the public and the press. As such, these articles represent a wide variety of viewpoints, ranging from mainstream discussions to extremist diatribes.

These variations notwithstanding, all Detroit newspapers share a common focus as they play on unifying themes of racial tension and community distrust in their coverage of the police. It is important to reassert that the media often reflects the sentiments of the community, but also impacts upon the community's perceptions of the problems and issues addressed. Furthermore, in our climate and culture assessment, we examined the perceptions of members of the Detroit Police Department in reference to the role of the media in shaping public perception. And, in

fact, while this will be detailed in Chapter 5, almost 88 percent of DPD personnel who participated in the climate survey⁴³ indicated that the media *does not* portray the DPD fairly.

Based on our summary analysis, the greatest amount of coverage for the *Detroit News* was police shootings, followed by officer slayings/injuries (see Appendix B). Considerable attention was also paid to deployment and patrol, administration of justice, community relations, police brutality, abuse of authority, budget and resource issues, and discipline/accountability. The *Detroit News* articles were fairly split in tone by positive (n = 175) and negative (n = 166), with about one fourth having a neutral tone (n = 113). It is perhaps not surprising that when addressing issues like community relations and officer injuries, the media focuses on the positive aspects of the DPD, whereas discipline, brutality, and officer shootings tend to have a more negative emphasis by the newspaper.

With respect to the *Detroit Free Press* articles, the greatest amount of coverage for the *Detroit Free Press* was officer slaying/injuries, followed by officer shootings (see Appendix B). Considerable attention was also paid to abuse of authority, budget and resource issues, dragnets (unlike in the *Detroit News*), administration of justice, and discipline/accountability. The *Detroit Free Press* articles were more negatively weighted against the police (n = 200 negative, n = 148 positive), with over a fourth having a neutral tone (n = 143). Again, the area of officer injuries received the most favorable tone toward the police, whereas discipline, dragnets, officer shootings, and abuse of authority tended to portray the police with a more negative tone.

When considering the *Michigan Citizen*, the greatest amount of coverage was for community relations, followed by officer shootings and police brutality (see Appendix B). Of

⁴³ The response rate to the survey was quite low overall, but nevertheless was completed by over 1,100 department members.

the total 98 articles, the overwhelming majority (91%) were presented in a negative tone toward the police (n = 89), rather than a positive (n = 2) or neutral (n = 7) tone.

In examining articles in the *Michigan Chronicle*, the greatest amount of specific topic coverage was for officer shootings, followed by community relations (see Appendix B). The *Michigan Chronicle* articles appeared to be equally balanced among positive and negative tone (n = 20, n = 19, respectively), with fewer of a neutral tone (n = 11). The most positively focused articles were on community relations, and the most negative on officer shootings and brutality (see Appendix B).

Finally, when considering the *Metro Times*, the greatest amount of coverage was for police discipline/accountability, followed by community relations (see Appendix B). However, it is important to note that little coverage is given to police related issues in this paper. Although there was a small number of articles, the tone toward police tended to be primarily negative (n = 17), with just four articles of a positive tone, and 1 of a neutral tone.

Race and History

The Michigan Chronicle remarked in September 2000 that, “There is a historical background for why relations between police and African Americans are so strained that dates back to the sixties when it was us against the police and that remains alive in an unfair and racially hostile system.”⁴⁴ Detroiters are angry that seemingly innocent individuals have been killed by police, the *Chronicle* added, and their anger touches on an old festering fear of police arising from the many years in which police implemented racially discriminatory practices. These practices have been perpetuated by police and the criminal justice system through racial profiling and disparities in incarceration rates, thereby not quelling the unforgotten rage. The

⁴⁴ Michael Goodin, “Cops and citizens; trouble always attracts more trouble,” *Michigan Chronicle* 26 September 2000, 6 (A).

Free Press observed in April 2001. “If a majority white police force were treating Black citizens as police do now,” the *Press* continued, “local civil rights groups would be howling in protest and the mayor would be demanding the police chief’s resignation.” Instead this conduct not only seemed to have become acceptable,⁴⁵ it threatened to become worse with the removal of a state law requiring Detroit officers to reside in the city. The change in the law, the *Press* explained in July 2001, threatened to bring in greater numbers of white officers from the suburbs that would be more likely to precipitate conflicts with black residents. The potential consequence, the *Press* forewarned, would be to make residents perceive police as an invading army and return the department to where it was 30 or 40 years ago as these young white officers move up the ranks.⁴⁶

In these references to the past, the *Free Press* evokes memories of decades of racial conflict, protest, and police brutality that ensued in the late 19th century and throughout the 20th century. White Detroiters had no compunction about unleashing *their* police department to defend *their* dominance over housing, education, and employment. Whenever the two races waged urban warfare over these issues, it was always the Detroit Police Department that was responsible for restoring law and order.⁴⁷ The latter part of the 20th century began to see significant changes stemming from the national civil rights movement, in which more Blacks were propelled into political leadership positions.

For example, in the late 1960s tensions heightened, ultimately leading to the 1967 riot. The black community’s disdain for the police only intensified after 1970 when Roman Gribbs became mayor of Detroit. Gribbs was a white candidate who had appealed to white fears about crime on the streets by building his electoral campaign around law enforcement. After his

⁴⁵ “In our opinion: Detroit Police,” *Detroit Free Press*, 15 April 2001, 2 (F).

⁴⁶ Suzette Hackney, “Cops use rule, move to suburbs,” *Detroit Free Press*, 9 July 2001, 1 (A).

election, he fulfilled his promises to the white community by encouraging the Detroit Police Department to establish a special decoy unit called Stop the Robberies, Enjoy Safe Streets or STRESS. The new unit gave the black community all the stress it could handle by aggressively targeting crime in the city's poor neighborhoods.⁴⁸ The advent of STRESS pushed the severely strained relationship between police and blacks to the breaking point as the new unit's officers killed an alarming number of the city blacks. The killings divided the city along racial lines and eventually paved the way for the election of Coleman A. Young, the city's first black mayor whose platform included the disbandment of STRESS.

Establishing Trust through Leadership

In 1973, Young indeed disbanded STRESS and implemented an affirmative action program that made the police department a reflection of what had become a predominantly black city.⁴⁹ In doing so, Young tried to bury the remains of STRESS, but the media continues to unearth them while discussing police community relations in Detroit. On a number of occasions, the mainstream press points out the heavy impact of STRESS on the collective consciousness of the black community. The *Detroit News* noted in September 2000 that 30 years had passed since STRESS officers had killed nearly 24 Black males in a campaign against street crime, and yet a the recent string of fatal shootings and the lifting of the residency requirement threatened to resurrect the days when many black Detroiters had seen the police as an 'army of occupation.'⁵⁰

⁴⁷ Heather Ann Thompson, "Rethinking the politics of white flight in the post-war city: Detroit, 1945-1980," *Journal of Urban History* 25 (January 1999): 169-171.

⁴⁸ Adolph Mongo, "Nevers trial shows what was wrong with police force that didn't mirror city," *Detroit News*, 5 April 2000, <http://www.detnews.com>. Heather Ann Thompson, "Rethinking the politics of white flight in the post-war city: Detroit, 1945-1980," *Journal of Urban History* 25 (January 1999): 185-186.

⁴⁹ Adolph Mongo, "Nevers trial shows what was wrong with police force that didn't mirror city," *Detroit News*, 5 April 2000, <http://www.detnews.com>.

⁵⁰ Oralandar Brand-Williams and Gordon Trowbridge, "Cop shootings hurt public trust," *Detroit News*, 22 September 2000. <http://www.detnews.com>. Adolph Mongo, "Nevers trial shows what was wrong with police force that didn't mirror city," *Detroit News*, 5 April 2000, <http://www.detnews.com>.

Watching black officers shoot black citizens, the *Free Press* suggested in November 2000, was a wrenching experience for the many black citizens who had witnessed the days of STRESS and Coleman Young's efforts to make sure they never recurred by hiring more black officers. Unfortunately, the *Free Press* stated, black officers were undoing much of the progress the department had made since the STRESS era by firing wrongly on black citizens.⁵¹ In doing so, the *Detroit News* added, they threatened to destroy the department's reputation among African Americans and to again make mistrust of the police haunt the crime fight in Detroit.⁵²

Other papers conveyed this lack of trust in a particularly dramatic manner as they speak for the many black Detroiters who have never forgotten STRESS.⁵³ For example, In July 2000, the *Michigan Citizen* railed that the steady rise in the number of indiscriminate murders by 'killer cops' brought back memories of the days when STRESS ruthlessly terrorized black citizens and suggested that STRESS-like brutality and harassment were again becoming customary behavior among Detroit police. The beating death of black Detroiters Malice Green by two white officers was an ominous sign, the *Citizen* declared, that the hands of time were turning back for city residents.⁵⁴ It was particularly significant, the *Citizen* observed, that Larry Nevers, one of Green's two killers, was a former STRESS officer who had already shot two people, had numerous brutality counts on his record, and had been the subject of several lawsuits which cost the city money.⁵⁵ Incidents of police brutality and questionable shootings also evoked problems black Detroiters thought had ended with the demise of STRESS. The occurrence of these

⁵¹ Amber Arellano, "Police charges baffle blacks; community is vocal in criticizing chief," *Detroit Free Press*, 21 November 2000, 1 (B).

⁵² Gregg Krupa, Norman Sinclair, and David G. Grant, "Mistrust may haunt crime fight in Detroit," *Detroit News*, 8 October 2000, <http://www.detnews.com>.

⁵³ "Don't forget Malice Green," *Michigan Chronicle*, 23 July 2002, 6 (A).

⁵⁴ Glenn Morgan, "Detroit: A world-class city or killing field?," *Michigan Citizen*, 15 July 2000, 7 (A).

⁵⁵ Diane Bukowski, "Open season: Nevers guilty of involuntary manslaughter," *Michigan Citizen*, 29 April, 2000, 1 (A)

incidents was a foreboding omen that the old monster of racist policing could again open its maw.⁵⁶

Benny Napoleon's tenure as chief of police was generally characterized by the media as one in which the city saw a significant drop in crime, a dramatic fall in drug trafficking, and a decline in gang violence. Yet the press emphasized how the department failed to establish trusting relations with the black community, and showed blatant disregard for civil rights. By the time Napoleon left the chief's office for a job in the private sector, the department was under federal investigation for a number of serious problems, including dragnet-style homicide investigations, excessive use of deadly force, and poor treatment of prisoners. While these were problems that began before Napoleon was in uniform, they were also problems that did not go away during his tenure. Napoleon's failure to shake up the 'us-versus-them' mentality of departmental culture and his casual approach to civil rights would dominate discussions of him in the *Michigan Citizen*, which reviled him for 'unleashing racist cops' on black civilians. The mainstream press would similarly comment on his failings, but it also acknowledged some of the progressive approaches he took to fighting crime.

Napoleon inspired both praise and criticism, the *Free Press* concluded, after a series of articles assessing his tenure as chief. He ran a \$365-million operation with 5,000 employees, stayed within the budget, helped reduce crime, and generally kept peace with his colleagues. He did little, however, to change the department's insular culture and crippled community policing efforts by putting too many officers into special task forces. Napoleon pointed out in June 2000 that crime had declined 12.7 percent since he became chief, the steepest drop since the department began keeping statistics in 1970. However, there were other troubling statistics that

⁵⁶ "Don't forget Malice Green," *Michigan Chronicle*, 23 July 2002, 6 (A).

challenged Napoleon's successes, such as the city's shift in 1999 from fifth to third in homicide rates for cities with more than 100,000 people and the department's dismal closure rate of less than 50 percent for solving murders.⁵⁷ He proudly claimed to have made a 30 percent reduction in serious crime by June 2000 through the use of progressive law enforcement techniques such as crime mapping and data analysis; but the FBI questioned the validity of those statistics and withheld them from the 2000 Preliminary Uniform Crime Report, which tracks crime nationally.⁵⁸ In April 2001, Napoleon presented the City Council with a twenty-two-point plan for improving his beleaguered department. Napoleon's ambitious list constituted twenty-two steps in the right direction, the *Free Press* conceded, incorporating important reforms such as video camera equipment in all police lockups for documenting any claims of prisoner abuse, more training for officers, alternatives to lethal force such as taser guns, and a stronger commitment to resident service and satisfaction. Unfortunately, the *Free Press* claimed, Napoleon did not attach a dollar value to his ambitious plan or come up with any way to fit it into the tight city budget.⁵⁹

The *Free Press* also criticized Napoleon for mishandling community relations and for trampling on civil rights, but it carefully tempered its praise when Napoleon decided to create a \$2.5 million sensitivity training program for officers in September 2000. A good idea, the *Free Press* conceded, but it was simply a baby step in a department that needed to make major changes in how it dealt with the public.⁶⁰ It joined gleeful community activists in toasting Napoleon's departure from office in June 2001; and it commemorated the occasion by observing

⁵⁷ Suzette Hackney, "Chief's crossroads; Napoleon nears milestone, unsure of next move," *Detroit Free Press*, 23 June 2000, 1 (A).

⁵⁸ Suzette Hackney, "Former chief looks to move up," *Detroit Free Press*, 28 June 2002, 1 (B).

⁵⁹ Suzette Hackney and James G. Hill, "Chief unveils 22-step blueprint for cops; Napoleon's verdict on mayoral bid next week," *Detroit Free Press*, 25 April 2001, 1 (A).

⁶⁰ David Ashenfelter and Joe Swickard, "Police training needed," *Detroit Free Press*, 18 September 2000, 1 (B).

that he was jumping ship at a time when the department was under federal investigation for engaging in a wide array of civil rights violations. The *Free Press* would conclude that people had every right to expect more from a police chief with a legal background.⁶¹

The *Detroit News*, on the other hand, noted that Napoleon's basic problem was that he was not a good manager and failed to take an energetic approach to cleaning up the department's problems. Napoleon was a master of public relations, who had cut down on drug trafficking and reduced gang violence. Unfortunately, he was also an insider who came up through the ranks, and Detroit needed an outsider to clean up the department.⁶² His lack of objectivity came through most clearly in his lukewarm response to police shootings, the *News* observed in October 2000. Granted the shootings were not entirely attributable to Napoleon's leadership, but the chief had a responsibility to search harder for a solution.⁶³

According to the *Detroit News*, Napoleon also needed to improve the department's sluggish response time and establish a coherent community-policing program rather than directing so many of his resources against drug trafficking. The fundamental problem, the *Detroit News* explained, was that Napoleon had transferred too many officers from the precincts to special task forces and other duties downtown, leaving far too few patrolling residential neighborhoods. The department, as a result, remained a largely reactive force that responded to a seemingly endless list of problems as they occurred rather than marshalling an overall prevention strategy to fight crime more effectively.⁶⁴ In-service training, moreover, had suffered seriously from Napoleon's decision to transfer most senior officers to special duties downtown, leaving

⁶¹ Suzette Hackney and Cecil Angel, "An early exit for Napoleon; top cop will retire in July," *Detroit Free Press*, 21 May 2001, 1 (A).

⁶² Michael H. Hodges, "Napoleon conquers Detroit," *Detroit News*, 24 May 1999, 1 (B).

⁶³ Gregg Krupa, Norman Sinclair, and David G. Grant, "Mistrust may haunt crime fight in Detroit," *Detroit News*, 8 October 2000, <http://www.detnews.com>.

⁶⁴ Ibid.

few mentors for young officers just coming on the job.⁶⁵ This decision, in particular, would return to haunt Napoleon because it gave rise to public complaints about poorly trained young officers who were too quick to pull the trigger.

Napoleon made a belated attempt to address these and other problems as he announced his own departure in April 2001, the *Detroit News* related. Unfortunately, the twenty-two-point plan that he presented to the City Council was a “wish list” rather than a realistic assessment of what the chief could do in the time remaining with the resources at hand, consistent with the assessment of the *Detroit Free Press*. Some of the problems could not have been solved by Napoleon alone or by any chief, the *Detroit News* acknowledged, and the chief had indeed provided a legitimate blueprint for reform. His successor, however, needed to exhibit a more assertive management style, since the department’s problems required more than paper remedies.⁶⁶

The most significant legacy of Napoleon’s career as chief, the *Detroit News* summed up, was a further dwindling of public confidence in the department.⁶⁷ Detroiters took less notice of Napoleon’s supposed victories in the war on crime than they did of his department’s slow response to emergencies, disregard for civil rights, and slipshod investigation of fatal shootings.⁶⁸ Lax recruiting standards, moreover, exacerbated deficiencies in training, creating problems for both the department and citizens who encountered the police.⁶⁹ Napoleon’s failure

⁶⁵ Gregg Krupa and Norman Sinclair, “Experts: Detroit department needs reorganization,” *Detroit News*, 8 October 2000, <http://www.detnews.com>.

⁶⁶ “Detroit chief offer belated plan,” *Detroit News*, 26 April 2001, <http://www.detnews.com>.

⁶⁷ Ibid.

⁶⁸ Gregg Krupa, Norman Sinclair, and David G. Grant, “Mistrust may haunt crime fight in Detroit,” *Detroit News*, 8 October 2000, <http://www.detnews.com>.

⁶⁹ “Detroit chief offers belated plan,” *Detroit News*, 26 April 2001, <http://www.detnews.com>.

to take action, the *Detroit News* warned, could only exacerbate the mistrust that already haunted the crime fight in Detroit.⁷⁰

The *Michigan Citizen* articulated a more extreme view of the profound depths of this mistrust in January 1999 while reporting on a public hearing attended by Napoleon and his command staff. Napoleon and his staff were completely unmoved, the *Citizen* fumed, when a number of people gave first hand accounts of “kkkop abuse, beatings, and killings.” Napoleon in fact, went so far as to defend his officers rather than making the contrite apologies their victims fully deserved.⁷¹ Napoleon’s decision to appoint an outside panel to review the department’s use of lethal force was just a little bit of window-dressing to hide the fact that Napoleon and his cronies were conducting business in the same old way, the *Citizen* explained in July 2000. They were only egged on, moreover, by Mayor Archer’s failure to call for an outside investigation of the widespread use of lethal force and to dismiss Napoleon without further ado.⁷²

Archer’s complacency notwithstanding, Napoleon had to go, the *Citizen* claimed, because the community had very serious doubts about his resolve to effect significant change. Even his new task force on use of deadly force was simply a sham to hide the department’s true nature,⁷³ which had revealed itself in August 2000 when Officer David Krupinski killed deaf mute Errol Shaw. The *Citizen* called on the courts to charge Krupinski with no less than second-degree murder; it commanded the department to dismiss the officers who accompanied him; and it exhorted Archer to fire Benny Napoleon. Strong measures were necessary, the *Citizen* concluded in September 2000, because the department had crossed way over the line this time

⁷⁰ Gregg Krupa, Norman Sinclair, and David G. Grant, “Mistrust may haunt crime fight in Detroit,” *Detroit News*, 8 October 2000, <http://www.detnews.com>

⁷¹ Omowale Diop Ankobia, “Kops, killings, and preachers,” *Michigan Citizen*, 30 January 1999, 7 (A).

⁷² Mark R. Colden, “The flip side,” *Michigan Citizen*, 15 July 2000, 5 (A).

⁷³ Jesse Long-Bey, “Police brutality coalition says no to Napoleon,” *Michigan Citizen*, 15 July 2000, 1 (A).

and needed to be investigated from top to bottom rather than from within. It was time to weed out the garden down at the police department, the *Citizen* insisted, and Benny Napoleon should be the first to go.

Press coverage was generally supportive of Police Chief Jerry Oliver. In 2002, Oliver pledged his profound commitment to satisfying the public upon first assuming office and said he planned to measure his success as chief by the department's ability to gain community confidence.⁷⁴ According to a supportive *Free Press*, 'he has also acted on his promise by taking several innovative steps to bring police and community together.' In February 2002, he introduced a new public liaison unit to make the department more accessible and described his plan to evaluate the new unit's members by how well they interacted with people when attending community meetings, answering citizens' complaints and inquiries, and responding to requests for public assistance.⁷⁵ Oliver also held weekly town hall meetings where officers from various precincts shared crime statistics with the community,⁷⁶ and he sketched out a plan for a community-policing strategy that required his officers to be "social workers" as much as crime fighters. The commendable goal of his efforts, as the *Free Press* noted, is for the Detroit Police Department to have close relationships with the community.⁷⁷

Oliver's success in implementing his plans is crucial, the *Detroit News* observed in November 2002, because federal officials had launched a civil rights probe into past practices by the department. The investigation had examined allegations of excessive use of force, illegal arrests, mistreatment of prisoners, and other misconduct. The U.S. Justice Department, as a

⁷⁴ "New chief set to tackle challenges head-on," *Detroit Free Press*, 9 January 2002, 9 (A).

⁷⁵ Ben Schmitt and Suzanne Hackney, "Police unit puts emphasis on people," *Detroit Free Press*, 8 February 2002, 4 (B).

⁷⁶ Ben Schmitt, "Chief of police: I'm here for the fight," *Detroit Free Press*, 3 May 2002, 1 (A).

⁷⁷ Ben Schmitt, "Chief of police: I'm here for the fight," *Detroit Free Press*, 3 May 2002, 1 (A).

result, presented the department with a list of more than 175 recommendations that it expected the department to implement to correct or prevent future abuses. The Department of Justice had also made it clear that the DPD could be faced with a consent decree in the event that it did not comply with federal directives. If this occurred, the department could lose all autonomy and operate under the mandate of a federal judge, a situation that Oliver hoped to preclude through sweeping reforms.⁷⁸

Oliver's efforts, moreover, gained the support of the mainstream press, though it underlined both the obstacles he confronted and some of the chief's own failings. The *Detroit News* declared that Chief Oliver was right in wanting to change the culture of a department that is notoriously insular and resistant to change or community opinion. It added, however, that the chief ruffled feathers throughout the department by publicly criticizing rank-and-file officers, implementing many widespread departmental changes without the advice and consent of the police unions, and introducing unpopular edicts that held formerly unconcerned command officers to a higher standard.⁷⁹ Oliver undoubtedly faced an uphill battle, according to the *Free Press*, as some of the 4,000 officers in his cash-strapped department balked at radical changes and resisted taking moral instruction from a man who had been married multiple times and accused twice, but never charged, with domestic abuse. However, the Press also acknowledged that "Oliver is right in his conviction that only an all-or-nothing plan will work.... He's also right that no city needs community policing more than Detroit where mediocrity is exalted and violence is a fact of life."⁸⁰ Of course, the tides turned for Chief Oliver as well in subsequent months, as was noted in the press coverage during 2003, presented previously in this chapter.

⁷⁸ Bill Johnson, "Chief Oliver right: Old ways must go," *Detroit News*, 8 November 2002, <http://www.detnews.com>.

⁷⁹ Ibid.

⁸⁰ Rochelle Riley, "Normal is the problem here," *Detroit Free Press*, 14 July 2002, 1 (K).

Shootings

Public outrage at police shootings reverberated powerfully through the *Michigan Citizen*, as it did throughout the Detroit media. The extent of public concern was apparent on September 25, 2000, when 500 people turned up for a public meeting on police shootings held by Detroit's Police Commission, the civilian board responsible for overseeing the department. The crowd at the meeting was divided between critics and supporters of the department, but all were united in a quest for answers. Do the officers who serve them have the training they need to head off situations before guns are drawn? Do they have access to enough alternatives to deadly force? Are the police really able to investigate their own in the aftermath of a shooting? Are department and city leadership really accountable? Are the media blowing the whole thing out of proportion? To the last question, the numbers at least said no,⁸¹ since by May 2000 Detroit led the nation's largest cities in the rate of fatal shootings by police. This amounted to a rate that was nearly two and a half times higher than that of New York and more than one and a half times higher than that of Los Angeles, two cities were then under public and media scrutiny for police misconduct.

The belief that the department had failed to address the concern over the high rate of shootings kindled an upsurge of public rage that was eloquently expressed to the *Metro Times* by the mother of one shooting victim: "You keep waiting and waiting and it eats away at you... We have no closure... It's like a flag they are waving in our face for daring to challenge the injustice they did to our family."⁸² Injustice persisted, the *Free Press* explained, following two notorious shootings, because there was no one sweeping solution that would mend the tattered bonds of

⁸¹ "Deadly force," *Detroit Free Press*, 16 September 2000, 8 (A).

⁸² Ann Mullen and Curt Guyette, "Police Secrets," *Metro Times*, 20 March 2001, <http://www.metrotimes.com>.

trust between officers and the public. The conditions that gave rise to such incidents didn't develop in one day, and they wouldn't be solved in one either. The fact that Detroit police led the nation in the grim statistic of shooting people was a specific problem that needed to be addressed, but it was also a symptom of much deeper problems that had been allowed to germinate over a long time and would also take a long time to solve.⁸³

Among these problems, as the *Free Press* noted in late 2000, was the department's failure to weed out problem officers and to provide updated training in use of deadly force.⁸⁴ Also unsettling was the department's seemingly apathetic response to use of lethal force, especially when compared to the approaches taken by other departments to minimize lethal force. The Wayne County, Michigan, Sheriff's Office, for example, took swift appropriate action against one of its members for violating firearms policy, while Detroit police was not seen as doing so. Detroit had a promotion pending for Officer Eugene Brown, who had killed three people, while Wayne County fired a 52-year-old sergeant merely for lying about the fact that he shot at a suspect. Wayne County's example showed that it helps to have standards and the will to enforce them, qualities that were sorely lacking in Detroit,⁸⁵ according to the *Detroit Free Press*.

City leadership and police management, unfortunately, lacked both the will and vision to confront the dangerous escalation in the department's use of lethal force, the *Free Press* asserted in December 2000. It was all laid out for them four years previously in a consultant's report warning of a dangerous trend in police use of force that was going to exact a high price, both in public trust and money. According to the *Free Press*, the report came with a detailed plan to stem the tide, but city leaders couldn't see a way to execute it. Granted, there were many

⁸³ "In our opinion: Police shootings, no easy solutions for some deeply rooted problems," *Detroit Free Press*, 12 September 2000, 10 (A).

⁸⁴ Ibid.

competing interests for city budget dollars, but in the four years following the completion of the report, the city shelled out \$46 million as a result of lawsuits over police shootings and other misconduct.

The city's total liability for police misconduct since 1987 was a staggering \$124 million that could have been put to better use, according to the *Free Press*. All that city hall had to show for its investment, however, was the highest rate of shootings by police officers of any major U.S. city, a lot of bad blood between Detroit citizens and their most visible public servants, a lot of added tarnish on the city's reputation, and a great burden for the majority of conscientious police officers who could not be effective in their difficult work without public faith. The consultant's report had foreseen all of these problems and prescribed remedies, some of which the city implemented. However, the city's reluctance to give the report wider circulation resulted in a dearth of ideas on how to do more despite financial constraints. The reason for keeping the report under wraps, the *Free Press* insinuated, was that the city was trying to stop the public from finding out about egregious lapses in how the department trained police, investigated shootings, and dealt with 'trigger-happy' officers.⁸⁵

The *Free Press* backed up some of its assertions in its discussion of black officer Eugene Brown, who had become a focal point for community concerns over the department's use of lethal force and black-on-black shootings. Brown, the *Free Press* noted in May 2000, had been involved in nine shootings in the course of a six-year career and had killed three people. The fact that he had been cleared each time by prosecutors and police executives underlined failures

⁸⁵ "In our opinion: Shooting by cops is not tolerated by all," *Detroit Free Press*, 15 December 2000, 12 (A).

⁸⁶ "In our opinion: Deadly force," *Detroit Free Press*, 30 December 2000, 8 (A).

in how thoroughly the department investigated some questionable police shootings.⁸⁷ Even more incriminating was a recent top-level police investigation that questioned the thoroughness of the initial investigations clearing Brown and concluded that none of the shootings actually occurred the way Brown originally described them.⁸⁸ Brown, the *Free Press* concluded, was “a stark example of the department’s failure to control trigger-happy cops who lead their counterparts in other big cities in the rate of fatal police shootings.”⁸⁹

Also indicative of the department’s deficiencies, according to the media, was white police officer David Krupinski, who shot black deaf mute Errol Shaw in August 2000. The *Free Press* briefly noted Krupinski’s claim that he was justified in shooting after Shaw picked up a large metal rake and held it over his partner. It was largely unimpressed however, by the tears that Krupinski shed for a jury while testifying that he had simply followed standard procedure in an attempt to protect his partner’s life.⁹⁰ There are evidently some Detroit police officers who have yet to master the fear that comes from facing daily danger and forget their covenant with the public in the split second they are forced to choose between saving their own life and that of another. Perhaps that’s what happened, the *Free Press* conjectured, when Krupinski and his colleagues confronted Errol Shaw who brandished a garden rake as he stood fifteen feet in front of the wall of police. Krupinski claimed to have shot Shaw because he ignored the officers’ commands to put down the rake. Indeed, the situation might have ended differently if the department had not sent inexperienced young officers to the Shaw household rather than the

⁸⁷ David Ashenfelter and Suzette Hackney, “Police review says cop’s 4 shootings unjustified,” *Detroit Free Press*, 21 September 2000, 2 (B.S).

⁸⁸ Ibid.

⁸⁹ David Ashenfelter and Joe Swickard, “An officer’s record: 6 years, 9 shootings, 3 people killed; review pending but officer defends all his actions,” *Detroit Free Press*, 17 May 2000, 1 (A). Suzette Hackney and Joe Swickard, “Crime site revisited,” *Detroit Free Press*, 4 October 2000, 1 (B).

⁹⁰ Suzette Hackney, “Detroit officer testifies he fired to defend partner,” *Detroit Free Press*, 9 August 2001, 3 (B) Zone

more seasoned veteran officers who had dealt peacefully with Shaw in past encounters,⁹¹ the *Free Press* conjectured.

Racism and insensitivity to the deaf might also have been behind the shooting, the *Free Press* hypothesized. Krupinski's record showed he had been accused of hurling racial slurs and threatening to shoot a black motorist during a heated confrontation that transpired in January 1999.⁹² Add this nugget of information to the opinion of all the witnesses on the scene that the shooting was unprovoked and the skepticism of the NAACP about the need to shoot two bullets at a person holding a garden rake, and there was cause to suspect that racism rather than concern for his partner drove Krupinski's finger to the trigger. The *Free Press* also revealed that according to Deaf Options, a Detroit community mental health organization that provides support to deaf people and their families, the shooting was indeed completely unnecessary. An organization spokesperson said that foot-dragging by the department had previously ruined efforts to obtain a \$34,000 grant to train police to handle deaf or mute suspects.⁹³

The department may also have borne some responsibility, the *Free Press* suggested, for the September 2000 death of Dwight Turner, who was standing on his front porch aiming a gun at a stray dog when Officer Dwayne Little let off the fatal shot. In this instance, the department's failure to weed out problem officers may have been the root cause of another unnecessary casualty, according to the *Free Press*. Granted, there may have been some truth to the department's position that Officer Little was defending himself against an armed man who aimed his weapon directly at him rather than obeying his command to drop the gun. Far more convincing, however, was the position of the dead man's family and friends that Turner was a

⁹¹ Joe Swickard, David Ashenfelter, and Suzette Hackney, "Questions surround death," *Detroit Free Press*, 31 August 2000, 1(A).

⁹² Joe Swickard, David Ashenfelter, and Suzette Hackney, "Cop accused of threat," *Detroit Free Press*, 1 September 2000, 1 (A).

⁹³ Joe Swickard, David Ashenfelter, and Suzette Hackney, "Questions surround death," *Detroit Free Press*, 31 August 2000, 1(A).

financially viable and law-abiding citizen who had no reason to risk his life by pointing a handgun at a police officer. Turner, moreover, had done nothing wrong since he was standing on his own porch holding a licensed handgun when he came to Little's attention.⁹⁴ Little was instead the one whose actions deserved scrutiny, the *Free Press* argued in September 2001. There were grounds for thinking the officer had violent impulses since he had been involved in three earlier shootings and disciplined by the department in two domestic incidents. It was also highly probable that he had misrepresented the Turner shooting as an act of self-defense. An autopsy by the Wayne County Examiner showed the bullet had entered Turner's chest, traveled downward, and exited at a low point in his back, justifying the accounts of witnesses that Turner was bending over to put down his pistol when he was shot. As the *Free Press* carefully reminded its readers, "The killing came as police were under scrutiny from a *Free Press* investigation that revealed that Detroit cops have the highest rate of shootings among the nation's big-city departments."⁹⁵

The Justice Department investigation was warranted according to the *Free Press*, because some officers have shot without justification, even though the department has given them a crystal clear idea of when they may legally shoot. The department's policy on what constituted the justifiable shooting of a citizen was straightforward, authorizing an officer to shoot when his or someone else's life was in danger.

The police department, to its credit, had taken some steps to correct the problem, the *Free Press* acknowledged in December 2002. The then police chief, Jerry Oliver and Mayor Kwame

⁹⁴ Joe Swickard and David Ashenfelter, "City police defend another killing," *Detroit Free Press*, 9 September 2000, 1 (A).

⁹⁵ Suzette Hackney, David Ashenfelter, and Joe Swickard, "Shooting victim faults police," *Detroit Free Press*, 13 September 2000, 1 (B). Suzette Hackney, David Ashenfelter, and Joe Swickard, "Bullet may give clue," *Detroit Free Press*, 12 September 2000, 1 (A). Joe Swickard, "Cop's fate still unclear in shooting; delays hinder probe of autoworker's death," *Detroit Free Press*, 2 March 2002, 3 (B) Zone.

Kilpatrick had announced a partnership with the Justice Department to make some improvements without a court-ordered mandate; Oliver had added firearm discipline to what officers learned in the police academy; and he had also created special in-house units to investigate shootings by officers. Those efforts, however, did not address the reasons why officers repeatedly found themselves in situations where they felt justified in shooting.⁹⁶

The reason why so many officers fired their weapons, according to the *Detroit News*, was that police management and city leadership did little to sanction them. It was notable that only four officers were charged in the 40 fatal shootings that took place in the five previous years, even though Detroit had paid \$8.6 million since 1995 to settle lawsuits in which officers were cleared following shooting incidents. Granted Mayor Archer and police management had reacted to that staggering amount by promising to study both the procedure and extent to which officers used fatal force.⁹⁷ The *Detroit News*, however, joined Detroit's citizens in seriously doubting whether internal police investigations could come up with satisfactory answers about the deaths of 47 people at the hands of officers in the past five years. Anger and apprehension had, in fact, reached a boiling point in the city's black community by summer 2000, but Detroit officials were slow to grasp the scope and intensity of public indignation over the body count.⁹⁸

According to the *News*, the department's handling of Eugene Brown epitomized the sources of public indignation, starting with management's failure to give the Wayne County Prosecutor enough evidence to issue a warrant against Brown, even though he had fired his weapon more often than any other officer on record. This was typical of a department, the *Detroit News* complained, in which "police misconduct remains largely unchecked because a

⁹⁶ Nancy A. Youssef, "6 bullets from cop hit carjack suspect," *Detroit Free Press*, 2 December 2002, 1 (A).

⁹⁷ "Archer: Protect citizens from cops," *Detroit News*, 31 August 2000, <http://www.detnews.com>.

⁹⁸ "Police: Rebuilding trust," *Detroit News*, 29 September 2000, <http://www.detnews.com>.

majority of officers and police officials view any form of outside interference as unnecessary and unproductive.”⁹⁹ The department, moreover, long failed to charge Brown for any of his shootings, notwithstanding Brown’s evident tendency to shoot when other officers held their fire.¹⁰⁰ It was not until August 2000 that the department took action against Brown by denying him a promotion and assigning him to desk duty at tactical services, leading a self-righteous Brown to accuse his superiors of going on a witch hunt to get him.¹⁰¹ This self-defense notwithstanding, the *Detroit News* argued that the department’s delay in sanctioning Brown underlined its resistance to the type of reforms initiated in Washington, D.C. and Philadelphia, where decisive leadership had resulted in significant declines in deaths at the point of police officers’ guns. Napoleon’s only concession to the furor surrounding police shootings was to say he would welcome outside scrutiny, though he did not request it, and to agree to chat with federal prosecutors about police-community relations.¹⁰²

As the summer of 2000 wore on, a broad spectrum of the community, as the *Detroit News* related, had expressed both anger and concern following the Errol Shaw and Dwight Turner shootings. Veteran officers said they didn’t bode well for community relations; long-time Detroit residents suggested that the existence of underlying problems in the department accounted for officers’ tendency to control situations through gunfire; and community activists claimed that officers’ use of lethal force had caused many people to thoroughly fear the

⁹⁹ Bill Johnson, “Can ‘Garrity’ help Detroit disarm trigger-happy officers?” *Detroit News*, 17 November 2000, <http://www.detnews.com>.

¹⁰⁰ Ronald J. Hansen and Norman Sinclair, “In six years, Detroit cop has killed three, wounded six,” *Detroit News*, 14 May 2000, <http://www.detnews.com>.

¹⁰¹ David Shepardson, “Detroit police officer drops lawsuits against city,” *Detroit News*, 30 April 2001, <http://www.detnews.com>.

¹⁰² Gregg Krupa, “U.S. cities offer Detroit clues for cop reform,” *Detroit News*, 20 September 2000, <http://www.detnews.com>.

police.¹⁰³ In mid-September, this simmering fear of law enforcement boiled over in a number of small rallies and a substantial protest over Krupinski's shooting of Errol Shaw, a death that caused some black Detroiters to feel as uneasy as they had in the sixties.¹⁰⁴

Race, as we have seen, is one of the underlying themes in media discussion of Detroit police. Detroit's turbulent history of racial politics and urban warfare has left a deep imprint on both Detroit's community and the press. It accounts for the media's tendency to frame contemporary events against the background of the sixties and to frequently evoke the casualties of STRESS. Race, as we have observed, is the "tyrannosaurus in all our front rooms" which continues to stalk Detroit.¹⁰⁵ It has lurked through the history of Detroit's police department, and it has long tainted relations between city residents and their police. The ancient monster would also thunder into a Wayne County courtroom during August 2001, when David Krupinski faced charges of manslaughter for shooting Errol Shaw.

The manslaughter charges against Krupinski, who is white, carried political and racial considerations that tinged the case before the first witnesses were called, as the *Detroit News* fretted. Every detail of the case formed a subplot that underscored the tensions between police and public¹⁰⁶ and made objectivity difficult, as the court staged a modern morality play whose protagonist was a "white cop" accused of using excessive force to kill a "Black man." The trial was ultimately an inkblot for racial bias where politics and prejudice seemed to overwhelm the facts.¹⁰⁷ The questions it raised were nonetheless unsettling, according to the *News*, and its

¹⁰³ George Hunter, "Shootings increase tensions between police, community," *Detroit News*, 10 September 2000, <http://www.detnews.com>.

¹⁰⁴ Orlander Brand-Williams, "Coalition advocates reforms," *Detroit News*, 13 September 2000, <http://www.detnews.com>.

¹⁰⁵ Jack Lessenberry, "Reckoning with race," *Metro Times*, 8 January 2003, <http://www.metrotimes.com>.

¹⁰⁶ Ronald J. Hansen, "Detroit cop; policies on trial," *Detroit News*, 3 July 2001, <http://www.detnews.com>.

¹⁰⁷ Laura Berman, "How tough it is to look beyond TV trial drama and see the facts," *Detroit News*, 5 August 2001, <http://www.detnews.com>.

impact uncertain as the court acquitted Krupinski in August 2001. The verdict threatened to heighten tensions between police and the black community, as civil liberties groups like the NAACP demanded better treatment from the police: “The Detroit police must engage in a concerted effort to demonstrate to this community that they respect the citizens like they seek to have the citizens of this community respect the department.”¹⁰⁸

The *Michigan Chronicle* would tap into this reservoir of racial tension in discussing police shootings. Its tone, however, was conciliatory, and it urged citizens and police to work together to solve problems rather than remaining stuck in the past. The *Chronicle* sympathized with the many citizens who had expressed anger toward the police at a divisive town hall meeting where people gave mixed reactions to the Errol Shaw and Dwight Turner incidents. The shootings evidently resurrected an old festering fear of the police and opened old wounds created by years of racial oppression.¹⁰⁹ It was important nonetheless to move beyond the past and take positive action to resolve the problem, the *Chronicle* advised. Granted the Errol Shaw shooting was a horrifying and sickening incident that struck at the very heart of the African-American community. Granted Benny Napoleon had not done enough to provide sensitivity training for his officers. Granted, moreover, that many police officers didn’t seem to realize that they were servants of the community, and there was a big difference between a law-abiding citizen showing odd behavior and a brazen brutal criminal. Keeping all this in mind, the *Chronicle* cautioned its readers to avoid letting anger cloud their reactions to recent police shootings and not to confuse current circumstances with the STRESS controversy that divided the city in the early 1970s.

¹⁰⁸ Ronald J. Hansen and David G. Grant, “Krupinski’s future uncertain,” *Detroit News*, 12 August 2001, <http://www.detnews.com>.

¹⁰⁹ “Cop board should study rule breakers, not rules,” *Michigan Chronicle*, 26 September 2000, 6 (A).

According to the *Chronicle*, the issue was not entirely black and white, despite Detroit's long tradition of racial politics, and the police, in fact, deserved some sympathy: "The job of the officer," the *Chronicle* declared, "is made much more difficult by the proliferation of guns in our community and the lack of respect many individuals exhibited for the law even before these and other shootings came to light."¹¹⁰ There were, indeed, two sides in the debate over police shootings, the *Michigan Chronicle* continued in this dispassionate vein. While the police department needed to get a handle on "cowboy cops," citizens needed to come to grips with their own responsibilities as members of a civil society;¹¹¹ and realize that not all officers are quick to shoot. Its shortcomings notwithstanding, the *Michigan Chronicle* sided with the police in the long run. Condemning an entire department, it explained in December 2000, was not a reasonable course of action because most officers were courageous, conscientious public servants who had a difficult job that was made harder by the disproportionate poverty and social problems of the city. "When all is said and done," the *Chronicle* concluded firmly, "Detroit must support the police."¹¹²

Support the police? By no means, the *Michigan Citizen* contended in September 2000. Police shootings were simply evidence of a conspiracy of indifference among those responsible for the safety and welfare of Detroit's citizens. This indifference was evident when Archer and Napoleon held a press conference claiming the Turner shooting was justified, though the department had neither begun an investigation of the murder nor secured the site of Turner's death. It was evident in Benny Napoleon's readiness to defend police procedure and quickly absolve officers who were accused of fatal shootings. It was also evident in the department's

¹¹⁰ "Police shootings are far beyond isolated incidents," *Michigan Chronicle*, 5 September 2000, 6 (A).

¹¹¹ Michael Goodin, "Cops and citizens; trouble always attracts more trouble," *Michigan Chronicle*, 26 September 2000, 6 (A).

¹¹² "When all is said and done, Detroit must support the police," *Michigan Chronicle* 5 December 2000, 4 (A).

failure to pay attention to the murky records of Officers Little, Krupinski, and Brown, who had all fired on civilians before committing their more recent crimes. The sheer fact that these officers still walked free, revealed blatant disregard for life by both police management and city hall, according to the *Citizen*. It was all part of a “police cover up” that discouraged reform in training and mentoring, overlooked the stark inhumanity of many officers, and caused the black community to distrust the police. This collective distrust emerged clearly in the grief of a young black woman who had been blinded in one eye by an officer who shot first and asked questions later. The *Citizen* claimed that Talayna Carpenter spoke for many people when she cried out poignantly that, “I do not trust any police officer now. I will not ever trust them. I do not want to see any police officer, not one day in my life.”¹¹³

Police Brutality

Instances of police brutality have exacerbated this lack of trust in the community, according to media reports. Detroit cops certainly are brutal according to a *Metro Times* reporter who chanced upon a “menacing” officer with “flaming eyes” and “gritted teeth” “who put a clenched fist to his badge” and flung him into a glass wall, after what basically amounted to a misunderstanding¹¹⁴ This type of brutality was expensive for the city, the *Metro Times* observed while discussing the liability suit of a man whose encounter with an officer left him with a head injury, permanent brain damage, and unsettling tremors.¹¹⁵

It also touched on racial tensions in 1992, when white officers Walter Budzyn and Larry Nevers beat black motorist Malice Green to death. The death of an unarmed black man at the

¹¹³ “Time to be alarmed,” *Michigan Citizen*, 23 September 2000, 8 (A). Mark R. Colden, “The flip side: It didn’t happen that way,” *Michigan Citizen*, 23 September 2000, 5 (A). Diane Bukowski, “Woman: why did cop shoot me?,” *Michigan Citizen*, 6 October 2001, 5 (A).

¹¹⁴ Jeremy Voas, “Hard time,” *Metro Times*, 21 August 2002, <http://www.metrotimes.com/>.

¹¹⁵ Lisa M. Collins, “Slipping up” *Metro Times*, 21 August 2002, <http://www.metrotimes.com>.

hands of two white officers reinforced many Detroiters' belief that white officers were an oppressive and potentially deadly force. Community outrage would only be exacerbated by a series of trials and retrials that suggested the underlying racial bias of the justice system itself to many city residents. Officer Walter Budzyn and his partner Larry Nevers were originally convicted of second-degree murder by two all-Detroit juries for repeatedly hammering Green with a heavy police flashlight outside a Warren Avenue crack house. The Michigan Supreme Court overturned Budzyn's conviction in 1997, citing the showing of the movie "Malcolm X" which featured the police beating of Rodney King, as one of the unfair influences on his jury. In a 1998 retrial before a Wayne County jury, Budzyn was convicted of involuntary manslaughter after testifying that he never struck Green during the struggle and that he had been unaware of Green's serious injuries until he received word that he had died en route to the hospital. Nevers' conviction, meanwhile, was overturned by federal court in 1997, and he was let out on appeal until April 2000 when he was retried in Wayne County Court.¹¹⁶ Media coverage of Nevers' retrial would pointedly bring out the racial dimensions of the beating in a city that had long been sensitized by its long history of poor police relations with the minority community.

The objective issue facing the jury was whether Nevers was a cold-blooded killer or an honorable cop, but the hard facts were submerged in what the *Free Press* called "one of the most emotionally and racially charged cases in recent Michigan history."¹¹⁷ Many black Detroiters had been enraged in 1997 when Budzyn and Nevers' original convictions were overturned because their actions fed memories of an earlier era when a white police force brutalized black

¹¹⁶ Cecil Angel, "Budzyn prison sentence restored," *Detroit Free Press*, 12 January 1999, 1 (A).

Detroiters. The community's rage had only intensified by 2000 so that Nevers' trial, like that of Krupinski, risked turning into a ritual pageant that pitted "white officer" against "black victim."¹¹⁸ This made it difficult to discern the objective facts in the emotional debate between those who envisioned the case in racial terms and those who saw it as a law enforcement issue. The arguments of Nevers' supporters who cast the case as one of a hardworking cop being persecuted for doing his job were completely unconvincing to the many black citizens who saw the killing as a reenactment of the past. The burden of history also pressed heavily on the Michigan Supreme Court, the *Press* hypothesized, for it revoked Nevers' bond and ordered him to surrender to authorities. By July 18, 2000, Nevers was on his way back to prison, regardless of whether his conviction in the beating death of Malice Green was eventually overturned.¹¹⁹

The *Detroit News* agreed in its own somewhat more strongly worded discussion of the Nevers case. Unlike the *Free Press*, which simply alluded to the racial overtones of the case, the *Detroit News* came right out and called Nevers an unrepentant racist. Nevers had blamed the city, the police department, and the late Mayor Young for his current legal dilemma, the *News* related, but he had expressed no regrets whatsoever for beating an unarmed black man. In fact, the *Detroit News* compared the Malice Green beating to the Rodney King incident, in which the exoneration of four white LAPD officers for the beating of a black motorist exploded in racially motivated riots that left 54 dead and 2000 injured.¹²⁰ The behavior of officers like Budzyn and Nevers revealed a thuggish contempt for the black community and threatened to undermine the

¹¹⁷ Dawson Bell, David Ashenfelter, Mary Owen, and Hugh McDiarmid, Jr., "Nevers is off to prison—again; State Supreme Court revokes bond for ex-officer," *Detroit Free Press*, 18 July 2000, 1 (B).

¹¹⁸ Suzette Hackney, "Honorable cop or cold-blooded killer? Nevers jury begins deliberating his fate," *Detroit Free Press*, 18 April 2000, 6 (B). Corey Dade and Darci McConnell, "Nevers convicted of lesser charge; former Detroit officer guilty of involuntary manslaughter this time," *Detroit Free Press*, 19 April 2000, 1 (A).

¹¹⁹ Joe Swickard, "Nevers starts serving prison term; Detroit ex-cop could go free in fall 2001," *Detroit Free Press*, 19 July 2000, 2 (B) Zone. Dawson Bell, David Ashenfelter, Mary Owen, and Hugh McDiarmid, Jr., "Nevers is off to prison—again; State Supreme Court revokes bond for ex-officer," *Detroit Free Press*, 18 July 2000, 1 (B).

considerable progress the department had made since the days of STRESS,¹²¹ according to the *Detroit News*.

Even worse, their behavior threatened to undo America's progress as a racial melting pot, the *Michigan Chronicle* warned in 1999 while urging the courts to retry Nevers.¹²² The *Chronicle* cringed at the federal court's decision to overturn Nevers' conviction in 1997, blaming a series of heavy-handed legal maneuverings for the officer's new lease on life. The decision was a blatant denial of justice the *Chronicle* lamented, and showed that the scales had tipped back against people of color receiving justice in a 'perverted' legal system, notwithstanding the ostensible progress made in the black community.¹²³ Evoking a series of historical images familiar to black Detroiters, the *Chronicle* framed the court's decision within America's long history of racism. It was as though the country were in a "time warp" that had "thrown us back to the late sixties and seventies when white police routinely brutalized Black citizens in legal lynchings."¹²⁴ It also recalled "a time when Southern racists were routinely exonerated of obvious murders," particularly when one recalls that Budzyn and Nevers beat Green to death simply because he would not open his hand and show them what they believed to be crack cocaine. They claimed Green was typical of victims of police brutality, since the majority of brutality cases involved white cops and black victims who were usually involved in minor offenses and who received their street punishment because they would not comply with officers. The common denominator in these cases was racism, the *Chronicle* noted, raising "the specter of

¹²⁰ "Rethinking Rodney King," Salon, 13 March 1998, <http://www.salon.com/news/1998/03/13news.html>.

¹²¹ Adolph Mongo, "Nevers trial shows what was wrong with police force that didn't mirror city," 5 April 2000, <http://www.detnews.com>.

¹²² "Back King in efforts to rid America of police brutality," *Michigan Chronicle*, 1 June 1999 6 (A). "Malice Green deserves justice," *Michigan Chronicle*, 29 June 1999, 6 (A).

¹²³ "Roll over Malice Green," *Michigan Chronicle*, 29 March 2000, 6 (A).

¹²⁴ "Malice Green deserves justice," *Michigan Chronicle*, 29 June 1999, 6 (A).

a time when African Americans were expected to comply with white directives no matter how evil.” Those days were of course gone, the *Michigan Chronicle* noted in an optimistic return to the present, but it urged Detroiters to make effective use of liability suits and outright criminal prosecution to prevent rogue officers from resurrecting them.¹²⁵

Accountability and Discipline

The media had suggested that racism, changes in the city’s residency requirement, and attempts to reverse integration all helped to foster police brutality. More important, however, was the department’s failure to discipline its officers in explaining why Detroit police were “completely out of control.”¹²⁶ The department’s lack of accountability, the *Michigan Citizen* asserted in July 2000, accounted for the tendency of so many Detroit officers to routinely harass city residents.¹²⁷ This critique of the department’s accountability would continue in other Detroit papers, revealing that the department conducted shoddy investigations, sat stolidly on an enormous backlog of disciplinary cases, refused to release vital reports on police misconduct to the public, and put roadblocks before the wheels of justice by withholding crucial information from county prosecutors.

The *Detroit News*, like the *Free Press*, found that that the Detroit Police Department lacked accountability because department officials tended to close ranks and shield bad cops. Top police officials either ignored or kept silent in response to claims of brutality and wrongful prosecutions. Their lackluster leadership encouraged Detroit investigators to look for reasons to justify shootings rather than get at the truth, to neglect their duty to interview eyewitnesses, to ignore evidence that contradicted the claims of officers involved in shootings, and to deny basic

¹²⁵ “Don’t forget Malice Green,” *Michigan Chronicle*. 23 July 2002, 6 (A).

¹²⁶ Mark R. Colden, “The Flip side: Benny Napoleon must go,” *Michigan Citizen*, 16 September 2000, 5 (A).

¹²⁷ Glenn Morgan, “Detroit: A world-class city or killing field?,” *Michigan Citizen*, 15 July 2000, A (7).

constitutional protections to Detroiters. The result was growing distrust and lack of confidence in the department, as the *Detroit News* would emphasize in May 2001.¹²⁸

Management's lack of accountability also led to staggering liability suits and even more misconduct, the *Detroit News* would add, as it developed its critique of the department. Substantial payouts in settlements and jury verdicts between 1987 and 2000 raised concerns that the line between aggressive police work and misconduct was being crossed far too often. They also revealed that the department lagged behind other big cities in curbing the action of rogue cops¹²⁹ and failed to rein in "repeater" officers whose multimillion-dollar legal settlements apparently had little effect on whether they kept their jobs. These problem officers, the *News* observed, were only the most nefarious of the 2,800 officers who had cost the public \$124 million in liability costs since 1987. It was disturbing to realize, however, that 78 percent of settlements paid between 1997 and 1999, were for officers involved in more than one case. Even more disconcerting was the department's failure to either discipline or fire most of these repeater cops, sending a message to them and other officers that they could usually get away with misconduct and sometimes even with murder.¹³⁰

It was difficult for community activists or the Wayne County Prosecutor to sweep aside the blue curtain of silence and bring these rogue officers to justice, the *Metro Times*, added, because they had neither support from the mayor nor the statistics to back up their grievances. It was suggested that the Detroit Police Department was not only the kind of department that looked the other way when one of its officers shot an unarmed citizen, it was also the kind of

¹²⁸ David G. Grant, Norman Sinclair, Ronald J. Hansen, and David Shepardson, "Detroit is soft on killer cops," *Detroit News*, 14 May 2000, <http://www.detnews.com>. Reforming the police," *Detroit News*, 31 May 2001, <http://www.detnews.com>. "Hold cops accountable," *Detroit News*, 16 May 2000, <http://www.detnews.com/>.

¹²⁹ "Police: Hold brass accountable," *Detroit News*, 4 April 2001, <http://www.detnews.com>

¹³⁰ ¹³⁰ Ronald J. Hansen and Norman Sinclair, "Problem cops still on street," *Detroit News*, 7 December 2000, <http://www.detnews.com>.

department that fought any subsequent attempts by others to uncover the facts. As of April 2000, the Wayne County Prosecutor's Office had statistics for only 45 out of the 200 police shootings that took place between 1994 and 1999 and was only able to successfully prosecute two of the 45 fatal shootings that transpired in that time. The department had also failed to set up a database to track police shootings, even though the need for such a system was highlighted back in 1997 by City Council members who were frustrated watching the city shell out millions of dollars in police department legal settlements.¹³¹

The *Metro Times* noted that the city and department finally took a few other incipient steps in November 2000 to improve accountability, though it expressed reservations about their potential impact. Intense public scrutiny had inspired Benny Napoleon to appoint a citizens' board to review his officers' use of deadly force, and motivated Mayor Archer to call in the Justice Department to investigate police shootings. Talk of additional reforms also showed the department was moving in a positive direction toward greater accountability, but the impact of these endeavors was far from certain. Echoing community activists, Detroit citizens, and lawyers who had filed suits against the department, the *Metro Times* continued to have doubts about the possibility of ever breaking the blue code of silence.¹³² Nor did the *Michigan Citizen*, because it believed that the lack of accountability in the police department simply reflected the ongoing disregard for the rights of black citizens.

Prisoner Custody

Negligent treatment of prisoners had cost the city millions of dollars in damages, the *Free Press* observed, but the police department's reluctance to provide information made it difficult to

¹³¹ Ann Mullen, "Under the gun," *Metro Times*, 5 April 2000, <http://www.metrotimes.com>.

¹³² Ann Mullen, "Code breaker," *Metro Times*, 7 November 2000, <http://www.metrotimes.com>.

know exactly what happened to those in custody. It was unclear, for example, exactly how many people had died in custody since Detroit police said they didn't track prisoner deaths.¹³³ Lax oversight and secrecy, moreover, left the families of victims frustrated; and the police didn't want to talk, as the *Free Press* observed in August 2001 after filing a Freedom of Information Act (FOIA) request to identify those who had died. The Detroit Police, to the paper's dismay, refused to provide any reports and supplied only an incomplete list of the names of prisoners who had died in some of its fourteen precinct lockups.¹³⁴ An additional unknown was the cause of individual deaths, though the available information showed that prisoners had died from medical neglect, various physical ailments, foreseeable suicides, and other suspicious circumstances.¹³⁵

Police neglected their responsibilities to prisoners, because the department let them do so, the *Metro Times* argued, even though officers' failure to follow the rules had become expensive for the city. Between 1992 and 1999, at least 17 people had died in police custody, resulting in three lawsuits and payouts of \$500,000. These deaths occurred, the *Metro Times* suggested, because police only paid "lip service" to the human dignity and fundamental rights of their prisoners. Though department policy required officers to send sick prisoners to the hospital, sworn statements and other evidence generated by the lawsuits that followed prisoner deaths indicated that those procedures weren't always followed and that jailers who ignored the rules were seldom—if ever—disciplined.¹³⁶

¹³³ David Zeman, Jim Schaefer, and Patricia Montemurri, "Suspects dead by neglect," *Detroit Free Press*, 31 March 2001, 10 (A).

¹³⁴ David Ashenfelter, Amy Klein, and Ben Schmitt, "Deadly custody," *Detroit Free Press*, 24 August 2001, 1 (A)

¹³⁵ David Ashenfelter, Amy Klein, Ben Schmitt, Niraj Warikoo, and David Zeman, "How they died; interviews, autopsy reports, court files reveal the stories," *Detroit Free Press*, 24 August 2001, 8 (A). Ben Schmitt and Suzette Hackney, "5 cops fired in death of diabetic," *Detroit Free Press*, 19 August 2002, 1 (A).

¹³⁶ *Ibid.*

The *Metro Times* denounced the blatant lack of humanity that the department showed to those it held in custody, as did other members of the Detroit media. The *Detroit News*, while it did not join the bandwagon in condemning the department, gave a full report on the problems that Justice uncovered after an investigation of police lockups in the first part of 2001. Federal investigators, the *News* related, uncovered significant evidence of improper treatment of prisoners following interviews with more than 100 officers, prisoners, and city officials. There were not only wholesale problems with how Detroit police handled prisoners who had medical illnesses, drug addictions, or injuries; there were also lapses in training, staffing levels, and facilities which investigators said could lead the government to order changes in department policy. The goal of these potential reforms, as of the entire federal probe, was to stop Detroit police from trampling on the civil rights of those they were sworn to protect. The probe that had begun in response to Archer's request for an investigation of police shootings had subsequently mushroomed, as we have seen, to other areas of police practice that affected civil rights, including prisoner custody, police brutality, and dragnet arrests that violated Fourth Amendment protection against illegal search and seizure.¹³⁷

Dragnet Arrests

The *Free Press* wholeheartedly condemned the department's use of dragnet tactics as the worst kind of police work, driving a wedge of distrust between police and community; and it admonished Napoleon for allowing them to continue.¹³⁸ There was ample indication that dragnet tactics were customary under Napoleon, the *Press* would show as it presented its case against the chief. It cited former Detroit law enforcement officials who said that police were not

¹³⁷ David Shepardson, Norman Sinclair and Ronald J. Hansen, "Feds: Detroit police mishandled prisoners," *Detroit News*, 28 March 2001, <http://www.detnews.com>.

¹³⁸ Ibid.

just arresting actual murder suspects, but also their spouses, siblings, and other potential witnesses.¹³⁹ It quoted longtime Detroit homicide investigators who had testified under oath that they arrested reluctant witnesses and locked them up until they talked.¹⁴⁰ Added to this was Napoleon's own admission, in an unguarded moment of unusual candor, that witnesses to murders were routinely arrested just like suspects and dragged to headquarters against their will for questioning. It was, in fact, the department's long-standing written policy, Napoleon ventured to say, even though civil liberty experts reviled the practice as unconstitutional and suspected it had robbed many Detroiters of their rights.¹⁴¹ Napoleon's use of dragnet tactics was particularly reprehensible, the *Free Press* opined, considering that Napoleon was a lawyer and former chairman of the State Civil Rights Commission who should have known better. Napoleon, moreover, couldn't even try pleading ignorance of the law by early 2001, since the U.S. Attorney's Office had taken him to the woodshed during the previous year and threatened to charge the department with civil rights violations if it continued to make dragnet arrests.¹⁴²

To add fuel to the fire of the department's critics, the dragnet arrests were both expensive and ineffectual, as the *Free Press* would show. While the bad arrests cost city taxpayers hundreds of thousands of dollars in potential lawsuits, they yielded very little in the way of results. Aside from constitutional issues, the dragnet arrests didn't work from a tactical viewpoint. While Detroit police were arresting people for murder at an extraordinary rate, locking up roughly three people for every murder case in the city, the department had the second worst rate of clearing cases among the nation's largest cities. The only tangible impact of

¹³⁹ Joe Swickard, "Detroit cops accused of wholesale arrests; for every homicide investigated, 3 people are tossed into lockup," *Detroit Free Press*, 9 March 2001, 1 (A).

¹⁴⁰ David Ashenfelter and David Zeman, "Cops confirm they jailed witnesses; sworn testimony counters chief's latest statement," *Detroit Free Press*, 29 March 2001, 1 (A).

¹⁴¹ Jim Schaefer, "Cops admit to dragnet arrests," *Detroit Free Press*, 21 March 2001, 1 (A).

dragnet tactics in Detroit, the *Free Press* jeered, was to generate arrest numbers so high that they skewed statistics for the entire country.¹⁴³

Dragnet arrests also succeeded in making the department look increasingly disreputable, the *Detroit News* observed, after Justice began to examine charges that Detroit police coerced false confessions or statements from people after locking them up for days at a time. As the federal probe proceeded, it uncovered a number of startling cases that raised unsettling questions about police practices involving the detention of suspects.

The Department of Justice Investigation

In December 2000, the U.S. Department of Justice announced that it was launching a pattern-and-practice investigation of the Detroit Police Department, the same kind of probe that had forced sweeping reforms in police departments nationwide. We have already discussed some of the issues that would trouble Justice. Excessive use of lethal force was a problem; lockup conditions were a problem; training was a problem; dragnets were a problem; and for many years, the *Free Press* underlined, denial had also been a serious problem.¹⁴⁴ The department's reluctance to admit the depth of its problems under Napoleon's leadership and the evident need for outside intervention would be emphasized in media coverage of the federal probe.

Indeed, the *Free Press* interpreted the city's decision to bring in Justice as an admission that Benny Napoleon was incapable of reforming the Detroit Police Department. The ostensible reason for the probe, the *Free Press* explained, was to strengthen public confidence in the Motor City's finest, but the implication was that Napoleon wasn't up to the job or at least Detroiters didn't think so. Not only had Napoleon failed to discipline his officers in the past, the Press

¹⁴² David Ashenfelter and David Zeman, "Police had been warned," *Detroit Free Press*, 22 March 2001, 1 (A).

¹⁴³ Joe Swickard, "Detroit cops accused of wholesale arrests; for every homicide investigated, 3 people are tossed into lockup," *Detroit Free Press*, 9 March 2001, 1(A). Jim Schaefer, "Cops admit to dragnet arrests," *Detroit Free Press*, 21 March 2001, 1A

argued, he also intended to do nothing about his department's problems until the feds filed a report,¹⁴⁵ accusations that would inspire Archer to write a letter to the *Press* expressing the utmost confidence in his police chief.¹⁴⁶ Archer also suggested that the department might only need technical assistance and recommendations rather than the type of fully blown pattern-and-practice investigation that had resulted in major court backed reforms of police departments around the country. This was, however, a suggestion that the *Free Press* would counter by quoting extensively from a number of prominent Detroit citizens who emphasized the dire necessity of federal intervention. They included Juan Mateo, attorney for one of Eugene Brown's victims, who said the past three decades had underlined the department's reluctance to do anything about its shooting problem, and City Councilwoman Sheila Cockrel, who said that it was unrealistic to expect the police department to correct its problems on its own.¹⁴⁷ The *Free Press* concurred with their opinion in a December 2000 editorial supporting a full federal probe on the grounds that police management was either unable or unwilling to figure out why Detroit led the nation in fatal shootings by police.

When Justice has investigated other departments, huge changes have followed. Departments have been forced to sign consent decrees, legally binding them to revamp their practices. Sometimes that's turned police practices upside down. If that's what happens here, so be it. When the way you do things leaves too many people dead, a change has got to come.¹⁴⁸

One of the elements that would help stir this wind of change, as the *Detroit News* noted, would appear on the scene when Jerry Oliver became Detroit's new police chief in January 2002.

¹⁴⁴ "In our opinion: Polishing badges," *Detroit Free Press*, 2 April 2002, 6 (A).

¹⁴⁵ "In our opinion: Deadly force," *Detroit Free Press*, 23 September 2000, 8 (A).

¹⁴⁶ Dennis W. Archer, "Archer: Federal investigation is just part of an aggressive city effort," *Detroit Free Press*, 26 September 2000, 6 (A).

¹⁴⁷ Joe Swickard and David Ashenfelter, "Archer tempers shootings request," *Detroit Free Press*, 30 November 2000, 1 (A).

¹⁴⁸ "In our opinion: Full bore federal probe portends change for Detroit police," *Detroit Free Press*, 15 December 2000, 12 (A).

The *News* agreed with the Press that Napoleon lacked both the skills and resolve to clean up his troops, and it commended Oliver for his leadership qualities and willingness to acknowledge the department's entrenched problems.¹⁴⁹ Once in office, the *News* nodded approvingly, Oliver took energetic steps to head off a consent decree by meeting the demands of federal investigators. He not only hired a former prosecutor to help shore up accountability, he also made an arrangement whereby the city would agree with federal findings and no charges would be filed. In March 2002, Oliver declared his intention of vigorously addressing Justice's more serious criticisms regarding use of force, training, discipline, and handling of witnesses; and he lived up to his word.¹⁵⁰ By October 2002, Oliver had made a lot of progress in applying federal directives, though he had not yet succeeded, by his own self-admission, in completely reforming the department.¹⁵¹

Chief Jerry Oliver

The likelihood of averting a consent decree by implementing Justice's recommendations largely depended on the managerial skills of Jerry Oliver, who came to Detroit after a successful tenure as Richmond's top cop. Oliver was a reformer who inspired trust in the community and animosity within Detroit unions. He pledged to bring "honor, integrity, and honesty" back to the Detroit Police Department but had a personal history tainted by multiple marriages and allegations of domestic abuse.¹⁵² He professed that, "sunshine is the best disinfectant," and he promised to open the flow of public information from the department to allow citizens and media

¹⁴⁹ Ronald J. Hansen and Norman Sinclair, "Next mayor to inherit troubled police force," *Detroit News*, 18 April 2001, <http://www.detnews.com>.

¹⁵⁰ Darci McConnell, "Police hire deputy chief to oversee accountability," *Detroit News*, 29 March 2002, <http://www.detnews.com>

¹⁵¹ David Shepardson, "Feds outline police department fixes," *Detroit News*, 25 October 2002, <http://www.detnews.com>

¹⁵² Ben Schmitt and James G. Hill, "Inquiry on police may end this year," *Detroit Free Press*, 2 April 2002, 6 (A). David Zeman, "Abuse allegations detailed; Oliver calls them all lies," *Detroit Free Press*, 25 January 2002, 6 (A). David Zeman, David Ashenfelter, and Suzette Hackney, "Abuse charges dog likely police chief," *Detroit Free Press*, 4 January 2002, 1 (A). David

to scrutinize police actions.¹⁵³ This, however, did not prevent him from becoming confrontational when the civilian Board of Police Commissioners challenged his authority by demanding a copy of the department's investigation on Eugene Brown.¹⁵⁴ Pious reformer and alleged wife beater, friend of the community and nemesis of the unions, proponent of accountability and challenge to civilian oversight, these intriguing contradictions made Oliver a controversial figure who inspired both admiring accolades and vitriolic criticism as he took up the reins of Detroit's troubled police department.

Oliver demonstrated his commitment to reform, the *Detroit News* observed, soon after being sworn in as police chief. He vowed to put more officers on the street, stamp out corruption, get his officers better equipment and training, and provide citizens and press with more information about the department. He articulated a vision of law enforcement based on problem solving, citizen involvement, and community policing, and he portrayed his style as partnering with the community to address crime issues.¹⁵⁵ He began an overhaul of the department by making all police department bosses reapply for their jobs and dismissing those who couldn't prove they were the best candidates, a move intended to reinvigorate the department with high achievers who might not otherwise have had the opportunity to serve.¹⁵⁶ He pledged his commitment to the department's code of ethics and said he would use it to fire officers who committed misdemeanor or felony crimes on the grounds that they violated the oath

Zeman, David Ashenfelter, and Suzette Hackney, "More questions surround chief; Oliver is introduced to Detroit amid money, abuse allegations," *Detroit Free Press*, 5 January 2002, 3 (A).

¹⁵³ Norman Sinclair and Cameron McWhirter, "New chief promises change," *Detroit News*, 9 January 2002, <http://www.detnews.com>

¹⁵⁴ "Oliver: Take status out of Detroit police's status quo," *Detroit News*, 9 January 2002, <http://www.detnews.com>. Hawke Fracassa and David G. Grant, "Detroit police board chairman quits," *Detroit News*, 12 March 2002, <http://www.detnews.com>.

¹⁵⁵ Norman Sinclair, Jodi S. Cohen, and Mike Martindale, "New Detroit chief brings mixed reviews," *Detroit News*, 7 January 2002, <http://www.detnews.com>. "Oliver: Take status out of Detroit's status quo," *Detroit News*, 9 January 2002, <http://www.detnews.com>.

¹⁵⁶ Hawke Fracassa and David G. Grant, "Police chief starts department overhaul," *Detroit News*, 19 April 2002, <http://www.detnews.com>.

they took upon joining the force. He also expressed plans to speed up the department's disciplinary process and ease the backlog of two to three hundred pending cases, many of them thought to be criminal offenses.¹⁵⁷ By June, 2002, Oliver had brought new styles, new rules, and a tough, zero-tolerance attitude toward corruption to the department, was working hard to upgrade police facilities and equipment, and appeared to be making headway in resolving the Justice Department investigation.¹⁵⁸ There was no doubt that Oliver's first six months in office had shown him to be a forceful personality and thick-skinned taskmaster, who was accomplished in law enforcement. His bold leadership style and efforts to shake up the department threatened, however, to earn him as many enemies as friends.¹⁵⁹

Oliver's war cry was "I'm here for the fight," as stated in the *Free Press*, and that's exactly what he got as his heavy-handed approach offended union members, some cops, and police commissioners.¹⁶⁰ Oliver's indignant refusal to give the police commission the department's records on Eugene Brown antagonized commissioners and raised some concerns about the city's commitment to civilian oversight, particularly after Mayor Kilpatrick backed up his new chief by asking for the resignation of three police commissioners.¹⁶¹ Oliver's decision to use a 100-question multiple-choice test to help determine which command officers should keep their jobs had officers concerned that Oliver would use the results to fire them, even though they felt the test couldn't measure leadership ability.¹⁶² Oliver's resolution to

¹⁵⁷ Norman Sinclair, "Detroit's top cop: Criminals on the force," *Detroit News*, 28 May 2002, <http://www.detnews.com>. "Time to clean house in Detroit Police Force," *Detroit News*, 2 June 2002, <http://www.detnews.com>.

¹⁵⁸ Norman Sinclair and Cameron McWhirter, "Get tough policy defines Detroit top cop's agenda," *Detroit News*, 19 June 2002, <http://www.detnews.com>. "Kwame Kilpatrick: The Detroit mayor's first six months; issues at a glance," *Detroit News*, 23 June 2002, <http://www.detnews.com>.

¹⁵⁹ "In our opinion: Chief shake-up," *Detroit Free Press*, 3 February 2002, 2 (K).

¹⁶⁰ Ben Schmitt, "Chief of police: I'm here for the fight," *Detroit Free Press*, 3 May 2002, 1 (A).

¹⁶¹ "In our opinion: Police oversight," *Detroit Free Press*, 15 March 2002, 6 (A).

¹⁶² Cecil Angel, "Detroit cops nervous about taking test," *Detroit Free Press*, 6 June 2002, 5 (B).

enforce parking restrictions for police cars around headquarters may have made the department more accessible to citizens, but it resulted in grumbling among rank-and-file officers.¹⁶³

Oliver's decision to deny promotions to officers with recent disciplinary records angered the union, particularly in light of Oliver's failure to even talk to union members before making what was a contract related change, and it brought out some of the disadvantages of Oliver's management style. As the *Free Press* would sum up, Oliver was indeed making good on his promise to shake up the police department, and his determination to make the department more responsive to criticism was certainly a welcome change from its history of stonewalling. At the same time, Oliver's take-it or-leave-it management style was needlessly antagonizing his officers and making the much needed reforms he sought more difficult.¹⁶⁴

Oliver has a tough job. But he's making his job even tougher by appearing to go out of his way to ruffle feathers up and down the ranks. It's not about being nice; it's about the results. In the end, Oliver can't reform the department without a decent working relationship with its officers.¹⁶⁵

Indeed, Oliver needed to pick the right battles, the *Michigan Chronicle* would advise in November 2002, even though it endorsed his general approach to law enforcement.¹⁶⁶ Oliver's commitment to community policing, the *Chronicle* enthused, was good news for Detroit because it promised to create neighborhood partnerships and identify local strategies in fighting crime.¹⁶⁷ So was his decision to stop officers from double parking around City Hall as a demonstration that police cannot take for granted the responsibility and power the city has given them.¹⁶⁸

¹⁶³ "In our opinion: Holding cops to parking rules sends right message," *Detroit Free Press*, 25 March 2002, 6 (A).

¹⁶⁴ "In our opinion: Police reform," *Detroit Free Press*, 16 November 2002, 12 (A).

¹⁶⁵ Ibid.

¹⁶⁶ "Detroit Police Chief Oliver must pick the right battles," *Michigan Chronicle*, 19 November 2002, 6 (A).

¹⁶⁷ Jennifer Granholm, "Community policing crucial to building safe neighborhoods," *Michigan Chronicle*, 9 April 2002 7 (A).

¹⁶⁸ "Small changes symbolic of new attitude," *Michigan Chronicle*, 2 April 2002 6 (A).

Oliver was to be applauded for taking initiatives that promised to nurture greater mutual respect between police and community, but he still needed to adapt his aggressive management style to the strong union presence in Detroit, according to the reports. Particularly heavy handed was Oliver's decision to tear up an entire promotion list of 91 officers when the Detroit Police Lieutenants and Sergeants Association obtained a court order requiring him to promote two officers on restricted duty and eight with bad disciplinary records. Oliver, as we have seen, had previously made a policy decision that barred promotion of suspect officers as a way to restore public confidence in the department and to reassure Detroiters that, men and women of sound mind, body, and integrity were being moved into positions of authority. The citizens of Detroit certainly had a right to know that the department frowned on wrongdoing in its ranks, the *Chronicle* explained in partial support for Oliver's response to the union. At the same time, it cautioned the chief against alienating the union and trampling on union contracts. His admirable commitment to Detroit's citizens notwithstanding, Oliver needed to do a better job in recognizing that Detroit, unlike Richmond, was a union town and dictatorial managers didn't earn a lot of goodwill.¹⁶⁹

The Police Union

The Detroit Police Officers Association was perceived by some to be a major impediment to reform in the police department and an irritating thorn in the side of municipal managers who were trying to balance Detroit's budget. Both sides had valid arguments in the ongoing debates over discipline and pay that divided them. The department blamed the union contract for its inability to discipline or punish bad officers, the *Metro Times* observed in August 2002.¹⁷⁰ The

¹⁶⁹ "Detroit Police Chief Oliver must pick right battles," *Michigan Chronicle*, 19 November 2002, 6 (A).

¹⁷⁰ Lisa M. Collins, "Slipping up," *Metro Times*, 21 August 2002, <http://www.metrotimes.com>.

union countered that the city's attempt to change policies relating to promotion and discipline constituted a violation of contract provisions that it had willingly negotiated with the union.¹⁷¹ The union would also differ with the city over policies relating to moonlighting, domestic abuse, and cooperation with federal investigators. The specific issue notwithstanding, a broader agenda lay behind the union's actions as it sought to defend the status quo against increasing pressures for reform. Granted, the union had the law on its side in many instances since it could whip out its contract to justify its resistance to change. As the Detroit media would note, however, the union's actions only further eroded the public trust that had already been damaged by years of abuse and that was essential for officers to do their jobs effectively.¹⁷²

It was clear, the *Free Press* maintained, that Detroiters wanted their police force to be more accountable, but the union considered the city's loss of trust in the police to be strictly the problem of management. When union lawyers were asked how they could justify their actions in the current climate of public distrust, they responded with "We've got a contract, and for us to sit around and do nothing while the city violates it would be remiss."¹⁷³ Acting on that principle, the union did its best to put up roadblocks after December 2000, when the Justice Department began investigating the high incidence of fatal shootings and prisoner deaths in Detroit. Realizing the department was in the midst of a crisis, Archer and Napoleon very sensibly promised their full cooperation with federal investigators. Determined however, to stymie a fishing expedition with no limits, the union obtained a temporary restraining order that prevented

¹⁷¹ Brian Dickerson, "Police union's tactic sends wrong message," *Detroit Free Press*, 31 August 2001, 1 (B)

¹⁷² "In our opinion: Police Probe," *Detroit Free Press*, 31 August 2001, 12 (A)

¹⁷³ Brian Dickerson, "Police union's tactic sends wrong message," *Detroit Free Press*, 31 August 2001, 1 (B).

police executives from turning over internal affairs files, disciplinary records, and other documents sought by federal investigators.¹⁷⁴

The union also made it difficult, the *Free Press* related, for the department and police commission to stop the promotion of officers with problem backgrounds because an arbitration ruling forced them to approve promotions for people who qualified based on tests, even if they had disciplinary problems. As a result of this ruling, Eugene Brown came up for promotion to sergeant in April 2001, despite the vehement objections of police commissioners and public; the existence of an ongoing investigation into his activities; and a murky record that included nine shootings, three of them fatal. The fact that Brown was still up for promotion, given the extraordinary circumstances, evidently sent the wrong message to both rank-and file officers and the public.¹⁷⁵

So did a provision in the union's contract that allowed Detroit police officers to remain on the job for one year after misdemeanor domestic violence convictions, a bad public policy, the *Free Press* insisted. Not only did it make it seem as though the department condoned domestic violence, it also put guns in the hands of potentially violent individuals and made enforcement of the law depend on people who broke it in their own homes. These irrefutable arguments, notwithstanding, union officials were unresponsive in July 2002 to demands from the city council to remove the offending provision without handing the union its pound of flesh in return.¹⁷⁶

¹⁷⁴ Ibid.

¹⁷⁵ Mary Owen and Cecil Angel, "No new rank for cop probed in shootings; civilian panel wants facts on investigations into Brown's shootings," *Detroit Free Press*, 13 April 2001, 1 (A).

¹⁷⁶ Ben Schmitt, "Contract becomes shield for police," *Detroit Free Press*, 6 July 2002, 1 (A). Ben Schmitt, "Cop abuse clause dangerous," *Detroit Free Press*, 11 July 2002, 1 (A). Ben Schmitt, "Council takes aim at police contract," *Detroit Free Press*, 12 July 2002, 6 (B).

Chief Jerry Oliver ultimately circumvented the provision, the *Free Press* related, by making a policy decision to suspend all cops charged with any kind of domestic violence, though the department previously suspended only those accused of felonies. In doing so, he further alienated the union, which thoroughly resented his ongoing efforts to disrupt the status quo.¹⁷⁷ Union members, as we have seen, resented Oliver's efforts to stop the promotion of problem officers and disliked taking moral instruction from a man who had been subject to multiple allegations of domestic abuse. They also expressed reservations about his inexperience in dealing with a large unionized police department and questioned his ability to get more money for Detroit police, whose starting annual wages of \$28,000 were among the lowest in the U.S.¹⁷⁸

There were further sources of conflict between Oliver and the union, as the *Detroit News* would indicate in the first half of 2002. A battle ensued between Oliver and the union when Detroit police officers threatened to stage a dramatic protest against their new chief: mass absences on the night of Detroit's 44th annual Freedom Festival fireworks display. Though the union opposed the suggested "blue flu," members were angered over a departmental memo issued by the chief listing requirements for anyone calling in sick. According to the union, Oliver's requirement that supervisors send officers who called in sick to a clinic was both a clear violation of the union contract and a graphic demonstration of why morale in the police force had reached "an all time low" under Oliver.¹⁷⁹ Similarly objectionable, according to the union, was Oliver's insistence on setting the terms for off-duty work after giving officers the right to moonlight at security jobs. The fight evolved around Oliver's refusal to amend contract language that prohibited officers from providing off-duty security in bars, adult movie theaters,

¹⁷⁷ Ben Schmitt, "Abuse arrests of cops fall," *Detroit Free Press*, 4 February 2002, 1 (B).

¹⁷⁸ Suzette Hackney, "Detroit police pay big issue," *Detroit Free Press*, 4 February 2002, 1 (B).

and bookstores, a position the *News* supported. Oliver was right, the *News* argued, because these businesses have special regulations that must be enforced by the police department and having off-duty officers on the payroll could easily create a conflict of interest. In this instance, the union's effort to revise its contract would only eliminate a reasonable rule and violate principles of good management that Oliver was trying to apply.¹⁸⁰

The *Michigan Citizen* would voice even stronger reservations about the union's position on moonlighting. The *Citizen* had built up a considerable reserve of animosity toward the union for supporting the promotion of Eugene Brown despite his abysmal shooting record, and it took revenge by trying to sabotage the whole idea of moonlighting for Detroit officers.¹⁸¹

Moonlighting, the *Citizen* warned grimly, might simply legalize the murder of shoplifters in a city where too many security guards were already getting away with shooting innocent people. It might also increase brutality lawsuit settlements, given the proclivity of Detroit police for brutality and misconduct, they suggested. There was no guarantee, moreover, that police management would check the behavior of moonlighting officers in litigated cases.

Moonlighting, as the *Citizen* summed up, was a bad idea all around because, "The culture in the department doesn't stigmatize behavior that costs money, let alone hurting or killing residents of this city."¹⁸² In this wholesale condemnation of departmental culture, the *Citizen* articulated the deep wellspring of fear and distrust that had soured relations between Detroit citizens and police.

Community Relations

¹⁷⁹ Darci McConnell, "Detroit cops feel blue flu," *Detroit News*, 6 June 2002, <http://www.detnews.com>. Ronald J. Hansen and David G. Grant, "Detroit fears fireworks sick out," *Detroit News*, 25 June 2002, <http://www.detnews.com>.

¹⁸⁰ "Let Detroit regulate off-duty policing jobs," *Detroit News*, 30 December 2002, <http://www.detnews.com>.

¹⁸¹ Diane Bulkowski, "Killer cop promotion pending," *Michigan Citizen*, 2 February 2002, 3 (A).

¹⁸² Diane Bulkowski, "Council considers rent-a-cop," *Michigan Citizen*, 9 March 2002, 5 (A).

Race remains a great stumbling block despite ongoing efforts by the police to improve their relations with the community. In the course of the past few years, Detroit police have tried to establish a better relationship with the black community by participating in mentoring programs, collaborating with citizens in crime-fighting programs, and participating in public meetings that allowed them to exchange viewpoints and knowledge with Detroit's residents. Jerry Oliver, as we have seen, has continued to strive for closer relationships with the community by chatting with people in their homes, promoting community policing, and establishing a public liaison unit to make the department more accessible to Detroiters. These conciliatory efforts notwithstanding, African-American attitudes toward Detroit police have continued to be shaped by a long historical legacy of distrust dating back to the sixties, police practices that have stirred collective memories of America's racist traditions, and a suspicion that integration has not wiped out racism in the department

The *Free Press* asserted that now the black officers also seem to be discriminating against Detroit residents, which has only exacerbated tensions. Misconduct by a police department that is more than half black and headed by a black police chief has struck a sensitive chord in a predominantly black community that still mourns the victims of STRESS. Initially reluctant to criticize a department that symbolized black political power, black citizens overcame their reticence upon learning that black cops were hurting black citizens, reinforcing the belief that it was not 'white versus black,' but rather 'blue versus black.' A string of shootings of black citizens by black officers inspired many black residents to publicly and skeptically analyze the department's conduct, as the *Press* noted in November 2000. Community leaders began to hold town hall meetings, and black people began voicing their grievances toward the police in workplaces, shops, and beauty salons. A black city councilman even went to the extent of

calling for the resignation of Benny Napoleon though the chief was a symbol of homegrown black success.¹⁸³ Given Detroit's history of racial politics, it was hard for a lot of people to stomach the spectacle of black officers turning on African-American Detroiters. By April 2001, it had become all too clear to many black citizens that, "The Detroit Police Department appears to be doing things pretty much the same way they were done in the 1950s and 1960s when a mostly white police force was viewed as an army of occupation in an increasingly Black city."¹⁸⁴

Racial Profiling

The issue of racial profiling is just one in a growing national concern over police abuse of authority. During the 1990s, many agencies were accused of the practice of pulling motorists over for nothing more than "driving while black," DWB as it became known. Racial profiling was less common in Detroit than in its suburbs, the *Free Press* noted in the first half of 2000.¹⁸⁵ ACLU and NAACP records showed, however, that a significant number of complaints were still coming from the city, particularly from young black men who said black officers in Detroit primarily pulled them over because of their age and the make of their cars. The volume of complaints was evidently enough to remind people of law enforcement's historical role in maintaining white dominance and to drive an additional wedge between police and community.¹⁸⁶ The practice of racial profiling, as the media would reveal, showed that Detroit police, even black officers, were prone to the assumption that race was associated with criminality.

¹⁸³ Amber Arellano, "Police charges baffle blacks; black community is vocal in criticizing chief," *Detroit Free Press*, 21 November 2000 1 (B).

¹⁸⁴ "In our opinion: Detroit police," *Detroit Free Press*, 15 April 2001 2 (F).

¹⁸⁵ Amber Arellano, "When race adds up in traffic, blacks are cited more in Detroit suburb," *Detroit Free Press*, 1 June 2000, 1 (A).

¹⁸⁶ Mark R. Colden, "Racial profiling," *Michigan Citizen*, 8 January 2000, 4 (A). Omowale Diop Ankobia, "Calling it like it is: Kops will be kops," *Michigan Citizen*, 31 July 1999, 7 (A).

The ongoing progress of the black community notwithstanding, racial profiling only threatened to become more widespread as a result of a change in driving laws. The move to start ticketing Michigan drivers for not wearing seat belts had some Detroiters worried that more black motorists would become the target of racial profiling, as the *Michigan Chronicle* noted in February 2000. While the *Chronicle* endorsed the law as a safety measure, it also feared that it was open to abuse by Detroit police, who were already pulling over too many black motorists without adequate cause. A law that allowed police to have even more discretion, the *Chronicle* warned, only threatened to exacerbate the tensions that had historically divided police and the black community in Detroit.¹⁸⁷

Underlying the practice of racial profiling, the *Michigan Citizen* explained is a white supremacist agenda in which law enforcement is responsible for protecting the interests of property owners, not those of the community. It all grew out of policing systems that white men set up in the antebellum period to control their African slaves. Racial profiling simply perpetuated the slave codes that forbade slaves to leave the plantation without a pass and required all whites to capture any blacks who looked suspicious. The existence of racial profiling showed that police were still stopping blacks who appeared to be “out of place” and nothing had changed except the complexion of the officers enforcing the system. “European domination” of the “New Afrikan community” remained the purpose of law enforcement, the *Citizen* declared in July 1999, even though Detroit by then had a police department that was 60 percent black.”¹⁸⁸

The *Citizen* contended that the reality beneath this facade of integration was a department that

¹⁸⁷ Marcus Amick, “Think racial profiling is bad? Just wait: Laws meant to save lives, raises fears,” *Michigan Chronicle*, 28 February 2002, 2.

¹⁸⁸ Omawale Diop Ankobia, “Calling it like it is: Kops will be kops,” *Michigan Citizen*, 31 July 1999, 7 (A). Mark R. Colden, “Racial profiling,” *Michigan Citizen*, 8 January 2000, 4 (A). Homer Hawkins and Richard Thomas, “White policing of black populations. A history of race and social control in America,” in *Out of Order? Policing Black People*, ed. Ellis Cashmore and Eugene McLaughlin (New York: Routledge, 1991).

routinely targeted young black men driving expensive cars and sometimes even apprehended young black pedestrians for the crime of “walking while black.”¹⁸⁹ These practices revealed that Detroiters still lived under an oppressive white supremacy, the *Citizen* raged in February 2002, that used “kolonial occupation personnel” no matter their color, to violate, dehumanize, and control black citizens.¹⁹⁰

When the kops stop a Brotha or Sista, it ain't never a routine traffic stop, though some traffic violation may have occurred. It's a routine political stop. And the anger between the two is the result of the politically charged atmosphere. Police brutality is political oppression. And don't trip cause the kop is African-amerikan. A neo-kolonial situation exists when agents of repression are recruited from among the oppressed. She's still a front line soldier in the army of white supremacy. She and the amerikan cop obey orders from the same commander-in chief, the oppresident. Kops therefore are not our friends. Kops in the hood represent alien power, not community authority. They are agents of our enemy.¹⁹¹

Community Outreach

Many Detroit officers have tried to combat the perception that the police are against the community by engaging in proactive community outreach. Jerry Oliver is not the first to talk about community policing and to strive for a closer relationship with Detroit's residents. There have been ongoing efforts by Detroit officers, and indeed the department itself, to engage in collaborative crime prevention with city residents, mentor young people, and mingle with the community to learn about people's problems and concerns. Their efforts have led to some positive changes, as the media will reflect, and the realization that police-community relations are better than expected in some parts of the city.¹⁹² Some Detroit police have worked with the

¹⁸⁹ E. Barrett, “Are blacks stopped more since new ball park opened?,” *Michigan Citizen*, 8 July 2000, 6 (A).

¹⁹⁰ Omawale Diop Ankobia, “Calling it like it is: Knowing the routine,” *Michigan Citizen*, 9 March 2002, 6 (A).

¹⁹¹ Ibid

¹⁹² Christopher M. Singer, “The people and the police: can they get along?,” *Detroit News*, 4 October 2000, <http://www.detnews.com/>

public to try to make positive changes in the city, as the *Detroit News* relates. In one instance, an officer established a program for male African–American youth to shelter them from the maelstrom of violence that engulfs too many young people in “Murder Capitol USA.” Referring to the program as his ministry, the officer arranged to bring in speakers to talk to the youngsters and their parents about resisting peer pressure, benefiting from discipline, resolving conflicts without guns, and other skills necessary for acquiring “true manhood.”¹⁹³ Working on a more general level, DPD’s Eighth Precinct established a police-community relations organization that met monthly with neighborhood residents; set up an environmental task force to handle “quality of life complaints;” and launched a “Lunch with Cops” program for school children. The precinct also tried to foster communication with city residents by having its officers make the rounds of neighborhoods and attend a lot of block parties, church services, and picnics.¹⁹⁴ This was also the intention of police officials following the Errol Shaw shooting, when they held a public meeting to learn about the needs of the hearing disabled and teach them strategies for personal safety. By coming together to trade this kind of insight and information, officers and citizens have taken significant steps toward building cohesion, the *News* would comment.¹⁹⁵

The best examples of partnership between police and community have been in the area of community policing, according to the *Michigan Chronicle*. In one instance, DPD’s Seventh Precinct gave neighborhood residents an overview of the police function, provided them with patrol training, and then organized a citizens’ radio patrol to inform police about suspicious activities on the street. The advantages that come from having additional “eyes on the street” were apparent by January 1999 when crime decreased significantly within the area surveyed by

¹⁹³ Betty Deramus, “Detroit cop’s new mission: saving boys from bullets,” *Detroit News*, 3 August 2000, <http://www.detnews.com>.

¹⁹⁴ Christopher M. Singer, “The people and the police: can they get along?,” *Detroit News*, 4 October 2000, <http://www.detnews.com>.

the radio patrol.¹⁹⁶ In hopes of achieving similar results, the federally funded Southwest Sub Zone Community Policing Board of Directors was developed as a cooperative community policing effort between the third and fourth precincts. The board offered extensive education for residents on crime prevention and fostered interaction between the community and law enforcement officers, leading to good will on both sides. The local community responded enthusiastically to the overtures of officers engaged in the initiative to forge positive relationships with residents and improve life in Southwest Detroit. By October 1999, the *Chronicle* reported, the board had become a community-wide effort that had great support from area residents, businesses, clergy, and youth and also showed significant potential to reduce crime in Southwest Detroit.¹⁹⁷

Conclusion

Detroit police have done much to improve Detroiters' perception of law enforcement by engaging in community outreach, by trading viewpoints and tactics with the public, and by collaborating with citizens to crack down on crime. In doing so, they have tried to send a message to Detroiters that police are there to help, not hurt. At the time our review had commenced, then-Chief Jerry Oliver had carried on previous efforts to gain community trust by holding weekly town-hall-style meetings with neighborhood residents, establishing a public liaison unit, and planning a community-policing strategy that required his officers to be "social workers" as much as crime fighters.¹⁹⁸ His goal of "winning in Detroit," as he imparted to the *Free Press*, involved "having a better relationship with the community in terms of establishing

¹⁹⁵ "Police schedule forum for hearing impaired," *Detroit News*, 30 January 2001, <http://www.detnews.com>.

¹⁹⁶ Ericka Alexander, "The virtues of vigilance: Eastside CB radio patrol takes to the streets," *Michigan Chronicle*, 12 January 1999, 2 (B). Jane Jacobs, *The Death and Life of Great American Cities* (New York: Random House, 1961; reprint, 2002).

¹⁹⁷ John H. Manor, "Watch your block: community policing comes to southwest Detroit," *Michigan Chronicle*, 19 October 1999, 4 (B).

community policing, establishing a community trust account, and establishing confidence in community.”¹⁹⁹

This review has clearly underlined the openly critical nature of the press when dealing with issues associated with police, not just in Detroit, but nationwide. It is important to emphasize that each source reviewed has its own constituency, rife with its own beliefs and values, to which it presents views most resonant to its readers. While much of the press coverage was harsh and blaming, it did occasionally recognize positive reforms and activities of the department and its officers. Most importantly, the review provided the context in which our assessment took place. The Detroit Police Department does not operate in a vacuum; quite to the contrary, its actions both strongly influence and are influenced by broader socio-cultural, and economic issues, many of which have historical roots far beyond that of any police administration in recent decades. It is for this reason that we must conclude that the police department has made great strides in attempting to overcome its past failings, to enhance its capacity to provide high quality services, and to attempt to recognize the context in which it operates.

¹⁹⁸ Rochelle Riley, “Normal is the problem here,” *Detroit Free Press*, 14 July 2002, 1 (K).-

¹⁹⁹ “New chief to tackle challenges head-on,” *Detroit Free Press*, 9 January 2002, 9 (A).

Chapter 4:

Analysis of Citizen Perceptions of Police

The previous section provided an in-depth examination of the ways in which the major print media sources in Detroit portrayed the Detroit Police Department and its personnel. These portrayals most certainly impact upon the readership and their perceptions of police in the city. At the same time, experiences with police also shape those perceptions. It is for that reason that we attempted to gauge the community's perceptions of the DPD and its officers through a series of structured community forums, and meetings/interviews with community groups and organizations.

Community Forums

Three separate community forums were conducted to gauge the community's perceptions about the Detroit police. Questions raised in the community forums are provided below:

Questions for Community Forums

Detroit Police Department

Assessment, Evaluation and Technical Assistance Services Project

1. In your particular community/neighborhood, how is the Detroit Police Department and/or its officers viewed?
2. What do you see as the most positive aspects of the Detroit Police Department and/or its officers?
3. Do you feel the Detroit police are tolerant of the community and its needs? Are they responsive to residents' needs/concerns? Explain.
4. Do you feel Detroit police officers treat all citizens fairly, with regard to race, age, sex, income status, neighborhood, religion, sexual orientation, or other defining characteristics? Please explain.
5. In what ways could the Detroit police work to improve their relationships with the community?
6. If you were the chief of police and had the ability to make any change in the department you saw fit, what would you change, if anything?

Forum #1

The first forum was held on November 10, 2003, at the New Galilee Missionary Baptist Church. A number of organizations participated under the umbrella of the Detroit Association of Black Organizations including: the Ecumenical Ministers' Alliance, an anti-police-brutality coalition; an African-American police organization; church members; other residents; and media who covered the event. Public announcements of this meeting extended invitations to all residents requesting they come to share their views, concerns, comments, and to make suggestions on how to improve the effectiveness of the Detroit Police Department based on their perceptions of police services provided in their neighborhoods.

The location of this meeting had been carefully selected to maximize the opportunity for neighborhood participation and to encourage constructive dialogue that would not deteriorate into a police bashing affair that would be counterproductive for everyone concerned. The meeting was hosted by Reverend Horace L. Sheffield, III,, and facilitated by Police Foundation.

Observations

Although the meeting was designed to elicit broad perceptions regarding police services, a number of attendees brought up individual cases in which they or their family members were involved in incidents with the police, some of which involved allegations or complaints against police for improper treatment. We reiterated that our role was not investigative in nature and we were therefore were in a position to follow up on their complaints.

Overall, feedback provided during this forum suggested that the Detroit Police Department could become more effective in call response, community service orientation, and safety (e.g. police chases pose a danger to residents in neighborhoods). The forum also suggested that the community become more involved in working with police to increase trust and open communication lines. When asked for some of the more positive aspects of the DPD, one

resident remarked that “Police are the heart of Detroit,” although no other comments were made.

Some of the issues and associated comments (many paraphrased) are presented below.

Abuse of Authority

- ✓ Kid hit by speeding car and dragged. Officer let driver go. Officer didn’t come to hospital, didn’t file a police report. Parent had to call mayor’s office for report to be filed. The officer was summoned three times and never showed up. The case was passed to several investigators who determined the officer did nothing wrong.
- ✓ Culture of corruption exists in the city of Detroit. Citizen beaten by police, hospitalized, incarcerated. Incident caught on concealed tape. Took complaint to city prosecutor and police commission; no arrests, indictments, or prosecution due to lost reports.
- ✓ Citizens experience police brutality. Hard to go and speak to police because they have snotty attitudes. Whole city needs to be cleaned up. Police concentrated downtown, not in neighborhoods. DPD should worry less about prostitution and more about issues in the community. Cleaning up includes removing drug houses, residents using their homes as garage shops to work on cars, etc.
- ✓ Point made that police chiefs come and go but police brutality stays.

Administrative Issues

- ✓ Citizen went to jail without being read his rights.
- ✓ Residents pay more for insurance than any other city due to crime.
- ✓ When citizens file reports, nothing comes of it.
- ✓ Huge fight at skating rink. Called 911, operator asked if there was a gun. Seems that police respond faster if there is a gun. Was told if there was no gun, they couldn’t send back up.
- ✓ Report not taken—one resident was beaten by a gas station owner and called police and 911 five times. Two nearby police cars refused to assist stating they were on a lunch break. After going to the doctor, the resident called the police and the department said that they would not come because the victim had left the precinct.
- ✓ One person said she was told (in a joking manner) by a call taker (after experiencing vandalism to her vehicle) to move out of the neighborhood—unprofessional.
- ✓ Citizens should be able to complain about police brutality and be heard. Cops shouldn’t be believed just because they are cops.

- ✓ DPD has high turnover rate of personnel. Members receive excellent training and move to other departments.

Fairness and Equity

- ✓ DPD doesn't treat everyone the same. Won't make arrests for fear of arresting the wrong person and losing their job.
- ✓ A lot of issues in Detroit are racially and economically motivated. Not only are residents moving out of the city, but cops are also.
- ✓ Citizen felt intimidated by police with two separate incidents of "harassment". Feels police treat whites differently than blacks. DPD should treat everyone fairly, regardless of race or economic status.
- ✓ Feels there is no justice unless you have money.

Safety

- ✓ Regular drag racing in the neighborhood is a problem.
- ✓ Citizens of Detroit have to deal with consequences of police chases (other police agencies). Resident wants to know at what point pursuits will be cut off to ensure safety of Detroit residents?
- ✓ People ignore traffic lights; not enforced.
- ✓ People roam streets, kids included.

Suggestions for Improving Police-Community Relations and Professionalism

- ✓ Would like to see police be more cordial to citizens in the community.
- ✓ To receive respect, officers should give respect. Especially young, new officers.
- ✓ Cops should receive sensitivity training. Feels that education gives a person a different perspective on issues.
- ✓ Would like to see a community board for DPD and not police board.
- ✓ Majority felt that DPD should be required to live in the city.
 - Can't have community policing without officers residing in the city.
 - Brutality would lessen if officers lived in the same city as victims.

-
- ✓ Citizens should work with police. Hard to find positive things to say about DPD because of lack of community relations.
 - ✓ Police should walk the beat more in communities.
 - ✓ I feel that citizens should get out and make changes, not sit around and complain.

Forum #2

The second forum was held on November 17, 2003 at the Greater Grace Temple. This meeting was hosted by Senior Pastor Bishop Charles H. Ellis, III. He noted that his church receives great support from the Detroit Police Department. This temple, with over 8,000 members, is used by the DPD for official in-the-line-of-duty funerals.

Observations

Overall, feedback provided during this forum was very pro-police. The general feelings espoused in the meeting were related to not having enough police and the police being overworked due to a personnel shortage. Unlike the first meeting, there were no complaints of improper police actions, abuse, or corruption. These participants were eager for greater crime prevention efforts, police visibility, and faster and more consistent response to calls for service. Some of the issues and associated comments (many paraphrased) are presented below.

Administrative

- ✓ Officers give out different information; they need to give consistent information in the front desk and adequate training to handle complaints correctly
- ✓ Lack of signs (i.e., \$500 for littering); community does not know how to go about trying to implement sign; comes down to police enforcement matters
- ✓ Police officers are not thorough enough when writing reports and following up crimes; about ten years ago a case was dropped because report did not include enough information
- ✓ Some police officers take care of personal affairs on duty

-
- ✓ When there is a big event, the crime goes up because people are pulled off for these duties
 - ✓ Members of the public asking to help the police more actively by driving around with CB radios; communication is key and yet biggest problem (i.e., CB radios)
 - ✓ Prostitution in Finkar to Evergreen; concerned this is spreading

Fairness and Equity

- ✓ How police officers handle situations depends on race, money, and where you live
- ✓ Different levels of authority in DPD receive different levels of discipline
- ✓ Police force returning to more Caucasian in recent years

Police Presence and Response Time

- ✓ Lack of presence to deal with prostitution; this is a big problem due to community issues, but mainly due to lack of police presence; not held in jail long and lesser fines
- ✓ Police not deployed very well
- ✓ Issues of slow response to domestic violence calls; officers responded that responses are slow because woman usually goes back to man
- ✓ Lack of police presence; response time; neighbors view police negatively as result of long response times for non-emergency calls
- ✓ Took 35 minutes to get to a break-in in progress; public knew of the culprit (a woman in the neighborhood); police did not come for at least 30 minutes when they could have caught her
- ✓ Lack of visibility; see this as a reason for amount of criminal activity-no deterrent
- ✓ Lack of police presence; need to see a lot more police officers; only way to solve Detroit's problems

Positive Aspects of DPD

- ✓ The public does not 'pull down' individual police officers and they are appreciated. The police did a tremendous job when dealing with the blackout; this was an example of good policing
- ✓ Need to give police officers the recognition they deserve

- ✓ DPD's interaction with youth is a positive aspect
- ✓ Junior cadet program is positive
- ✓ Prompt, helpful, courteous, positive experiences
- ✓ Officers in the Eighth Precinct are friendly

Safety

- ✓ Police not dealing with traffic offenses (i.e., driving through red lights-police are unaware of the problem)
- ✓ Need less police driving through neighborhoods on high-speed chases (fatalities)
- ✓ Suggested using closed circuit TV like in England for crime prevention
- ✓ Give more help to people for sake of crime prevention (i.e., discounts on alarms)
- ✓ Senior citizens are not feeling safe so they are leaving the city
- ✓ Do a better job of stopping cars from driving through neighborhoods, playing loud music, enforcing curfew for teenagers (especially in the summer)
- ✓ Lack of traffic signs-vehicles/trucks taking up too much space

Suggestions for Improving Police-Community Relations

- ✓ Police should have more control to place the cars in proper lots (vacant cars make neighborhoods look bad; 'broken windows theory'). Suggest residents get petition from neighborhood, signs warning criminals about fine, department of public works should take complaints
- ✓ Need to have visibility; police need to be on the beat walking the streets in the neighborhood
- ✓ Need better response time (i.e. break-ins)/Make increased response times a priority
- ✓ Provide constant training opportunities; officers forget what they are taught in academy
- ✓ Provide in-service training (communication, domestic violence, anger management, etc.), education, and on-going training; have community involved
- ✓ More community interaction at events; Bring back the group the "blue pigs"

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- ✓ Allow community involvement to enhance officer/community relations
 - ✓ Reside in city--officers who don't live in the city or communities they patrol are less sensitive to issues
 - ✓ Citizens need information of policing process (911, 311, etc.)
 - ✓ Importance of citizens police academy
 - ✓ Convey positive actions of police. Many people are fearful of the police; concerned people do not know "the police are good"
 - ✓ Have chief come to neighborhood and interact with residents; listen to officers
 - ✓ Make officers obtain a certain amount of education by going to school
 - ✓ Make new officers walk the beat (meet residents, citizens) for first six months on job; teach them to respect citizens
 - ✓ Need hotline number for citizen complaints about officers
 - ✓ Would like to see police department chaplain come back to the community; they are a important resource; public awareness of purpose of chaplains
 - ✓ Get more money from city council to increase officers salaries
 - ✓ Hear pros/cons from officers, be proactive and not wait for incidents to happen
 - ✓ Need more gaming officers in casinos; police cars are seen, but not officers
 - ✓ Conduct more thorough background checks on officers

Forum #3

The third forum, intended to provide access for Detroit's Hispanic community, was held on January 20, 2004, at 6:00 p.m. at the Holy Redeemer Church in Southwest Detroit. This meeting was hosted by the Southwest Subzone Community Policing, David Marroquin, Executive Director. The meeting was facilitated by Police Foundation staff. Approximately 25 community members attended the meeting including sixteen white residents, Eight Hispanic residents, and one African-American resident. In addition, six African Americans sat in on the

forum for the first question and then exited. It was later explained that they were part of a class that was being held at the church and were instructed by their professor that they could attend but could not participate. Of the participants, fourteen were female and eleven male, with an apparent broad range in age, about equal numbers of seniors, middle aged, and younger (20 to 35 year-olds).

The participants were comprised of people who resided in Southwest Detroit and the majority reported that they have had the most contact with the Detroit Police Department's Third and Fourth Precincts.²⁰⁰ At the outset of the forum, the participants were asked which language they were most comfortable with. The group agreed that they were most comfortable with English, although our team included two Spanish speaking members.

Observations

The major portion of the commentary was comprised of anecdotal stories regarding residents' own experiences with the Detroit Police Department, or third-hand accounts of others, indicating the impression one contact makes on others in the community. Many of the participants in this group had experienced negative encounters with police. Many related stories in which they believed that they had been treated unfairly or ignored. The group consensus was that the Detroit Police Department is a troubled department in need of reform. Also, there was an overwhelming consensus that the DPD was not tolerant or respectful of the needs of the community, with participants expressing stories concerning rude, uncaring, and disrespectful officers. At the same time, the participants had many constructive suggestions for improving the DPD and its performance. Many of the participants suggested creating a culture of accountability.

²⁰⁰ This excludes the six observers from the class and the one African-American female.

Administrative

- ✓ Complaints don't matter because commanders ignore them or give you just as much attitude.
- ✓ "I made a complaint four months ago and still haven't heard anything."
- ✓ "When I went to make a complaint, the cop said, 'You don't want to do this!', and I said that I did and he still tried to talk me out of it."
- ✓ "I was followed for days because I made a complaint."
- ✓ "The police department is in bad shape."
- ✓ "There is a 'good 'ole boy' culture in the police department."
- ✓ "We need a big shake-up."
- ✓ Several people were not sure how to make a complaint in Detroit. There was a question as to where complaints could be filed.

Caring and Demeanor

- ✓ The cops are insensitive.
- ✓ They are rude to us.
- ✓ They think that the citizens are stupid.
- ✓ I feel like I'm a third class citizen.
- ✓ Some officers are very rude.
- ✓ The police are insensitive to the community's needs--they don't care about us.
- ✓ When we call them, it seems like we're bothering them.
- ✓ We feel like we don't exist--they are very condescending to us.
- ✓ The mayor and chief only care about the downtown; that's all they are concerned with, a ten block area.
- ✓ Its just another day for them...they don't care.

Police Presence and Response Time

- ✓ The police need to respond sooner.

-
- ✓ When you call, they say they are understaffed and it's going to be a while.
 - ✓ "We can't wait for two days for them to respond to our emergencies. The police are turning us into vigilantes."
 - ✓ *Others gave sobering accounts of advice given to them by officers. This advice included:*
 - "If someone enters your house, don't wait for us. If he is in your home you can get a knife and kill him."
 - "You should have locked the burglar in your house and beat the crap out of him."

Positive Aspects of DPD

- ✓ There are some very good officers, but after a while, they get brought down by the bad officers.
- ✓ A lot of times, its not the cop's fault. There are not enough of them and their cars are in bad shape.
- ✓ "I work with a community group and the officers that I contact are very good and responsive. Some do good work like teaching bicycle safety and some even give us extra time...their own time."

Suggestions for Improving Police-Community Relations

- ✓ Commanders need to get out of the office and see what's going on in the streets.
- ✓ Zero tolerance for bad police.
- ✓ Hold every head of the precinct accountable for every police officer under their rank.
- ✓ Restructure the police department. There needs to be someone independent checking complaints...go through the records of all officers and if you find a lot of violence or rudeness, get rid of them.
- ✓ Validate the people's concerns.
- ✓ Provide sensitivity training.
- ✓ Respect citizens. Ultimately, they work for us!
- ✓ Use common sense in how to treat people.
- ✓ Learn Spanish...language training.
- ✓ Faster response to calls.

-
- ✓ Figure out a way to conduct background checks in a way that incorporates things like caring and community respect.
 - ✓ Remodel the precinct.
 - ✓ We need an independent complaint investigations system and office.
 - ✓ We need new hires.
 - ✓ Provide incentives so that we can get better officers--things like lower loan rates, better insurance, etc.
 - ✓ Pay police officers more (but regardless they should act responsibly):
 - “You get what you pay for. You pay crap, you get crap.”
 - “I know a cop and he has to work two jobs just to support himself.”
 - “They need to be responsible and accountable whether they make \$100 dollars or \$1000 dollars.”
 - ✓ Officers should live in the city:
 - “The suburbanite officer has an attitude about the people of Detroit. They don’t get us.”

Community Meetings

A number of meetings were also conducted with social service organizations and other agencies who have regular interaction with community members and often work closely with the Detroit Police Department. The purpose of these meetings was to identify some of the support services available in the community as well as to get input regarding their working relationships with the Detroit Police Department.

Meeting #1: Coalition on Temporary Shelter (COTS)

The Coalition on Temporary Shelter (COTS) is a not-for-profit organization whose mission is “to alleviate homelessness by providing shelter, meals, and an array of services which enable people to achieve economic self-sufficiency and decent affordable housing. COTS is committed to advocate for long-term solutions to the problems of homelessness.” Other sites

servicing individuals, families, and special needs persons are West Grand Boulevard, Peggy's Place, Wyoming Joy, Shelter Plus Care, PATH, and The Omega Project. COTS supportive services and programs include case planning, health and mental health care, education and skill development, job search and placement programs, child development, Alcoholics Anonymous and Narcotics Anonymous on-site relapse preventive counseling, life skills programs, and money management counseling. The continuum of care spans from emergency shelter through transitional services programs to permanent supportive housing.

One could not help being impressed upon entering the COTS facility when observing the constant staff attention in attending to the needs of adults and children in a very caring, sensitive, and respectful manner. Staff noted that they would never want anyone to stay in a place that they would not want to live. That statement set the tone for the interview regarding this shelter for the homeless. COTS is a 24-hour, 7-day-a-week shelter care service provider. Social service agencies, governmental agencies, philanthropic groups, and other donations fund them, e.g., the Detroit Red Wings organization makes donations of clothing, which are very much needed especially in winter.

COTS stated they are experiencing more occurrences of homeless teenagers than ever before, not to mention persons in need of mental health services and medical services. Senior citizens are in great need due to their fixed incomes being spread out to pay for increasing housing costs and medical care. Yet the increasing numbers of chemically addicted residents are squeezing the seniors from the space. COTS is attempting to provide community living experiences as they provide supportive services to clients in breaking the cycle of homelessness.

Two other categories of clientele are very plentiful within the COTS population; domestic violence victims with their children, and persons addicted to

gambling/narcotics/alcohol. The staff believes they are making progress in helping the homeless and acknowledge the fact that there has been recent improvements in interacting with the DPD's Thirteenth Precinct. Also, COTS is a site where high-school students perform their community service for graduation credit. The Detroit community has also increased their support of COTS' efforts to assist the homeless by the recent initiation of a program entitled "Loose Change for Change" that is supported by the city, large financial institutions, and the casinos. This effort is viewed as a program to combat panhandling in the commercial district downtown.

Past relations with the police have been marked by similar comments made by the general public. On one occasion, staff called for assistance at 11 :00 a.m. but did not receive a response until 4:00 p.m. at their mental health facility, Cross Roads. The average response time for a service call is approximately 45 minutes to two hours according to staff members. The child protective services generally respond much faster than the police. COTS staff members believe some police officers have reservations about responding to their calls for service.

Staff related that although they have had some negative encounters with police (particularly regarding their handling of a DOA), they also have positive stories to relate about DPD officers. A mobile substance abuse unit has been helpful. DPD personnel have also requested education on COTS services and how to access them for the needy, and other DPD precincts have routinely utilized the services of COTS. COTS stated they have no treatment-on-demand facilities, or active prevention outreach programs. The wait for servicing sexual assault victims, domestic violence victims, and new mothers is unacceptable. They are often called to a hospital to provide shelter for homeless newborn babies and mothers who are being discharged from the maternity wards one to two hours after delivery.

The gay, lesbian, and transgender clientele presents a new set of issues. These individuals request isolation from the general population in a shelter. This presents logistical obstacles that cannot always be accomplished. The staff relates that this clientele group is treated poorly by DPD. There has been a great increase in positive treatment of domestic violence victims since COTS has been working with DPD in training police officers and assisting them in domestic violence incidents. They have based this on the fact that COTS is receiving more reports and requests for assistance from the patrol force. The DPD has been responsive to COTS in situations involving serious emergencies, cases of frostbite, and in recognition of AIDS. More training is needed in responding to incidents involving mentally retarded persons.

COTS indicated DPD officers have made donations of money and material for the benefit of residents. Even so, staff mentioned that there is much more that can be accomplished if they both work together to address the problems involving the homeless. In fact, they recommended that not only DPD, but also the county criminal justice system, needs to be more involved with social service agencies such as COTS.

The Wayne County Sheriffs Office has diversion programs in cases where clientele need health and human services but have no way of accessing the social service system because they are homeless. This creates a revolving cycle of negative behavior resulting in arrest and incarceration. COTS staff believes the DPD is now interested in collaboration and COTS welcomes this opportunity. The agency believes that more training in the DPD's training academy and planning additional interventions can increase the efficiency of both organizations.

Meeting #2: Focus: HOPE

Focus: HOPE is a nonprofit, civil rights and human rights organization. This organization was founded after the massive 1967 Detroit riots in which vast areas of the city were destroyed

after decades of unrest due to economic unfairness and racial discrimination. The vision of Eleanor M. Josaitis, Chief Executive Officer and Cofounder, and the late Father William T. Cunningham, a Roman Catholic priest, gave birth to this organization 35 years ago in the city of Detroit. It is located in the neighborhood where Mrs. Jasaitis resided and remains today on a 40-acre area complex. The organization utilized manufacturing buildings and warehouses that would have gone to waste or deteriorated into eyesores in the neighborhood.

Focus: HOPE is adjacent to an area that is designated the Detroit Historic Neighborhood Coalition Oakman Boulevard Community Association (OBCA). This community-based organization is composed of life-long Detroit residents and several younger middle-class residents who are determined to build and renovate this neighborhood and live prosperously in this city. The president of this neighborhood organization works in finance and serves as a reserve Detroit police officer. Several members have lived in this neighborhood for more than 40 years.

The two organizations work closely towards the common goal of having a safe, secure, prosperous community. Listed below is the mission statement of Focus: HOPE.

Recognizing the dignity and beauty of every person, we pledge intelligent and practical action to overcome racism, poverty any injustice, and to build a . . . metropolitan community where all people may live in freedom, harmony, and trust and affection. Black and white, yellow, brown, and red from Detroit and its suburbs of every economic status, national origin and religious persuasion we join in this covenant. - Adopted March 8, 1968

Focus: HOPE provides services that teach people skills that can be utilized in industry in high paying moderately skilled jobs. Food service and community activities are also provided on the 40-acre campus which boasts more than one million square feet of building area. Food centers are also located in East Detroit, Southeast Detroit, and Inster to be more accessible to the elderly and persons without transportation. The campus contains a community park that is

landscaped and used by neighborhood residents for relaxation and community activities. The

Focus: HOPE Neighborhood Initiative is dedicated to working with local community groups such as the OBCA to renovate buildings, develop new housing, and improve the quality of life by working collaboratively with DPD to rid the area of crime problems, abandoned buildings and abandoned cars, and other municipal violations.

Both groups said that they receive good support for their efforts from the Detroit Police Department. They did express a belief that the DPD is understaffed and in need of at least 400 hundred new police. DPD officers from the Tenth & Twelfth Precincts come in very regularly and can be counted on to attend to their issues. Residents of the neighborhood organization and police officers use the facilities at Focus: HOPE for community meetings, which is very convenient for all. Staff of the agency and members of community groups are on a first-name basis with the police officers who they see regularly. Their collaboration has addressed issues from street prostitution and open-air drug markets, to thefts and vandalism.

These residents are extremely civic minded which they believe helps get services for their neighborhoods. Angel Night (formerly known as Devil's Night) is a Detroit phenomenon that received national exposure due to the number of abandoned houses that were set ablaze on Halloween night. This has happened on several occasions and motivated a number of OBCA residents to make plans for patrolling their communities to prevent recurrences in their neighborhoods. Citizens have formed volunteer CB patrols and feel that the precincts should utilize them more to make their communities safe. The police reserves are utilized at special events while working with certified police officers. Some residents believe these resources could be expanded to perform more services for the city. Residents here are both retired and working and consider themselves good citizens. Their problems tend to come from outside the

neighborhood. There are no complaints about police response in this community. However, there is a perception that there are more police resources in the downtown areas and around the gambling casinos, sporting events, or tourist attractions. They would like to see more police in their neighborhoods as opposed to downtown.

The OBCA praised the relationship with and joint effort of the DPD with the FBI and DEA in addressing the problem of open-air drug markets and so-called victimless crimes of substance abuse and prostitution. These problems have virtually been eliminated from this area. The neighborhood associations believe they can keep other business such as nail shops, hair and beauty shops, and cabarets out of the community that might attract too much of a transient clientele.

The group made the following observations that they feel need attention. The DPD should be more courteous to minorities. The issue of 'driving while black' is a concern in the city as a whole. Youth seem to have little or no respect for Detroit police officers because of the perception that there is a double standard in how non-African Americans are treated downtown as opposed to police action in the neighborhoods. Youth feel intimidated by police according to a staff member from Focus: HOPE and they are bitter because of it. Some residents believe that this dual treatment is based on the police officers' orientation and suggests that the DPD's training should address that issue. This point was reiterated by some of the more senior residents who stated that this behavior is reminiscent of the very negative attitude of the police department in the 1960s. They suggested that DPD officers should have an attitudinal change and experience diversity awareness and sensitivity training.

Residents say that they rarely see cars on patrol but have seen the neighborhood bicycle patrol officers. They would like to see peer courts for youth, more police officers addressing

problems in the mini-marts, and more community involvement with youth. They would also like to see activities such as cars that block driveways being booted and to see officers helping persons with disabilities and senior citizens who are being hassled. They also said more emphasis was needed to address illegal dumping and other issues that affect the quality of life.

This group acknowledges that precinct commanders work with their respective communities but are unaware that the police officers on patrol follow that practice. They believe there are inconsistent philosophies between DPD's stated values and actual day-to-day routine practices. A suggestion was made that patrol officers need a directory of community resources that could aid them in meshing local services with people, who are in need of services such as youth, homeless persons, and job searching. The success of Focus: HOPE is based upon collaborations and partnerships that build upon existing resources to increase their services, thereby having a synergetic affect on their clientele.

The following Focus: HOPE services are available to the OBCA, Detroit residents, and to any Detroit police officer as resources to address problems within his area of service.

1. The Commodity Supplemental Food Program provides free monthly supplement of food to pregnant women, post-partum mothers, children up to age six, and senior citizens 60 years of age and older.
2. The Center for Advanced Technologies integrates hands-on manufacturing training and academic learning within an industrial production setting. The 21st century curriculum offers an Associate's Degree and Bachelor's Degree in Manufacturing, Engineering, and Technology.
3. The Information Technologies Center prepares individuals (in four months to a year) for various careers in information technologies. The ITC provides a broad range of industry certified training programs concentrating on network administration, network installation, and desktop support.
4. Fast Track upgrades academic skills and disciplines of high-school graduates and other adults to levels needed for further technical training, higher education, or employment.
5. First Step upgrades the math, communications, and computer skills of high-school

graduates and other adults so that they may enter Fast Track, the Machinist Training Institute, or The Information Technologies Center.

6. The Center for Children offers Montessori and Piagetian early childhood preschool education, infant and toddler care, summer day camp, and a before-and-after school care program for children of colleagues, students, and members of the outside community.
7. The Community Arts Department: presents multicultural arts programming and gallery exhibitions designed to educate and encourage area residents, mainly youth, while fostering integration in a culturally diverse metropolitan community.
8. Focus: HOPE companies provide a variety of production services for the manufacturing industry.
9. The Oakman Boulevard Beautification Project is upgrading the boulevard, which includes landscaping two pocket parks, adding new street lighting, and installing a utility trench designed to house utility lines.

The average salary for 200 graduates of the Advanced Technologies Center is \$52,400.00. Machinist Training Institute students earn \$11.00 per hour, while graduates of the Information Technologies Center receive starting salaries of \$13.00 per hour. This is a social service agency that works within a community and prepares people for meaningful employment. Young people perform highly technical tasks on surplus WWII machines through programming and operating highly technical robotics that produced precise parts for vehicles and machinery. In fact, the manufacturing and engineering students are operating a Mobile Parts Hospital in Kuwait. These units manufacture parts on site, which eliminates the need to warehouse parts in remote regions.

Meeting #3: The Arab-American and Chaldean Council

The Arab-American and Chaldean Council (ACC) hosted a community focus group that consisted of a very diverse group of people. It included members of the Chaldean community, and residents of the Eleventh Precinct of the DPD. The group included a high school principal,

small business operators, and a Chaldean religious leader. The ACC stated that they have a good relationship with the Eleventh Precinct police, including the commander, and believes they are doing their best with the resources that are available to them. However, this community's residents have concerns that were expressed very firmly.

There are open-air drug markets that operate openly with sales that involve non-residents of the community. Youths loiter, play dice on the streets regularly, and occupy abandoned buildings at will. One church has invested thousands of dollars to enclose a parking area to prevent theft and vandalism to parked cars and other church property. One used car sales businessman complained of being harassed by local citizens who park in his driveways. He complained of being deceived by an employee who used his business to "chop" stolen cars and was treated with an attitude of indifference by DPD when he reported the situation to police. He also complained of being assaulted by individuals on a few occasions, and received no response or a slow response from police and emergency medical services.

The general feeling of this group was consistent with a community that is disenchanted with the department and is afraid for their safety and well being. They work together as a community and are willing to work with the DPD to eliminate the problems of crime and disorder in their communities. They also expressed a need for police officers to be assigned who are fluent in the Chaldean language because there is only one bilingual officer and no Arab-speaking officers assigned to this area now. The group was aware of the DPD's efforts at community policing in three zones of the city and would like to participate in this initiative. Community concerns are based on their experiences and perceptions of police service and not on "bashing" the police. They laud the actions of the good officers and individual police that they have relations with more professionally (i.e., at schools and monthly meetings). These

relationships are encouraging as solutions to some of the issues that have been raised.

Participants in this discussion recommended community-policing initiatives, better police responses to calls for service, foot patrols, greater interaction of police with community, and sensitivity training.

Meeting #4: The Wayne County Prosecutor's Office

The Wayne County Prosecutor's Office and the Detroit Police Department Domestic Violence Unit work jointly on issues involving domestic violence and crimes against children in the Domestic Violence Task Force through the Domestic Violence Unit. The child advocate for crimes against children and the domestic violence victims' advocate both related very positive cooperation with the DPD's Domestic Violence Unit. Staffing is a concern because the workload is challenging. The general average response time may take an hour; however, in emergency situations the police arrive within ten minutes. The Ninth Precinct has experienced a high incidence of crimes against women and children.

Surprisingly, one staff member believes male police officers show more compassion to domestic violence victims than females. Female officers have been heard commenting that the female victims should have followed the abuser's orders. The Domestic Violence Task Force has provided training to DPD officers and they note that they have a good working relationship with DPD. They appreciate the cooperation extended by DPD in assisting with victims and arrested offenders. The major obstacle in enforcement, relative to capturing offenders for this unit, is attributed to not having accurate addresses of the abusers. The victims' advocate task force was created because of the special attention that is necessary to serve victims who are often children. Victims are usually dependent, to an extent, on the abuser for support and recognize that sending him/her to prison may affect their livelihood.

It is estimated that more than 60 percent of victims do not report their abuse to police because of the economic risks. The advocates are responsible for following a case through the court system, which appears to give victims some relief. Generally the offender is reluctant to accept anger management treatment and resists until they realize that the police and Wayne County Prosecutors' advocates are not going to give up and that they will eventually incarcerate the person. One of the greatest needs now is getting children into a safe environment so as to break the cycle of abuse. Often times, abusers witnessed their mothers being abused so they feel that physical force on a spouse is acceptable behavior.

The problem also has involved members of the criminal justice system involving spouses, friends, and other abusive situations. Advocate services are available for adults and children as well as abused senior citizens. The advocates would like to see officers better equipped to investigate incidents using cameras, sex crimes investigation kits, and specific units that are always available. More shelters are needed including those for men in certain situations. There is a general feeling that DPD officers are not very tolerant of the gay-lesbian and transgender communities and a belief that work needs to be done in this area. More public education is needed about domestic violence and the abuse of youth and seniors because there is a tendency for people to accept removal of the abuser from the home just for one night. Many do not quite understand that this old protocol does not work in the long run.

Meeting #5: Ruth Ellis Center

The Ruth Ellis Center is an agency located in the Palmer Park area of Detroit and provides services to teenaged and young adults of the gay, lesbian, bi-sexual, transgender, and questioning (GLBTQ) life style. The Ruth Ellis Center is named after a very respected person of

this community who lived to be 101 years of age and dedicated her life to helping people in need. The center serves as a drop-in site for youth who live on the street and are in need of support. They do outreach to at-risk youth who are homeless, runaways or displaced, or hanging out in unsafe environments.

The general services that are provided include referral to shelters, assistance with independent living arrangements for youth who are thrown out of their families because of their lifestyles, assistance to youth involved in unsafe behaviors and addressing self esteem issues, mentorship development, and providing positive role-models. Drug abuse, health, and safe practices are also discussed in the centers because many of the young people are engaged in commercial sex to live. Some of the facts presented by the staff included:

- GLBTQ youth are 3.4 times more likely to attempt suicide than heterosexual youth.
- GLBTQ youth experience verbal abuse from authority figures, peers, and teachers.
- GLBTQ experience violence more frequently than the general population, 50% - 80% inflicted by family and peers.
- There is a lack of training among medical personnel, educational, counseling, and law enforcement professionals.
- 68% of gay males and 83% of lesbian adolescents abuse alcohol; 44% use other drugs.
- HIV, AIDS, and STDS are extremely prevalent in this population, including runaways.
- Non-supportive environments are common among this population who are forced to leave their families due to their sexual orientation. 80 percent have severe isolation problems and more than a quarter have been forced from their homes.

Staff of the Ruth Ellis Center stated that there are tensions between their clientele and individuals within the Detroit Police Department. They viewed a statement made by the mayor

of Detroit, which they believed generally set a tone for city administrators including police. That statement expressed his feeling that he "did not want his son around those boys." They questioned what kind of a message that he was sending to the DPD.

An outreach worker related that there are truants and curfew violators who drop into their center as well as homeless persons. Frequently these individuals call attention to themselves on the street thereby inviting attention from police officers who are patrolling areas where commercial sex is practiced by GLBTQ persons. A unique phenomenon is becoming common among this group: the males form groups and identify themselves with the names of exotic fashion designers. A dominant person who identifies himself as the housemother leads the groups. They compete with each other in many ways including wearing flamboyant clothes and bringing new persons into their groups. These groups provide emotional comfort for youth with no stable living arrangements, where the potential for abuse is great. The center staff wanted to emphasize the fact that there have been positive experiences with DPD officers that demonstrate professionalism and concern about this clientele.

Some of the positive interactions with DPD officers are reflected below:

- One male, who works as a caretaker of a parking lot, reported nothing but positive interactions with police officers.
- Another youth stated two female officers who patrol Palmer Park consistently check the park and are very cordial to them. They frequently caution the youth to be careful and to refrain from being loud.
- One youth stated he had been robbed and gave a description of the offender to a DPD officer who responded and subsequently arrested the robbery offender.

However, some of the encounters with DPD officers were also negative as shown below.

- One staff member complained of no police response to an alarm within their center.
- A young man stated that on Halloween he was dressed in drag and while driving

was threatened by a person with a gun in another car. He drove to the Twelfth Precinct to report the incident and left in disgust because the police laughed at him in the station.

- One youth complained of verbally abusive treatment by DPD officers...being called the "F" word and asked why he is selling himself.
- One transgender youth complained that he was robbed and stripped naked and called police from a house. The officers allegedly did not take him home.
- During gay pride DPD officers were heard saying "Bag a Fag."

The discussion at the center led to the following recommendations by staff and clientele:

- They would like to see community policing.
- There needs to be an outlet for DPD officers who are of this lifestyle - some are known by staff.
- DPD officers should get training on the GLBTQ population to more fully understand their plight.
- The group would like to have positive discussions with the DPD officers who patrol their neighborhood.
- Bicycle and foot patrol would also be desirable for greater interaction in this area.

Meeting 6: The Detroit Job Corps

Job Corps is a no-cost education and vocational training program administered by the U.S. Department of Labor that helps young people ages 16 through 24 get a better job, make more money, and take control of their lives. Begun in 1964, Job Corps is the nation's most successful residential education and training program. The Detroit Job Corps is one of 100 centers nationwide. At Job Corps, students enroll to learn a trade, earn a high school diploma or GED, and get help finding a good job. Students are paid a monthly allowance which continues for up to twelve months after they graduate from the program.

In order to qualify for the Job Corps, students must be U.S. citizens or legal residents, meet income requirements, and “be ready, willing and able to participate fully in an educational environment.” Funded by the United States Congress, Job Corps has been training young adults for meaningful careers since 1964. Job Corps is committed to offering all students a safe, drug-free environment where they can take advantage of the resources provided.

The Detroit Job Corps Center is located at 11801 Woodrow Wilson Street. This center offers career training programs for the following trades: business occupations, computer repair, facilities maintenance, carpentry, health occupations, computer service technician, painting, and advanced career training.

We arranged a meeting with the administrator of the Job Corps and asked that we meet with a group of young people. The staff took us on a tour of the facility which was clean and appeared to have substantial resources to meet its mission, and we were impressed by the number of staff on site. We were taken to both the “wall of fame” and the “wall of shame,” two bulletin boards that promote either the everyday successes of students in the program or, conversely, expose inappropriate behaviors of students in an effort to “shame” them into a willingness to “get with the program.” This approach, along with the center’s no-tolerance drug policy, seem to be representative of an attitude where young people learn hard-knock lessons in building their character and skills for success.

Staff members were extremely cooperative in sharing information about the programs, the students and their pride in them, and in enlisting volunteers to meet with us. The group we met with consisted of ten young men, nine African American and one Caucasian. We explained that we were there to learn about the Detroit Job Corps, and to ask them questions about their experiences with Detroit Police Officers. We were immediately impressed with their willingness

to share information and their professional demeanor. When asked about their experiences with members of the DPD, several had been detained or brought in for questioning on numerous occasions, while “hanging out.” One young man, a community college student who was also a student leader, remembers being harassed frequently by an officer who he still sees from time to time. Another young person said that he frequently organized street football with youngsters in his neighborhood and was on more than one occasion called a “pedophile” by a Detroit police officer, while the young man was trying to be what he thought was a role model for kids in the neighborhood. He said he was very offended by this officer’s remarks. Most of the young men claimed that DPD officers were always looking to harass them, although not every experience was negative. One young man indicated that he was walking home from a friend’s house when it began raining. He started to run and then saw a police officer and got nervous. However, the officer stopped to offer him a ride home and he was really impressed that the officer was reaching out in that way.

We asked these youths if any of them ever thought about becoming police officers and several of them said yes. While some of them thought that their past experiences with the police would work against them (having been arrested with the charges later being dropped), they felt that they would consider such a career path if it were open to them. As a result, we engaged in a discussion with the Job Corps Administrator about the possibility of starting a policing track.

Summary

The forums, interviews, and meetings with residents, community-based groups, not-for-profit social service agencies, youth service agencies, and others revealed a desire for the community and Detroit Police Department to resolve issues that are negative and to make the city safer and improve the quality of life for its residents. The public wants police to be more

sensitive to their concerns, and to be polite, respectful, and professional in their interactions. In addition, they would like to see better response to calls for service, more community involvement, and more accountability among police officers. There was a sense that officers are sometimes unconcerned with the plight of the residents and that this is partially attributable to the fact that many officers do not reside in the city or do not understand the nature of their circumstances due to certain language barriers. The next section will reveal how DPD personnel view the community, their role, and a number of issues associated with their ability to perform their jobs effectively and efficiently.

Chapter 5: *DPD Focus Groups and Interviews*

The previous section provided a report on a number of community forums and meetings we held during 2002 and 2003 in order to gauge community perceptions of police. That, in combination with the historical review presented in chapter two and the three-year print media review covered in chapter three, gives a broad view of the influences shaping perceptions of the police viewed from the outside looking inside.

In this chapter, we will concentrate on the perceptions of DPD personnel by presenting the findings on internal interviews and numerous focus groups. In chapter six, we will present the results of an agency-wide climate survey conducted in the latter part of 2003. It is from these two perspectives that we can begin to see the issues that create division between the police and community, the central focus of this comprehensive assessment. While not unique to Detroit, we did frequently hear suggestions from the community that the police do not understand the needs or perspectives of the community. At the same time, as will be seen in the upcoming sections, it was frequently the case that officers and other police personnel also conveyed a sense that the community does not understand their charge, role, or perspective.

FOCUS GROUPS WITH SWORN PERSONNEL

A series of targeted focus groups were held with 66 DPD personnel of various rank during June 2003. Two Police Foundation teams were established for the purposes of facilitating these focus groups. While the focus process typically lasted two hours, some of the groups overlapped so that we could accommodate all shifts and DPD scheduling. For each group, we included a Police Foundation staff member and an active police officer from another agency as

facilitators. The dates and times of the focus groups, as well as the total personnel in attendance, are presented in the Table 7 below:

Table 7. DPD Personnel Focus Group Participation

Group	Day/Date 2003	Time	# Attended
Police Officers	Monday, June 2	8:00 a.m.	9
Police Officers	Monday, June	10:00 a.m.	9
Police Officers	Tuesday, June 3	8:00 a.m.	8
Police Officers	Tuesday, June 3	9:00 a.m.	7
Investigators	Wednesday, June 4	1:00 p.m.	7
Sergeants	Wednesday, June 4	1:00 p.m.	7
Lieutenants	Tuesday, June 3 ^r	1:00 p.m.	7
Inspectors	Wednesday, June 4	10:00 a.m.	6
Commanders	Wednesday, June 4	10:00 a.m.	6

Officers

The issues and comments from the four police officer focus groups have been combined and are listed below in bulleted format. Low morale among the Detroit Police Department's officers was the main theme from the officer focus groups. This low morale stems from organizational communication, leadership, and recruitment issues; inadequate academy and in-service training; a demand for more up-to-date equipment; and stressed community relations. The officers believe that the community relations problem is due, in large part, to negative and unfair media coverage. Contrary to the current criminal justice literature, one officer commented, "Community policing started the problems in the Detroit Police Department."

The subsequent comments were taken directly from the four focus groups held on June 2, 2003, and June 3, 2003:

Complaints and Discipline

- Citizen complaint process—first-line supervisors are no longer involved in the process that affects morale in the department. However, sergeants don't have the time nor do they want to be bothered with paperwork.
- Frivolous citizen complaints remain in officers' personnel file—they are never expunged.
- Officers' actions are always under scrutiny from management (i.e., frivolous complaints against officers).
- Department does not back up the actions of officers.
- Discipline is not consistent or equitable for same offenses.

Equipment and Facilities

- Equipment—old mobile data terminals (MDT)—never work properly.
- Officers cannot spend their own money to improve equipment. (Officers can purchase long guns but not service weapons.)
- Vehicles need to be assigned to a particular unit. New cars are usually given to community policing officers and supervisors, but we're supposed to get new patrol cars every 2 years.
- Cameras that are used for documenting evidence of domestic violence cases don't work.
- We have the same uniform for all seasons. We need clothing that is appropriate for the type of weather.
- Facilities are in poor shape (i.e., Fourth Precinct).
- Equipment—provide up-to-date things to work with in the field.

Media and Public Perception

- Media relations—don't focus on the good that may happen; only interested in the negatives.

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- Media portrays a negative image to the public.
 - Media coverage is negative toward the police—doesn't focus on good things.
 - Department public information procedures fail to present the true facts to counteract the views expressed in the newspaper.
 - Media—full of “lies”; we allow the negative to go forward creating embarrassment to officers.
 - We need departmental media guidelines and a mechanism to hold the media accountable for accurately reporting the facts of incidents.

New Recruits

- Recruitment—higher minimum age requirement is needed (currently 18 years of age). A 21-year-old age requirement is preferred—more mature and provides a chance to have life experiences.
- New recruits need to learn how to be the police by working in precincts—should not be assigned to specialized units upon completion of academy.
- Recruiting—lack of recruits; image of department (via the media) is a factor in attracting people to work as police officers.
- Improve recruiting (screening of applicant process).

Organizational Structure and Policies

- Communication lacking throughout the department.
 - Unable to filter down information to the troops (use teletype).
 - No communication between patrol officers and specialized units (e.g., no teamwork).
- Police are “handcuffed” by laws and policies; can't perform their job properly.
- Community policing started the problems in the DPD.
- Need de-centralization of specialized units to function at the precinct level.
- Police should not have to guard casinos and schools (burden on resources) since both have their own security forces.
- Taking prisoners to the hospital should not be a police officer's function.

-
- Change department's attitude towards officers. It currently shows no confidence in their performance).
 - Revise personnel evaluations (service ratings) process which is currently unfair.
 - Cannot trust anyone in the department: officers need to look out for themselves.
 - Department does not stand by the actions of officers. Need to "kiss ass" to get anywhere in the department.
 - Need diversity training to get along with fellow officers—racial division among officers at the precinct level (due to recruits from suburban areas).
 - Off-duty employment—behavior off-duty affects your job, need separation from the job. On personal time your behavior should not be judged as performing as an officer.

Pay and Benefits

- The starting salary has only increased by \$65 from ten years ago.
- Starting pay is not in-line with suburban departments (need pay scales that come close to those in other agencies).
- Try to get grants for helping officers; improve salaries and benefits.

Community Trust and Public Image

- Public image of the department—corruption, favoritism, and violent/over-aggressive officers.
- Community interactions—youths don't care for the police.
- Viewed negatively by the public.
- Public image of department—police are criminals.
- Not treated fairly from citizens (i.e., complaints—guilty until proven innocent).
- Civilian operators—rude to callers who in turn are mad at officers upon their arrival. Is there a system of accountability in place?
- Public animosity towards the police is generated by the politics of the city.
- Complaints have increased since the new mayor's administration.

Supervision and Management

- No faith in supervisors—officers unable to know their agenda.

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- Expectations of supervisors are to receive “no paper” (complaints).
 - Supervisors need to be held accountable.
 - Sergeants are always focusing on the negative and don’t provide positive reinforcement of subordinates.
 - Management needs to support the actions of officers (when appropriate).
 - Chief does not stand behind officers.
 - Upper management executives do not listen to input provided by officers.
 - Too top heavy with management.
 - Department works against itself.
 - Police chief’s goal is to break-up the union; that, in turn, leads to de-policing on the part of officers.
 - Sergeants want officers to just answer calls and not “make paper” for them (i.e., do not cause problems for them).
 - As a consequence, officers need to maintain a low profile.
 - If overzealous, you will have problems.
 - Sergeants and lieutenants are not held accountable for supervision by precinct commanders; each precinct is its own kingdom.
 - Some supervisors do not need to be supervisors (don’t have the required knowledge, skills, and abilities).
 - Management just wants officers to respond to radio calls.
 - Increase morale with incentives (not necessarily monetary).
 - Need supervisors who are effective—someone to inform officers when they have done a “good job”—that in turn is reflected in service ratings of the officer.
 - Officers just come to work and that’s it—don’t want to attract attention to themselves.
 - Change the leadership.

Training and Performance Evaluation

Academy

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- Academy is not representative of the real world of police work. What should they be teaching?
 - They are always recycling recruits (i.e., unable to pass—given a number of chances to succeed).
 - Academy
 - In a college setting.
 - No discipline is provided to recruits.
 - Instructors with five years on the job—some have not even been in the field.
 - Need to provide recruits with courses on good communication/people skills and reading and writing.
 - Minimum age requirement of 18 years too young.
 - May want to examine GED requirement; may need some college.
 - Current academy has non-paramilitary emphasis (due to not having own academy—uses community college facilities).
 - Academy needs to provide instruction on how to write reports—some cannot write a sentence (grammatical and spelling problems).
 - Academy training is not effective.

Field Training and In-Service

- Field training officer (FTO) program uses young officers as trainers as opposed to seasoned officers.
- Field Training Officer (FTO) program is a “joke”. It needs to establish goals and objectives. Most FTO’s have only two years on the job which may not be enough experience.
- In-service training—some classes may not apply to the streets.
- Department needs to examine the skill levels of officers to determine whether they are good at training others before allowing them to teach.
- Currently, roll call is the supposed method of providing in-service training, but is not considered by officers as “training”.

-
- Need legal updates to distribute to officers. (One participant had 17 years on the force and only had in-service twice on legal issues).
 - Department is reactive—when something negative happens, the department reacts with a training program.
 - Firing range not open to allow officers to practice with weapons.
 - Lien operators are not certified and do not know how to process important information (e.g., narcotics arrest form).
 - Department is behind the times when it comes to providing training to officers.
 - Need outside agencies to provide training; DPD cannot do it themselves.
 - Provide adequate training.

Investigators and Sergeants

This group, consisting of seven investigators and seven sergeants, had the fewest criticisms of the DPD. Investigators and sergeants had issues with DPD's organizational structure and management but their emphasis was on training. Many of the issues identified were consistent with the police officer group. Specifically, this group had serious problems with both the recruitment of officers (i.e., minimum age requirement of 18 and patrol service upon graduation), general officer training, and in-service training.

The subsequent comments were taken directly from the focus group conducted on June 4, 2003:

Organizational Structure and Policies

- Cases are not prioritized.
- Investigators are overwhelmed and cannot effectively handle investigations.
- Clearance and closure rates are the major focus for investigators.
- Ideal for investigators to work in teams to investigate cases.
- Department needs to get out of the prisoner business.

- Department must support efforts.
- Recruits should be at least 21-years-old and participate in mandatory patrol service upon completion of academy.
- Additional manpower is a major need.
- Department must start providing quality equipment.

Supervision and Management

- Supervisors bad-mouth police officer without having the facts.
- Overwhelming need to please the public.
- Supervisors do not back up the actions of officers.
- Increase in citizen complaints causes “de-policing”.

Training and Performance Evaluation

- Need more officers on the street.
- Need more academy and in-service training.
- Training instructors have not been in service for a long time (need senior officers).
- Written reports from officers need improvement.
- Supervisors are not able to review CPR’s.
- Officers need to be thorough (i.e., get witness information, etc.).
- Current investigators can provide guidance to academy curriculum to improve training.
- Continuous training would be helpful with in-service training at the precinct level.
- Performance (service) ratings need to be task oriented.
- Officer Candidate School (OCS) lasts 2 weeks and is not very helpful.

Lieutenants

Similar to the police officer groups, the main topic of concern with the lieutenants is less than adequate supervision and leadership in the department leading to poor morale. Lieutenants pointed out that pride was lacking in the department and that both officers and citizens need to see support from upper management. The lieutenants were also critical of the Field Training Officer Program and provided comments and suggestions for the recruitment of new police officers.

The subsequent comments were taken directly from the focus group conducted on June 4, 2004.

Field Training Officer Program (FTO)

- FTO program is a “joke”.
- FTO’s only paid during the time of actual training.
- No seniority among FTOs (also no seniority on the streets— younger officers).
- FTOs want preferred assignments.
- Need to instill pride in the FTO program in order to be successful.

New Recruits

- Recruits do not want to work the “streets”.
- Factors affecting recruitment efforts.
 - Compensation at the start was not what they wanted.
 - Age (18 years).
 - Low minimum standards required to be an officer.
 - Need incentives for college-educated recruits (e.g., two-tier pay scale).
 - Military model needed for academy to improve discipline and show respect for the chain of command (need to have a buy-in philosophy to prevent a lack of respect).
 - May need to have DPD academy facility.

- Some things you cannot ask prospective applicants that would be helpful in the screening process.
- Department too cheap to design instruments to screen applicants.

Organizational Structure and Policies

- Clerks throughout the department should not be police officers.
- Institute a “precinct premium” to attract officers to the patrol function.
- Patrol considered the backbone of policing yet, historically, it is treated unfairly. For example, being transferred to the precinct is a form of punishment.
- Need to consider providing mandatory patrol assignments for all recruits.
- Stop nepotism.
- New officers have a different work ethic (i.e., calling in sick).
- Officers think that no matter what I do, I’m not going to be recognized for my efforts at the precinct level.
- Reward officers for their performance.
- Oral boards may not be the best practice.
 - They are too subjective.
 - They lean more towards avoiding litigation (EEOC).
 - They have prejudicial/biased questioning.

Supervision and Management

- Sense of pride among officers is lacking.
 - Need to identify their purpose.
 - Officers need more support (and immediate support) from supervisors and upper management.
 - Citizens need to see that support from the upper management.
 - Department needs to back the actions of its officers.

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- Department reacts to what is “politically correct” and seems to always cave in to pressures from the community.
 - Too often, department moves people into executive positions who cannot make sound decisions because they have not been around long enough.
 - Performance (service) ratings need to be re-evaluated
 - They are inconsistent.
 - Instrument for measuring performance is faulty (not task oriented).

Commanders

In our interviews with field commanders and non-line unit leaders, we found that many were not optimistic about the department. Again, the topics generating the most conversation among the commanders were “organizational structure and policies” and “supervision and leadership.” Interestingly, commanders, unlike the previous groups mentioned, find no problem with the training of police recruits and believe that the minimum age requirement is appropriate. The commanders also identified a problem with the relationship between the chief and the officers on the force.

The subsequent comments were taken directly from the focus group conducted on June 4, 2004.

Complaints

- Best thing that the department did was to remove the investigation of complaints from sergeants and lieutenants.
- Need to prosecute citizens who file frivolous complaints against officers.

Equipment and Facilities

- Facilities, even headquarters, are in poor condition.

Field Training Officer Program (FTO)

- FTO program needs some fine-tuning.

Media and Public Perception

- Department is reactionary to the press; will let statements that are not true go forward without rebuttal.
- There is a false image that the department will not change when in fact it is changing.

Organizational Structure and Policies

- Department entrenched in bad habits
 - Promotions procedure
 - Facility conditions
 - Morale is low —Troops spirits are broken (demoralizing).
- Politics major part of the problem.
 - City administrators are in conflict with DPD and that has stymied the department. Yet the DPD always does what the mayor wants to accomplish.
 - Only the police department is held accountable when things are not done as planned.
- Performance (service rating) evaluation is not effective.
 - Does not include leadership skills.
 - Test is needed to assess leadership abilities.
- Lack of personnel and equipment.
- Look at the history of the DPD—not given the necessary funds, gave what they had already to increase professionalism.
- Need to get out of the prisoner business at the precinct level.
- Need to place more emphasis on working at the precinct level.
- Change the way information is filtered down throughout the department.

Supervision and Management

- Supervisors have not held officers accountable in the past.
- Currently, supervisors should have more responsibility for supervising officers.

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- No progressive thinking is taking pace in the department (remains in “status quo”).
 - Promotional process at the executive level has not changed.
 - People progress without adequately learning their previous position.
 - Process uses chief’s input and recommendations.
 - Needs a more objective evaluation. [*At this point a commander pointed out a new program that will be implemented to improve the process—identification and succession program (i.e., junior executive development program).*]
 - Command staff needs executive development and decision-making skills.
 - Police vs. Chief problem.
 - Chief doesn’t care about officers and often demoralizes them.
 - Chief causes friction (e.g., recent news article that decision of trial board is undermining his authority).
 - Executive staff needs to know the chief will support them.
 - Troops are willing to work for their commanders.
 - Commanders message is being carried out at the precinct level.

Training and Performance Evaluation

- Recruits are well trained.
- No problem with age requirement
 - Problem officers are typically those with 3-5 years of experience.
 - Education should be the major area of emphasis with recruits.
- Police officers should be held to a higher degree of accountability.
- Need to establish a recognition process for rewarding officers (formal promotion/commendation ceremony)—done in the past but not now.
- Implement a rewards system.
- Create opportunities (career) to prevent stagnation.

Union Issues

- Culture of the department—unionism that in turn causes problems with management.
- Re-visit employee contracts to effect changes.
- Chief needs to communicate with the unions and show a willingness to negotiate—hurts the department and the city.

Interviews with Inspectors

Police Foundation team members conducted interviews with deputy chiefs of the Detroit Police Department. Their comments covered the spectrum of topics, with several statements regarding the shortage of manpower and the large number of personnel on restricted duty. Apparent with this group was their concern for the role of the union and its impediment to accomplishing the department's overall goals. Consistent with the other groups, this group identified equipment and facility deficiencies and problems with officer-community relations.

The subsequent comments were taken directly from the focus group conducted on June 4, 2004.

Equipment and Facilities

- Physical facilities impede fluid operations and functionality—due to dispersion of personnel in various locations—and some are even dangerous.
- Technology is outdated. There is a need for new computers, cars, radios, and video equipment.
- There are some technical problems with the communications system. Some unanswered calls “fall out” of system.

Organizational Structure and Policies

- Precincts are considered the most undesirable assignments within DPD.
- Many if not all commanders mentioned the need for more personnel in order to achieve mission.
- Need for more personnel in all units (some as a result of military reservists being called for duty).

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- Fielding five or more scout cars per shift is a problem for span of control.
 - Increasing “ownership” of cases by precinct personnel is a positive change.
 - An increasing problem with restricted duty, as this limits the number of full-duty officers available. [Note: it is estimated that about 300 staff are on some medical duty status daily.]
 - Perception of too many ranks—too top heavy.
 - Many positions could be made civilian but have not been.
 - Unprofessionalism is not tolerated in the tactical services section, and their unit is not affected by union agreements.
 - Department needs to support community interactions and publicize this.
 - Low starting salary

Public Image

- Some veteran officers feel that some officers are beginning to be viewed as an “insensitive army of occupation.” The lack of professional attitude and commitment to the city may be leading to increased lawsuits and complaints arising out of various incidents.
- Since the residency requirement was abolished, there is a perception in the community that police are not concerned about the city. Since that time, there are greater officer absences in court as well.

Supervision and Management

- Need for more effective supervision, especially on the street, so as to improve training and better address customer service.
- Need for a more unified message—commanders and line personnel should share a common agenda.

Training and Performance Evaluation

- Precinct investigators need better training in criminal investigations.
- Lateral transfers to other agencies after completing DPD’s training academy are damaging.
 - Some other agencies are even instructing applicants to go to DPD’s academy first.

- This is costly to the city, as DPD pays for their training and salary while being trained.
- Training in human relations and self sufficiency would be helpful.

Union Issues

- Union rules are a double-edged sword.
- Union contracts have impeded the most skilled persons from getting investigative positions.
- Union requirement that commanders (below deputy chief) only be removed from positions for “just cause” not management prerogative.

SUMMARY

The focus group process with the DPD personnel brought to light a working environment that has resulted in low morale among officers, a feeling of disconnect with the community, and an overall concern that the situation would not improve. There is a sense that officers are just “going through the motions” to get through their work day and they and the department lacks a real mission and set of values.

In one way or another, training was mentioned in each focus group. While most groups stressed that academy and in-service training was inadequate, the minimum age requirement needed to be raised, and the FTO program had major problems, commanders did not agree. Commanders commented that recruits are well trained and that the FTO program needed to be fine-tuned, quite different from the lieutenants who called the FTO program “a joke.”

Evident throughout this process was the differing viewpoints throughout all levels of the organization. While officer comments were mostly in the form of complaints, higher-ranking personnel replied with comments and suggestions for overall organizational improvement. A possible reason for this disparity is the role of the officers in the organization (i.e., higher level

officers attempting to solve problems). It is also likely that morale is lowest in the lower levels of the department where community interaction and frustration over the police role is greatest.

The consulting team made the observation that many of the facilities were in disrepair and were generally unkempt. This may not only be an indication of lack of financial resources but also a lack pride and purpose. In the next chapter, the results of an agency-wide climate survey conducted in the latter part of 2003 will be presented.

Chapter 6: *DPD Climate Survey*

Detailed Methodology

In an effort to examine and assess the culture and climate of the Detroit Police Department (DPD), the Police Foundation developed a systematic process for administering the survey to all department members (i.e., sworn, non-sworn, and volunteers). Initially, we worked to establish a departmental survey committee by requesting volunteers within the agency. From the list of volunteers, we attempted to identify a cross section of individuals by requesting information from the DPD regarding the volunteers' race, sex, rank, assignment, location of work, hire date, and whether they were sworn or civilian personnel.

The final list of committee members included seven sworn and two civilian members. Table 8 shows the race and sex of the committee members. Presented in Tables 9 -12 are the rank, location, assignment, and years of service of the survey committee members. As can be seen, there was significant diversity; although due to the limitations on the group size, there were only five of the thirteen precincts represented. At the same time, the years of service for the participants ranged from 3 years to 26 years, so it is likely that some of the more senior members had worked in other precincts as well.

Table 8. Race and Sex of Survey Committee Members

Race	Male	Female
White	1	2
Black	1	2
Hispanic	--	1
Chaldean	--	1
Middle-Eastern	1	--
Total	3	6

Table 9. Rank of Survey Committee Members

Rank	Number
Civilian—no rank	1
Police Officer	4
Investigator	1
Senior Detention Facility Officer	1
Sergeant	1
Lieutenant	1
Total	9

Table 10. Assignment of Survey Committee Members

Assignment	Number
Communication	1
Community Relations	1
Detention	1
Investigative Operations	1
Narcotics	1
Patrol	3
Training	1
Total	9

Table 11. Location of Survey Committee Members

Location	Number
2 nd Precinct	2
5 th Precinct	1
6 th Precinct	1
8 th Precinct	1
13 th Precinct	1
Communications	1
Narcotics	1
Training	1
Total	9

Table 12. Years of Service of Survey Committee Members

Years in Department	Number
3	1
4	1
8	2
9	2
10	1
26	2
Total	9

The purpose of the survey committee was to ensure that the survey instrument had the full input of agency representatives so as to include appropriate areas of inquiry, and to ensure that language used in the survey was common language used within the DPD. The input and issues derived from the police focus groups and the survey committee served as a basis for the overall design of the survey instrument. After extensive reviews and revisions by both Police Foundation staff and the department survey committee, a detailed survey was constructed to identify views on the culture, values, ethics, behavior, and, more important, perceptions regarding the DPD's relationship with the community.

Survey Areas

The survey instrument solicited information regarding the following specific areas of concern to members of the department:

- Clarity of role, responsibilities and expectations of performance
- Community interactions (attitudes, expectations, and support)
- Ethics and behavior
- Fairness and equity
- Job satisfaction and morale
- Justice Department oversight
- Media relationships
- Physical environment and safety
- Professional development and training opportunities
- Rewards and punishments
- Social environment
- Supervision and leadership

Survey Methodology

The survey instrument was disseminated to all personnel within the DPD. To accomplish this task, foundation staff requested a master personnel list that would include the assignment and location of all personnel in the department. This task proved to be a difficult endeavor, as the department's payroll records would not be able to identify the specific location of personnel within the department. With the assistance of a sworn member of the department assigned as a liaison for this project, a list was compiled from precinct and unit supervisors.²⁰¹ The final list (a total of 4,744 personnel within the department) does not necessarily match the payroll records of the agency. The fact that an agency of this size does not have or could not provide an accurate and complete list of personnel and their assignments without going to the field was a major limitation and concern to the research team. As a result, in examining responses, we were not able to determine the percentage of respondents by rank, race, sex, or years of service.

Prior to the dissemination of the survey, foundation staff employed various methods to promote awareness about the purpose of the survey and to encourage DPD personnel to participate. First, and most important, foundation staff met with the leadership of all of the police unions to explain the study and obtain support in promoting participation in the survey. As a result, an announcement of the survey and its purpose was placed in the *Tuebor* (the newsletter for the Detroit Police Officers' Association). Announcements of the impending survey were also sent out on the department's teletype machines to all DPD precincts. Moreover, approximately 5,000 fliers summarizing the purpose and importance of the study were produced and disseminated to personnel throughout the department. Posters summarizing the study were also created and placed conspicuously in all precincts. Finally, several weeks prior to survey distribution, foundation staff attended roll calls of all patrol shifts to brief officers on the

²⁰¹ Each unit was asked to create a database of current personnel.

study and the importance of their participation in completing the survey. While this approach went far beyond that any other surveys conducted by the Police Foundation, the response rate was still far lower than in any agency in which surveys have been administered in foundation history.

Three different time periods were used for mailing the 4,744 surveys for distribution—3,324 surveys in the first mailing, 800 in the second, and 620 surveys in the final mailing. Each survey was placed in a sealed envelope with a label indicating the name and assignment/command of the recipient. Also enclosed was a self-addressed, postage-paid envelope for returning the completed survey. All surveys were mailed to the department project liaison officer who in turn released the surveys to the various command supervisors. Upon receipt of the surveys, supervisors were responsible for distributing the survey to personnel within their command and/or precinct.

Of the 4,744 departmental personnel eligible to participate in the study, a total of 1,117 employees completed and returned the survey—representing a 23.5 percent response rate. A number of factors may have contributed to the surprisingly low number of personnel willing to complete the survey, including but not limited to the following circumstances:

- At the time of the study, the Detroit Police Department, City of Detroit, and the United States Department of Justice entered into two consent decrees. As a result, departmental personnel may have perceived the decrees as a negative image on the department and felt that participating in a survey, designed to identify issues of concern, was going to be of no consequence in changing the image of the department to the community;
- A new police chief who was not readily accepted by the rank-and-file of the department was appointed²⁰²;

²⁰² A web-site seeking support to have the police chief terminated was created by an officer in the department. The content of the site noted the dissension the arrival of the new chief had caused on personnel in the department.

- Due to the personnel transition of a new department project liaison, the surveys were not distributed in a timely manner. As a result, personnel receiving the survey may have assumed that the deadline for completing had passed;
- There was some indication that personnel either did not receive the survey from their supervisors or were instructed not to participate in the study; and,
- The unexpected resignation of the police chief caused a number of personnel to mail blank surveys in which they noted on the instrument that the problem in the department had been solved.

Despite all of the difficulties, this study succeeded in providing data about personnel views on the climate and culture of the department. However, the low response rate means that the issues cannot be generalized to the entire department. There is no way to know whether these responses were characteristic of the agency as a whole; these respondents may have been those with the strongest feelings about the issues or those who trusted their responses to make a difference. It is unfortunate that more DPD members did not respond, as they lost their opportunity to have some input into the circumstances in which they work. While the results are informative, they should not be used as the basis for decision making in the department, since they represent only less than 25 persons of department personnel.

Survey Results

Respondent Characteristics

Table 13 presents the distribution of respondents by their assigned rank or position classification within the DPD. As indicated in the table, the majority of respondents described themselves as patrol officers and investigators (61.4 percent); 20.3 percent were supervisory or mid-to upper-level managers; and 12.2 percent were classified as civilian personnel. Overall, about 87 percent of respondents were sworn personnel and 13 percent were non-sworn personnel.

Table 13. Respondents by Rank/Position Classification in the DPD

Rank/Position Classification	Total Responses	Response Rate %
Officer	640	57.3
Investigator	46	4.1
Sergeant	142	12.7
Lieutenant	60	5.4
Inspector	11	<1
Commander	11	<1
Deputy Chief	2	<1
DPR—detention??	26	2.3
Civilian	106	9.5
Volunteer	5	<1
Unknown	68	6.1
Total	1,117	100

An examination of the race/ethnicity of respondents reveals that 57.3 percent were Black, 37.1 percent white, 2.3 percent Hispanic, and 2.9 percent were other race (see Table 14).

Table 14. Respondents by Race/Ethnicity

Race	Total Responses	Response Rate %
Black	606	57.3
White	393	37.1
Other	59	5.6
Total	1,058	100

With respect to the gender profile of respondents, Table 15 shows the distribution as 70 percent male and 30 percent female respondents.

Table 15. Respondents by Gender

Gender	Total Responses	Response Rate %
Female	322	30
Male	751	70
Total	1,073	100

Lastly, respondents were asked to indicate the number of years they had served in the DPD. Table 16 shows that nearly 41 percent of the respondents had been in the department 16 years or more; 10.7 percent with one to three years; 41.5 percent with four to seven years; and 7 percent with eleven to fifteen years of service.

Table 16. Respondents by Years of Service

Years of Service	Number	Percent
1 to 3 years	113	10.7
4 to 7 years	296	28.1
8 to 10 years	141	13.4
11 to 15 years	74	7.0
16 to 20 years	209	19.9
More than 20 years	219	20.8
Total	1,052	100.0

Survey Findings

As previously mentioned, the survey instrument was designed to examine respondents' attitudes and perceptions of the underlying climate and culture within the DPD in twelve key areas. This section reports the findings of the survey with respect to survey items used to address those key areas.

Clarity of Role, Responsibilities, and Expectations of Performance

Survey respondents were presented with a series of statements designed to assess whether personnel in the DPD have a clear understanding of their respective roles, responsibilities, and expectations of performance within the department. Each statement was structured to measure the degree to which a respondent agreed or disagreed with the statement. Presented below are the key findings to those series of statements.

When queried as to whether respondents *know* the mission, vision and values of the department, 76.3 percent either agreed or strongly agreed that they knew the mission and values of DPD. These views differed slightly when respondents were further broken down into the categories: line officers versus first-line supervisors (sworn officers only)²⁰³. Table 17 shows an overwhelming majority of supervisors—81.5 percent—claimed to know the mission and values whereas just 73 percent of line officers claimed to know these.

Table 17. Knowledge of Department’s Mission, Vision, and Values by Line Officers and Supervisors (N = 828)

Sworn Officers	Agree %	Disagree %
Line Officers	73.1	26.9
Supervisors	81.5	18.5

Chi-Square = 6.761 $df = 1$ $p \leq .01$

Similar results were found with respect to whether respondents *share* the mission, vision, and values of the department. Although 73 percent of all respondents agreed with the statement that they share in the mission and values of the department, significant differences were found between line officers and supervisors—with 66.5 percent of line officers agreeing with the statement compared to 82.4 percent among supervisors ($p \leq .001$). Moreover, these views differed when comparisons were made between sworn and civilian personnel—civilians were more likely to agree with the statement than sworn personnel, almost 85 percent compared to 71 percent respectively (see Table 18).

Table 18. Share Department’s Mission, Vision, and Values by Member Type (N = 893)

Member Type	Agree %	Disagree %
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²⁰³ The line officers category consists of respondents indicating their rank as patrol officer or investigators. The supervisor category consists of sergeants, lieutenants, inspectors, commanders, and deputy chief ranks.

Sworn Officers	71.5	28.5
Civilians	84.7	15.3

Chi-Square = 8.620 $df = 1$ $p \leq .01$

Critical to personnel having both an understanding of the department's mission, and more important, sharing the views of that mission, is their knowledge of departmental expectations for their performance of daily duties and responsibilities. A majority—79.5 percent—of the respondents indicated that they knew what was expected of them. However, supervisors again were more likely to report knowing what was expected of them than were line officers. Table 19 presents the comparison of line officers and supervisors—almost a quarter of line officers were not sure what the department expected of them, whereas only 15 percent of supervisors felt they did not know what the department expected of them.

Table 19. Know the Department's Performance Expectations (N = 873)

Sworn Officers	Agree %	Disagree %
Line Officers	75.2	24.8
Supervisors	85.4	14.6

Chi-Square = 11.484 $df = 1$ $p \leq .001$

Knowledge of departmental expectations of personnel is closely related to the efforts of management to effectively communicate those expectations to members of the department. When asked whether respondents agree that supervisors *clearly* communicate what is expected with specific directives and orders, only 55.4 percent of respondents were in agreement with the statement. These views differed among sworn and non-sworn personnel with just over half of sworn respondents—54 percent—feeling that communications were clear, as compared to about 64 percent of non-sworn members. However, the most significant differences were observed when comparing the views of line officers and supervisors (see Table 20). Just about half of the

line officers felt that supervisors clearly communicate expectations while 65 percent of supervisors—65.2 percent—felt expectations were clearly communicated.

**Table 20. Supervisors Clearly Communicate Performance Expectations
(N = 898)**

Sworn Officers	Agree %	Disagree %
Line Officers	49.8	50.2
Supervisors	65.2	34.8

Chi-Square = 17.948 $df = 1$ $p \leq .001$

Job Satisfaction and Morale

Members of the DPD were given the opportunity to respond to a series of questions to assess job satisfaction and morale within in the department. Overall, just 54.1 percent agreed that they were personally satisfied with their job. These views again differed when examining officer level. Table 21 shows that 62.4 percent of supervisors were satisfied with their jobs compared to 49.8 percent of line officers.

Table 21. Satisfied with Job (N = 893)

Sworn Officers	Agree %	Disagree %
Line Officers	49.8	50.2
Supervisors	62.4	37.6

Chi-Square = 11.903 $df = 1$ $p \leq .001$

When queried as to whether respondents agreed with the statement, “I would encourage others to become police officers within the department,” only 36.6 percent of the respondents agreed with the statement. Significant differences were found between line officers and supervisors—almost 72 percent of officers would not encourage others to become officers in the DPD, whereas 53 percent of supervisors would not. Moreover, when comparing the responses

between sworn and non-sworn personnel, 57.4 percent of non-sworn respondents reported that they would encourage others to become officers compared to just 34 percent of sworn personnel.

Respondents were also queried as to whether they viewed morale in the police department as high among employees. Overall, an overwhelming 95.9 percent of the respondents indicated disagreement with the statement that morale was high in the department. Significant differences were found between the views of sworn officers and non-sworn—with 96.9 percent of sworn personnel disagreeing that morale is high, compared to 11.7 percent of non-sworn that felt morale was high in the department (see Table 22).

Table 22. Morale in DPD is High (N = 1,027)

Personnel Type	Agree %	Disagree %
Sworn Officers	3.1	96.9
Civilians	11.7	88.3

Chi-Square = 19.889 $df = 1$ $p \leq .001$

While the results seem to suggest that most of the respondents had negative views on job satisfaction and morale, 96.2 percent of all respondents were in agreement that the department could do certain things to increase both their motivation and work efforts.

Community Interactions

In order to gauge police-community relations, officers were queried about their views on the attitudes, expectations, and support of the community toward the police department and the department's efforts to strengthen relations between the police and community. In particular, the questions were designed to assess whether the department demonstrates a community-policing philosophy in providing services to members of the community.

When asked whether management encourages police officers to interact with the community, more than half of all respondents—56.6 percent—were in agreement with the

statement. Yet when examining the variation between line officers and management views, we found that supervisors were significantly more likely to agree that they encourage community interactions—63.7 percent—as compared to 50 percent of the officers (see Table 23).

Table 23. Management Encourages Community Interaction (N = 864)

Sworn Officers	Agree %	Disagree %
Line Officers	50.2	49.8
Supervisors	63.7	36.3

Chi-Square = 13.554 $df = 1$ $p \leq .001$

More importantly, when asked whether the community and the police work together to solve problems and prevent crimes, almost three quarters (74.4 percent) of all respondents said they did not. Substantial differences were found between the views of officers and management, with just 15 percent of officers agreeing that the community and police work together compared to 37 percent of supervisors who felt that police and community do work together to solve problems and prevent crimes. Perhaps this difference could be attributed to the differences in roles. It is possible that supervisors are expected to work with community but line officers are not, something that may not be communicated to line officers.

So do respondents feel that community policing is alive and well in the police department? Overall, 81.2 percent of all respondents did not feel that the department engages in community policing. Table 24 presents the different views on community policing between officers and management—just 12 percent of officers believed that community policing is alive and well in the department, compared to about a quarter of supervisors who feel that the department engages in community policing.

Table 24. Community Policing is Alive and Well in DPD (N = 846)

Sworn Officers	Agree %	Disagree %
Line Officers	12.4	87.6
Supervisors	24.8	75.2

Chi-Square = 20.288 $df = 1$ $p \leq .001$

Conversely, when respondents were asked whether the community supports the efforts of the department, only about a fourth of all respondents indicated that the community supports them. The views between officers and management were significantly different with 14 percent of officers feeling that the community supports the department compared to 36 percent of supervisors. Moreover, when asked whether police could perform their duties more effectively if the community were more supportive, 93.6 percent of all respondents were in agreement with the statement. This clearly indicates the need for police and community to work more closely together to ensure effective, efficient, and professional police services. As it stands, there is a general sense of the police and community being adversarial.

To further examine the interactions of the police with the community, respondents were asked their view regarding whether residents in the community trust and respect officers and, in turn, whether officers treat residents with courtesy and respect. Do respondents feel that the community trusts officers in the department? The findings indicated that 81.3 percent of all respondents did not feel that the community trusted police officers. However, as might be expected, these views differed between sworn and non-sworn personnel. Table 25 shows that non-sworn personnel were more likely to agree that members in the community trust officers (31.3 percent) compared to just 17 percent of sworn officers. Significant differences were also found in comparing the views between officers and supervisors. Just 10 percent of line officers felt that the community trusts them, compared to over a third— 34 percent—of supervisors who felt the community trusts officers.

Table 25. In General, the Community Trusts DPD Officers (N = 995)

	Agree %	Disagree %
Sworn Officers	17.2	82.8
Civilians	31.3	68.7

Chi-Square = 13.334 $df = 1$ $p \leq .001$

Not surprisingly, 74 percent of all respondents felt that community residents do not treat DPD officers with respect. Again, these views differed significantly between officers and supervisors. Eighty-four percent of line officers felt disrespected by the community compared to just 62 percent of supervisors. On the other hand, when asked whether officers treat the community with courtesy and respect—almost 73 percent of all respondents felt that they did. Nearly three-quarters of sworn officers felt that they were courteous and respectful to the community, compared to 61 percent of non-sworn personnel (see Table 26).

Table 26. DPD Officers Treat Community with Courtesy/Respect (N = 999)

	Agree %	Disagree %
Sworn Officers	74.5	25.5
Civilians	61.1	38.9

Chi-Square = 9.165 $df = 1$ $p \leq .01$

Finally, respondents were asked whether they agreed that the community had realistic expectations of the police. Overall, 76.7 percent of respondents felt that the community has unrealistic expectations of them. Just 19 percent of sworn officers felt the community's expectations were realistic, as compared to 52 percent civilians who believed that the community's expectations were realistic (see Table 27).

Table 27. The Community has Realistic Expectations of Police (N = 966)

	Agree %	Disagree %
Sworn Officers	19.1	80.9
Civilians	51.8	48.2

Chi-Square = 60.000 $df = 1$ $p \leq .001$

Differences were also observed when comparing the views of officers to supervisors—about 17 percent of line officers felt that the community has realistic expectations compared to 24 percent of supervisors.

Media Relationship

The police department's relationship with the news media plays an important role in shaping the climate and culture within the department. The media influences community members' perceptions of the police department as well. Given its impact, the media's portrayal of the department can help foster good police-community relations. When asked whether the news media in Detroit portrays the police fairly, 87.6 percent of all respondents disagreed. Sworn officers were more likely to disagree with the statement compared to non-sworn who agreed that the news is fair (see Table 28).

Table 28. The Detroit News Media Portray DPD Police Fairly (N = 1,017)

	Agree %	Disagree %
Sworn Officers	19.1	80.9
Civilians	40.2	59.8

Chi-Square = 92.714 $df = 1$ $p \leq .001$

While the majority of respondents disagreed that the news media's portrayal of the police was fair, there was an overwhelming agreement that community residents are influenced by reports in the media. When queried as to whether community residents are influenced by the media's reports about police, 97.3 percent of all respondents were in agreement with the statement. Yet, when asked if the media's portrayal of the police promotes *positive* relations between the community and the department, a vast majority of respondents—92.1 percent—did not agree with the statement.

These results suggest that DPD employees feel that the media portrays the department in a negative manner (i.e., police use of force news reports), and those types of news reports influence the community's perceptions of the department to the point of straining relationships between the police and residents in the community.

Working Environment Impact on Departmental Culture and Climate

As mentioned previously, the survey was developed through the process of conducting focus groups among various personnel within the department to identify issues that may be of concern to those working in the department. As a result of these focus group discussions, several areas of concern were commonly expressed in each of those group sessions. The specific areas of concern that were identified included issues related to 1) the availability of professional development opportunities within the department; 2) the department's social environment; 3) the physical environment and safety (e.g., facilities and equipment); 4) fairness and equitable treatment of employees; 5) the system of rewards and punishment for employees; 6) the consent decree; and 7) supervision and leadership within the department. This section reports the findings of respondents' attitudes and perceptions of issues related to the work environment of the department.

Professional Development and Training Opportunities

Respondents were asked a series of questions designed to measure their views on departmental efforts to provide employee professional development and training opportunities. Key concerns identified in the focus group discussion were related to the adequacy of training recruits for the position of police officer and the lack of sufficient patrol experience among officers in the department. The survey results indicated that 65.4 percent of respondents

disagreed that the departments training academy adequately prepares recruits for policing. These views differed substantially when examining the number of years of service among police officers. As may be expected, officers with longer years of service (i.e., eight years or more) were more likely to express disagreement than officers with one to seven years of service. Substantial disagreement (90.6 percent) was also expressed when all respondents were asked whether all officers have sufficient patrol experience. Significant differences were also found with respect to years of service—officers with eight or more years of service were more like to disagree than officers with less years of service.

In addition to concerns about the training being provided to recruits to the department and the lack of experienced patrol officers, respondents felt that the department did not provide information about the different types of supplemental training offered to employees. Nearly three-quarters—74.4 percent—of respondents disagreed that the department provided sufficient information about what training was available to members of the department. Table 29 shows that non-sworn personnel (51.5 percent) were more likely to agree that training information is provided compared to sworn officers (77.7 percent) who disagreed. These views also differed between officers and supervisors, with 81.6 percent of officers disagreeing with the statement, compared to 31.6 percent of supervisors, who felt sufficient information on training was being provided by the department.

Table 29. Department Provides Sufficient Information on Training Availability (N = 999)

	Agree %	Disagree %
Sworn Officers	22.3	77.7
Civilians	51.5	48.5

Chi-Square = 40.267 $df = 1$ $p \leq .001$

Similar results were found when respondents were asked whether opportunities for supplemental training are available to all member of the department. Overall, 75.9 percent of respondents disagreed that opportunities for training are available to all.

Social Environment

The perceived social environment (e.g., personal interactions/working relationships among peers and non-sworn personnel) can be a major influence in shaping the culture and climate of the department. Survey respondents were presented with a series of statements on the issues identified during the focus group discussions that were related to how well members of the department get along with each other.

In general, 62.2 percent of all respondents agreed that there is a spirit of camaraderie among officers of different races/ethnicities within the department. Moreover, when asked whether racism existed within the department, 63 percent disagreed that such a problem existed. However, there were significant differences with respect to the race/ethnicity of respondents. Black (86.5 percent) and other race respondents (78.9 percent) were more likely to agree that racism exists, compared to 27.2 percent of white respondents that disagreed.

A series of statements were also included to assess the views of respondents towards ethical dilemmas that may be faced by officers during the conduct of their jobs. Of particular interest was the likelihood of reporting certain unethical behaviors (e.g., minor violations, citizen harassment, or use of excessive force) committed by others in the department. When asked if department members were likely to report others for committing minor violations of departmental policies, 75.6 percent of respondents disagreed that such violations would be reported. Table 30 shows that 84.8 % of supervisors were more likely to disagree that minor

violations would be reported, whereas 27.3 percent of officers felt such a violation would be reported by others in the department.

Table 30. DPD Members are Likely to Report Other Members for Minor Policy Violations (N = 799)

Sworn Officers	Agree %	Disagree %
Line Officers	27.3	72.7
Supervisors	15.2	84.8

Chi-Square = 14.026 $df = 1$ $p \leq .001$

As the degree of seriousness of the violation increased, respondents were more likely to agree that the conduct of those behaviors would be reported. When asked if members of the department would report someone for harassing a citizen, 31.6 percent agreed it would be reported. Officers—34.8 percent—were more likely to agree, whereas 75.3 percent of supervisors disagreed that members would report others. Similarly, when asked if members were more likely to report someone for using too much force, 45.9 percent of respondents were in agreement that such actions would be reported. Half of all officers agreed that such a violation would be reported, whereas 60.4 percent of supervisors felt such actions would not be reported. These views also differed between sworn and non-sworn personnel with 67.5 percent of non-sworn indicating that such actions would not be reported, whereas 47 percent of sworn officers felt such actions would be reported. Finally, when asked if members of the department would report others who committed criminal violations, 74.5 percent of respondents agreed that such a violation would be reported. However, this view also differed among sworn and non-sworn respondents—more than half of the non-sworn respondents—52.5 percent—disagreed that a member of the department would report the violation, compared to 77.2 percent of sworn respondents.

One final issue identified in the focus group discussions was the relationship between sworn and non-sworn personnel. There was a general perception among focus group participants that sworn personnel did not respect civilian personnel. When asked if civilian personnel are looked down upon by sworn, 62.5 percent of all respondents disagreed with the statement. This view differed significantly among sworn and non-sworn respondents. Table 31 shows that the majority of non-sworn personnel—78.5 percent—agreed that sworn personnel tend to look down on them whereas nearly 70 percent of sworn respondents disagreed.

Table 31. Non-Sworn Personnel are Looked Down Upon by Sworn (N =930)

	Agree %	Disagree %
Sworn Officers	30.3	69.8
Civilians	78.5	21.5

Chi-Square = 111.522 $df = 1$ $p \leq .001$

Physical Environment and Safety

During the conduct of the focus groups, participants consistently expressed dissatisfaction with the physical conditions of department facilities and equipment as it relates to having a safe working environment. There was substantial agreement among survey respondents (93 percent) that some of the department facilities and precincts pose hazards or health risks to employees. With respect to equipment provided by the department, 93.4 percent disagreed that patrol vehicles are sufficiently equipped and consistently in proper, safe working condition; 94.4 percent disagreed that in-car computers/MDTs are consistently in working condition; and 78.7 percent disagreed that radios issued to patrol officers are consistently in working condition.

Respondents were also asked their perception of the current staffing level of patrol as an officer safety issue. Again there was substantial agreement—91.2 percent—that the department's staffing level poses a safety issue for officers.

Fairness and Equity

Personnel performance ratings and the department's promotion process were identified by the focus groups as issues of concern among employees within the department. Of particular concern was the perception that service ratings (i.e., performance evaluations) were not an accurate reflection of an officer's performance and that the promotion process often did not involve the most qualified candidates for promotion.

Overall, 79.2 percent of respondents disagreed that service ratings were an accurate reflection of officer performance. There were, however, significant differences in this view when comparing sworn and non-sworn respondents. While sworn officers were more inclined to disagree that the ratings were related to their job performance, nearly half of non-sworn respondents—49.1 percent—felt that service ratings were an accurate reflection of officer performance. Moreover, when comparing the responses between officers and supervisors, 84.8 percent of supervisors were more likely to express disagreement with the service rating system than officers, who indicated agreement with the statement—21.2 percent.

Substantial disagreement—91.1 percent—was also expressed among respondents when asked whether those who are promoted are usually the most qualified individuals. This view differed significantly when comparing the responses among officers and supervisors. As one might expect whereas officers—95.1 percent—were more likely to disagree that the best qualified were the ones promoted, whereas 16.2 percent of supervisors felt the best qualified were promoted.

Rewards and Punishments

Also examined in this survey were issues related to departmental and supervisory recognition of employees' exemplary work performance, and the consistency and fairness of the disciplinary process for violations of departmental rules and regulations.

During the conduct of the focus groups, many of the participants expressed concerns related to the chief executive's decision to no longer hold a special event that recognized officers for exemplary performance of their duties. This was viewed as a traditional event within the DPD and there was much opposition to the chief's decision. Based on those concerns, two survey items were included to assess the general perceptions of how the department recognizes the performance of officers.

In general, 74.2 percent of respondents disagreed that the department regularly gave commendations and awards to employees for excellence in performing their jobs. Moreover, when asked whether supervisors are encouraged to acknowledge good performance, 63.9 percent of all respondents disagreed with the statement. Yet, when comparing the responses among officers and supervisors, 61.9 percent of supervisors were more likely to indicate agreement that they acknowledge good performance, whereas 78.2 percent of officers disagreed (see Table 32). A possible explanation for the differing views may be that supervisors were responding to the statement from how they personally acknowledge good performance to subordinates as opposed to being encouraged to do so as a departmental policy.

**Table 32. Supervisors are Encouraged to Acknowledge Good Performance
(N = 818)**

Sworn Officers	Agree %	Disagree %
Line Officers	21.8	78.2

Supervisors	61.9	38.1
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Chi-Square = 127.568 $df = 1$ $p \leq .001$

The department's disciplinary actions for violation of rules and regulations were also perceived as a problem. When asked whether punishments for violations are fair, a substantial number of respondents—89.5 percent—disagreed. Additionally, 77.2 percent of all respondents disagreed that punishment was applied consistently to all members of the department.

Justice Department Oversight

As mentioned earlier in this report, the DPD had entered into a consent decree with the U.S. Department of Justice prior to the conduct of the study. As a consequence, the survey process provided an opportunity to assess the initial perceptions on the impact of the Justice oversight to the climate within the DPD. Of particular interest was whether employees had a negative view of the consent decree and, more important, if they felt the decree would lead to positive changes with the department.

Did members of the department feel that the Justice Department was justified in investigating the patterns and practices of the DPD? A majority of respondents—89.8 percent—agreed that the investigation was justified. Moreover, there was substantial agreement—72.2 percent—that the consent decree would lead to positive changes within the department.

Ethics and Behavior

To assess the attitudes and perceptions of the ethical behavior of officers in the department, respondents were presented with a series of hypothetical statements describing various types of behaviors that could be interpreted as misconduct if committed by officers in the

performance of their duties. For each of the statements, respondents were asked the likelihood that 1) someone they know might engage in the behavior; 2) the behavior would be acceptable by supervisors; and 3) someone would be disciplined for engaging in that behavior. It should be noted that researchers did not examine whether formal departmental policies exist that specifically address the list of hypothetical behaviors contained in the survey. As a result, respondent perceptions of the list of ethical behaviors may be associated with their knowledge of specific departmental policies and/or procedures prohibiting the conduct of those behaviors, or that certain types of behaviors are tolerated in the department and not considered as misconduct.

Table 33 presents the mean responses for each type of behavior. In general, respondents were more likely to know someone who engaged in the following behaviors:

- Accept free coffee
- Accept police discounts
- Not issue citation/summons to friend/relative
- Accept free meals;
- Conduct personal business on duty

An officer's acceptance of gratuities (e.g., free coffee, meals and discounts) was also viewed as likely to be acceptable behavior by a supervisor and unlikely to result in discipline for engaging in that type of behavior. However, conducting personal business on duty and not issuing citations to friends/relatives were viewed as behavior unlikely to be acceptable to supervisors but still unlikely to result in any discipline for committing those behaviors.

Behaviors in which respondents viewed as likely to invoke discipline, yet unlikely to be committed by someone they know, were those of a more serious nature (i.e., criminal act or violation of specific departmental policies). These behaviors included:

- Accept payments to overlook criminal activity;
- Not turn in money/property from crime scene;
- Accept money instead of issuing a citation/summons;

- DUI while on duty;
- Choose not to respond to a call;
- Engage in sex on duty;
- Consume alcohol on duty;
- Use racial slur;
- Use unnecessary force;
- Resort to force too quickly; and
- Harass gay/lesbian

In summary, respondents were more likely to know someone to commit behavior considered less serious (i.e., accepting free coffee or food) but rarely did they know someone who would engage in behaviors considered serious, such as accepting a bribe. Moreover, behaviors considered more serious were less likely to be acceptable by a supervisor and more likely to result in disciplinary action if committed by someone in the department.

Table 33. Mean Responses Regarding Behavior
(1 = very unlikely, 2 = unlikely, 3 = likely and 4 = very likely)

Type of Behavior	Someone I Know Might Do It	Acceptable By Supervisor	Someone Would Be Disciplined
Accept Free Coffee	3.38	3.23	1.54
Accept Free Meals	3.26	3.05	1.66
Accept Police Discounts	3.37	3.17	1.66
Conduct Personal Business On Duty	3.19	2.61	2.23
Personal Relationship With Someone Being Investigated	2.34	1.83	2.71
Choose Not To Respond To A Call	1.82	1.41	3.49
Swear/Curse At Citizens	2.87	1.99	2.88
Harass Gay/Lesbian	1.91	1.52	3.22
Sleep While On Duty	2.74	1.94	2.90
Consume Alcohol On Duty	2.04	1.45	3.42
DUI While On Duty	1.72	1.33	3.58
Avoid Dangerous Patrol Area	2.16	1.71	2.67
Resort To Force Too Quickly	2.44	1.79	3.23
Use Unnecessary Force	2.37	1.72	3.32
Not Issue Citation To Friend/Relative	3.15	2.68	2.10

Not Turn In Money/Property From Crime Scene	1.51	1.28	3.69
Accept Money Instead Of Issuing Citation	1.38	1.29	3.67
Use Racial Slur	2.06	1.52	3.34
Engage In Sexual Activity On Duty	1.74	1.39	3.46
Accept Payments To Overlook Criminal Activity	1.37	1.22	3.72

Discussion

Chapter 7: *Operational Review*

The following methods were used to collect information so that we could assess the current state of police operations within the DPD.

- Collected and analyzed data, reports, statistics, and personnel information requested from and provided by the department²⁰⁴
- Interviewed precinct and unit commanders and other agency representatives
- Conducted focus groups with DPD personnel
- Conducted climate and culture survey within the DPD
- Hosted forums with community members
- Held meetings with various community groups
- Went on ride-alongs with officers

A review of practices, procedures, efficiency, effectiveness, and the identification of core issues can only be done properly when examined within the context of the organizational goals.

To examine an agency's goals, we look closely at the vision, mission, values, and stated objectives. Therefore, it was necessary for us to examine each of these considerations throughout all stages of our review and with all available means. While it is important to consider the formalized mission, vision, and values, it is also equally essential to examine the informal mission, vision, and values of the organization. Our approach in identifying these informal cultural beliefs and values is to try to determine what members of the organization believe they are expected to do and what they actually do. Additionally, in many agencies there

²⁰⁴ Appendix C provides a list of all requested and received information. It should be noted that numerous requests were made for this information, yet some of the information was either never received or was received in an unusable format (incomplete data, data that could not be interpreted, or not in analyzable/database format as requested). Nevertheless, much of the received information was very helpful in providing insights into the policies, procedures, and practices within the DPD.

is a formalized strategic plan in which agency goals and objectives for the short-term (usually one year) and long-term (two to ten years) are spelled out and operationalized using clear benchmarks for assessing progress toward the goals. We found no evidence of an existing strategic plan within the DPD.

A careful review of the DPD's operating procedures reveals a need to implement the pronouncements of the vision statement and mission statement which are consistent with the identified values that have been articulated by DPD executives. A structure for delivering police services is necessary to effectively accomplish these goals and objectives.

RESULTS

Vision, Mission, and Values of the Detroit Police Department

An agency's vision, mission, and values are the stated beliefs and values an agency presents to the public and should serve as the foundation for policies, procedures, practices, and performance standards. The stated vision of the Detroit Police Department is "Building a safer Detroit through community partnerships." The agency's mission statement is "Setting new standards of excellence in policing through integrity, innovation, and training." While both the vision and mission sound a bit like marketing tag lines rather than a set of core principles, DPD's stated values provide more specific standards and beliefs. These values are conveyed as professionalism, respect, integrity, dedicated service, and excellence, or what is referred to as "P.R.I.D.E." as detailed below.

<i>Professionalism:</i>	We will present an image that commands the highest degree of confidence.
<i>Respect:</i>	We will respect diverse ideas, cultures, and ethnicities rendering service in a fair, courteous, and dignified manner.
<i>Integrity:</i>	We will conduct ourselves with unwavering high standards of honesty, trust, and ethical behavior.

Dedicated Service: We pledge to respond to the needs of all citizens with compassion, commitment, and persistence.

Excellence: We will be distinguished as a world-class organization providing superior service exceeding customer expectations.

In isolation, the vision, mission, and values can appear as hollow promises. When supported by a department- and city-wide strategic plan that involves all city services working together appropriately, they can serve as the basis for appropriate decision making, as well as efficient, effective, and high quality service delivery across the spectrum. In reviewing the DPD manual (its set of operating procedures and policies), there was not an apparent plan for achieving agency goals. However, the manual does not fully integrate the vision, mission, and values articulated by the department. There is a reference to the “broken windows” theory which in part sparked the community policing era, yet the operational policies, practices, and culture appear consistent with traditional, incident-driven policing.

Clearly, the stated vision, mission, and values of the DPD are ambitious. Throughout this review, we attempted to examine the extent to which these are known and shared by department and community members, demonstrated through management policies, procedures, and supervision, and practiced in the performance and duties of the DPD in the community.

Officer Perceptions Regarding Vision, Mission, and Values within DPD

Through a series of DPD personnel focus groups and the culture and climate survey, we attempted to assess the extent to which members of the department knew and believed in the vision, mission, and values as conveyed by the department. In the officer focus groups, we asked DPD members to paraphrase what they believed to be the vision, mission, values, and motto of the department. Some provided standard law enforcement mottos such as “serve and protect.” Others clearly saw their role consistent with a traditional, incident-driven model (e.g., answer calls for service). Still others had apparently operationalized their sense of the mission in

very specific ways representative of the Compstat model, although this program does not seem to be in place in the DPD. Some examples of this included, “reduce crime by 10 percent” or “field at least five scout cars per shift.” Finally, a number of individuals said they were not sure exactly what the vision, mission, values, or motto of the department were.

In the culture and climate survey, DPD members were queried as to whether they *knew* the mission, vision, and values of the department. Fully 76 percent of DPD members who responded to the survey either agreed or strongly agreed that they knew the mission and values of DPD (see survey results in Chapter 6). Although 73 percent of all respondents claimed that they shared the mission and values of the department, significant differences were found between line officers and supervisors, with 67 percent of line officers agreeing with the statement compared to 82 percent of supervisors. Moreover, these views differed when comparisons were made between sworn and civilian personnel—civilians were more likely to agree with the statement than sworn personnel, almost 85 percent compared to 71 percent, respectively.

The fact that almost a quarter of department members did not know the mission, vision, and values, while perhaps not that different from other police departments, is cause for concern. If the department is to effectively achieve its mission and carry out its responsibilities according to its stated values, it is important that these be conveyed to all department members formally but as well as informally. Furthermore, the fact that over a quarter of department members—and about a third of line officers—did not share in the department’s vision, mission, or values is indicative of a problem of buy-in and commitment among departmental members. Finally, it was not apparent in our meetings with personnel that they actually did know the stated vision, mission, and values. It is possible, therefore, that those who claimed to know them, may actually have a different interpretation of what they are than what the department has stated them to be.

Communication and Coordination

It is important that the mission be clearly defined, articulated, and supported by all agency interactions and policies. However, it was very evident that the stated vision of “Building a safer Detroit through community partnerships,” does not drive typical daily activities of the department. Indeed, officers felt extreme pressure to simply respond to calls for service and handle them as quickly as possible, but did not feel that they were supported in their efforts to work with the community in more positive ways. Indeed one commander remarked to us in an interview that “we talk one way, but we act a different way.” Another commander remarked, “If response time is the real problem, then look at the organization chart and show me where the department really puts the resources it has, versus solving that problem.” Many personnel we spoke with felt that the agency was basically in a “reactive” rather than “proactive” mode of operation, and this seems to best represent one of the fundamental problems of the department.

In meetings with officers, supervisors, and commanders, it became evident to us that many were not clear about what the driving focus of their activities should be, another indication that perhaps the vision, mission, and values are not being institutionalized. One commander stated that “communication breakdown stands in the way.” It was clear that there was not good coordination between the ranks and that the commanders did not necessarily have a good handle on their units’ performance in terms of efficiency and effectiveness. Many headquarters units do not coordinate with precinct commanders on their efforts, leaving commanders to feel “disrespected” by executive staff. Indeed, one commander remarked, “We are not coordinated.” Yet another commented that, “People are working against each other trying to do what management wants—we are not coordinated.” Many commanders felt like their ideas and

contributions are not valued, even when they propose the elimination of units or task forces that would return personnel to the field, the perceived goal of the DPD's executive leadership.

In another example of the apparent failure to coordinate the DPD's efforts, the commander of narcotics investigations and the commander of the narcotics intelligence function acknowledged that the department's narcotics enforcement plan was to "kick doors," and make arrests based on citizens' and precinct commanders' complaints. In response to our questions, they indicated that there is no standard practice of debriefing arrestees, no plan to deal with narcotics traffickers who were operating across the city, and no linking of narcotics arrestees to detectives in homicide, robbery, or burglary for investigative or intelligence gathering purposes. According to both commanders, there is no global analysis of narcotics activity and its relationship to other crimes in the city or to narcotics trafficking organizations within the city.²⁰⁵ There was some discussion of DPD officers being assigned to various "federal task forces" to deal with narcotics and a reference to an effort to make these task forces more responsive to the needs of the DPD, clearly a good sign. Nevertheless, in a city the size of Detroit, to rely solely on the efforts of limited federal task forces to take a holistic approach to narcotics enforcement ignores the reality that the entire DPD can and should be focused on how narcotics trafficking is impacting crime and quality of life in Detroit.

This situation is of significant importance to deployment and staffing. Without an accurate understanding of the interrelationships between narcotics trafficking, attendant criminal behavior, and the overwhelming comments of field commanders about quality of life issues (many of which are driven by the narcotics trade), that confront the citizens, it is extremely

²⁰⁵ We presented a hypothetical case of a narcotics suspect living in the First Precinct dealing drugs in the Seventh Precinct, was shot (non-fatal) in the Fourth Precinct and, who two days later committed a retaliatory murder in the Sixth Precinct. Would the DPD have a system in place to monitor this? Both commanders said there was no way to link these crimes together as they are occurring.

difficult to determine what basic staffing and deployment strategies should be. Further, the narcotics commander, not the precinct commander, sets the hours of duty and prioritizes the work of personnel assigned to each precinct. Therefore, when one precinct needs help in performing the main mission of “kicking doors”, the detectives in another precinct can be pulled in to help, a practice that happens frequently, according to a commander who reported that personnel shortages hamper his ability to do the job.²⁰⁶

Another example of how the lack of coordination impacts upon efficiency and effectiveness is the assertion made to us that in order to reduce response time, many precincts “pull cars” from the road to handle assignment without coordinating with the communications division, thereby reducing the number of cars available by 9-1-1 dispatch. This practice, thus, has the opposite intended effect and actually increases response time. While dispatchers know current scout car assignments during a shift, field supervisors do not, making it difficult to know exactly what is happening in the precinct at any given moment. Clearly, call-for-service data should be better analyzed, and coordination between precincts and communications improved.

Another concern of communications officers is that they frequently do not receive the complete list of personnel and units working on a shift in a timely manner or at all. Communications leaders are also concerned that the field unit supervisors are not supervising or controlling the work of the field units and, whenever a conflict occurs, the field supervisors defend the officers to such an extent that the communications personnel feel helpless to make a difference in reducing response time. As we were interviewing the communications leadership team (the same observation was expressed by the precinct commanders), we were struck by the

²⁰⁶ Two of the busiest precincts are supposed to be staffed with two crews of narcotics detectives, but , due to personnel shortages, these precincts are staffed at approximately the same level as the slower precincts, with one narcotics crew. Clearly, the reassignment of narcotics detectives to handle the busier area is likely to be necessary on a regular, recurring basis.

lack of understanding of the many variables associated with the calls-for-service process (CFS).

All of the components, including wait time (time from 9-1-1 call to dispatch), time en-route (time from dispatch to on-scene), and handling time (time from on-scene to final disposition), were not viewed in a holistic way; thus, the focus remains solely on response time. Efforts to reduce response time as directed by the chief were not coordinated or fully understood given the field commanders' responsibility to manage all three of the components of the CFS process.

Basic statistics (such as number of seizures from assets and forfeiture; the relationship between impaired drivers and accidents, the relationship of narcotics to other crimes, etc.) are not known even to commanders. In fact, one commander reported to us that, "I don't have a clue the budget for my unit." This lack of information or the ability to take initiative in examining these issues is indicative of a culture in which even the higher ranking officers are not seen as part of the management team and are, as a result, isolated from the decision makers. Both precinct and unit commanders reported that they "receive instructions" from their deputy or assistant chief with no input or understanding of why, thereby reducing the likelihood that they can "sell" or convince their subordinates of the rationale for various decisions.

While the formal mission may indeed be "Setting new standards of excellence in policing through integrity, innovation, and training," it has not been made operational. Hence, there is significant confusion about the actual priorities of the organization. On the one hand, most of those responding to the survey claimed to know the mission but on the other hand, the focus groups expressed many different beliefs about what the mission was. It appears that officers believe the mission to be responding to radio calls, and supervisors appear to be held accountable for just that. At the same time, commanders seem to be focused on reducing crime, whereas executive leadership's focus is on reducing response time. Importantly, it appears that the

community's focus is not necessarily just response time but rather quality of life issues and being treated with professionalism and respect by the police. One unit commander remarked about the Compstat process in the department, "yeah, they ask about crime, mostly response time, but they never look at all the quality of life issues that really matter." Hence, there is a strong need for a unified message that is clearly converged, reinforced, and fully supported.

Informally, the perceived expectations and practices are quite different from those articulated formally. One commander indicated that, "The problem is not with the formal organization, it's with the informal organization." The informal organization, the agency's culture, seems to be shaped in large part by what the officers want and not necessarily the priorities of the agency as a whole.

Staffing and Deployment

Throughout our review, we were told repeatedly that the DPD was understaffed. When we interviewed commanders, however, we found that they had little hard evidence to support the claim that staffing was critically short. When we provided examples of how the current deployment model is either inappropriate for the activity in a particular area or at a particular time of day, we were informed that how staffing requirements are determined is indeed quite arbitrary or based on a longstanding, though not supported, historical model. We observed and were told that there are clearly inefficiencies, or that certain strategies are not effectively coordinated thereby resulting in a perceived lack of sufficient staffing. Once this idea was surfaced, nearly every commander interviewed to-date stated that far too many officers were not assigned to what should be the mission of the department—answering calls and helping the community. This statement must be tempered by one unwavering observation—each commander believed his/her personnel to be operating at peak efficiency and effectiveness (without any data

or examples to support that notion) and therefore more officers should be assigned to the precincts to work patrol.

In our contacts with commanders, most believed that overstaffing did exist but just at the headquarters level. There is a sense, perhaps, in all resource-strapped organizations that one is the next on the “chopping block.” At the same time, many commanders reminded us that minimum staffing requirements could often not be met without relying on overtime personnel, due to issues like unfilled vacancies, officers detailed-out to other commands, and officers who are on restricted-duty assignments.

Sick leave, too, seemed to account for a significant portion of the dilemma apparently faced by precinct commanders. From commanders’ own estimates, something like 15 to 30 percent of officers are out sick at any one time. Some saw this problem as stemming from either morale problems or extensive overtime requirements. We inquired about how to determine the rate of absenteeism on a given day and were told that unless someone is out for three or more days, it cannot be done. The department’s 350 Plan, a review status for catching sick-leave abuse, does not appear to have solved the problem. Because the abuse of sick leave can significantly impact upon deployment of personnel, it should be given a closer look. It was the observation of our team that the way the department deals with this problem is reactive rather than preventive.

In our review, it became immediately apparent that there are many specialized units that are either unnecessary, not functioning to their capacity, or minimize the responsibility of the precincts in carrying out their roles. As one commander noted, “Are specialized units still doing what was needed when they were formed?” There are many special project personnel who could be assigned to the precincts under the auspices of the commanders.

While staffing was the number one complaint surfacing during our on-site work, there was no real sense of what personnel are doing across the board. Many commanders believed that jobs like dispatchers, clerks, readers, drivers, mechanics, and building maintenance could and should be done by civilians, thereby freeing officers for patrol functions. However, the agency appears to have no control over hiring civilians, and the availability of overtime has caused the agency to simply continue using sworn officers in positions where civilians could have been hired, within the contract between the city and the Detroit Police Officers' Association (DPOA). Once an officer has been assigned, it then becomes a union issue to protect that officer and job. Clearly, an issue here is how it can be logically argued that a sworn officer is the only person who can fulfill some of the duties that are traditionally done by civilian personnel in departments around the country. If the issue is preserving the officer, then re-deploying him/her to the field should be a particularly useful solution, one that a sworn officer should be more than happy to do. There are far fewer civilians operating in the DPD than in many major cities in the U.S.

Another issue that may impact on the perceived lack of staffing is the policy regarding two-officer cars. While this clearly reflects the concern over officer safety in the DPD, there is a need to examine if this is necessary in all precincts and during all shifts. There are clearly a number of one-officer cars but the policy and assignment on this issue was not made clear to us. Indeed, in a ride-along with a one-officer environmental unit, the officer remarked that he felt safer alone as he is not disturbed by discussions with another officer and is generally more attentive and conscientious.

One other observation we made during our ride-alongs with officers was that for some radio calls multiple cars arrived on the scene. In several cases, the calls appeared to be of a minor nature, yet the team observed sometimes three or more cars that rolled-up on the scene. It

was not clear to us why so many officers felt the need to go to some of these calls, but it appeared to members of the team that there was nothing else for the officers to do at those times.

Our team's experiences, in combination with the fact that we were never provided with response time data we requested, increased our concern that staffing and deployment certainly need to be more carefully considered. Why aren't these data routinely analyzed by commanders to determine calls for service in their precincts at various times and days? Does it make sense organizationally that all precincts should have the same minimum staffing requirements? Are the precincts in fact equal in terms of crime, calls for service, quality of life issues and, if not, shouldn't organization-wide and localized strategies be adapted to ensure the most efficient and effective allocation of resources? It is important to determine how each precinct allocates personnel (radio cars, one-officer or two-officer cars, bike patrols, foot patrols, administrative, etc.) in accordance with the needs of that precinct. These issues should be determined by data not by arbitrary means; a sense of equality of precincts, unless that can be supported with data; and not on managerial prerogative unless informed by data.

Outside employment, too, can impact upon operations of the department. There does not appear to be any monitoring of outside employment. It is possible that personnel could call in sick to engage in outside employment while being paid by DPD. The information provided to us was that outside employment was on the "honor system." Without monitoring of outside employment, there is no accountability. It is important to closely monitor outside employment because fatigue and lack of sleep can have serious consequences for officer reaction time, alertness, and overall safety. At the same time, we acknowledge that the salaries of officers may be impacting on the necessity of individuals to work outside jobs in order to support their

families. The 2003 policy on Outside Employment provided to us [Code of Conduct, Section 102.03 – 1.5, page 6] states:

A member of the department is expressly prohibited from engaging in any other business, employment, or occupation during on or off duty hours, while on leave or furlough, unless the chief of police has granted approval.

Outside employment includes the rendering of any services of a business nature for pay or remuneration from any source other than from the city of Detroit for the performance of official police duties.

Business activity includes participation in or affiliation with any commercialized business activity for the purpose of financial gain except solely by investments.

Permission for outside employment is done via application and requires, in some cases, documentation of financial need. It is limited to furloughs, leave days, a maximum of four hours for on-duty days, and to four duty-days per week. Members must submit a monthly report listing all the time worked, including leave, furlough and off-duty time, and the hours worked each day. There are prohibitions for police-related work (investigators, guards, or watchmen), incompatible activities, or those in which the off-duty officers would come into contact with persons of questionable repute, undignified businesses, or those who would lower the prestige of the DPD. There are also restrictions on the hours if they would impair the performance of police duties or if the location prevented the officer from responding to a call for emergency police duty. However, it is not clear how individual commanding officers monitor these reports, nor the standards by which they are evaluated. What a commanding officer does with that information appears to be solely at his/her discretion.

As noted, salary equity is of great concern departmentwide. Most of the people we met with or who responded to the survey believe the Detroit salary plan does not compete with those

offered by surrounding jurisdictions (although it is typically the case in major metropolitan areas that the central cities pay less than the wealthier suburban areas surrounding them). Indeed, the base salary rate for Detroit officers was among the lowest we identified nationwide based on the 58 cities we examined. Detroit rated among the bottom five in starting salaries. We learned from personnel that many recruits use Detroit's training to become certified and then leave the agency. Steps have been taken to examine a requirement that reimbursement of training costs be made to the department by officers who leave within three years of hiring, but many believe it may not work or that other agencies will just pick up the tab in recruiting that officer.

Taken together, the issues of staffing, deployment, lack of coordination and control, and lack of proper supervision and accountability signal a great need for a more concerted effort to examine their interrelationships. If what was conveyed to us from all levels about a lack of adequate staffing is true, then without appropriately allocating personnel, coordinating the work across precincts and units, and properly supervising these personnel, the ability of the DPD to fulfill its service mission will not be enhanced at all by increases in staff. It was clear from our analysis of various comparison cities and their numbers of officers, that there is not a direct correlation between staffing levels and crime or other indicators. Therefore, it is likely that the way in which personnel are managed is more important than the number of personnel per se.

Community Relations

In our meetings with command staff, we wanted to get a better picture of how the community and police work together. One commander noted that, "The community has accepted the condition of the city; there is no sense of outrage about the condition of the city or

the department.” As noted in the climate assessment, about three-fourths of the respondents indicated that the community and the police do not work together to solve problems and prevent crimes, thereby further echoing the views of command staff.

Several command-level personnel indicated that the change in the residency law or requirement was a bad decision. One senior officer said, “DPD officers need to be more interested in the City of Detroit and the community’s interests. Indeed, in the departmental climate survey, of those who responded, 39 percent believed that the former residency requirement for officers was beneficial for the community. There was a general perception among commanders we met with that “since the absolution of the DPD residency rule for police officers, there is a lack of concern about city residents by too many officers.” Furthermore, the climate survey revealed that removal of the residency requirement has, to some extent, caused divisions among some officers in the department (29.3 percent).

Supervision and Accountability

Supervision appears to be lacking in many ways within the DPD. From the overhaul of the field training officer program to routine supervisory auditing functions in the field, there is a clear need to re-examine the role of the supervisor in ensuring high quality, professional service delivery to the community. At the same time, it appears that supervisors have little authority to carry out their roles. One commander noted that, “We have got to start with supervision; we don’t hold anyone accountable.” Another said, “You are told you are accountable but you don’t have any resources or real power except to move dots around on a map to get [the job] done.”

To further underscore the serious concern of whether or not field supervisors are actually supervising their personnel, we learned that a precinct supervisor had terminated a chase but the officers continued the chase “off the air” by using Nextel phones. This may be just one example,

but, taken in total with other statements made by supervisors about sick time, uniform and office appearance, travel time and handling time of calls for service, it sends the message that the first-line supervisory personnel may not be in control of the officers. The lack of coordination of these three critical field support units reflects poorly on the ability of the DPD to have a focused crime fighting or community oriented policing agency.

Management and Labor

Many commanders expressed that the union contracts constrain their ability to manage and utilize their personnel resources most efficiently and effectively, yet some have found ways to use the “contract to their advantage.” Throughout our review, it was apparent that management and union relations were consistently adversarial. This relationship clearly impedes the department’s ability to establish a unified and shared vision and associated values that binds them in a collective goal of community service. As a result, both management personnel and union leaders seek ways to “gain an advantage” over the other, as opposed to finding ways to more effectively meet the needs of the community. For example, language in the labor contract often impedes upon the ability of supervisors to select the most capable candidates for investigative positions, relying instead upon seniority as the primary factor. It is quite possible that the union desired such an arrangement based on perceived favoritism in selection in past practices. At the same time, we were told that the commander in the Central Services Bureau has the latitude to select personnel, as that division was exempted from the bid requirements set forth in the union contract. As a result, that unit has the ability to correct unprofessional behavior and transfer out individuals not meeting the unit’s standards. While that prerogative certainly can help the unit meet its goals, it also may send the message that “I can pick whoever I want,” regardless of ability. This may cause many officers to feel that favoritism or some other

political factor is what makes things happen. It is perhaps not at all surprising that relationships have become adversarial. If the intention is to deliver the most effective, professional, efficient, and high quality services, neither model will adequately address that. This is why there appears to be a strong belief that so much favoritism exists within DPD; it probably does. A more effective model would be to adopt objective criteria for measuring the knowledge, skills, abilities, and past performance and accomplishments in making assignments.

Morale

As was noted in the climate survey, an overwhelming 96 percent of the respondents indicated that morale was low within the DPD. Furthermore, the survey showed that 47.1 percent of personnel rated salary as the most important issue (out of ten factors). Furthermore, 50 percent reported that salary had the greatest effect on their morale, and 37 percent said it had the greatest impact on their performance.

It is important for leadership to recognize that when pay is at such a low level, other types of incentives, rewards, and forms of appreciation are extremely important. Yet we were told that the department had discontinued promotion ceremonies and police Olympic Day, further decreasing morale by sending the message that personnel successes did not matter. One commander said that, "There is no recognition of the officers... they need it."

Another factor influencing morale is prestige and esteem. For some reason, patrol is not regarded highly in the department and is therefore seen as the most undesirable assignment. Yet, given that these officers are the front line with the community, their positions should be regarded as the most critical. Many of the best officers are seen as trying to transfer out of patrol, leaving less experienced and less effective officers to be in the highest public contact positions.

Relying on History

The time-old adage, “We always did it that way,” continues to be a general explanation for procedures or practices that don’t seem to be warranted at this point in time. During our interviews, nearly every person we talked to inside the department used that expression as a response to our questions about why certain practices have continued. Be it patrol or investigative strategies, sworn officers serving as dispatchers, having “readers” for high ranking officers, the necessity of two-officer units, and even drivers for field sergeants, the agency’s leadership appears bound to these traditions. Many continue to defend longstanding policies and practices even in the face of overwhelming evidence that these are no longer standard practices in most modernized police agencies today or that the approaches are no longer working.

Evaluation of Performance

The current system for evaluating performance in the DPD is through what are called “service ratings.” For all intents and purposes, this system does not appear very meaningful in that it does little to establish objectively measurable standards. As indicated previously, 79 percent of respondents in the climate survey did not believe that service ratings were an accurate reflection of officer performance.

It is our understanding that the system automatically ascribes a lower rating from the outset for those assigned to patrol. This sends a message that patrol is not considered a high performance area. In fact, one commander indicated that “They are useless because if you have more than ten years on the job, you will automatically receive a 90, whether you deserve it or not.” Yet another commander remarked that, “The service ratings don’t work...everyone with ten-plus years gets 90s [highest ratings] so it is really [a] seniority [based system].” If this is in fact true, it again demonstrates that objective and measurable standards are needed across the board for personnel management.

As was noted in the survey, 74 percent of respondents said that the department does not regularly gave commendations and awards to employees for excellence in performing their jobs. Fully 64 percent believed that supervisors are not encouraged to acknowledge good performance of their subordinates.

Facilities

In our site visits, our consulting team agreed that many, if not all of the facilities were in disrepair and generally unkempt. Even minor details like cleanliness, orderly appearance of bulletin boards, and furniture were not attended to. Many residents clearly form impressions of the DPD based on the appearance of the buildings. Furthermore, employees too must be impacted by the conditions in which they are expected to work. The precincts, considered the least desirable place to work, also look like the least desirable places to work. Many of the facilities we visited in the course of our on-site work were in equally old buildings as old as the precincts. Except for communications, most of the other facilities were cleaner, better furnished, and more professionally managed than the precincts. As was noted in the climate survey, 93 percent of respondents believed that some of the department facilities and precincts pose hazards or health risks to officers.

Equipment

In meetings with commanders, many voiced concern over the lack of functional vehicles, portable radios, and laptop computers in vehicles. This, too, echoed the sentiments expressed in the climate survey. As was mentioned previously, 93 percent of respondents felt that patrol vehicles were not sufficiently equipped or were not consistently in proper, safe working condition. Also 94 percent believed that in-car computers/MDTs were not consistently in

working condition, and 79 percent believed that radios issued to patrol officers were not consistently in working condition.

Professionalism

Our team visited precincts, went on ride-alongs, conducted interviews, met with community organizations, facilitated officer focus groups, and conducted community forums. In many of the precincts we visited, staff wore their uniforms improperly (e.g., ties not on or to the side). Many of these individuals worked directly for commanders and were interacting with the public, thereby not displaying a professional appearance. We also observed some officers being outright disrespectful to their commanders. While this may have angered some commanders, it did not appear that officers involved really cared about what their supervisors thought of them. It was as if they felt so secure in their jobs that they took the attitude that one can display a bad attitude and there is nothing a supervisor can do about it. While these experiences were the exception and not the rule, they did reflect poorly on the professionalism of the agency.

In our ride-alongs, there was one case in which an officer was extremely unprofessional with his supervisor (in response to not wanting a ride-along). During one incident, he was extremely unprofessional with a community member, referring to him loudly, and in the presence of our staff member and other community members, as a “mental” while also swearing at the person repeatedly (“put your M----- F---ing hands against the M----- F---ing car”) numerous times. There is absolutely no need for officers to swear at citizens or use the term “mental” when interacting with individuals with reduced capacity. It was our belief that if an officer assigned to a ride-along with a researcher behaves in such a manner when being watched, it may be indicative of either a common behavior or behaviors that may be far worse. In either

case, it certainly indicated a general culture where this type of interaction is not seen as inappropriate. What was perhaps more disheartening was the fact that this officer had a younger, female partner who acted fully professionally and had to be exposed to this type of behavior. It raised the question about whose behavior is more likely to rub off on the other.

While the use of foul language and descriptive terminology may not seem problematic to some officers, it clearly is reflective of a very negative attitude and lack of professionalism. If this is what the community sees when interacting with officers, regardless of their criminal status, it can lead to perceptions of unprofessionalism, lack of sensitivity, disrespectfulness, and unfairness. Command staff need to understand and reinforce the fact that good community relations is not just about initiating various programs and activities, it is highly dependent upon each officer acting with courtesy, respect, dignity, and professionalism. Regular field audits and a culture that supports this level of professionalism are essential in ensuring improved police-community relations.

Chapter 8:

Conclusions and Recommendations

The purpose of this project was to comprehensively assess the Detroit Police Department and provide technical assistance and recommendations for improving police-community relations. Numerous administrative changes occurred during the course of our project, including a change in departmental leadership. In the time that has elapsed since we completed our work with the department, many changes—in focus, procedures, policies, and practices may have occurred. This section provides a summary of key conclusions gained from the various stages of the project including the media review, operational assessment, interviews and focus groups, climate and culture survey, and community outreach. In this section we focus on issues discussed in this report for which there is the greatest concern and potential for practical improvement as the department moves forward in its efforts to provide high-quality, professional and efficient police services to members of the Detroit community.

Departmental Image

The department's image in many parts of the community is quite poor, in part due to the way the local media portray the DPD and partially due to the lack of a departmental strategy to promote the positive work done by the DPD and its officers. The appearance and lack of repair of the department's facilities and vehicles portrays a lack of professionalism. The use of black cars ("scout" cars) sends an image that the department does not want to be recognized, and the use of the term "scout car" comes from the military, often used to portray the image of exploring and searching hostile enemy territory. Furthermore, unprofessional interactions by some officers

reflect poorly on themselves, the department and the profession as a whole. While prohibited by policy, via the code of conduct, this behavior should be discouraged and.

Feedback

Throughout our review, we learned that feedback—whether it is to members of the community as it concerns the status of investigations or to the officers regarding their performance—is sorely lacking. In fact, we came to find out that what little performance-related feedback was provided came in the form of a punitive nature.

Management experts suggest that feedback enhances motivation, learning, and performance and is most effective when delivered accurately, timely, and constructively (Landy and Conte, 2004; Gordstein and Ford, 2002). Trust, communication, and performance improvements can be made only if appropriate information is provided in a timely, honest, and professional manner. For example, promotional exam feedback in the DPD is limited to the opportunity to call a toll-free number to get one's score. This is a lost opportunity for providing developmental feedback to officers on areas for improvement. Feedback serves as reinforcement for proper behavior and performance. According to Steers and Porter (1991), in a recent review of studies of positive reinforcement and its impact on job performance, 47 of the 51 studies showed substantial performance improvements gained from the use of positive reinforcement—a 92 percent success rate.

The response rate on our climate and culture survey was among the lowest the Police Foundation had obtained in previous surveys, despite the most extensive outreach and comprehensive process ever engaged. Many individuals in the survey and the focus groups and interviews informed us that there was not really a point in them participating and providing their feedback because they would never hear about it again; it is as if anything they ever participate

in is for naught. Continuous improvement is not possible in an environment that discourages feedback.

Furthermore, community members who call to report crimes or file complaints reported rarely, if ever, receiving any follow-up from the DPD. Providing a short letter in response to a complaint can go a long way in making the community feel that their involvement with the police is purposive. Residents who have been burglarized would benefit from getting a call from an officer regarding the status of the investigation at some point shortly after they have filed the report. These efforts at positive interaction can only serve to strengthen joint problemsolving.

Coordination

In reviewing a number of issues associated with communication in the DPD, we learned that there is an abysmal lack of coordination of activities and people at all levels within the DPD. Yet coordination is considered an essential management function. Research begun at Control Data Corporation in the 1970s, that built on earlier work related to the necessary skills for executives, found that coordination was one of the nine major responsibilities of managers (Page, 1985). This responsibility involved “coordinating efforts with other individuals and groups within an organization over whom the manager has no direct control in order to share information... solve problems and achieve objectives....” (see Yukl, 1989).

Yet, in our review of the department, roles and responsibilities of supervisors and commanders seemed to be insular; that is, those in leadership positions seem to operate as singular units rather than as part of a collective. Whether this comes from a perceived threat of sharing information, a sense of defensiveness, or simply a culture that discourages joint problem solving, it certainly creates a form of isolationism and lack of cooperative spirit. What was particularly notable was that [when questioned about issues directly relevant to them, most

commanders seemed content not knowing information that may come to bear on their job responsibilities]. Why field personnel and communications staff may sometimes be at odds is baffling; they are both privy to information that can only be mutually beneficial in achieving departmental goals. This is but one example of the lack of coordination, cooperation, and mutual support necessary for optimal organizational functioning.

Responsibility

Throughout our review, we asked questions of various DPD personnel about how things are done and why they are done in particular ways. In many of the responses we received, we felt that sometimes there was an almost complete lack of responsibility for being able to answer such questions on a daily basis or to analyze available information to draw conclusions or make decisions. Many people acted in a manner that suggested they had no idea, nor should they, about why they do what they do. This rote form of functioning indicates that perhaps their input into decision making is never sought. If one is told what to do and discouraged from asking questions about the reasons for it, it can lead to a sort of “learned helplessness.” (Seligman, 1972).

The theory of learned helplessness (Seligman, 1972), while originally based on experiments with dogs, was applied to human behavior to explain depression. But the basic concept provides an understanding of why people stop trying to effect change. When people feel that their efforts are futile in changing outcomes, they experience a loss of control and just give up. When members of an organization repeatedly get punished for speaking up or speaking out, for asking questions, or for generating new ideas, they begin to withdraw, knowing that regardless of what they do they get little in return. Given the expressed lack of responsibility by many members of the department and beliefs that how individuals perform/ behave in DPD does

not affect the outcomes he/she may receives, it appears that a form of learned helplessness, at least to some degree, has characterized the culture within the DPD, rendering individuals unwilling to take initiative.

Supervision and Accountability

Accountability starts with supervision in any organization. While supervision is a critical function in policing, often supervisors are provided with few, if any, tools for effective supervision. In DPD, it appears that supervisors are not provided with ample preparation to perform their roles effectively. There is a great need for training and career development for field training officers and supervisors. Yet, it does not appear that the FTO program in DPD is well structured. We were informed that there are no incentives (monetary or otherwise) for individuals to serve as field training officers. Also, little if any training is provided to individuals selected for these critical positions within DPD. Those field training officers often set the standard for new officers.

Supervision appears to vary considerably across individuals and there is a lack of consistency in supervision across the department. As was previously mentioned, only 55 percent of those officers responding to the climate and culture survey felt that supervisors clearly communicate what is expected with specific directives and orders. For all practical purposes, the functions of management, including planning and organizing, staffing, directing, coordinating, and reporting daily activities, are absent in the sergeant's duties. Planning should involve structuring patrol officers' time so as to include community outreach activities. Directing should involve pointing out organizational priorities and how best to accomplish them. It should also include the ability to appropriately allocate resources in the most effective manner. However, DPD precinct supervisors do not have control over precinct resources. Field supervisors do not

manage cars; that is instead left to the zone controller, in effect reducing the scope of authority for supervisors. Supervisors also are not provided with data regarding calls, responses, crime and related data that would be helpful in solving problems.

Overall, accountability is lacking due to the absence of information-led policing. In other words, there is a lack of focus on the collection and analysis of data necessary for problem analysis. This creates an environment in which no one takes responsibility or can realistically be held accountable because responsibility must come with the authority to obtain information and resources to address problems. Many supervisors and commanders—and patrol officers for that matter—do not feel that they have the authority to obtain information and make decisions.

Information-Led Policing

The idea of “information-led policing” is driving much of professional policing today. Police leaders and scholars have recognized that decisions should be data driven and supported by clear evidence of what works. When the rationale for decisions is kept secret, it leads to suspicion that it is an unsupportable decision and limits the ability for others to learn about and understand the philosophy and expectations of management.

Within DPD there is a lack of objective means for making many personnel and operational decisions. Without clearly articulated performance expectations, a valid and believable mechanism for evaluating performance (as in the example of the service rating system in the DPD), and a culture that empowers individuals to gather and use data to make decisions, the rationale for making decisions remains a mystery. While top management may have access to critical data and information for making decisions, DPD supervisors and commanders have not been similarly empowered. Likewise, patrol officers also do not feel that they have a say in how they do their jobs and do not understand or even accept many of the policies or even the

overall agency mission. In the culture and climate survey, we noted that just about two-thirds of patrol officers share the department's mission. While this is somewhat promising, it certainly points out that not everyone is on board with the overall mission.

Social Culture

In our review of the department's climate and culture, we found that some aspects of the culture are divisive. Oftentimes in periods of scarce resources, an automatic competition that emerges. In the case of the DPD, there are a number of competitive and adversarial relationships, including those between management and the unions, civilian and sworn departmental members, various racial groups, patrol versus bureau personnel, community relations versus patrol, officers who live in the city and those that do not, and even the police and community. A significant amount of team building is necessary but cannot occur without a shared mission, vision, and values that are mutually established and cooperatively supported.

In reviewing media accounts over the past several years, it is apparent that management and the unions are not always working cooperatively to attain the best possible outcomes for the community. Each group sees its interests as mutually exclusive of the other, yet the mission of the organization should be shared equally among all. In reviewing the results of the climate and culture survey, the majority of non-sworn personnel (79 percent) agreed that sworn personnel tend to look down on them, whereas only about 30 percent of sworn respondents believed that to be the case.

While almost two-thirds of the survey respondents felt that there is a spirit of camaraderie among officers of different races/ethnicities within the department, about two-thirds also agreed that there was racism in the department. Specifically, the majority of black officers (87 percent) and other race officers (79 percent) felt that racism exists in the department, whereas a much

smaller percentage (27 percent) of white officers believed that to be the case. With regard to the residency issue, over a third of respondents felt the residency requirement was beneficial to the community, and over a fourth thought that removal of the residency requirement caused some divisions within the department.

DPD personnel generally believe that they treat the community with courtesy and respect (74 percent of survey respondents) but the same percentage of personnel felt that community residents do not treat DPD officers with respect. A full three-fourths of officers do not believe that the community supports their efforts, and 77 percent of respondents reported that the community's expectations of police are unrealistic. A sense of division is also demonstrated by the fact that almost three-fourths of survey respondents said that the community and police do not work together to solve problems and prevent crime. While just 15 percent of officers agreed that the community and police work together, 37 percent of supervisors felt that way, perhaps indicating again that the positive efforts of the department are not necessarily communicated effectively.

Finally, the vast majority of survey respondents from inside the department do not believe that community policing is alive and well in Detroit.

Strategic Planning

The department has developed a vision, mission, and values (VMV) statement, but it is not supported by clearly articulated objectives for accomplishing the agency's mission. It is also not clear whether this VMV statement was developed in cooperation with the community or members of the department. For the department to be most effective, it should ensure that this VMV statement is shared by all key stakeholders. All strategic, operational, and community-based objectives should stem from the VMV. The objectives should then be operationalized so

that they include quantitative and qualitative performance indicators that can be used as benchmarks with which to gauge the agency's progress. Without such measures, the management of the operation and its personnel seem without purpose or direction. While the DPD vision predicts a safer community through partnerships, the strategic plan provides the vehicle for accomplishing that. The fact that the majority of survey respondents (about three fourths) did not believe that the police and community work together to solve problems and prevent crime indicates the need for a more coordinated strategy.

RECOMMENDATIONS

Recommendation #1:

The DPD leadership should re-examine its goals to ensure that the goals of senior management, commanders, line officers, and community are better aligned and communicated. Informal and formal expectations for performance have been unclear due to lack of a shared vision of what is important. In this examination, the department should consider if its goals communicated by upper management (e.g., community policing) are consistent with the message being sent by supervisors (e.g., just respond to calls for service).

Recommendation #2:

The DPD should insist on its officers displaying a professional, customer-service orientation in every interaction with members of the community, particularly those residents who come into the precincts to file complaints.

- 2.a In order to ensure the professionalism and reputation of the DPD and its officers, supervisors and commanders should be charged with routinely conducting field audits and inspections of all encounters, with the goal of ensuring that all are treated with the utmost professionalism.
- 2.b The department should institutionalize the goals of community service in all of its communications, policies, and procedures.
- 2.c It is recommended that additional training in communicating in diverse communities be added as an in-service training course.

Recommendation #3:

The department should engage a strategic planning process if it has not already done so in the past year. Such an effort should involve community and department members. The U.S. Department of Justice, Office of Community Oriented Policing Services (COPS Office), developed and provided a strategic planning training course through the Community Policing Consortium and the Police Foundation several years ago. The materials produced in that process may prove useful to the DPD as it moves forward with such a process.

Recommendation #4:

The DPD should more fully explore its efficiency in patrol staffing and deployment. Our efforts to gain necessary information (i.e., response time data) was limited by the agency's inability to provide us with appropriately formatted data to complete the analysis. Such an assessment, preferably conducted by an organization that has done such analysis with other large police departments, should include a thorough review of calls for service, prioritization of the calls, the amount of time between citizens' calls, the phone being answered, the dispatch of a radio car, the time to the scene, and the time for officers clear the calls. It should also include a complete assessment of the volume of calls at various times throughout each day and over the course of a week, as well as an assessment of the number of cars that actually respond to the scene in order to provide guidance as to the appropriate deployment strategy in each precinct and for each shift.

Recommendation #5:

The DPD should enhance its capacity to work with the youth in Detroit. Much of the positive feedback received in this report was based on outreach to Detroit's youth. While many programs and activities may seem costly, there are a number of things that could be done to leverage and expand upon existing relationships.

Recommendation #6:

The Field Training Officer Program should be completely redesigned to make it more effective in supporting the mission of the DPD. As supervisors are the most critical link to ensuring high quality, professional service delivery to members of the community, the way in which they are selected, trained, and monitored is critical to the agency's ability to accomplish its most central mission.

Recommendation #7:

The DPD should promote its positive, community-based activities through a variety of channels. There are a number of positive steps the DPD has taken to improve its relationships with the community. However, most of these actions go uncelebrated or unrecognized even internally. It would be very helpful if the department could take steps to further professionalize its community and media relations areas by including civilian staff from the private sector who have experience in marketing, promotions, and/or media relations.

Recommendation #8:

A facilities and equipment expert should be contracted to examine the safety, functionality, and appearance of the precinct buildings, as well as the functionality and repair of vehicles and officer-issued equipment (i.e., radios). Such an examination should include an assessment of the state of repair/disrepair of each building (structure, lighting, electrical, water, etc.), the layout of the precinct, and the aesthetic appeal of the precincts. It should also include an inventory of all service vehicles, their condition, year they were put into service, and expected out-of-service dates so as to provide a better projection of future equipment needs.

Recommendation #9:

Leadership in the DPD should make every effort to ensure that the processes of assignments, transfers, and promotions are conducted in a highly objective, transparent fashion. Specifically,

steps should be taken to increase the objectivity in these processes so that performance and merit are the criteria used to make such decisions. Individuals not selected for specialty assignments or promotions should be supplied with ample feedback on their performance that will provide developmental opportunities for those candidates in the future.

Recommendation #10:

A salary survey should be conducted by an independent, outside organization to assess the appropriateness of DPD starting salaries. In our review, DPD ranked among the lowest nationally, disproportionate to the cost of living. In conducting such a survey, the contractor should consider equity as it relates to similarly situated jurisdictions, the local area agencies, the region of the U.S., and the impact of salaries on the ability to attract high quality candidates.

Recommendation #11:

The DPD should improve its system for evaluating performance. Service ratings should be based solely on performance, which should be evaluated in as objective a fashion as possible. Credit should be given for community-based initiative and professionalism, including things like capacity to speak a second language or conducting outreach in the community (where possible). Feedback on performance should be provided on an ongoing basis and, where opportunities exist to gather developmental feedback (e.g., promotional tests), this should be provided to personnel in an appropriate manner.

Recommendation #12:

The department should re-evaluate the responsibilities of many jobs assigned to sworn personnel to determine if they could be civilianized. Unless a job requires an authority granted only to police officers, it should be reclassified as a civilian position within the DPD. This will allow for the most effective and appropriate utilization of sworn police officers. This examination could be done in conjunction with the staffing and deployment analysis (*Recommendation #4 above*).

Recommendation #13:

Precinct commanders should be provided with information on their performance and encouraged to coordinate with other units within DPD to obtain information relevant to crime control and prevention. They should also be empowered to make decisions consistent with data and information they have analyzed for the purposes of improving the operations of their precincts.

Recommendation #14:

The DPD should conduct a thorough review of administrative practices to increase efficiency.

- 15.a Identify steps that could be taken to minimize redundancy in paperwork, reduce the number of revisions required for reports (through better instruction), focus on the content of reports as opposed to supervisory preferences in format.
- 15.b Conduct routine audits of sick leave.
- 15.c Improve monitoring of off-duty employment with the goal of reducing sick leave and increasing safety.

Recommendation #15:

The DPD should initiate a team-building program within the agency. Such an effort should be developed to ensure that social divisions within the culture are minimized and that individuals are encouraged to work cooperatively in carrying out their duties and responsibilities. This

program could serve as a career development tool in encouraging individuals to develop their skills. This team-building program should not be isolated to supervisors or leaders but rather encourage interaction across levels. It could serve as a model for strengthening coordinated problemsolving and could eventually include team-building with social service providers and other community-based organizations.

Recommendation #16:

The agency should reinitiate and/or establish a new formal recognition policy for recognizing officers. Inherent in this recommendation is the need to identify what performance is classified as exemplary, particularly within a community-policing context.

Chapter 9:

Technical Assistance Services

A number of technical assistance services were provided to the department during the course of the project. Six months into the assessment, an executive briefing was provided to present some of the preliminary issues identified in the review. This served as the basis for departmental executives to begin addressing some of the preliminary issues.

The department requested that we assist them by providing a grant-writing course and a leadership class. The grant-writing course was provided on-site to agency-identified personnel who would be charged with the responsibility for applying for grants. Two instructors with significant experience in applying for and obtaining grants presented the course which was well-received by all in attendance.

Finally, during the course of the project, the Police Foundation was also involved in another project in Detroit that was also funded by the COPS office. That program, “Hiring in the Spirit of Service”, was designed to assist the agency in identifying, recruiting, and hiring individuals who demonstrate a service-orientation. As part of that program, the Police Foundation developed a software tool for the recruiting unit to use in order to track and examine applicant recruitment statistics.

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Appendices

Appendix A: Print Media Review—Publication Descriptions and Reader Demographics.

Appendix B: Print Media Review—Topics and Tone of Each Publication.

Appendix A

Print Media Review—Publication Descriptions and Reader Demographics

The Detroit News and the Detroit Free Press

The *Detroit Free Press* and *Detroit News*, the city's two major papers, have been sister publications since 1989, when they began combining their weekend efforts into a consolidated Sunday edition.²⁰⁷ Both are general circulation daily newspapers providing domestic and international news coverage, though the *Detroit News* has a greater focus on short, local, human-interest stories.²⁰⁸ A combined survey done in May to June 2002 shows that the weekday editions of the two papers reach 1,575,000 individuals. The readership covers the entire Detroit metropolitan area, and the reader demographics are summarized below. As is shown, the readers are well educated with the majority (51 percent) having incomes over \$50,000 annually. While the readers are split fairly equally along political lines, almost three-fourths are white.

Reader Demographics

Income	Over \$50,000	Over \$75,000	Over \$100,000
Percent	50.7	30.6	16.8

Education	College Degree	Advanced Degree	>1 Advanced Degree
Percent	22.3	13.6	35.9

Political Affiliation	Democrat	Republican	Independent
Percent	33.5	27.9	31.9

Race	White	Black	Hispanic	Other
Percent	72.6	21.7	2.8	3

The Michigan Citizen

²⁰⁷ Robert Giles, "Why keeping 2 daily newspapers in Detroit is simply good business," *Michigan Chronicle*, 25 July 1999, 1 (A).

²⁰⁸ "The *Detroit News*," <http://www.michmarkers.com/Pages/S0459.HTM>.

The *Michigan Citizen* is an African-American-owned newspaper that reaches 58,000 readers every week. It provides comprehensive coverage of African-American-led cities and editorial content that offers a militant Pan-African interpretation of social and political issues.²⁰⁹ While no data were provided on political affiliation, other reader demographics were provided.

Reader Demographics (reader profile conducted in 2000)²¹⁰

Income	Over \$35,000
Percent	57

Education	College Degree	Attended Graduate School
Percent	19	14

Race	Black	All Other
Percent	86	14

The Michigan Chronicle

The *Michigan Chronicle* is also a black community paper and has a weekly circulation of 40,000 people. Given the *Chronicle*'s relatively small size, there is little data available on its readers beyond the fact that they are primarily African American.²¹¹

The Metro Times

The *Metro Times*, which is Detroit's largest weekly, describes itself as an alternative newspaper and claims to deliver "the straight story" on news, arts, and culture to its readers.²¹² Each week, the *Metro Times* reaches 539,300 readers on the basis of its publisher's survey done from May to June 2002.

²⁰⁹ Information based on a telephone conversation with the publisher at the *Michigan Citizen* and "The *Michigan Citizen*" Proquest Information and Learning – Publication Info, 2002.

²¹⁰ "Michigan Citizen, Reader Profile, 2000," provided by the paper's publisher.

²¹¹ "The *Michigan Chronicle*" Proquest Information and Learning – Publication Info, 2002.

²¹² *Metro Times*, "About us," <http://www.metrotimes.com/>.

Reader Demographics

Income	Over \$50,000	Over \$75,000	Over \$100,000
Percent	58.7	34	19.7

Education	College Degree	Advanced Degree	>1 Advanced Degree
Percent	22.4	9.5	31.9

Political Affiliation	Democrat	Republican	Independent
Percent	42.2	18.7	36

Race	White	Black	Hispanic	Other
Percent	63.8	28.6	6.9	<1 ²¹³

²¹³ "Cumulative Statistical Report, Adults Age 18+, Detroit Survey," International Demographics Inc., Publishers of the Media Audit, Houston, Texas.

Appendix B

Print Media Review—Topics and Tone of Each Publication

Detroit News

Summary of Articles and Tone

Topic	Positive Tone	Negative Tone	Neutral Tone	Total
Dragnet Arrests		1		1
High Speed Pursuits		3		3
Prisoner Custody		3		3
Training	5			5
Honors/Awards	6			6
Hiring/Recruitment	3	3	3	9
Department of Justice Investigation	3	4	3	10
Crime Rates	7	1	4	12
Police Union	1	2	10	13
Discipline/Accountability	3	12	1	16
Budget/Resources	10	3	6	19
Abuse of Police Authority	10	10		20
Police Brutality	4	17	3	24
Community Relations	20	4		24
Administration of Justice	3	9	13	25
Patrol/Deployment	11	13	5	29
Officer Slayings/Injuries	47	2	5	54
Officer Shootings	10	43	37	90
Other/Miscellaneous	32	36	23	91
Total	175 (39%)	166 (37%)	113 (25%)	454

Detroit Free Press

Summary of Articles and Tone

Topic	Positive Tone	Negative Tone	Neutral Tone	Total
Honors/Awards	2			2
Hiring/Recruitment	1	2	2	5
Crime Rates	1	3	2	6
High Speed Pursuits	1	3	3	7
Community Relations	3	3	3	9
Prisoner Custody	1	7	3	11
Patrol/Deployment	5	1	6	12
Department of Justice Investigation	6	6	4	16
Police Union	4	5	7	16
Police Brutality		8	9	17
Discipline/Accountability	1	18	3	22
Administration of Justice	2	9	11	22
Dragnet Arrests	2	20		22
Budget/Resources	4	13	8	25
Abuse of Police Authority	6	22	7	35
Officer Shootings	4	34	24	62
Officer Slayings/Injuries	50	4	21	75
Other/Miscellaneous	55	42	30	127
Total	148 (30%)	200 (41%)	143 (29%)	491

The Michigan Citizen

Summary of Articles and Tone

Topic	Positive Tone	Negative Tone	Neutral Tone	Total
Dragnet Arrests		1		1
Department of Justice Investigation		1		1
Budget/Resources		1		1
Police Union		2		2
Prisoner Custody		3		3
Patrol/Deployment		3	1	4
Abuse of Police Authority		5		5
Discipline/Accountability		5		5
Officer Slayings/Injuries		6	1	7
Other/Miscellaneous		8		8
Administration of Justice		9	3	12
Police Brutality		15		15
Officer Shootings		15	1	16
Community Relations	2	15	1	18
Total	2 (2%)	89 (91%)	7 (7%)	98

The Michigan Chronicle

Summary of Articles and Tone

Topic	Positive Tone	Negative Tone	Neutral Tone	Total
Honors/Awards	1			1
High Speed Pursuits			1	1
Budget/Resources			1	1
Hiring/Recruitment	1		1	2
Dragnet Arrests	1	2		3
Police Brutality		5		5
Community Relations	5	1	3	9
Officer Shootings	3	9	1	13
Other/Miscellaneous	9	2	4	15
Total	20 (40%)	19 (38%)	11 (22%)	50

The Metro Times

Summary of Articles and Tone

Topic	Positive Tone	Negative Tone	Neutral Tone	Total
Training	2			2
Community Relations	1	4		5
Patrol/Deployment	1	1		2
Police Brutality		2		2
Discipline/Accountability		6		6
Officer Shootings		2		2
Other/Miscellaneous		2	1	3
Total	4 (18%)	17 (77%)	1 (<1%)	22

D.C. METROPOLITAN POLICE DEPARTMENT BIASED POLICING PROJECT

SURVEY INSTRUMENT
DO NOT CIRCULATE



The Police Foundation is a non-profit research organization based in Washington, D.C. dedicated to improving police services through practical research and technical support. Our address is 1201 Connecticut Avenue, N.W., Suite 200, Washington, D.C. 20036. This survey instrument was developed by the Police Foundation in collaboration with the Metropolitan Police Department and a working group of city agencies and civil rights groups in Washington, D.C.

Version 10 (07.07.02)

Hi, my name is [INTERVIEWER NAME]. I'm a researcher calling from a non-profit organization in Washington, D.C. We're interviewing residents in your neighborhood about their opinions and experiences with the Washington, D.C. Metropolitan Police Department. It only takes about ten minutes to complete. Your answers would be kept strictly confidential and used only for research purposes. Your participation in this survey is voluntary and would be greatly appreciated. Could I please speak with someone in this household who is at least 18 years old?

INTERVIEWER: IF NO ONE 18 YEARS OR OLDER IS AVAILABLE, ASK WHEN TO CALL BACK.

CONTINUE WITH SURVEY.....(GO TO Q1).....	1
HUNG UP DURING INTRODUCTION.....	2
CALLBACK.....	3
PROBLEMS—LANGUAGE.....	4
REFUSED.....	-8

There are many different police agencies working in Washington, D.C., including the Metro Transit, Capitol, and U.S. Park Police. We only want to ask you about your opinions and experiences with the D.C. police, or the MPD. MPD officers usually drive white patrol cars with a red and blue design.

1. How certain are you that you can tell the difference between MPD officers from other types of police officers?

Very certain.....(GO TO Q2).....	1
Somewhat certain,.....(GO TO Q2).....	2
Somewhat uncertain, or.....	3
Very uncertain?.....	4
DON'T KNOW.....	-9
REFUSED.....	-8

INTERVIEWER: Thank you for your time. This concludes the survey.

2. How often do you see MPD officers in your neighborhood? Would you say you see them...
PROBE: Either in a car or on foot...

A few times a year,.....(GO TO Q4).....1
About once a month,.....(GO TO Q4).....2
About once a week,.....(GO TO Q4).....3
A few times a week,.....(GO TO Q4).....4
Every day, or.....5
Not at all?.....(GO TO Q4).....6
DON'T KNOW.....(GO TO Q4).....-9
REFUSED.....(GO TO Q4).....-8

3. On a normal day, how many MPD officers do you see in your neighborhood?

NUMBER OF OFFICERS.....| |
DON'T KNOW.....-9
REFUSED.....-8

4. Would you best describe the MPD officers in your neighborhood as... **PROBE:** If you had to choose one, which one would it be?

Mostly white,.....1
Mostly black,.....2
Mostly Hispanic, or.....3
Mostly Asian?.....4
OTHER.....5
DON'T KNOW.....-9
REFUSED.....-8

5. In your neighborhood, do you think there are...

Too many police officers,.....1
About the right number of police officers, or.....2
Too few police officers?.....3
DON'T KNOW.....-9
REFUSED.....-8

6. I'm going to read a number of statements. Please tell me if you strongly agree, agree, disagree, or strongly disagree with the following statements about the police in your neighborhood.

	STRONGLY AGREE	AGREE	DISAGREE	STRONGLY DISAGREE	DON'T KNOW	REFUSED
A. The police do a good job preventing crime in your neighborhood.	1	2	3	4	-9	-8
B. The police do a good job controlling drug activity in your neighborhood.	1	2	3	4	-9	-8
C. The police care about problems in your neighborhood.	1	2	3	4	-9	-8
D. The police do a good job enforcing traffic laws in your neighborhood.	1	2	3	4	-9	-8
E. The police are good at communicating with residents in your neighborhood.	1	2	3	4	-9	-8

7. Now I'm going to ask you a few general questions about the MPD. Do you think their police officers are...

Very honest,.....1
 Somewhat honest,.....2
 Somewhat dishonest, or.....3
 Very dishonest?.....4
 DON'T KNOW.....-9
 REFUSED.....-8

8. Would you say you have...

A lot of respect for MPD officers,.....1
 Some respect for them,.....2
 Some disrespect for them, or.....3
 A lot of disrespect for them?.....4
 DON'T KNOW.....-9
 REFUSED.....-8

9. I'm going to read a number of statements. Please tell me if you strongly agree, agree, disagree, or strongly disagree with the following statements.

	STRONGLY AGREE	AGREE	DISAGREE	STRONGLY DISAGREE	DON'T KNOW	REFUSED
A. There are enough officers of different races working for the MPD.	1	2	3	4	-9	-8
B. In similar situations, the police are more likely to stop people who are not white for a traffic violation than people who are white.	1	2	3	4	-9	-8
C. In similar situations, the police are more likely to use force against people who are poor than against people who are not poor.	1	2	3	4	-9	-8
D. In similar situations, the police are more likely to use force against people who are not white than against people who are white.	1	2	3	4	-9	-8
E. Investigations of police misconduct are biased in favor of the police.	1	2	3	4	-9	-8

10. Have you ever felt unfairly treated by an MPD officer?

YES.....1
 NO.....(GO TO Q12).....0
 DON'T KNOW.....(GO TO Q12).....-9
 REFUSED.....(GO TO Q12).....-8

11. Do you think this was because of... (CIRCLE ALL THAT APPLY)

Your age,.....1
 Gender,.....2
 Race,.....3
 Sexual orientation, or.....4
 Something else?5
 DON'T KNOW.....-9
 REFUSED.....-8

12. In the past year, since (PRESENT MONTH) of 2001, have you been stopped by an MPD officer while driving in the District of Columbia?

YES.....1
NO.....(GO TO Q42).....0
DON'T KNOW.....(GO TO Q42).....-9
REFUSED.(GO TO Q42).....-8

13. In the past year, how many times have you been stopped by an MPD officer while driving in the District of Columbia?

NUMBER OF STOPS.....| |
DON'T KNOW.....-9
REFUSED.....-8

14. Think of the last time you were stopped by an MPD officer while driving in the District of Columbia. What reason did the officer give for stopping you?

15. Did you think the officer was justified in stopping you?

YES.....1
NO.....0
DON'T KNOW.....-9
REFUSED.....-8

16. Where were you stopped? To the best of your knowledge, what was the closest intersection?

17. Were you stopped within five blocks of your home?

YES.....1
NO.....0
DON'T KNOW.....-9
REFUSED.....-8

18. Did you receive...

A warning.....1
A ticket, or.....2
Did something else happen?3
NO.....0
DON'T KNOW.....-9
REFUSED.....-8

19. How many people were in the car with you when you were stopped?

NUMBER OF PEOPLE.....| |
DON'T KNOW.....-9
REFUSED.....-8

20. How many police officers were present when you were stopped?

NUMBER OF OFFICERS.....| |
DON'T KNOW.....-9
REFUSED.....-8

21. How many police cars showed up?

NUMBER OF CARS.....| |
DON'T KNOW.....-9
REFUSED.....-8

22. Was the officer you had the most contact with...

Male, or.....1
Female?.....0
DON'T KNOW.....-9
REFUSED.....-8

23. Would you say the officer was...

20 to 29 years old,.....1
30 to 39,.....2
40 to 49, or.....3
Over 49 years old?.....4
DON'T KNOW.....-9
REFUSED.....-8

24. Would you say the officer was...

White,.....1
Black,.....2
Hispanic, or.....3
Asian?.....4
OTHER.....5
DON'T KNOW.....-9
REFUSED.....-8

25. Would you describe this officer as...

Very polite,.....1
Somewhat polite,.....2
Somewhat impolite, or.....3
Very impolite?.....4
DON'T KNOW.....-9
REFUSED.....-8

26. Would you describe the officer as...

Very friendly,.....1
 Somewhat friendly,.....2
 Somewhat unfriendly, or.....3
 Very unfriendly?.....4
 DON'T KNOW.....-9
 REFUSED.....-8

27. Would you describe the officer as...

Very professional,.....1
 Somewhat professional,.....2
 Somewhat unprofessional, or.....3
 Very unprofessional?.....4
 DON'T KNOW.....-9
 REFUSED.....-8

28. At any time did you think the officer's behavior was inappropriate?

YES.....1
 NO.....(GO TO Q30).....0
 DON'T KNOW.....(GO TO Q30).....-9
 REFUSED.....(GO TO Q30).....-8

29. Which of the following did you think were inappropriate...

	YES	NO	DON'T KNOW	REFUSED
A. The officer's tone of voice?	1	0	-9	-8
B. The officer's comments or remarks?	1	0	-9	-8
C. The officer's facial expressions?	1	0	-9	-8

30. Did you think the officer stood...

Too close,.....1
At a comfortable distance, or.....2
Too far away from you?.....3
DON'T KNOW.....-9
REFUSED.....-8

31. Did the officer touch his/her gun at any time?

YES.....1
NO.....0
DON'T KNOW.....-9
REFUSED.....-8

32. Did the officer touch you at any time?

YES.....1
NO.....(GO TO Q35).....0
DON'T KNOW.....(GO TO Q35).....-9
REFUSED.....(GO TO Q35).....-8

33. In what manner, and where on your person, did the officer touch you?

34. Did you think the officer used too much physical force?

YES.....1
NO.....0
DON'T KNOW.....-9
REFUSED.....-8

35. Did the officer ask you to get out of the car?

YES.....1
NO.....0
DON'T KNOW.....-9
REFUSED.....-8

36. Did the officer ask to search the car?

YES.....1
NO.....0
DON'T KNOW.....-9
REFUSED.....-8

37. Was the car actually searched?

YES.....1
NO.....(GO TO Q39).....0
DON'T KNOW.....(GO TO Q39).....-9
REFUSED.....(GO TO Q39).....-8

38. Did you think the officer had a legitimate reason to search the car?

YES.....1
NO.....0
DON'T KNOW.....-9
REFUSED.....-8

39. I'm going to read a number of statements. Please tell me if you strongly agree, agree, disagree, or strongly disagree with the following statements.

	STRONGLY AGREE	AGREE	DISAGREE	STRONGLY DISAGREE	DON'T KNOW	REFUSED
A. The type of neighborhood you were driving in played an important role in you being stopped.	1	2	3	4	-9	-8
B. The type of car you were driving played an important role in you being stopped.	1	2	3	4	-9	-8
C. Your race played an important role in you being stopped.	1	2	3	4	-9	-8
D. The officer's race played an important role in you being stopped.	1	2	3	4	-9	-8

40. Do you think you were treated fairly by the police?

YES.....(GO TO Q42).....1
 NO.....0
 DON'T KNOW.....-9
 REFUSED.....-8

41. Do you think this was because of... (CIRCLE ALL THAT APPLY)

Your age,.....1
 Gender,.....2
 Race,.....3
 Sexual orientation, or.....4
 Something else?5
 DON'T KNOW.....-9
 REFUSED.....-8

42. In the past year, since (PRESENT MONTH) of 2001, have you called the MPD to report a problem in your home or neighborhood?

YES.....1
 NO.....(GO TO Q68).....0
 DON'T KNOW.....(GO TO Q68).....-9
 REFUSED.....(GO TO Q68).....-8

43. How many times have you called the MPD in the past year?

NUMBER OF TIMES.....| |

DON'T KNOW.....-9

REFUSED.....-8

44. Think of the last time you called the MPD. Did an officer show up to assist you? In other words, did you talk to an officer in person?

YES.....(GO TO Q48).....1

NO.....0

DON'T KNOW.....-9

REFUSED.....-8

45. Did you call them back?

YES.....(GO TO Q47).....1

NO.....(GO TO Q46).....0

DON'T KNOW.....(GO TO Q46).....-9

REFUSED.....(GO TO Q46).....-8

46. Why didn't you call them back? (GO TO Q68)

47. How many times did you call them back?

NUMBER OF TIMES...(GO TO Q68).....| |

DON'T KNOW.....(GO TO Q68).....-9

REFUSED.....(GO TO Q68).....-8

48. About how many MPD officers showed up?

NUMBER OF OFFICERS.....| |

DON'T KNOW.....-9

REFUSED.....-8

49. How long did it take the police to show up?

Less than 15 minutes.....1
Between 15 minutes and a half hour.....2
Between a half hour and 45 minutes, or.....3
More than 45 minutes?.....4
DON'T KNOW.....-9
REFUSED.....-8

50. Would you say the police showed up...

Faster than you expected,.....1
About when you expected, or.....2
Slower than you expected?.....3
DON'T KNOW.....-9
REFUSED.....-8

51. Overall, how satisfied were you with the police response?

Very satisfied,.....1
Somewhat satisfied,.....2
Somewhat dissatisfied, or.....3
Very dissatisfied?.....4
DON'T KNOW.....-9
REFUSED.....-8

52. Was the officer you had the most contact with...

Male, or.....1
Female?.....0
DON'T KNOW.....-9
REFUSED.....-8

53. Would you say the officer was...

20 to 29 years old,.....1
30 to 39,.....2
40 to 49, or.....3
Over 49 years old?.....4
DON'T KNOW.....-9
REFUSED.....-8

54. Would you say the officer was...

White,.....1
Black,.....2
Hispanic, or.....3
Asian?.....4
OTHER.....5
DON'T KNOW.....-9
REFUSED.....-8

55. Would you describe this officer as...

Very polite,.....1
Somewhat polite,.....2
Somewhat impolite, or.....3
Very impolite?.....4
DON'T KNOW.....-9
REFUSED.....-8

56. Would you describe the officer as...

Very friendly,.....1
 Somewhat friendly,.....2
 Somewhat unfriendly, or.....3
 Very unfriendly?.....4
 DON'T KNOW.....-9
 REFUSED.....-8

57. Would you describe the officer as...

Very professional,.....1
 Somewhat professional,.....2
 Somewhat unprofessional, or.....3
 Very unprofessional?.....4
 DON'T KNOW.....-9
 REFUSED.....-8

58. At any time did you think the officer's behavior was inappropriate?

YES.....1
 NO.....(GO TO Q60).....0
 DON'T KNOW.....(GO TO Q60).....-9
 REFUSED.....(GO TO Q60).....-8

59. Which of the following did you think were inappropriate...

	YES	NO	DON'T KNOW	REFUSED
A. The officer's tone of voice?	1	0	-9	-8
B. The officer's comments or remarks?	1	0	-9	-8
C. The officer's facial expressions?	1	0	-9	-8

60. Did you think the officer stood...

Too close,.....1
At a comfortable distance, or.....2
Too far away from you?.....3
DON'T KNOW.....-9
REFUSED.....-8

61. Did the officer touch his/her gun at any time?

YES.....1
NO.....0
DON'T KNOW.....-9
REFUSED.....-8

62. Did the officer touch you at any time?

YES.....1
NO.....(GO TO Q65).....0
DON'T KNOW.....(GO TO Q65).....-9
REFUSED.....(GO TO Q65).....-8

63. In what manner, and where on your person, did the officer touch you?

64. Did you think the officer used too much physical force?

YES.....1
NO.....0
DON'T KNOW.....-9
REFUSED.....-8

65. I'm going to read a number of statements. Please tell me if you strongly agree, agree, disagree, or strongly disagree with the following statements.

	STRONGLY AGREE	AGREE	DISAGREE	STRONGLY DISAGREE	DON'T KNOW	REFUSED
A. The type of neighborhood you live in played an important role in how the police handled the situation	1	2	3	4	-9	-8
B. Your race played an important role in how the police handled the situation.	1	2	3	4	-9	-8
C. The officer's race played an important role in how the police handled the situation.	1	2	3	4	-9	-8

66. Do you think you were treated fairly by the police?

YES.....(GO TO Q68).....1
 NO.....0
 DON'T KNOW.....(GO TO Q68).....-9
 REFUSED..... (GO TO Q68).....-8

67. Do you think this was because of... (CIRCLE ALL THAT APPLY)

Your age,.....1
 Gender,.....2
 Race,.....3
 Sexual orientation, or.....4
 Something else?5
 DON'T KNOW.....-9
 REFUSED.....-8

68. In the past year, since (PRESENT MONTH) of 2001, have you been stopped by an MPD officer while standing or walking in a public area in DC?

YES.....1
 NO.....(GO TO Q94).....0
 DON'T KNOW.....(GO TO Q94).....-9
 REFUSED.....(GO TO Q94).....-8

69. In the past year, how many times have you been stopped by an MPD officer while standing or walking in a public area?

NUMBER OF TIMES.....| |

DON'T KNOW.....-9

REFUSED.....-8

70. Think of the last time you were stopped by an MPD officer. What reason did the officer give for stopping you?

71. Did you think the officer was justified in stopping you?

YES.....1

NO.....0

DON'T KNOW.....-9

REFUSED.....-8

72. Where were you stopped? **PROBE:** To the best of your knowledge, what was the closest intersection?

73. Was it within five blocks of your home?

YES.....1

NO.....2

DON'T KNOW.....-9

REFUSED.....-8

74. How many people were with you when you were stopped?

NUMBER OF PEOPLE.....| |

DON'T KNOW.....-9

REFUSED.....-8

75. How many police officers were present when you were stopped?

NUMBER OF OFFICERS.....| |

DON'T KNOW.....-9

REFUSED.....-8

76. Was the officer you had the most contact with...

Male, or.....1

Female?.....0

DON'T KNOW.....-9

REFUSED.....-8

77. Would you say the officer was...

20 to 29 years old,.....1

30 to 39,.....2

40 to 49, or.....3

Over 49 years old?.....4

DON'T KNOW.....-9

REFUSED.....-8

78. Would you say the officer was...

White,.....1

Black,.....2

Hispanic, or.....3

Asian?.....4

OTHER.....5

DON'T KNOW.....-9

REFUSED.....-8

79. Would you describe this officer as...

Very polite,.....1
Somewhat polite,.....2
Somewhat impolite, or.....3
Very impolite?.....4
DON'T KNOW.....-9
REFUSED.....-8

80. Would you describe the officer as...

Very friendly,.....1
Somewhat friendly,.....2
Somewhat unfriendly, or.....3
Very unfriendly?.....4
DON'T KNOW.....-9
REFUSED.....-8

81. Would you describe the officer as...

Very professional,.....1
Somewhat professional,.....2
Somewhat unprofessional, or.....3
Very unprofessional?.....4
DON'T KNOW.....-9
REFUSED.....-8

82. At any time did you think the officer's behavior was inappropriate?

YES.....1
NO.....(GO TO Q84).....0
DON'T KNOW.....(GO TO Q84).....-9
REFUSED.....(GO TO Q84).....-8

83. Which of the following did you think were inappropriate...

	YES	NO	DON'T KNOW	REFUSED
A. The officer's tone of voice?	1	0	-9	-8
B. The officer's comments or remarks?	1	0	-9	-8
C. The officer's facial expressions?	1	0	-9	-8

84. Did you think the officer stood...

Too close,.....1
 At a comfortable distance, or.....2
 Too far away from you?.....3
 DON'T KNOW.....-9
 REFUSED.....-8

85. Did the officer touch his/her gun at any time?

YES.....1
 NO.....0
 DON'T KNOW.....-9
 REFUSED.....-8

86. Did the officer touch you at any time?

YES.....1
 NO.....(GO TO Q89).....0
 DON'T KNOW.....(GO TO Q89).....-9
 REFUSED.....(GO TO Q89).....-8

87. In what manner, and where on your person, did the officer touch you?

88. Do you think the officer used too much physical force?

YES.....1
 NO.....0
 DON'T KNOW.....-9
 REFUSED.....-8

89. Did the officer search you?

YES.....1
 NO.....(GO TO Q91).....0
 DON'T KNOW.....(GO TO Q91).....-9
 REFUSED.....(GO TO Q91).....-8

90. Did you think the officer had a legitimate reason to search you?

YES.....1
 NO.....0
 DON'T KNOW.....-9
 REFUSED.....-8

91. I'm going to read a number of statements. Please tell me if you strongly agree, agree, disagree, or strongly disagree with the following statements.

	STRONGLY AGREE	AGREE	DISAGREE	STRONGLY DISAGREE	DON'T KNOW	REFUSED
A. The type of neighborhood you were in played an important role in you being stopped.	1	2	3	4	-9	-8
B. The clothes you were wearing played an important role in you being stopped.	1	2	3	4	-9	-8
C. Your race played an important role in you being stopped.	1	2	3	4	-9	-8
D. The officer's race played an important role in you being stopped.	1	2	3	4	-9	-8

92. Do you think you were treated fairly by the police?

YES.....(GO TO Q94).....1
NO.....0
DON'T KNOW.....-9
REFUSED.....-8

93. Do you think this was because of... (CIRCLE ALL THAT APPLY)

Your age,.....1
Gender,.....2
Race,.....3
Sexual orientation, or.....4
Something else?5
DON'T KNOW.....-9
REFUSED.....-8

94. In the past year, has anyone you live with had an unpleasant experience with the MPD?

YES.....1
NO.....0
DON'T KNOW.....-9
REFUSED.....-8

95. Have you ever filed a complaint against an MPD officer?

YES.....1
NO.....(GO TO Q97).....0
DON'T KNOW.....(GO TO Q97).....-9
REFUSED.....(GO TO Q97).....-8

96. How satisfied were you with how the MPD handled your complaint?

Very satisfied,.....1
 Satisfied,.....2
 Dissatisfied, or.....3
 Very dissatisfied?.....4
 DON'T KNOW.....-9
 REFUSED.....-8

97. Besides personal experience, what is your main source of information about the MPD?

PROBE: If you had to pick one, which one would it be?

Family and friends,.....1
 TV,.....2
 Radio,.....3
 The newspaper, or.....4
 The Internet?.....5
 DON'T KNOW.....-9
 REFUSED.....-8

98. I'm going to read a number of statements. Please tell me if you strongly agree, agree, disagree, or strongly disagree with the following statements.

	STRONGLY AGREE	AGREE	DISAGREE	STRONGLY DISAGREE	DON'T KNOW	REFUSED
A. News stories portray the MPD fairly.	1	2	3	4	-9	-8
B. News stories pay too much attention to the race of people who commit crimes.	1	2	3	4	-9	-8
C. News stories about the MPD cause you to have less trust in the police.	1	2	3	4	-9	-8
D. News stories about the MPD hurt relations between the community and the police.	1	2	3	4	-9	-8

99. Do you watch TV shows about the police, like Cops or America's Most Wanted?

YES.....1
NO.....0
DON'T KNOW.....-9
REFUSED.....-8

100. Okay, I'd like to finish up by asking you a few questions about yourself. Have you attended a community meeting with the MPD at any time during the past year, since (PRESENT MONTH) of 2001?

YES.....1
NO.....0
DON'T KNOW.....-9
REFUSED.....-8

101. About how often do you attend religious services...

A few times a year,.....1
About once a month,.....2
About once a week,.....3
A few times a week, or.....4
Not at all?.....5
DON'T KNOW.....-9
REFUSED.....-8

102. In terms of religion, would you describe yourself as...

Christian,.....1
Jewish,.....2
Islamic,.....3
Hindu,.....4
Buddhist, or5
Something else?6
DON'T KNOW.....-9
REFUSED.....-8

103. About how many hours do you drive in a normal week?

NUMBER OF HOURS.....| |
DON'T KNOW.....-9
REFUSED.....-8

104. Do you own or lease a vehicle?

YES.....1
NO.....0
DON'T KNOW.....-9
REFUSED.....-8

105. How long have you lived at your current address?

| | YEARS | | MONTHS
DON'T KNOW.....-9
REFUSED.....-8

106. Do you own or rent your home?

OWN.....1
RENT.....2
OTHER.....3
DON'T KNOW.....-9
REFUSED.....-8

107. Including you, how many people live at your address?

NUMBER OF PEOPLE.....(IF 1 GO TO Q109).....| |
DON'T KNOW.....-9
REFUSED.....-8

108. Does anyone under 18 live at your address?

YES.....1
NO.....0
DON'T KNOW.....-9
REFUSED.....-8

109. Are you or any of your family or close friends police officers?

YES.....1
NO.....0
DON'T KNOW.....-9
REFUSED.....-8

110. In what year were you born?

YEAR OF BIRTH.....19 | ____ | ____
DON'T KNOW.....-9
REFUSED.....-8

111. Would you describe yourself as...

White,.....1
Black,.....2
Hispanic,.....3
Asian, or4
Something else?5
DON'T KNOW.....-9
REFUSED.....-8

112. Would you describe your self as...

Working Full-time,.....1
Part-time,.....2
Not working,.....3
Retired, or.....4
Or something else?5
DON'T KNOW.....-9
REFUSED.....-8

113. Was your 2001 household income from all sources and before taxes...

Less than \$10,000,.....1
\$10,001 to \$25,000,.....2
\$25,001 to \$60,000, or.....3
More than \$60,000?.....4
DON'T KNOW.....-9
REFUSED.....-8

**This is the end of the survey. Thank you very much for your time and cooperation.
Your participation was greatly appreciated!**

114. WAS THE RESPONDENT...

MALE, OR.....1
FEMALE?.....0
DON'T KNOW.....-9

UN ESTUDIO DEL PREJUCIO DE LA POLICÍA DE WASHINGTON, D.C.

NO SE HAGA CIRCULAR

The Police Foundation es una organización no lucrativa de investigación de Washington, D.C. Dedicada a mejorar los servicios de la policía por la investigación práctica y el apoyo técnico. Nuestro domicilio es 1201 Connecticut Avenue, N.W., Suite 200, Washington, D.C. 20036. Este instrumento de encuesta fue desarrollado por The Police Foundation con el departamento de la policía y un grupo de agencias de la ciudad y grupos de derechos civiles en Washington, D.C.

Hola, mi nombre es _____. Soy un(a) investigador(a) de una organización no lucrativa situada en Washington, D.C. Estamos entrevistando residentes en su vecindario sobre sus opiniones y experiencias con la policía de Washington, D.C. Primeramente queremos agradecerle su colaboración en este estudio. La entrevista durará por diez minutos. Sus respuestas serán mantenidas completamente en confidencialidad y serán usadas exclusivamente para analizar toda la información agregada sin asociar su nombre a los datos. Por favor, podría hablar con un miembro de esta casa que por lo menos tenga 18 años?

**ENTREVISTANTE: SI NO HAY UNA PERSONA MAYOR DE 18 AÑOS
PREGUNTE CUANDO PUEDE LLAMAR OTRA VEZ.**

CONTINUE CON LA ENCUESTA.....1
COLGO EL TELEFONO.....2
LLAME OTRA VEZ.....3
PROBLEMAS – LENGUAJE.....4
RECHAZO.....-8

1. Ve usted a oficiales de policía en su vecindario ...

Unas cuantas veces al año,.....(VAYA A P.3).....1
Como una vez al mes,.....(VAYA A P.3).....2
Como una vez a la semana,.....(VAYA A P.3).....3
Como unas cuantas veces a la semana,....(VAYA A P.3).....4
Todos los días, o.....5
Nunca?.....(VAYA A P.3).....6
NO SABE.....(VAYA A P.3).....-9
RECHAZO.....(VAYA A P.3).....-8

2. En un día normal, cuántos oficiales de policía ve usted en su vecindario?

NÚMERO DE OFICIALES DE POLICÍA |__|__|

NO SABE.....-9
RECHAZO.....-8

3. Usted, describiría mejor a la mayoría de los oficiales en su vecindario como ...

Mayormente Blancos?.....1
 Mayormente Negros?.....2
 Mayormente Hispanos?.....3
 Mayormente Asiáticos?.....4
 Otro5
 NO SABE.....-9
 RECHAZO.....-8

4. En su vecindario, piensa usted ...

Que hay demasiados oficiales de la policía,.....1
 Casi el número correcto de oficiales de la policía, o.....2
 Muy pocos oficiales de la policía?.....3
 NO SABE.....-9
 RECHAZO.....-8

5. Dígame por favor si usted esta muy de acuerdo, de acuerdo, solamente de acuerdo, en desacuerdo, o muy en desacuerdo con las declaraciones siguientes sobre la policía en su vecindario.

	MUY DE ACUERDO	SOLO DE ACUERDO	EN DESACUERDO	MUY EN DESACUERDO	NO SABE	RECHAZO
A. La policía hace un buen trabajo en prevenir crimen en su vecindario.	1	2	3	4	-9	-8
B. La policía hace un buen trabajo controlando la actividad de droga en su vecindario.	1	2	3	4	-9	-8
C. La policía se interesa de los problemas en su vecindario.	1	2	3	4	-9	-8
D. La policía hace un buen trabajo haciendo cumplir las leyes de tráfico en su vecindario.	1	2	3	4	-9	-8
E. La policía comunica bien con los residentes en su vecindario.	1	2	3	4	-9	-8

6. Vale, ahora le voy a preguntar algunas preguntas en general sobre la policía en D.C. Piensa usted que la policía es ...

Muy honesta.....1
 Algo honesta.....2
 Algo deshonesto, o.....3
 Muy deshonesto?.....4
 NO SABE.....-9
 RECHAZO.....-8

7. Usted diría que tiene ...

Bastante respeto hacia la policía de Washington, D.C.1
 Un poco de respeto,.....2
 Un poco de desrespeto, o.....3
 Ningun respeto?.....4
 NO SABE.....-9
 RECHAZO.....-8

8. Por favor, dígame si usted está muy de acuerdo, solamente de acuerdo, en desacuerdo, o muy en desacuerdo con las declaraciones siguientes.

	MUY DE ACUERDO	SOLO DE ACUERDO	EN DESACUERDO	MUY EN ACUERDO	NO SABE	RECHAZO
A. La policía en Washington emplea a suficiente gente de diferente razas.	1	2	3	4	-9	-8
B. En situaciones similares, es más probable que la policía pare a gente que no sea blanca por una infracción de tráfico, que a gente blanca.	1	2	3	4	-9	-8
C. En situaciones similares, es más probable que la policía use fuerza contra gente pobre que contra gente que no sea pobre.	1	2	3	4	-9	-8
D. En situaciones similares, es más probable que la policía use fuerza contra gente que no sea blanca que contra gente que sea blanca.	1	2	3	4	-9	-8
E. Investigaciones sobre la mala conducta de la policía están sesgadas a favor de la policía.	1	2	3	4	-9	-8

9. Usted alguna vez se ha sentido injustamente tratado por la policía de Washington??

SI.....1
NO.....(VAYA A P.11).....0
NO SABE.....(VAYA A P.11).....-9
RECHAZO.....(VAYA A P.11).....-8

10. Piensa usted que fue por...

Su edad.....1
Su genero.....2
Su raza.....3
Su sexualidad, o.....4
Otra cosa?5
NO SABE.....-9
RECHAZO.....-8

11. En el año pasado, desde (MES PRESENTE) del 2001, ha sido usted parado por la policía mientras conducía en Washington, D.C.?

SI.....1
NO.....(VAYA A P.44).....0
NO SABE.....(VAYA A P.44).....-9
RECHAZO.....(VAYA A P.44).....-8

12. En el año pasado, cuántas veces ha sido usted parado por la policía mientras conducía en Washington, D.C.?

NUMERO DE PARADAS.....|_|_|
NO SABE.....-9
RECHAZO.....-8

13. Piense en la última vez que usted fue parado por la policía mientras conducía en Washington, D.C. Cuál razón le dio el oficial para pararlo?

14. Pensó usted que el oficial estaba justificado en pararlo?

SI.....1
NO.....0
NO SABE.....-9
RECHAZO.....-8

15. Fue la policía de Washington, D.C. que lo paró?

SI.....1
NO.....(VAYA A P.18).....0
NO SABE.....(VAYA A P.18).....-9
RECHAZO.....(VAYA A P.18).....-8

16. Estaba usted cómo seguro que fue un oficial de la policía de Washington, D.C.?

Muy seguro,.....1
Algo seguro,.....2
Algo inseguro, o.....3
Muy inseguro?.....4
NO SABE.....-9
RECHAZO.....-8

17. Qué fue sobre el oficial que causa que sabe que fue la policía de Washington, D.C.?

18. Dónde lo paró? **PROBE:** Por lo que usted sabe, dónde lo paró?

19. Paró usted dentro de 5 bloques de su casa?

SI.....1
NO.....0
NO SABE.....-9

- RECHAZO.....-8
20. Recibió una...
- Una advertencia.....1
- Una multa, o.....2
- Pasó otra cosa?3
- NO.....0
- NO SABE.....-9
- RECHAZO.....-8
21. Cuántas personas estaban en el coche con usted cuando fue parado?
- NUMERO DE PERSONAS.....|_|_|
- NO SABE.....-9
- RECHAZO.....-8
22. Cuántos oficiales estuvieron presente cuando fue parado usted?
- NUMERO DE OFICIALES.....|_|_|
- NO SABE.....-9
- RECHAZO.....-8
23. Cuántos coches de policía estuvieron cuando fue parado usted?
- NUMERO DE COCHES.....|_|_|
- NO SABE.....-9
- RECHAZO.....-8
24. Era el oficial con quien usted tuvo el más contacto ...
- Hombre, o.....1
- Mujer?.....0
- NO SABE.....-9
- RECHAZO.....-8

25. Diría usted que el oficial era de ...

20 a 29 años,.....	1
30 a 39 años,.....	2
40 a 49 años, o.....	3
Mayor de 49 años de edad?.....	4
NO SABE.....	-9
RECHAZO.....	-8

26. Describiría usted mejor el oficial como ...

Blanco,.....	1
Negro,.....	2
Hispano, o.....	3
Asiático?.....	4
OTRA RAZA _____.....	5
NO SABE.....	-9
RECHAZO.....	-8

27. Describiría el oficial como ...

Muy cortés,.....	1
Algo cortés,.....	2
Algo descortés, o.....	3
Muy descortés?.....	4
NO SABE.....	-9
RECHAZO.....	-8

28. Describiría el oficial como ...

Muy amistoso,.....	1
Algo amistoso,.....	2
Algo poco amistoso, o.....	3

Poco amistoso?.....4
 NO SABE.....-9
 RECHAZO.....-8

29. Describiría el oficial como ...

Muy profesional,.....1
 Algo profesional,.....2
 Algo poco profesional, o.....3
 Poco profesional?.....4
 NO SABE.....-9
 RECHAZO.....-8

30. En algun momento pensó usted que la conducta del oficial era inadecuada?

SI.....1
 NO.....(VAYA A P.32).....2
 NO SABE.....(VAYA A P.32).....-9
 RECHAZO.....(VAYA A P.32).....-8

31.Cuál de lo siguiente piensa usted fue inadecuado...

	SI	NO	NO SABE	RECHAZO
A. El tono de voz del oficial?	1	0	-9	-8
B. Los comentarios u observaciones del oficial?	1	0	-9	-8
C. La expresión facial del oficial?	1	0	-9	-8

32. Pensó que el oficial estaba ...

Demasiado cerca de usted,.....1
De una distancia cómoda de usted, o.....2
Demasiado lejos de usted?.....3
NO SABE.....-9
RECHAZO.....-8

33. Tocó su arma el oficial alguna vez?

SI.....1
NO.....0
NO SABE.....-9
RECHAZO.....-8

34. Le tocó el oficial alguna vez?

SI.....1
NO.....(VAYA A P.37).....0
NO SABE.....(VAYA A P.37).....-9
RECHAZO.....(VAYA A P.37).....-8

35. Dónde le tocó el oficial?

36. Pensó usted si el oficial usó demasiado fuerza física?

SI.....1
NO.....0
NO SABE.....-9
RECHAZO.....-8

37. Le pidió el oficial que saliera usted del coche?

SI.....1
NO.....0
NO SABE.....-9
RECHAZO.....-8

38. Preguntó el oficial si podía mirar dentro del coche?

SI.....1
NO.....0
NO SABE.....-9
RECHAZO.....-8

39. Miró el oficial dentro del coche?

SI.....1
NO.....(VAYA A P.41).....0
NO SABE.....(VAYA A P.41).....-9
RECHAZO.....(VAYA A P.41).....-8

40. Pensó usted que el oficial tuvo alguna razón legítima para mirar dentro del coche?

SI.....1
NO.....0
NO SABE.....-9
RECHAZO.....-8

41. Por favor, dígame si usted está muy de acuerdo, solamente de acuerdo, en desacuerdo, o muy en desacuerdo con las declaraciones siguientes.

	MUY DE ACUERDO	SOLO DE ACUERDO	EN DESACUERDO	MUY EN DESACUERDO	NO SABE	RECHAZO
A. El tipo de vecindario donde usted conducía jugó un papel importante en ser parado.	1	2	3	4	-9	-8
B. El tipo de coche que usted conducía jugó un papel importante en ser parado.	1	2	3	4	-9	-8
C. Su raza jugó un papel importante en ser usted parado.	1	2	3	4	-9	-8
D. La raza del oficial jugó un papel importante en ser parado.	1	2	3	4	-9	-8

42. Pensó usted si le trataría justamente la policía?

SI.....(VAYA A P.44).....1

NO.....0

NO SABE.....-9

RECHAZO.....-8

43. Piensa usted que fue por... (CIRCLE ALL THAT APPLY)

Su edad,.....1

Su género,.....2

Su raza,.....3

Su sexualidad, o.....4

Otra cosa?5

NO SABE.....-9

RECHAZO.....-8

44. En el año pasado, desde (MES PRESENTE) del 2001, usted ha llamado a la policía para reportar un problema en su hogar o en el vecindario?

SI.....1

NO.....(VAYA A P.70).....0

NO SABE.....(VAYA A P.70).....-9

RECHAZO.....(VAYA A P.70).....-8

45. Cuántas veces ha llamado usted a la policía durante el año pasado?

NUMERO DE LLAMADAS.....|_|_|

NO SABE.....-9

RECHAZO.....-8

46. Piense en la última vez que usted llamó a la policía. Se presentó un oficial para ayudarlo? En otras palabras, habló con un oficial cara a cara?

SI.....(VAYA A P.49).....1

NO.....0

NO SABE.....-9

RECHAZO.....-8

47. Volvió a llamar usted a la policía?

SI.....1

NO.....(VAYA A P.70).....0

NO SABE.....(VAYA A P.70).....-9

RECHAZO.....(VAYA A P.70).....-8

48. Cuántas veces volvió a llamar?

NUMERO DE VECES.....(VAYA A P.70).....|_|_|

NO SABE.....(VAYA A P.70).....-9

RECHAZO.....(VAYA A P.70).....-8

49. Se presentó la policía de Washington, D.C.?

SI.....1

NO.....0

NO SABE.....-9

RECHAZO.....-8

50. Por cuántos oficiales se presentaron?

NÚMERO DE OFICIALES.....

NO SABE.....-9

RECHAZO.....-8

51. Cuánto tiempo tardó la policía en presentarse?

Menos de 15 minutos.....1

Entre 15 min. y una media hora.....2

Entre una media hora y 45 minutos, o.....3

Más de 45 minutos?.....4

NO SABE.....-9

RECHAZO.....-8

52. Diría usted que la policía se presentó...

Más rápida que usted pensaba.....1

Al tiempo que usted pensaba, o.....2

Más lentamente que usted pensaba?.....3

NO SABE.....-9

RECHAZO.....-8

53. Estaba usted cuánto satisfecho con la respuesta de la policía en general?

Muy satisfecho.....1

Algo satisfecho.....2

Algo insatisfecho, o.....3

Muy insatisfecho?.....4

NO SABE.....-9

RECHAZO.....-8

54. Era el oficial con quien usted tuvo el más contacto...

Hombre, o.....	1
Mujer?.....	0
NO SABE.....	-9
RECHAZO.....	-8

55. Diría usted que el oficial tenía...

20 a 29 anos.....	1
30 a 39 anos.....	2
40 a 49 anos.....	3
Más de 49 anos?.....	4
NO SABE.....	-9
RECHAZO.....	-8

56. Describiría usted mejor al oficial como...

Blanco.....	1
Negro.....	2
Hispano, o.....	3
Asiático?.....	4
OTRA RAZA _____.....	5
NO SABE.....	-9
RECHAZO.....	-8

57. Describiría usted mejor al oficial como...

Muy cortés,.....	1
Algo cortés,.....	2
Algo descortés, o.....	3
Muy descortés?.....	4
NO SABE.....	-9

- RECHAZO.....-8
58. Describiría al oficial como...
- Muy amistoso.....1
- Algo amistoso, o.....2
- Algo poco amistoso, o.....3
- Poco amistoso?.....4
- NO SABE.....-9
- RECHAZO.....-8
59. Describiría al oficial como...
- Muy profesional.....1
- Algo profesional.....2
- Algo poco profesional, o.....3
- Poco profesional?.....4
- NO SABE.....-9
- RECHAZO.....-8
60. En algún momento pensó usted que la conducta del oficial era inadecuada?
- SI.....1
- NO.....(VAYA A P.62).....0
- NO SABE.....(VAYA A P.62).....-9
- RECHAZO.....(VAYA A P.62).....-8

61.Cuál de lo siguiente pensó usted que era inadecuado?

	SI	NO	NO SABE	RECHAZO
A. El tono de voz del oficial?	1	0	-9	-8
B. Los comentarios u observaciones del oficial?	1	0	-9	-8
C. La expresión facial del oficial?	1	0	-9	-8

62. Pensó que el oficial estaba ...

Demasiado cerca de usted,.....1
De una distancia cómoda de usted, o.....2
Demasiado lejos de usted?.....3
NO SABE.....-9
RECHAZO.....-8

63. Tocó su arma el oficial alguna vez?

SI.....1
NO.....0
NO SABE.....-9
RECHAZO.....-8

64. Le tocó el oficial alguna vez?

SI.....1
NO.....(VAYA A P.67).....0
NO SABE.....(VAYA A P.67).....-9
RECHAZO.....(VAYA A P.67).....-8

65. Dónde le tocó el oficial?

66. Pensó usted si el oficial usó demasiado fuerza física?

SI.....1
NO.....0
NO SABE.....-9
RECHAZO.....-8

67. Por favor, dígame si usted está muy de acuerdo, solamente de acuerdo, en desacuerdo, o muy en desacuerdo con las declaraciones siguientes.

	MUY DE ACUERDO	SOLO DE ACUERDO	EN DESACUERDO	MUY EN DESACUERDO	NO SABE	RECHAZO
A. El tipo de vecindario donde vive usted jugó un papel importante en cómo la policía manejó la situación.	1	2	3	4	-9	-8
B. Su raza jugó un papel importante en cómo la policía manejó la situación.	1	2	3	4	-9	-8
C. La raza del oficial jugó un papel importante en cómo la policía manejó la situación.	1	2	3	4	-9	-8

68. Pensó usted si le trataría justamente la policía?

SI.....(VAYA A P.70).....1
 NO.....0
 NO SABE.....-9
 RECHAZO.....-8

69. Piensa usted que fue por... (CIRCLE ALL THAT APPLY)

Su edad,.....1
 Su genero,.....2
 Su raza,.....3
 Su sexualidad, o.....4
 Otra cosa?5
 NO SABE.....-9
 RECHAZO.....-8

70. En el año pasado, desde (EL MES PRESENTE) del 2001, ha sido usted parado por la policía mientras estaba parado o caminando en un lugar público en Washington, D.C.?

SI.....1
 NO.....(VAYA A P.97).....0
 NO SABE.....(VAYA A P.97).....-9
 RECHAZO.....(VAYA A P.97).....-8

71. En el año pasado, cuántas veces ha sido usted parado por la policía mientras estaba parado o caminando en un lugar público?

NÚMERO DE PARADAS.....| | |

NO SABE.....-9

RECHAZO.....-8

72. Piense en la última vez que usted fue parado por la policía. Qué razón dio el oficial para pararlo?

73. Pensó que el oficial estaba justificado en pararlo?

SI.....1

NO.....0

NO SABE.....-9

RECHAZO.....-8

74. Le paró la policía de Washington, D.C.?

SI.....1

NO.....0

NO SABE.....-9

RECHAZO.....-8

75. Dónde lo paró? **PROBE:** Por lo que usted sabe, dónde lo paró?

76. Paró usted dentro de 5 bloques de su casa?

SI.....1

NO.....0

NO SABE.....-9

RECHAZO.....-8

77. Cuántas personas estaban con usted cuando fue parado?

NÚMERO DE PERSONAS.....|_|_|

NO SABE.....-9

RECHAZO.....-8

78. Cuántos oficiales estuvieron presente cuando fue parado usted?

NÚMERO DE OFICIALES.....|_|_|

NO SABE.....-9

RECHAZO.....-8

79. Era el oficial con quien usted tuvo el más contacto ...

Hombre, o.....1

Mujer?.....0

NO SABE.....-9

RECHAZO.....-8

80. Diría usted que el oficial era de ...

20 a 29 anos,.....1

30 a 39 anos,.....2

40 a 49 anos, o.....3

Mayor de 49 anos de edad?.....4

NO SABE.....-9

RECHAZO.....-8

81. Describiría usted mejor el oficial como ...

Blanco,.....1

Negro,.....2

Hispano, o.....3

Asiático?.....4

OTRA RAZA _____5

	NO SABE.....	-9
	RECHAZO.....	-8
82. Describiría el oficial como ...		
	Muy cortés,.....	1
	Algo cortés,.....	2
	Algo descortés, o.....	3
	Muy cortés?.....	4
	NO SABE.....	-9
	RECHAZO.....	-8
83. Describiría el oficial como ...		
	Muy amistoso,.....	1
	Algo amistoso,.....	2
	Algo poco amistoso, o.....	3
	Poco amistoso?.....	4
	NO SABE.....	-9
	RECHAZO.....	-8
84. Describiría el oficial como ...		
	Muy profesional,.....	1
	Algo profesional,.....	2
	Algo poco profesional, o.....	3
	Poco profesional?.....	4
	NO SABE.....	-9
	RECHAZO.....	-8

85. En algún momento pensó usted que la conducta del oficial era inadecuada?

SI.....1
 NO.....(VAYA A P.87).....0
 NO SABE.....(VAYA A P.87).....-9
 RECHAZO.....(VAYA A P.87).....-8

86.Cuál de lo siguiente pensó usted que era inadecuado?

	SI	NO	NO SABE	RECHAZO
A. El tono de voz del oficial?	1	0	-9	-8
B. Los comentarios u observaciones del oficial?	1	0	-9	-8
C. La expresión facial del oficial?	1	0	-9	-8

87. Pensó que el oficial estaba ...

Demasiado cerca de usted.....1
 De una distancia cómoda de usted, o.....2
 Demasiado lejos de usted?.....3
 NO SABE.....-9
 RECHAZO.....-8

88. Tocó su arma el oficial alguna vez?

SI.....1
 NO.....0
 NO SABE.....-9
 RECHAZO.....-8

89. Le tocó el oficial alguna vez?

SI.....1
 NO.....(VAYA A P.92).....0
 NO SABE.....(VAYA A P.92).....-9

90. Dónde le tocó el oficial? RECHAZO.....(VAYA A P.92).....-8

91. Pensó usted si el oficial usó demasiado fuerza física?

SI.....1
NO.....0
NO SABE.....-9
RECHAZO.....-8

92. Le revisó el oficial?

SI.....1
NO.....(VAYA A P.94).....0
NO SABE.....(VAYA A P.94).....-9
RECHAZO.....(VAYA A P.94).....-8

93. Pensó usted que el oficial tuvo alguna razón legítima para revisarlo?

SI.....1
NO.....0
NO SABE.....-9
RECHAZO.....-8

94. Por favor, dígame si usted está muy de acuerdo, solamente de acuerdo, en desacuerdo, o muy en desacuerdo con las declaraciones siguientes.

	MUY DE ACUERDO	SOLO DE ACUERDO	EN DESACUERDO	MUY EN DESACUERDO	NO SABE	RECHAZO
A. El tipo de vecindario donde usted estaba jugó un papel importante en ser parado.	1	2	3	4	-9	-8
B. La ropa que usted llevaba puesta jugó un papel importante en ser parado.	1	2	3	4	-9	-8
C. Su raza jugó un papel importante en ser parado.	1	2	3	4	-9	-8
D. La raza del oficial jugó un papel importante en ser parado.	1	2	3	4	-9	-8

95. Pensó usted si le trataría justamente la policía?

SI.....(VAYA A P.97).....1
NO.....0
NO SABE.....-9
RECHAZO.....-8

96. Piensa usted que fue por... (CIRCLE ALL THAT APPLY)

Su edad,.....1
Su genero,.....2
Su raza,.....3
Su sexualidad, o.....4
Otra cosa?5
NO SABE.....-9
RECHAZO.....-8

97. En el año pasado, ha tenido alguien en su hogar una experiencia desagradable con la policía de Washington, D.C.?

SI.....1
NO.....0
NO SABE.....-9
RECHAZO.....-8

98. Usted alguna vez ha puesto una queja contra un oficial de la policía de Washington, D.C.?

SI.....1
NO.....(VAYA A P.100).....0
NO SABE.....(VAYA A P.100).....-9
RECHAZO.....(VAYA A P.100).....-8

99. Cuán satisfecho estuvo usted con la manera en que la policía manejó su queja?

Muy satisfecho,.....1
 Satisfecho,.....2
 Insatisfecho, o.....3
 Muy insatisfecho?.....4
 NO SABE.....-9
 RECHAZO.....-8

100. Aparte de su experiencia personal, cuál es tu fuente principal de información sobre la policía de Washington, D.C.? De... **LA TIENDA:** Si usted tuviese que elegir una, cuál de ellas sería?

La familia y amigos,.....1
 La television,.....2
 La radio,.....3
 El periódico, o.....4
 El internet?.....5
 NO SABE.....-9
 RECHAZO.....-8

101. Por favor, dígame si usted está muy de acuerdo, solamente de acuerdo, en desacuerdo, o muy en desacuerdo con las declaraciones siguientes.

	MUY DE ACUERDO	SOLO DE ACUERDO	EN DESACUERDO	MUY EN DESACUERDO	NO SABE	RECHAZO
A. Las noticias representan justamente a la policía de Washington, D.C.	1	2	3	4	-9	-8
B. Las noticias prestan demasiado atención a la raza de las personas que cometen los crímenes.	1	2	3	4	-9	-8
C. Las noticias sobre la policía de Washington, D.C. hacen que usted tenga menos confianza en la policía.	1	2	3	4	-9	-8
D. Las noticias sobre la policía de Washington, D.C. hieren las relaciones entre la comunidad y la policía.	1	2	3	4	-9	-8

102. Usted ve programas televisivos sobre la policía como COPS o America' s Most Wanted?

SI.....1
 NO.....0
 NO SABE.....-9
 RECHAZO.....-8

103. Vale, voy a completar la encuesta con unas preguntas sobre usted. En el año pasado, desde (MES PRESENTE) del 2001, usted ha asistido a una reunión comunitaria?

SI.....1
 NO.....0
 NO SABE.....-9
 RECHAZO.....-8

104. Asiste usted servicios religiosos...

Unas cuantas veces al año,.....1
 Como una vez al mes,.....2
 Como una vez a la semana,.....3
 Como unas cuantas veces a la semana, o.....4
 Nunca?.....5
 NO SABE.....-9
 RECHAZO.....-8

105. Describiría mejor usted mismo como...

Cristiano.....1
 Judío.....2
 Musulmán.....3
 Hindú.....4
 Budino, o.....5
 De otra religión?6

NO SABE.....-9

RECHAZO.....-8

106. Por cuántas horas conduce usted durante una semana normal?

NÚMERO DE HORAS.....|_|_|

NO SABE.....-9

RECHAZO.....-8

107. Arrenda o tiene usted su propio coche?

SI.....1

NO.....0

NO SABE.....-9

RECHAZO.....-8

108. Alquila o tiene usted su propio hogar?

TIENE.....1

ALQUILA.....2

OTRA COSA.....3

NO SABE.....-9

RECHAZO.....-8

109. Cuánto tiempo hace que vive en su dirección actual?

|_|_| ANOS |_|_| MESES

NO SABE.....-9

RECHAZO.....-8

110. Incluyendose a si mismo, cuántas personas viven en esta dirección?

NÚMERO DE PERSONAS |_|_|

NO SABE.....-9

RECHAZO.....-8

111. Hay alguien menor de 18 años de edad que vive en esta dirección?

SI.....1
NO.....0
NO SABE.....-9
RECHAZO.....-8

112. Es usted o cualquiera de su familia o amigos un oficial de la policía?

SI.....1
NO.....0
NO SABE.....-9
RECHAZO.....-8

113. En qué año nació usted?

AÑO DE NACIMIENTO.....19|_|_|
NO SABE.....-9
RECHAZO.....-8

114. Se describiría mejor usted como...

Blanco,.....1
Negro,.....2
Hispano,.....3
Asiático, o.....4
Otra?5
NO SABE.....-9
RECHAZO.....-8

115. Se describiría mejor usted como...

Trabajando a tiempo completo,.....1
Tiempo parcial,.....2
No trabajando,.....3

Retirado, o.....	4
Otro?.....	5
NO SABE.....	9
RECHAZO.....	8

116. Fueron sus ingresos durante el año 2001 procedentes de todas las fuentes y antes de declarar impuestos...	
Menos que \$10,000,.....	1
Entre \$10,001 y \$25,000,.....	2
Entre \$25,001 y \$60,000, o.....	3
Más que \$60,000?.....	4

Esto es el fin de la encuesta. Muchas gracias por su tiempo y su cooperación. Apreciamos mucho su participación.

117. ES EL ENTREVISTADO...	
HOMBRE, O.....	1
MUJER?.....	0
NO SABE.....	9

Sean Bair (ITT & Systems Development Lead)

References

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Characterizing Spatial and Chronological Target Selection of Serial Offenders

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Abstract

Using 58 unique crime series from 3 different U.S. cities, the spatial pattern that individual criminal decision-makers follow is investigated. Varying levels of spatial risk for the activity of serial offenders within each city are modeled using kernel density estimation (KDE), and an objective approach for selection of the bandwidth used in KDE based on residuals is presented. This spatially varying density of crimes is incorporated in an inhomogeneous K -function that can identify significant spatial clustering and/or uniformity at various spatial scales. After accounting for the varying levels of risk of crime throughout the domain, the conclusion of significant clustering is substantially reduced, and some uniformity is observed at short distances. Finally, the order in which new crimes are added to a series is found to follow an interesting pattern that supports the theory of offender as forager in which criminals weigh the risks of capture against the potential benefits. The majority of offenders periodically increase the area in which they operate over the course of the series, and half of the series exhibit a spatial distribution that begins dispersed and develops clusters as more and more events are added to the series, indicating that offenders often return to locations of earlier crimes after having committed crimes elsewhere.

Some keywords: Clustering; Crime Series; K -function; Kernel Density Estimation; Monte Carlo tests; Predictive Policing; Point Patterns; Tactical Crime Analysis

Short title: Target Selection of Serial Offenders

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1 Introduction

Analyzing the target selection of the crimes within a crime series, defined as two or more similar crimes committed by the same decision maker (Paulsen et al. 2009), has not historically been the subject of much discussion due mainly to a lack of quality data. Ideally, serial offenders are apprehended before their series grow very long; thus, patience is required to collect such data for empirical research and analysis. In addition, identification of crimes in a crime series may take place over a period of months or years, so this information may not be initially reported with each crime and requires follow-up requests to possibly multiple law enforcement agencies.

When spatially analyzing crimes, most of the attention has been paid to the spatial distribution of all crimes, usually of a particular type, within census units, police jurisdictions, or neighborhoods (Tita and Radil 2010; Bernasco 2010; Berestycki and Nadal 2010; Chainey et al. 2008; Grubestic and Mack 2008). This type of analysis informs police resource allocation and strategic planning but falls short of informing investigations. Mapping crimes thematically based on administrative units or grids overlaying the spatial domain of interest and the highly popular kernel density estimation (KDE) techniques all utilize aggregate data (Chainey et al. 2008; McLafferty et al. 2000; Ratcliffe and McCullagh 1999). Conclusions from research of this type are informative for characterizing, for example, how all burglars in a given region generally behave but do not address how one individual burglar chooses targets spatially and thus does little to inform investigative or predictive policing strategies (Bratton and Malinowski 2008).

Including information about the criminal connected with each crime leads to what we will call micro-level crime data. Much of the work on data of this type addresses the distance between one location that a perpetrator chooses to victimize and various variables such as victim characteristics and perpetrator’s home address, mode of transportation, drug use, age, and gender (van Koppen and Jansen 1998; Bernasco and Nieuwbeerta 2005; Cullen et al. 2006). Some works do utilize data in which multiple crimes are attributed to the same individual (Bennell et al. 2007) for geographic profiling efforts, which can reduce the area that police must search for the offender (Canter et al. 2000), but to our knowledge only short series have been considered with the ultimate investigative goal of locating the offender’s home. More jurisdictions are beginning to focus resources at the micro-level of individual crime series, and an understanding of patterns of behavior of these individuals, not simply their home address, is necessary to develop next event prediction for crime series.

Patterns within a crimes series can be put in the context of *forager theory*, which hypothesizes that criminals seek to balance two competing demands—acquiring resources and limiting exposure. Thus, criminals choose new locations to target both because resources may become scarce in locations already targeted and because the probability of being identified is reduced by increasing spatial variability (Johnson and Bowers 2004; Johnson et al. 2009). The incentive to choose a new location is not based solely on minimizing effort combined with maximum opportunity (Harries 1980) but also incorporates the risk of capture and punishment (Matsueda et al. 2006). In fact, in the conclusion of the work of Bennell et al. (2007), they conjecture that patterns

in crime series “...reflect a decision-making process on the part of the offenders, whereby they shift their movements in space at regular intervals to maximize potential gains (e.g., exploiting valuable new targets) while minimizing potential risk (e.g. being recognized in an area).”

Therefore, the work presented in this paper seeks to meet the following three goals: (1) investigate the spatial distribution of crimes in crime series; (2) investigate the spatial distribution of crimes as a series progresses through time; and (3) utilize statistical techniques that we have not seen employed elsewhere in the criminology literature. These goals will be addressed using 58 unique crime series collected from 3 different U.S. cities, and these data are described in Section 2. Next, the spatial pattern of all crimes in a crime series is analyzed, and variation in pattern by crime type (e.g., robberies, burglaries) is investigated in Section 3. In addition, an objective method to select the bandwidth for a kernel density estimate (KDE), which is used to reflect varying risk of criminal activity across the spatial domain, is presented, and the inhomogeneous K -function is used to simultaneously test for clustering and uniformity at various spatial scales. Finally, in Section 4, we investigate the order in which geographic targets are selected and examine how conclusions of clustering versus uniformity evolve as more events are added to the series. The entire analysis is carried out with the open source R (R Development Core Team 2011) statistical package `spatstat` (Baddeley and Turner 2005), and we conclude in Section 5.

2 Data

Data from three U.S. cities representing 58 crime series are used in this analysis. In each case, the crimes have been vetted by an analyst, and the crimes are known to be attributable to a single decision-maker. All three jurisdictions included in this work have outstanding crime analysis units and have an exceptional ability to identify crime series quickly and bring the suspects to justice expeditiously. All three have had crime analysis units in place for many years and have staff dedicated to the function of Tactical Crime Analysis: the process of actively scanning for crime series and predicting future events in those series (Paulsen et al. 2009). Finally, these agencies record Modus Operandi (method of operation) on their crimes and, therefore, are able to more accurately match crimes to the same decision maker.

Case linking is all done using detailed information about the behavior of the suspect. Information about the offender’s spatial selection, timing of events, and Modus Operandi are captured and detailed in the offense reports. Analysts then scan through the reports matching similarities in these behavioral factors. Further vetting is done with fingerprint analysis, DNA evidence, and finally, arrestee admonition. In a rare few series, the offender’s behaviors are so specific and unique, there can be no doubt a set of crimes were committed by the individual. Identifying each series is often performed by an investigator, but in the case of the three jurisdictions used in this analysis, it was performed by experienced crime analysts.

The domain boundary for a given city is estimated based on the locations observed in all of the crime series using the Ripley-Rasson estimate (Ripley and Rasson 1977). In large datasets (100

events or more), this boundary estimator is very close to but slightly larger than the minimum convex hull. This boundary is not the border of the respective city since crime series often cross city boundaries, but should be regarded as the extent to which serial offenders identified by a particular police department are likely to travel. All of the crime series are also used to estimate the overall pattern of crimes within the domain (via a KDE map), which reflects areas that are more likely to be frequented by serial offenders identified by the police of a given city’s jurisdiction. However, not all crime series are included in subsequent analysis. Crime series selected must have 5 or more crimes, and the locations for a given crime series cannot all be coincident. For example, if a particular location like a hotel is targeted repeatedly, then there would be no variability in location selection, and this type of series is excluded from this analysis. See Table 1 for sample size and crime series summaries by city and for descriptive statistics.

2.1 Las Vegas, NV

World-famous Las Vegas, Nevada is a city whose metro area population is over 1.8 million persons. However, it experiences large surges in its transient population given it is a mega tourist destination. These tourists are both victim and suspect as the Las Vegas Metropolitan Police Department deals with a 290 Part I Crime Index, nearly 3 times the national average of 100 (http://www.clrsearch.com/Las_Vegas_Real_Estate/NV/, *accessed 07/13/11*). The jurisdictional area of Las Vegas is 131 square miles. As with almost every other police jurisdiction, the city’s boundaries are fragmented by small pockets of county land. Thus, there are some areas of Las Vegas that may be patrolled by other sheriff or tribal law enforcement agencies.

There are 303 crimes in the Las Vegas, Nevada dataset, which are attributable to 28 criminal groups, plotted in the top left panel of Figure 1. The corresponding KDE plot based on all 303 crimes is given in the bottom left panel. A higher density of crimes is observed in the old and new strips where there are clusters of hotels and casinos. The crimes in this dataset span the time period beginning on February 4, 1999 and ending January 11, 2002. After excluding those series with less than 5 events and those whose locations are all the same, there are 20 crime series comprised of 281 events, ranging in length from 5 to 41 crimes. The majority of the series (12) are robberies, but there are also 3 thefts, 3 burglaries, and 2 sex crimes.

2.2 Tempe, AZ

Tempe is 40 square miles with a population of 175,523, which does not include students of Arizona State University (just over 51,000) who may list their permanent address elsewhere. In 2010, it had a Part I Crime Index of 162, slightly higher than the national average (http://www.clrsearch.com/Tempe_Real_Estate/AZ/, *accessed 07/13/11*). Tempe is known for being home to the Fiesta Bowl, New Year’s Eve block party, and Super Bowl XXX. More than half of the population of Tempe lives in multi-family housing. As is the case with Las Vegas, Tempe has small areas of land that are patrolled by other agencies, such as the Maricopa County

Sheriff’s Department as well as a large area of land right in the heart of Tempe patrolled by the Arizona State University Police Department.

There are 304 crimes in the Tempe, Arizona dataset, which are attributable to 19 criminal groups. With the exception of 10 crimes attributable to the Babyface Bandits (operating from August 1, 2006 to October 11, 2006), these crimes cover the time period beginning on April 27, 2008 and ending on Dec 23, 2010. The locations of all of these crimes are plotted in the center top panel of Figure 1 with KDE plot in center bottom panel. Eighteen series with a total of 300 crimes are analyzed. Tempe is a suburb of Phoenix, and while most of these crimes are committed in Tempe, where the highest density of crimes is observed, some do occur in neighboring Phoenix to the northwest, and in Mesa, Gilbert, and Chandler to the east and south of Tempe. Over half of these crime series are commercial, residential, or vehicular burglaries, but there are two arson crime series and seven robbery series. They range in length from 5 to 86 crimes.

2.3 Durham, NC

Durham, North Carolina is also a college town and is one of the vertices of the Research Triangle area. It is home to Duke University and North Carolina Central University with a combined student population of over 22,000. Durham’s Part I Crime Index is 257

(http://www.clrsearch.com/Durham_Real_Estate/NC/, *accessed 07/13/11*) or more than twice the national average. Durham covers 95 square miles with a population of 269,706 persons. There are 93 crimes in the Durham dataset, which are attributable to 11 offenders. The locations of all of these crimes are plotted in the top right panel of Figure 1, and they occur over the time period beginning on January 1, 2010 and ending on April 1, 2011. The points in the figure have been randomly offset for visual purposes only since several events plot directly on top of each other. The 9 series of interest range in length from 5 to 19 events and are either robberies (3) or burglaries (6). As the KDE plot (bottom right of Figure 1) shows, most of the 93 crimes occur in the northeastern portion of the domain.

3 Spatial Methods

Each crime series is first analyzed with regard to the spatial placement of all events in its series. Many law enforcement officials operate under the assumption that crime series are spatially clustered, but this may not be the case. In fact, Johnson et al. (2009) tested that identified crime series are biased to be spatially and temporally clustered and did not find significant evidence for such a bias. Many criminals have strong survival instincts to evade capture and may spread out their crimes or avoid locations near their homes (Rossmo 2000) in an attempt to go undetected. However, crime pattern theory does suggest that it is common for criminals to have a “stomping” ground, which is an area with which offenders are familiar and are more likely to select potential targets (Brantingham and Brantingham 1993, 1995; Felson and Clark 1998). Thus, the type of spatial behavior observed may be both scale and perpetrator dependent.

We approach our analysis by using spatial point pattern theory (Daley and Vere-Jones 2003; Diggle 2003), which is common in crime pattern research (Liu and Brown 2003; Mohler et al. 2011). First in this section, we review clustering and spatial scale concepts and then describe the homogeneous and inhomogeneous K -functions. We demonstrate how to test that the intensity of crime differs across the domain and describe a method for objectively selecting the bandwidth parameter in KDE. Finally, the statistical test is outlined, followed by results.

3.1 Clustering, CSR, and Uniformity

Complete spatial randomness (CSR) serves as a boundary between clustered patterns, those whose events are attracted to each other, and uniform patterns, those whose events are repelled by each other, see Figure 2. CSR processes possess three characteristics. First, the intensity, which represents the average number of events per unit area, is constant throughout the domain. Second, the number of events occurring in two disjoint regions is independent, and third, the number of events in any subregion of the domain follows a Poisson distribution with parameter $\nu\lambda$, where ν is the area of the subregion and λ is the spatially constant intensity. Many spatial tests for point pattern data are designed to detect deviations from CSR. Table 8.6 on page 604 of Cressie (1993) gives a summary of some of these tests based on nearest neighbor distances.

However, the observed pattern may not be easily identifiable as either exclusively clustered, CSR, or uniform, as spatial scale can play a large role in categorizing patterns. Spatial scale is discussed extensively in the ecology literature (Turner et al. 1989; Levin 1992), and simulated examples in the top row of Figure 3 show a uniform pattern of clusters (left) and a cluster of uniform patterns (right) in the unit square. Using the mean nearest neighbor distance (Schabenberger and Gotway 2005, p. 98) in patterns such as these results in similar conclusions for very different patterns. Mean nearest neighbor distance only considers the behavior of the pattern at small spatial scales. In the second row of Figure 3, the observed mean nearest neighbor distance is given by the vertical dashed line and is compared to the mean nearest neighbor distance in 99 datasets simulated in the same domain under CSR. The results in both cases give evidence for significant clustering and fail to identify the uniformity, so we propose to implement a better test of CSR, which is described in the next section.

3.2 The K -functions

The homogeneous K -function (Ripley 1977; Diggle 1983) is capable of detecting both clustering and uniformity at different spatial scales. The homogeneous K -function is defined as

$$K(h) = \lambda^{-1} \mathbb{E} \left[\sum_{\mathbf{s}_i \in \mathcal{D}} \sqrt{\sum_{\mathbf{s}_j \in \mathcal{D} \setminus \{\mathbf{s}_i\}} \mathbf{1}(\|\mathbf{s}_i - \mathbf{s}_j\| \leq h)} \right] \sqrt{}$$

where $\mathbf{s}_i = (x_i, y_i)$ is the location of an event within the domain, \mathcal{D} ; $\mathbf{1}(\cdot)$ is an indicator function that returns the value 1 if its argument is true and a 0 otherwise; and $\|\cdot\|$ is the distance between two locations. In the sum, every event, \mathbf{s}_i , is compared to every other event, \mathbf{s}_j , for $i \neq j$. Thus, $K(h)$ is proportional to the expected number of additional points within distance h of a randomly chosen event. When a point pattern is synonymous with CSR, $K(h) = \pi h^2$, so by making the transformation

$$L(h) = \frac{\overline{K(h)}}{\pi}$$

into the L -function, deviations from CSR can be compared with $L(h) = h$. When clustering at distance h occurs, $L(h)$ is greater than h , and more events are observed than expected on average in circles of radius h . Conversely, for uniformity at distance h , $L(h)$ is less than h , and fewer events are observed than expected on average in circles of radius h .

A plot of $L(h)$ against h will indicate at what distances either significant clustering or uniformity exists. Confidence envelopes for $L_{obs}(h)$ are generated by simulating CSR patterns, computing $L(h)$ for each pattern, and choosing the maximum and minimum values of $L(h)$ for each h as the upper and lower envelopes. Schabenberger and Gotway (2005, p. 87) advise that 99 simulations are sufficient for a 5% level test. In the bottom left panel of Figure 3, we see significant clustering up through distances of approximately 0.25 units and then significant uniformity thereafter. In the bottom right panel, the data with one cluster of uniform patterns exhibits significant uniformity at very small spatial scales through 0.025 units ($L_{obs}(h)$ coincides with the lower bound at 0, the smallest value possible for $L(h)$) and then significant clustering across the range of remaining distances.

One shortcoming of the K -function and many other tests for spatial and space-time clustering (Grubestic and Mack 2008) is that they assume that the intensity is constant. Testing for deviations from CSR while assuming a spatially constant intensity function is not typically very informative. From Figure 1, it is obvious that crimes occur more frequently in certain parts of each city's domain, which indicates that some regions are more susceptible to crime than others. Our interest is in clustering that occurs above and beyond that due to geographic variations in the population at risk. Thus, a modification of the K -function, called the inhomogeneous K -function (Baddeley et al. 2000), allows the intensity of the process to vary throughout the domain. By allowing the intensity to vary, we are modeling the large-scale trend of crime risk across the domain. Hering et al. (2009) take a similar approach, as do Cressie and Collins (2001) who remove large-scale effects using local indicators of spatial autocorrelation (Anselin 1995).

The inhomogeneous K -function is defined as

$$K_{inhom}(h) = E \left[\frac{\sum_{\mathbf{s}_i \in \mathcal{D}} \sum_{\mathbf{s}_j \in \mathcal{D} \setminus \{\mathbf{s}_i\}} \mathbf{1}(\|\mathbf{s}_i - \mathbf{s}_j\| \leq h)}{\sum_{\mathbf{s}_i \in \mathcal{D}} \sum_{\mathbf{s}_j \in \mathcal{D} \setminus \{\mathbf{s}_i\}} \frac{\mathbf{1}(\|\mathbf{s}_i - \mathbf{s}_j\| \leq h)}{\lambda(\mathbf{s}_i)\lambda(\mathbf{s}_j)}} \right]$$

where now the intensity, $\lambda(\mathbf{s}_i)$, varies as a function of \mathbf{s}_i and represents the mean number of

events occurring at location \mathbf{s}_i . The corresponding L_{inhom} is defined as

$$L_{inhom}(h) = \frac{\overline{K_{inhom}(h)}}{\pi}.$$

To estimate $K_{inhom}(h)$, Baddeley et al. (2000) use the following border-corrected estimate

$$\hat{K}_{inhom}(h) = \frac{\mathbf{1}(\|\mathbf{s}_i - \mathbf{s}_j\| \leq h)}{\hat{\lambda}(\mathbf{s}_i)\hat{\lambda}(\mathbf{s}_j)} \cdot e(\mathbf{s}_i, \mathbf{s}_j, h),$$

$\mathbf{s}_i \in \mathcal{D} \ \mathbf{s}_j \in \mathcal{D} \setminus \{\mathbf{s}_i\}$

where $e(\mathbf{s}_i, \mathbf{s}_j, h) = \mathbf{1}(b_i > h) / ((\sum_{\mathbf{s}_j \in \mathcal{D} \setminus \{\mathbf{s}_i\}} \mathbf{1}(b_j > h) / \lambda(\mathbf{s}_j))$, and b_i is the distance from \mathbf{s}_i to the boundary of the domain. $K_{inhom}(h)$ is interpreted similarly to $K(h)$ with the exception that significant clustering or uniformity observed in the point process is relative to a spatially varying intensity, so if a process exhibits significant clustering, the clustering is beyond that which is due to crimes being more likely to occur in some parts of the domain than others. Estimation of $\lambda(\mathbf{s})$ is described in the next section.

3.3 Nonparametric Intensity Estimation

Investigating whether or not the intensity varies spatially should be part of the analysis. If no evidence for a spatially varying intensity can be justified, then a simpler homogeneous test of CSR can be conducted. A Lorenz curve (Tseloni and Pease 2005) as demonstrated by Johnson (2010) can be used to determine if the risk of crime is evenly distributed throughout the domain, but a simple chi-square (χ^2) test can also be used to compare the number of events in subregions of the domain to the expected number of events in each subregion assuming a spatially constant intensity (Diggle 1983; Hering et al. 2009). The χ^2 test statistic is

$$\chi^2 = \sum_{i=1}^m \frac{(n_i - \bar{n})^2}{\bar{n}},$$

where m is the number of subregions, n_i is the number of events in subregion i , and \bar{n} is the expected number of events that would be observed if the intensity is constant across the domain (total number of events divided by m). The domains of each city were divided into 4 subregions of approximately equal area as shown by the dashed lines in Figure 1. For each city, Table 2 reports the number of events in each subregion, the expected number of events, and the value of the χ^2 test statistic. For a 5% level test, the critical value required for rejection of the null hypothesis is $\chi_{3,0.95}^2 = 7.81$, so for Las Vegas and Tempe, the null hypothesis that the number of events is roughly the same in each subregion is overwhelmingly rejected. In Durham's case, the null is also rejected, but the p -value is not quite as small at 0.00037. Thus, there is significant evidence for choosing a spatially varying intensity for all three cities.

Using Kernel Density Estimation (KDE) (Silverman 1986; Scott 1992; Wand and Jones 1995; Hart 1997), a nonparametric estimate of a spatially varying intensity can be obtained. The

density and intensity functions are linked but unique concepts (Waller and Gotway 2004, pp. 130-136). The density function, $f(\mathbf{s})$, is defined to be the probability of observing an event at location \mathbf{s} , while the intensity function, $\lambda(\mathbf{s})$, represents the mean number of events per unit area at location \mathbf{s} . Thus, the density function integrates to 1 over the domain, and the intensity function integrates to the overall mean number of events per unit area. The density can be obtained from the intensity by dividing $\lambda(\mathbf{s})$ by its integral over the domain, meaning that $f(\mathbf{s})$ and $\lambda(\mathbf{s})$ differ only by a constant of proportionality. When plotting either $f(\mathbf{s})$ or $\lambda(\mathbf{s})$, the relative locations of peaks and valleys are the same, but the heights of the values differ. Therefore, an estimate of $f(\mathbf{s})$ can produce an estimate of $\lambda(\mathbf{s})$, and plots of either tend to be used interchangeably. A two-dimensional kernel estimate of $f(\mathbf{s})$ at location $\mathbf{s}_0 = (x_0, y_0)$ is defined to be

$$\hat{f}(x_0, y_0) = \frac{1}{Nb_x b_y} \prod_{i=1}^n K\left(\frac{x_0 - x_i}{b_x}\right) K\left(\frac{y_0 - y_i}{b_y}\right),$$

where b_x and b_y are the bandwidths in the horizontal and vertical directions, respectively, K is the kernel function, and n is the total number of observed events.

KDE requires that the user specify a bandwidth, and this choice can greatly influence the results (Brimicombe 2005). While KDE has become very popular in criminal hot spot identification (McLafferty et al. 2000; Chainey and Ratcliffe 2005; Eck et al. 2005; Chainey et al. 2008), most analysts use the default bandwidth supplied by their software or use arbitrary and common distances (1 mile, 1 kilometer, 500 feet, etc.). Johnson (2010) remarks that objective methods to select this parameter in the criminology literature have not been used. We propose to use Scott's (1992, p. 152) data-based bandwidth selection rule for Gaussian product kernels in dimensional space as a starting point in the search for a good bandwidth. This rule, based on the components of an expansion of the Asymptotic Mean Integrated Squared Error (AMISE), is

$$\hat{b}_x = \hat{\sigma}_x n^{-1/(\dim+4)},$$

where $\hat{\sigma}_x$ is the sample standard deviation of the x -coordinates, n represents the number of total crimes observed, and \dim is the dimension of the domain, which in this case is 2. The bandwidth for the y -coordinates can be found similarly.

To illustrate with the Las Vegas data, the bandwidths in the x and y directions are very similar, so they are averaged together to obtain approximately 1.6 miles. This gives a good starting point to evaluate the fitted intensity. Residuals based on the fitted nonparametric intensity can be obtained and used for diagnosing the proposed fit (Baddeley et al. 2005). Five plots are typically used in evaluating the fit, as shown in Figure 4. A good fit is indicated by the cumulative sum of residuals plotted against a variable of interest, such as the x or y -coordinates, (top right and bottom left plots of 2×2 matrix) falling within a 2σ envelope based on the variance of the observed point pattern. The mark plot (top left plot of 2×2 matrix) shows the size of circles proportional to the size of the residual of the event observed at that location, and large circles can indicate potential outliers. The contour plot (bottom right plot of 2×2 matrix) shows

the smoothed residual field, and a lack of pattern with contours all close to zero indicate a good fit. Finally, the QQ -plot (right plot in Figure 4) assesses the fit of the distribution, and correct specification is indicated when the residuals lie within the dashed lines. See Baddeley et al. (2005) and Hering et al. (2009) for further illustration.

For Las Vegas, we investigate the fitted intensity for each bandwidth in the following set, $\{1.00, 1.25, 1.50, 1.75, 2.00, \dots, 4.75, 5.00\}$, to justify the final choice of bandwidth selected. Residual plots for bandwidths 1.00 through 2.0 and 3.5 through 5.0 were obvious bad fits. A bandwidth of 2.75 was selected based on the residual plots shown in Figure 4, which shows a poor fit for a bandwidth of 1.6 (top panels) and a good fit for a bandwidth of 2.75 (bottom panels). Using the same procedure for Tempe and Durham, bandwidths of 7.0 miles and 1.3 miles, respectively, were chosen. The residual plots tend to lead to choosing a larger bandwidth than Scott's rule suggests, and the larger bandwidth produces a density that mirrors the overall spatial placement of events without capturing local variations.

3.4 Inhomogeneous L -function Monte Carlo Analysis

Formally, the hypotheses to test are

H_0 : Given that the intensity of crimes varies spatially, events in a given crime series are randomly distributed within the domain,

versus the alternative of

H_a : Given that the intensity of crimes varies spatially, events in a given crime series are not randomly distributed within the domain.

Thus, the following steps are taken in evaluating whether the crimes in a given crime series deviate from CSR given that crimes are more likely to occur in certain parts of the domain.

1. Obtain a spatially varying intensity (or density) estimate, $\hat{\lambda}(\mathbf{s})$, for all of the crimes observed within a given city. This gives first order information about the most likely places within in the domain for a crime to occur. The bandwidth is selected using residual analysis of Baddeley et al. (2005).
2. Compute the inhomogeneous L -function for a given crime series with n_k events using $\hat{\lambda}(\mathbf{s})$.
3. Simulate a new realization of n_k events within the domain that are randomly distributed throughout the domain conditional on the spatially-varying intensity.
4. Find the value of $\hat{\lambda}(\mathbf{s})$ at each newly simulated event.
5. Use the simulated event locations with their associated intensity estimates to compute the inhomogeneous L -function for the simulated data.
6. Repeat steps 3-5 $B = 99$ times.

7. For each distance, h , find the lowest and highest values of the simulated inhomogeneous L -function. These will serve as an envelope of plausible values of $L_{inhom}(h)$ when events are randomly distributed relative to each other conditional on $\hat{\lambda}(\mathbf{s})$.

When the observed inhomogeneous L -function for a given crime series falls above the envelope, then we can conclude that significant clustering occurs at those distances beyond what is expected under the spatially varying intensity. Similarly, when the observed inhomogeneous L -function falls below or coincides with the lower bound, we can conclude that significant regularity is observed in the event locations. For a given crime series, we may even observe both clustering and uniformity for various distances.

3.5 Spatial Results

While it is not possible to display results for all 47 crime series which had 5 or more events, Figure 5 gives results for four representative crime series. In general, Figure 5 demonstrates that conclusions of significant clustering are reduced when using the inhomogeneous as opposed to the homogeneous L -function, and the confidence envelopes widen for the inhomogeneous L -function since there is additional uncertainty due to estimating the intensity. In addition, smaller sample sizes and a reduced amount of variability in event locations make the observed $\hat{L}(h)$ and $\hat{L}_{inhom}(h)$ less smooth and more discontinuous.

In particular, the crime series in Figure 5 demonstrate 4 different interesting patterns. In the top panel, a burglary series of 20 events in Tempe, the homogeneous L -function would indicate that there is significant spatial clustering at all distances, but once the estimated intensity is factored in (see bottom center panel of Figure 1), we fail to reject the null hypothesis stated in Section 3.4. The probability of observing events at these locations is already elevated, and no strong clustering is observed beyond this trend. In the second row of Figure 5, we see the opposite effect in a burglary series of 10 events in Durham. Here, even though the spatial intensity is taken into account, the null hypothesis is still rejected at all spatial scales. Thus, the significant clustering observed is beyond what can be explained simply because crimes are more likely to occur in some parts of the domain than others.

The last two rows of Figure 5 show two robbery series from Las Vegas of lengths 8 and 17, respectively. The events in the robbery series of length 8 appear to be spaced somewhat regularly from each other, and the inhomogeneous L -function detects this small scale uniformity up to almost 1 mile. After 1 mile, the events are consistent with random distribution, so it appears as if this offender may be introducing such a spatial distribution on purpose. The series of length 17 shows that after accounting for spatial variability of the intensity, the only significant clustering occurs between 2 and 4 miles. Thus, at the small scale, the events are consistent with the overall trend of crimes in this domain, but this offender has created clusters of events spaced on average 2 to 4 miles apart.

Table 3 summarizes the $\hat{L}_{inhom}(h)$ results for all 47 crime series and is sorted by crime type, crime series length, and spatial scale. We categorize the spatial scale into short, middle, and

long range scales. These categorizations depend upon each city’s domain and are given in the caption of Table 3. If the observed $\hat{L}_{inhom}(h)$ lies above the upper bound, within the envelope, or below/on the lower bound, the labels “A,” “W,” and “B,” respectively, are given. Only the robbery and burglary crime types have a sufficient number of series to examine for patterns within and between these crime types. Generally speaking, we observe the following patterns:

- /Large robbery series tend to exhibit randomly distributed clusters while smaller robbery series display significant uniformity at the short scale more often. This pattern suggests that robbery crime series may begin with a strong desire to space events out to avoid detection but that as the crime series continues to grow, the offender may revisit previously targeted areas.
- /Some robbery series, such as the third $n = 10$ and the fourth $n = 5$, do not follow the above pattern and exhibit significant clustering at all spatial scales. If a crime series demonstrates this type of pattern, protection of potential victims can be focused in the observed clusters.
- /Burglary series may exhibit a tendency to cluster more when the series is short as opposed to long. As burglars tend to target multiple homes in the same neighborhood or repeatedly target the same home, they can quickly develop a significant cluster of events. However, the longer they evade authorities, they may find new areas to target.
- /Burglary series exhibit significant clustering more often than robbery series do. This could be due to differences in the density of potential victims since burglars tend to target multiple homes in the same neighborhood, which can lead to significant clustering. In addition, a robber may be more wary of identification since he encounters his victims personally, leading him to disperse his crimes more strategically.

4 Sequential Target Selection

Now, the sequential order of each crime series is considered in addition to the spatial distribution of events. The goal is to identify any patterns in target selection over time. It is hypothesized that as an offender begins to commit crimes, he may scatter the crimes out as much as possible, but over time, he may return to previous areas. Thus, at the beginning of the series, crimes may be randomly scattered, but more clustering may appear as each new event is added to the series. Figure 6 illustrates this concept by using arrows to connect each crime with the subsequent crime in the series. Three substantial clusters of events appear, but there is much criss-crossing of the domain, indicating that the offender moved frequently. Conclusions could change depending upon the crime type. For example, robberies, as indicated in Section 3.5, may follow this pattern, but burglaries may not. Again, any deviations from this hypothesized behavior would also be of interest, and this information could be a stepping stone towards predicting the location of the next event in the series.

In this section, we focus on short-range clustering for two reasons. First, the methodology used in Section 3 would require extending the inhomogeneous K -function to 3 dimensions in which the third dimension is time, which would not be technically difficult. However, the intensity estimate could vary in both space and time, so bandwidths in time, the x -coordinate locations, and y -coordinate locations could all be different, and residual diagnostics would need to be extended to handle this 3-dimensional case. Significant programming efforts would be required to implement such extensions. Secondly, if significant clustering occurred when considering all events simultaneously, the majority of crime series exhibited short-range clustering (see Table 3).

Thus, we take a two-pronged approach to investigating the sequential selection of targets by serial offenders. First, as an exploratory step, we examine how the area of the minimum convex hull (MCH) containing the first i events in the series changes as each additional event is added. Next, we compute the familiar mean nearest neighbor statistic but use a Monte Carlo test that generates new sets of events conditional on the spatially varying intensity. This second approach is outlined in Section 4.1, and results are described in Section 4.2.

4.1 Nearest Neighbor Monte Carlo Analysis

For a given series, the following procedure tests for clustering at short spatial scales conditional on the likelihood of crime occurrence throughout the domain, and the test is repeated as the series length grows from 5 to n_k . For a given crime series,

1. Select the first j events that occurred in the series.
2. Compute the distance to the nearest neighbor for each of the j events in the series, h_i , and then find the average \bar{h}_{obs} .
3. Simulate j new events randomly distributed within the domain but conditional on the city's spatially varying intensity, $\hat{\lambda}(\mathbf{s})$.
4. Compute \bar{h}_b , the mean nearest neighbor distance, for the simulated data.
5. Repeat Steps 4 and 5 $B = 99$ times for a 5% level test (Schabenberger and Gotway 2005, p. 87).
6. Compute the p -value with

$$\frac{\sum_{b=1}^B \mathbf{1}(|\bar{h}_b| > |\bar{h}_{obs}|)}{B+1} \sqrt{}$$

7. Repeat steps 1 through 7 for values of $j = 5, 6, \dots, n_k$, where n_k is the sample size of the k th crime series.

The behavior of the p -value as each additional event is added to the series should yield some information about how the offender selects targets. If the p -value remains low throughout the sequence, then the series exhibits short-range spatial clustering conditional on the intensity

throughout the sequence. However if the p -value begins high and then becomes low, then the offender began the series by spacing crimes out as much as possible but begins to revisit previous areas as more crimes are committed. Alternatively, if the p -value begins low and then becomes high, then the offender begins the series with a clustered set of crimes and then begins to spread crimes throughout the domain.

4.2 Sequential Results

First, just by examining how the area of the minimum convex hull containing events 1 through i for $i = 4, 6, \dots, n_k$ changes, one of two patterns is observed. Either the area is continually increasing with plateaus along the way, or the area remains nearly constant. The top panel of Figure 7 shows two burglary and one robbery crime series from Durham that exhibit the increasing plateau behavior. A pattern identified as constant may rise once, but otherwise, the area of the MCH remains the same. Table 4 categorizes all crime series with enough events to identify a pattern as either increasing (with plateaus) or constant and results in the following conclusions:

- /Over 75% of robbery and burglary series have an increasing area within which the offender operates. This suggests that as an offender becomes more comfortable committing crimes, he periodically expands his “hunting ground,” then continues to offend within this newly defined region, and then expands again.
- /All of the theft and sexual crime series’ sequential MCH areas also follow an increasing trend with plateaus, but the two arson crime series both have constant MCH areas. This is not surprising since as reported in Table 3, both arson series exhibit significant clustering at both short and mid-range scales.

Second, the Monte Carlo test for short-range clustering using the mean nearest neighbor distance conditional on a spatially-varying crime risk throughout the domain also displays primarily one of two patterns, although six of the series do not fall into either of these two categories. The bottom panel of Figure 7 shows the p -values for the nearest neighbor Monte Carlo (NN MC) test for one theft, robbery, and burglary crime series from Las Vegas as additional events are added to each series. The theft series in this plot is the same series displayed in Figure 6, and the NN MC results agree with the hypothesized behavior of this series, which was that the events were initially spread apart and then began to be clustered as the offender revisits previously targeted areas. Table 4 summarizes the pattern observed in each crime series with enough events to identify a pattern and yields the following conclusions:

- /Nearly half of the crime series begin with high p -values when the series is short and then become lower as the series progresses. Thus, offenders are avoiding short-range clustering when they first begin to commit crimes, but they eventually return to areas with which they are familiar.

- /In roughly one-third of the crime series, the p -value begins and remains low as each additional event is added to the series. These offenders repeatedly target the same area(s). They may have transportation or time constraints that prevent them from introducing spatial variability.
- /A less common pattern observed in four series is when the series begins with significant short-range clustering and then becomes more dispersed. This pattern could be a function of experience; as the offender becomes more comfortable or attains more resources, he begins to spread his crimes farther apart.

5 Discussion

This paper employs methods that can be applied to a wide variety of data types and addresses some of the difficulties that are inherent in clustering and KDE analyses. Clustering at various spatial scales can be detected with the K -function, and the inhomogeneous K -function allows the risk across the domain to vary. In crime mapping problems, it is generally acknowledged that crime risk is not constant across the domain (Johnson 2010), and a simple chi-square test can be used to formally check this assumption. A KDE surface can provide a nonparametric map of crime density (and thereby the intensity as well), and residual analysis can be used to choose an appropriate bandwidth. With this estimated intensity, Monte Carlo realizations of crime series will be conditional on events being more likely to occur in some parts of the domain than others. As a result, conclusions are adjusted for the underlying trend of crimes observed across a domain, so a crime series in which all crimes are located in a “hot spot” of crime is not automatically classified as significantly clustered.

To apply these methods to aggregate data, such as all burglaries in a city, the desired background risk to be modeled and removed should be carefully identified since misrepresenting the spatially-varying density of crimes can strongly impact the results. The data used to obtain $\hat{\lambda}(\mathbf{s})$ depends both on the goals of the study and the availability of data. For example, if the research question is to determine how all burglaries in 2010 differ spatially from burglaries observed in the previous five years, then $\lambda(\mathbf{s})$ should be estimated based on the locations of burglaries in the previous five years, and $K_{inhom}(h)$ would be applied to the 2010 burglary data.

In particular, this research lays a foundation for the analysis of spatial behaviors of serial offenders by using crime series attributed to individual decision-makers. This unique type of data, rarely analyzed in the criminology literature, allows us to identify common patterns of behavior in criminals, which may differ depending upon the crime type. Burglars tend to choose targets in a more clustered fashion than robbers, which is consistent with literature analyzing all burglaries and not just those attributable to a specific individual (Grubestic and Mack 2008). However, this clustering is especially apparent when the series is short. Robbery series display more uniformity at short scales when the series is short and more clustering as the series lengthens. The majority of serial offenders extend the area they are willing to target as time progresses, and roughly half

begin a series with crimes spaced such that they are not significantly clustered. Whether these patterns are consciously or subconsciously created would require further investigation, but they certainly fit with the “offender as forager” theory.

Ultimately, the goal is to apprehend serial offenders, thereby reducing crime. It is important that conclusions reached in this work be applied by law enforcement when tracking an individual perpetrator (Ratcliffe 2008), but the most efficient means to do so is not yet entirely clear. However, the analysis described herein can certainly be applied to an active crime series, one in which investigators suspect a number of crimes to be attributable to an individual who has not yet been arrested. Questions such as, “Does the offender choose spatial targets that are consistent with the hot spots (i.e., $\lambda(\mathbf{s})$) of crime in this area,” “Does the offender cluster or space targets above and beyond what can be explained by the background risk,” and “Is the area or clustering pattern in the target selection changing with each new target chosen?” can be answered and will inform the investigation.

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Table 1: Sample sizes and number of crime series observed and analyzed in each city along with city statistics. The last column gives the bandwidth selected for the nonparametric intensity estimation.

City	Population	Square Miles	# Events Total	# Crime Series Total	# of Events Analyzed	# of Crime Series Analyzed	Bandwidth
Las Vegas	1,865,746	131	303	28	281	20	2.75 miles
Tempe	175,523	40	304	19	300	18	7.0 miles
Durham	269,706	95	93	11	88	9	1.30 miles

Table 2: Chi-squared test statistics based on a division of each domain into 4 subregions of approximately equal area, as depicted in Figure 1, labeled going from top to bottom for Las Vegas and Durham and from left to right for Tempe. The 95% critical value is $\chi^2_{3,0.95} = 7.81$.

City	Number of Events in Each Subregion				Expected	χ^2 Test Statistic
	Subregion 1	Subregion 2	Subregion 3	Subregion 4		
Las Vegas	84	103	102	13	75.5	72.0
Tempe	9	5	272	79	91.25	515.3
Durham	22	40	12	19	23.25	18.4

Table 3: Summary of significant clustering or uniformity observed in the inhomogeneous L -function for each crime series at one of 3 spatial scales—short, middle, and long. The spatial scales differ between the three cities, so for Las Vegas, Tempe and Durham, the short scale is considered up to 1 mile, up to 1.5 miles, and up to 0.5 miles, respectively. The middle scale is 1-4 miles, 1.5-5 miles, and 0.5-1.5 miles for each city; and the long scale is greater than 4, greater than 5, and greater than 1.5 miles. The following codes are used in the table: A is generally above the upper confidence bound, W is within the confidence bands, and B is below or on the lower confidence bound.

Crime Type	Sample Size	State	Short	Middle	Long
Robbery	$n = 33$	NV	A	W	W
	$n = 23$	AZ	A	W	W
	$n = 19$	NC	A	W	W
	$n = 17$	NV	W	A	W
	$n = 16$	NV	A	W	W
	$n = 14$	NV	W	A	W
	$n = 13$	NV	W	W	W
	$n = 12$	NV	W	W	W
	$n = 10$	NV	A	W	W
	$n = 10$	AZ	B	W	W
	$n = 10$	AZ	A	A	A
	$n = 9$	AZ	A	A	W
	$n = 9$	AZ	W	W	W
	$n = 9$	AZ	W	W	W
	$n = 9$	AZ	W	W	W
	$n = 8$	NV	A	W	W
	$n = 8$	NV	B	W	W
	$n = 8$	NV	B	W	W
	$n = 7$	NV	A	W	A
	$n = 7$	AZ	A	W	W
	$n = 6$	AZ	B	W	W
	$n = 6$	AZ	B	B	W
	$n = 6$	NC	A	W	W
	$n = 5$	NV	A	W	W
	$n = 5$	AZ	A	W	W
	$n = 5$	AZ	B	W	W
	$n = 5$	NC	A	A	A
Burglary	$n = 86$	AZ	A	A	W
	$n = 44$	AZ	A	A	A
	$n = 21$	NV	A	W	W
	$n = 20$	AZ	W	W	W
	$n = 13$	AZ	A	W	W
	$n = 12$	AZ	W	W	W
	$n = 12$	NC	A	A	W
	$n = 10$	NC	A	W	W
	$n = 10$	NC	A	A	W
	$n = 10$	NC	A	A	A
	$n = 9$	NV	A	A	A
	$n = 8$	NC	A	A	W
	$n = 8$	NC	A	A	W
	$n = 7$	NV	A	A	A
Theft	$n = 41$	NV	A	A	A
	$n = 23$	NV	W	W	W
	$n = 14$	NV	W	W	W
Sexual	$n = 9$	NV	A	W	A
	$n = 6$	NV	B	W	W
Arson	$n = 14$	AZ	A	A	A
	$n = 11$	AZ	A	A	W

Table 4: Summary of pattern observed in area of sequential minimum convex hull (MCH) and in the p -values of the sequential nearest neighbor Monte Carlo (NN MC) tests.

Crime Type	Sample Size	State	MCH Area		NN MC			
			Increasing	Constant	High/Low	Low/Low	Low/High	Other
Robbery	$n = 33$	NV	× /				× /	
	$n = 23$	AZ	× /		× /			
	$n = 19$	NC	× /			× /		
	$n = 17$	NV	× /		× /			
	$n = 16$	NV	× /		× /			
	$n = 14$	NV	× /		× /			
	$n = 13$	NV	× /		× /			
	$n = 12$	NV	× /		× /			
	$n = 10$	NV	× /			× /		
	$n = 10$	AZ	× /			× /		
	$n = 10$	AZ		× /		× /		
	$n = 9$	AZ	× /			× /		
	$n = 9$	AZ	× /		× /			
	$n = 9$	AZ		× /		× /		
	$n = 8$	NV	× /		× /			
	$n = 8$	NV	× /				× /	
	$n = 8$	NV	× /					× (hi)
	$n = 7$	NV	× /		× /			
	$n = 7$	AZ	× /			× /		
Percent			89%	11%	47%	37%	11%	5%
Burglary	$n = 86$	AZ	× /		× /			
	$n = 44$	AZ	× /			× /		
	$n = 21$	NV	× /		× /			
	$n = 20$	AZ	× /		× /			
	$n = 13$	AZ	× /			× /		
	$n = 12$	AZ	× /			× /		
	$n = 12$	NC	× /		× /			
	$n = 10$	NC	× /			× /		
	$n = 10$	NC		× /			× /	
	$n = 10$	NC	× /		× /			
	$n = 9$	NV	× /				× /	
	$n = 8$	NC	× /		× /			
	$n = 8$	NC		× /	× /			
	$n = 7$	NV		× /		× /		
Percent			79%	21%	50%	36%	14%	0%
Theft	$n = 41$	NV	× /			× /		
	$n = 23$	NV	× /		× /			
	$n = 14$	NV	× /					× (hi/lo/hi)
Percent			100%	0%	33%	33%	0%	33%
Sexual	$n = 9$	NV	× /		× /			
	$n = 6$	NV	× /			× /		
Percent			100%	0%	50%	50%	0%	0%
Arson	$n = 14$	AZ		× /		× /		
	$n = 11$	AZ		× /		× /		
Percent			0%	100%	0%	100%	0%	0%

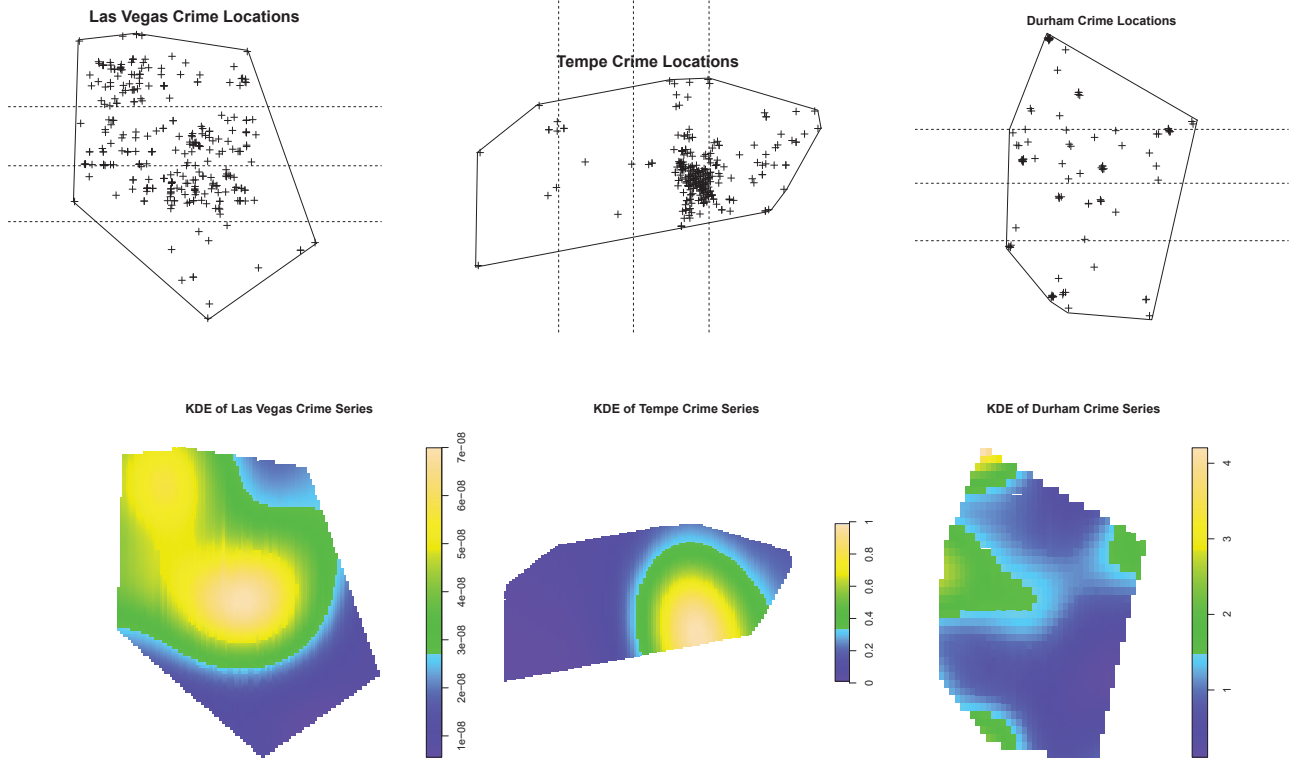


Figure 1: Top row: Locations of all crimes for all crime series in Las Vegas dataset (left), Tempe dataset (center), and Durham dataset (right). Dashed lines show divisions of the domain into 4 subregions of approximately equal area. Bottom row: KDE plot for each city with the respective bandwidths given in Table 1.

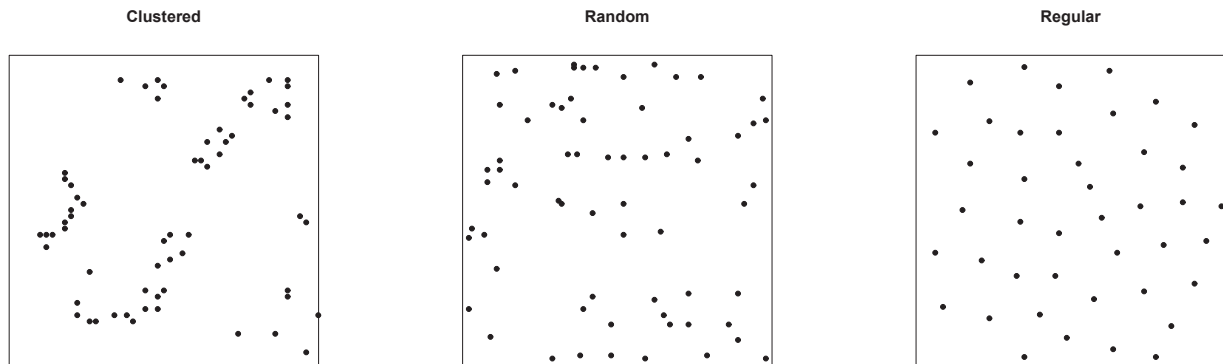


Figure 2: Example of a clustered pattern (left), a random pattern (center), and a regular pattern (right).

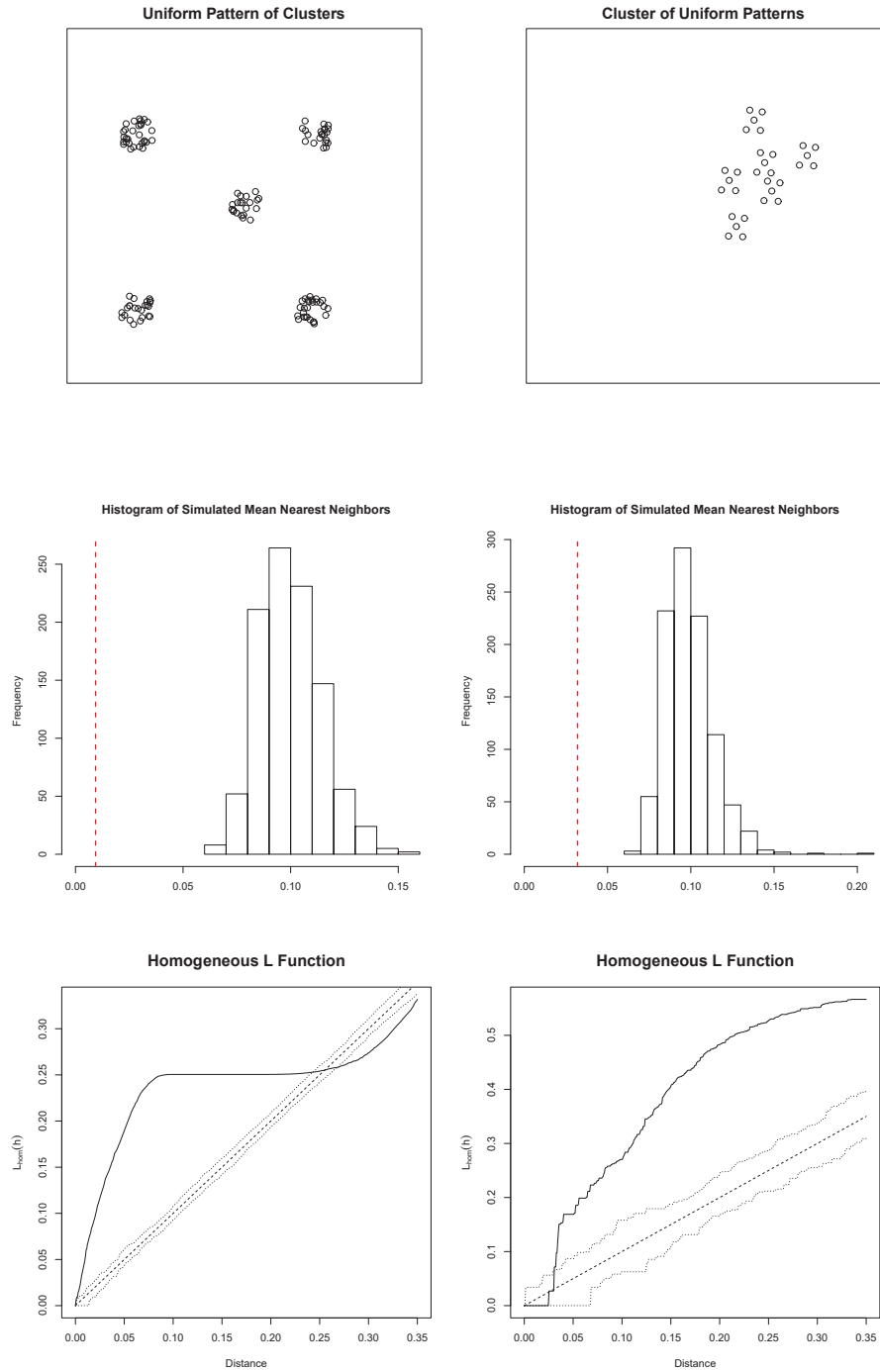


Figure 3: Top Row: Examples of point patterns with both clustering and uniformity exhibited at different spatial scales. Middle Row: Monte Carlo Mean Nearest Neighbor test of CSR. Bottom Row: Homogeneous L -function applied to each dataset.

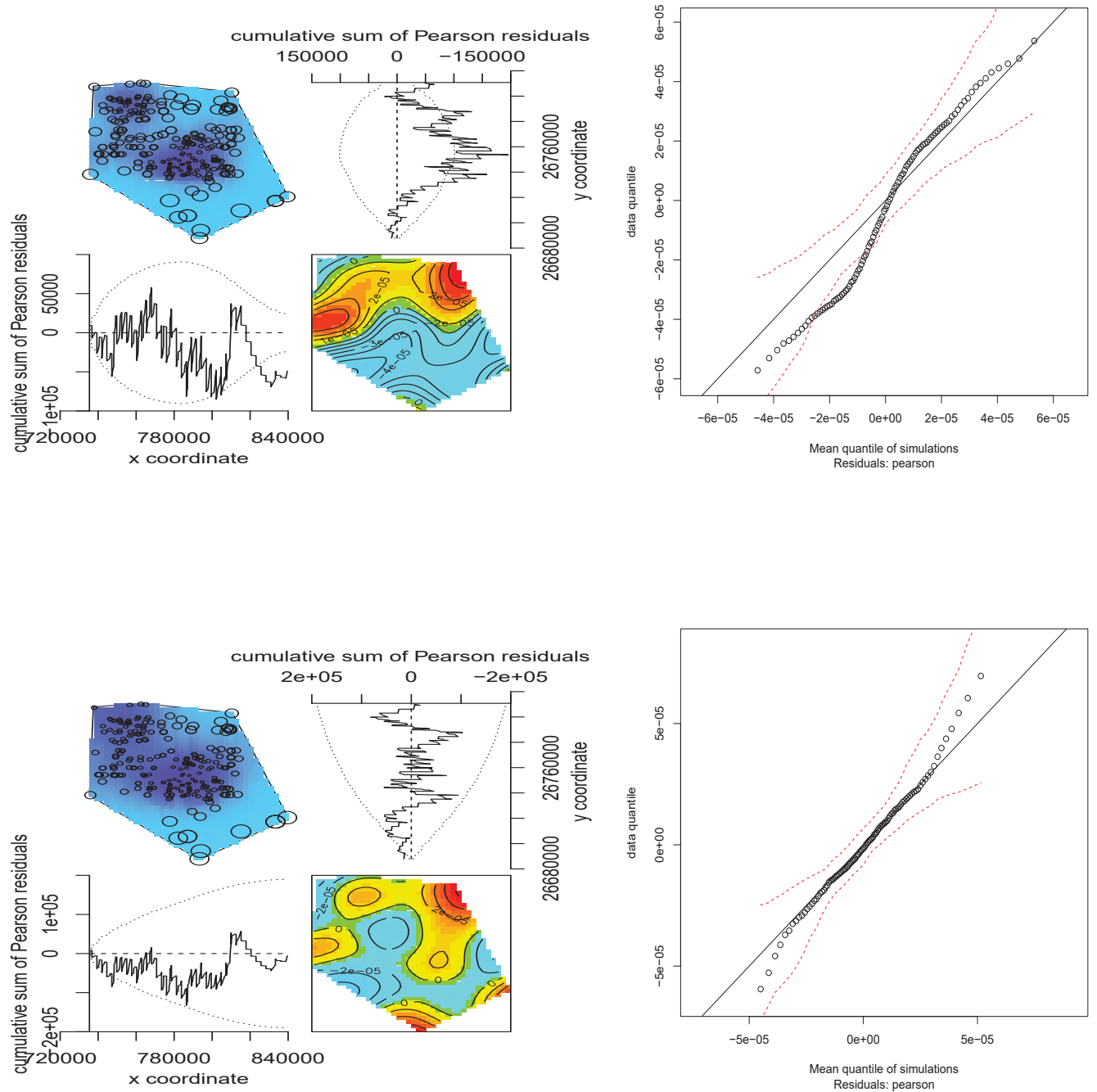


Figure 4: Residual diagnostic plots for a nonparametric intensity estimator of all Las Vegas crime series. The top panel are the residual plots for Scott's bandwidth of 1.60 miles, and the bottom panels are with bandwidth of 2.75 miles.

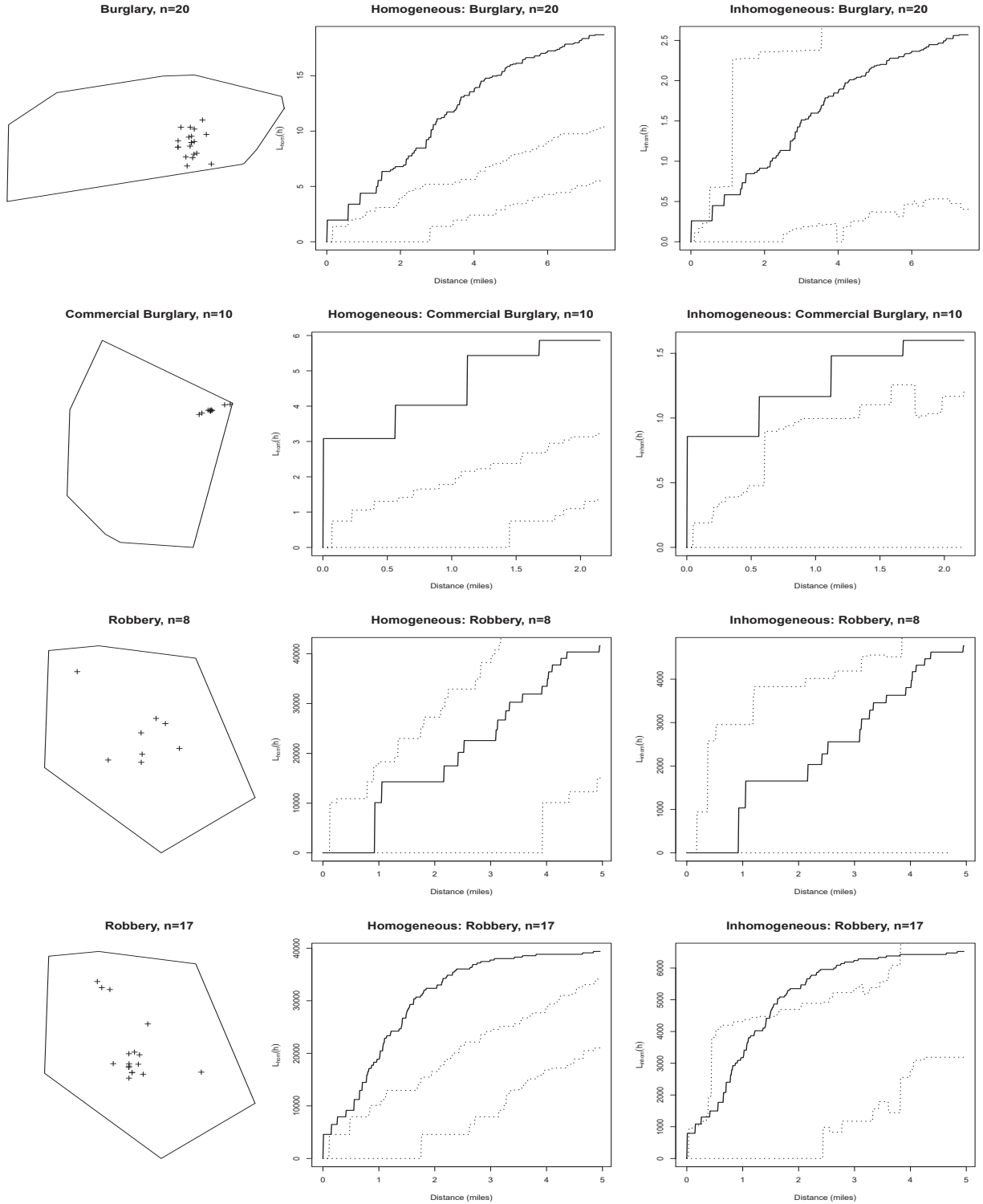


Figure 5: Left column shows the locations (which in some cases have been randomly offset for visual purposes when locations are repeated) of crimes in the crime series; center column shows the homogeneous L -function; and left column shows the inhomogeneous L -function for four crime series. Top row is Tempe, second row is Durham, and last two rows are Las Vegas crime series.

Las Vegas: Theft, n=23

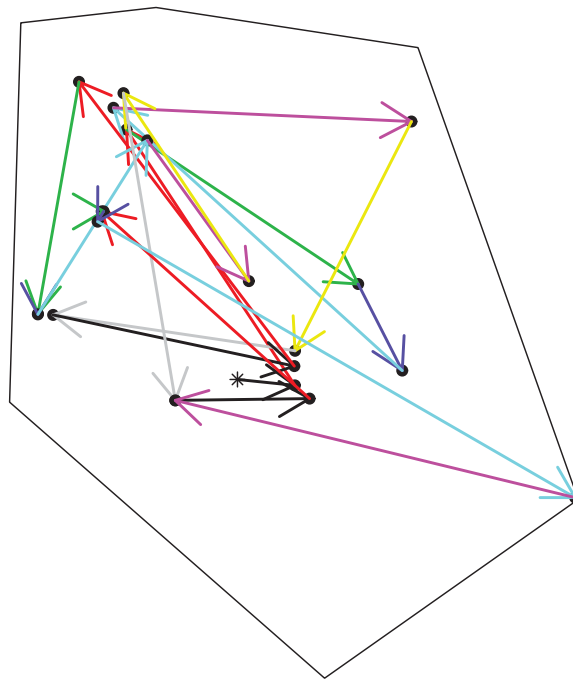


Figure 6: An example of the sequential selection of targets in one crime series. The first crime in the series is labeled with a “*”, and arrows connect this first event to the next in the series. Arrows differ in color so that visually following the series is easier.

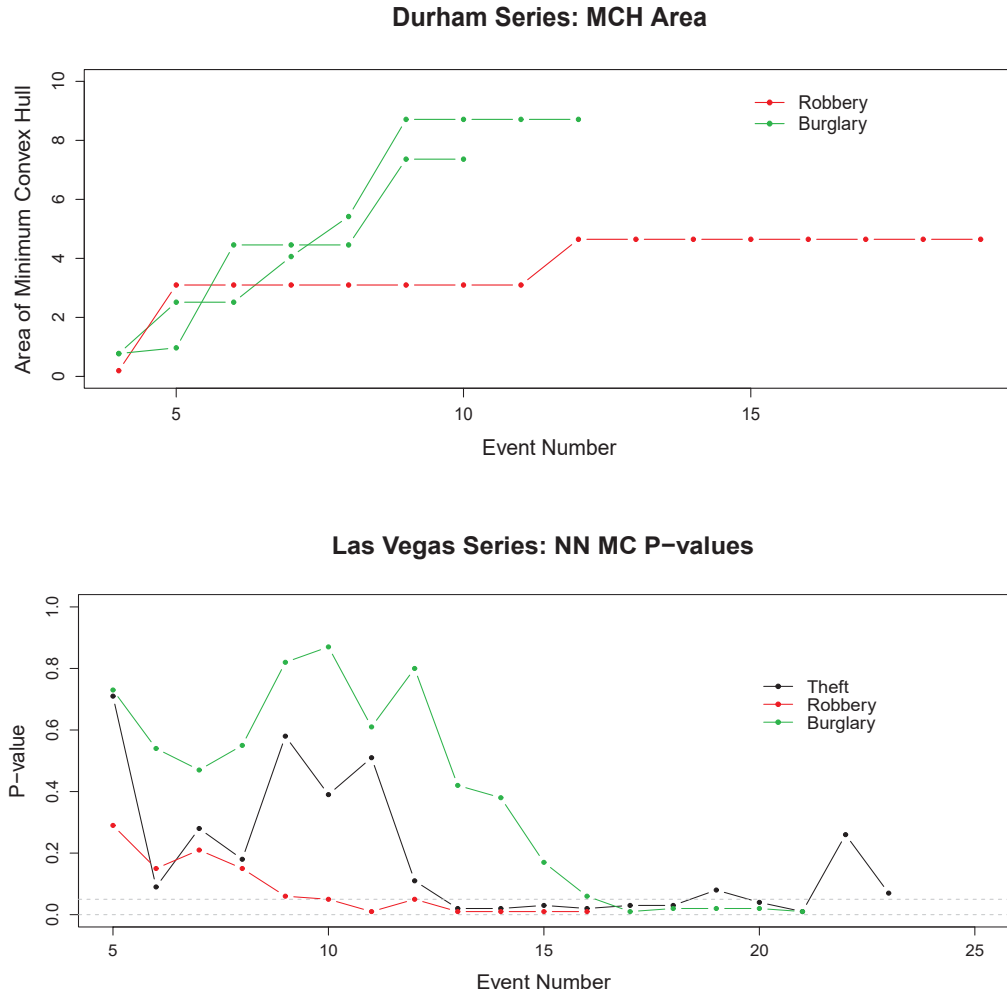


Figure 7: Top panel gives examples of series showing an increasing trend with plateaus in the areas covered by their minimum convex hulls as each additional event in the series is added. Bottom panel gives examples of series whose nearest neighbor Monte Carlo test for short-scale clustering begins with high p -values and is followed by low p -values.

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Characterizing spatial and chronological target selection of serial offenders

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Summary. Using 31 unique crime series from two US cities, the spatial pattern that individual criminal decision makers follow is investigated. Locations within a city vary in the likelihood for crimes of a given type to occur, and this is accounted for by using kernel density estimation based on all crimes of each type. Kernel density estimation is highly influenced by the bandwidth, so an objective approach is used to select the estimate. Then, the kernel density estimate for each type of crime is incorporated in an inhomogeneous K -function that can identify significant spatial clustering and/or uniformity at various spatial scales for each crime series. We find that robbery series are more likely to exhibit uniformity than burglary series, which tend to show strong clustering. In addition, the order in which new crimes are added to a series is found to follow an interesting pattern that does not always support the theory of offender as forager in which criminals first cluster crimes and then gradually disperse them. Half of the robbery series exhibit a spatial distribution that begins dispersed and develops clusters as increasingly more events are added to the series, indicating that they often return to locations of earlier crimes after having committed crimes elsewhere.

Keywords: Clustering; Crime series; Kernel density estimation; K -function; Monte Carlo tests; Point patterns

1. Introduction

The spatial distribution of all crimes, usually of a particular type, has been widely researched. These types of analyses use crime data that have been aggregated to census units or police jurisdictions and are useful for police resource allocation and planning (e.g. [Mohler *et al.* \(2011\)](#), [Tita and Radil \(2010\)](#), [Bernasco \(2010\)](#), [Berestycki and Nadal \(2010\)](#), [Chainey *et al.* \(2008\)](#), [Grubestic and Mack \(2008\)](#), [McLafferty *et al.* \(2000\)](#) and [Ratcliffe and McCullagh \(1999\)](#)). Their conclusions are also informative for characterizing, for example, how burglars in a given region generally behave, but they do not address how one individual burglar chooses targets spatially. However, a minority of citizens are responsible for the majority of crimes ([Paulsen *et al.*, 2009](#); [Innes *et al.*, 2005](#); [Wolfgang *et al.*, 1972](#)) and, by studying repeat offenders, law enforcement agencies may begin to understand the systematic behaviour of these individuals.

Studying crime series, two or more similar crimes committed by the same decision maker ([Paulsen *et al.*, 2009](#)), is inherently difficult owing to a lack of quality data. Ideally, serial offenders are apprehended before their series grow very long; thus, patience is required to collect

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such data for empirical research and analysis. In addition, identifying crimes in a crime series may take place over a period of months or years and requires follow-up requests to potentially multiple law enforcement agencies. Of the crime series that have been studied, most are very short (fewer than five crimes), and many simply focus on either linking pairs of crimes to the same offender or finding the offender's home (Bennell and Jones, 2005; Bennell *et al.*, 2007; Bernasco and Nieuwbeerta, 2005; Canter *et al.*, 2000; Cullen *et al.*, 2006; van Koppen and Jansen, 1998; Markson *et al.*, 2010; Tonkin *et al.*, 2008; Woodhams and Tøye, 2007).

Most law enforcement professionals operate under the assumption that serial offenders will begin to offend within a small area and will then branch out spatially once close viable targets have been exploited. This assumption is consistent with *forager theory*, which hypothesizes that criminals seek to balance the demands of acquiring resources and limiting exposure (Harries, 1980; Johnson and Bowers, 2004; Johnson *et al.*, 2009; Matsueda *et al.*, 2006). However, the probability of being identified may be reduced by increasing spatial variability. Many criminals have strong survival instincts to evade capture and may spread out their crimes or avoid locations near their homes (Rossmo, 2000) in an attempt to go undetected. Alternatively, criminals may have a 'stomping' ground or an area that is familiar to them and from which they are more likely to select potential targets (Brantingham and Brantingham, 1993, 1995; Felson and Clark, 1998). Thus, the type of spatial behaviour that is observed may be both scale and perpetrator dependent.

The work that is presented in this paper seeks to meet the following three goals:

- (a) to investigate the spatial distribution of crimes in crime series;
- (b) to investigate the spatial distribution of crimes as a series progresses through time;
- (c) to utilize statistical techniques that we have not seen employed elsewhere in the criminology literature.

These goals will be addressed by using 31 unique crime series collected from two US cities, and these data are described in Section 2. Next, the spatial pattern of all crimes in a crime series is analysed, and variations in patterns by type of crime (e.g. robberies or burglaries) are investigated in Section 3. In addition, an objective method to select the bandwidth for a kernel density estimate, which is used to reflect the varying propensity of different types of criminal activity across the spatial domain, is presented, and the inhomogeneous *K*-function is used to test simultaneously for clustering and uniformity at various spatial scales. Finally, in Section 4, we investigate the order in which geographic targets are selected and examine how conclusions of clustering *versus* uniformity evolve as more events are added to the series. The entire analysis is carried out with the open source R (R Development Core Team, 2011) statistical package *spatstat* (Baddeley and Turner, 2005). We provide our conclusions in Section 5.

The data that are analysed in the paper and the programs that were used to analyse them can be obtained from

<http://wileyonlinelibrary.com/journal/rss-datasets>

2. Data

Data from Tempe, Arizona, and Durham, North Carolina, with a combined total of 31 property loss crime series are used in this analysis. Each crime series has been vetted by multiple analysts, and the crimes are known to be attributable to a single decision maker. Both jurisdictions have a crime analysis unit that strives to identify crime series quickly. These agencies record the *modus operandi*, spatial selection and timing of each crime, and analysts then scan through

Table 1. Sample sizes and number of crime series observed for each type of crime within each city along with the number of historic crimes of each type used to estimate the background intensity†

City	Crime type	Number of serial crimes	Number of crime series	Total number of crimes	Bandwidth (x,y) (km)
Tempe	Robbery	124	14	887	(0.90, 0.80)
	Arson	26	2	239	(0.75, 1.25)
	Residential burglary	179	4	3640	(0.50, 0.80)
	Commercial burglary	20	1	2040	(0.65, 0.95)
	Vehicular burglary	44	1	1382	(0.90, 0.40)
Total		393	22	8188	
Durham	Robbery	25	2	75	(1.55, 2.30)
	Residential burglary	48	5	1983	(0.80, 1.00)
	Commercial burglary	10	1	333	(1.10, 1.90)
	Individual robberies	5	1	371	(0.95, 1.45)
Total		88	9	2762	

†The last column gives the bandwidth selected for the non-parametric intensity estimation.

the reports, matching similarities in these behavioural factors. Further linking is done with fingerprint analysis, DNA evidence and, finally, arrestee admonition. We use only crime series with multiple different locations, so a crime series, for example, in which a particular hotel is targeted repeatedly would not be considered in this analysis.

In addition to the crime series, the locations and types of all other crimes in each jurisdiction during the same time period are also used. These historic crimes are used to estimate the overall pattern of crimes of a given type within the jurisdiction (via an intensity map), which reflects areas that are more likely to be impacted by a particular type of crime. The domain boundary for a given city is estimated on the basis of the historic crime locations by using the Ripley–Rasson estimate (Ripley and Rasson, 1977). In large data sets (over 100 crimes), this boundary estimator is very close to but slightly larger than the minimum convex hull (MCH). This boundary is not the border of the respective city since crime series often cross city boundaries, especially in large metro areas, but should be regarded as the extent to which serial offenders who are identified by a particular police department are likely to travel. Table 1 lists the types and number of crime series along with the number of historical crimes of each type for each city.

The crime series and historic crimes were geocoded by using *Google Maps*. Address level accuracy was obtained for all data when possible, which is when an event's location information is matched against a valid city street name and number. Intersection level information was available for only certain offences occurring at intersections. Once complete, the results of the *Google Maps* geocoding was compared with the agency-submitted co-ordinates to validate their accuracy.

In general, the under- or non-reporting of crime to a police department can be substantial. If a crime involves loss of property, then often the crime is less under-reported as the victim wishes to report the incident as a matter of loss recovery. The Bureau of Justice Statistics estimates that, in 2010, 60% of property crimes were not reported (<http://bjs.ojp.usdoj.gov/index.cfm?ty=pbdetail&iid=2224>), and this rate has been roughly constant for the past 10 years. In the historical crime data that are used in this study, we expect similar under-reporting but must assume that the spatial distribution of under-reported crimes is consistent with the spatial distribution of reported crimes. For the crime series that are used, we expect much less under-reporting given the nature of the crimes as well as the diligence on

the part of the police to identify all possible victims through media announcements and direct contact of business and potential victims.

The Tempe, Arizona, data set contains 393 crimes, attributable to 22 criminal decision makers. Over half of these crime series are robberies (14), but there are two arson crimes series and six burglaries. They range in length from five to 92 crimes. With the exception of one robbery series of 10 crimes occurring in 2006, these crimes cover the time period beginning on April 27th, 2008, and ending on December 23rd, 2010, and the corresponding historical data contain 8188 crimes of the same types observed in the crime series. Tempe is a suburb of Phoenix, and although most of the serial crimes are committed in Tempe, where the highest density of crimes is observed, some occur in neighbouring Phoenix to the north-west, and in Mesa, Gilbert and Chandler to the east and south of Tempe. There is also a large area of land right in the heart of Tempe patrolled by the Arizona State University Police Department. The locations of the historical crimes are plotted by each type in Figs 1(a)–1(e) with the corresponding intensity plots given in Figs 1(f)–1(j).

The Durham, North Carolina, crime series range in length from five to 19 events and are either robberies (three) or burglaries (six). The 88 total crimes in the crime series, which are attributable to nine offenders, occurred between January 1st, 2010, and April 1st, 2011. During this time period, 2762 historical crimes of the same types as the crime series were observed in Durham and are plotted in Figs 2(a)–2(d). As the intensity plots (Figs 2(e)–2(h)) show, most of the historical crimes occur in the central part of the domain.

3. Spatial analysis

We approach the analysis of the spatial distribution of the crime series by using spatial point pattern theory (Daley and Vere-Jones, 2003; Diggle, 2003), which is common in crime pattern research (Liu and Brown, 2003; Mohler *et al.*, 2011). Dual kernel density estimation (KDE) has also been applied to crime data (Johnson *et al.*, 2008), but since most of our crime series are very short, and KDE requires rather large sample sizes to obtain reasonably good estimates of the density, we do not take this approach. First in this section, we describe the inhomogeneous K -function, describe a method for objectively selecting the bandwidth parameter in KDE and outline a statistical test for clustering. Then, the results are presented.

3.1. Spatial methods

Complete spatial randomness (CSR) serves as a boundary between clustered and uniform patterns. One characteristic of CSR is that the average number of events in any subregion of the domain, which is denoted by the intensity function $\lambda(s)$, is the same throughout the domain. Functions of nearest neighbour distances are often used to test for CSR (Cressie (1993), page 604); however, it may be difficult to classify the observed pattern as clustered, CSR or uniform on the basis of these distances since spatial scale can play a large role in categorizing patterns (Turner *et al.*, 1989; Levin, 1992). Using the mean nearest neighbour distance (Schabenberger and Gotway (2005), page 98) can result in similar conclusions for very different point patterns. The homogeneous K -function (Ripley, 1977; Diggle, 2003) is capable of detecting both clustering and uniformity at different spatial scales, but it assumes that $\lambda(s)$ is constant over space.

Testing for deviations from CSR while assuming a spatially constant intensity function is not typically very informative, but most crime studies do not incorporate a spatially varying intensity (Grubestic and Mack, 2008). From Figs 1 and 2, it is obvious that crimes occur more frequently in certain parts of each city's domain, which indicates that some regions are more

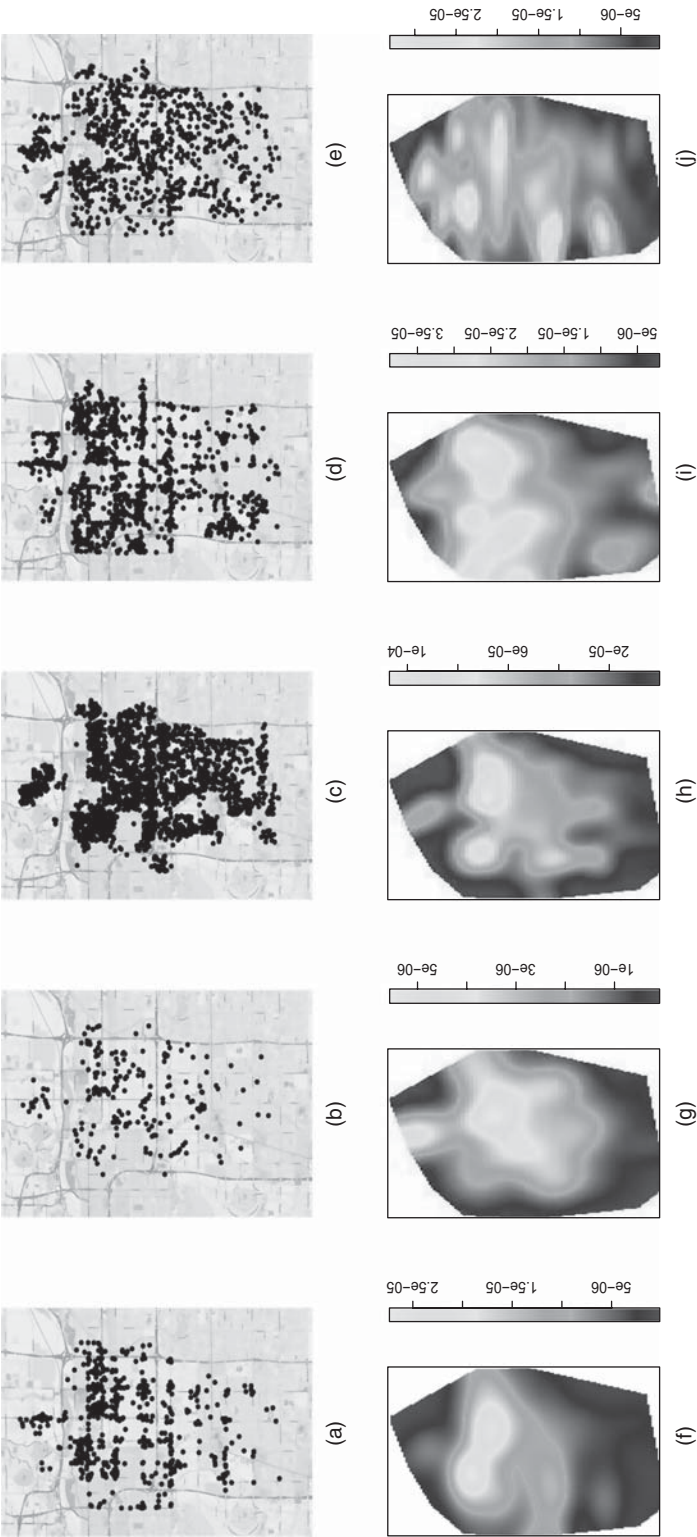


Fig. 1. (a)–(e) Locations of all crimes of each of five types occurring in Tempe, Arizona, during the period of interest and (f)–(j) intensity plot for each type of crime with the respective bandwidths given in Table 1: (a), (f) robberies; (b), (g) arson; (c), (h) residential burglary; (d), (i) commercial burglary; (e), (j) vehicular burglary

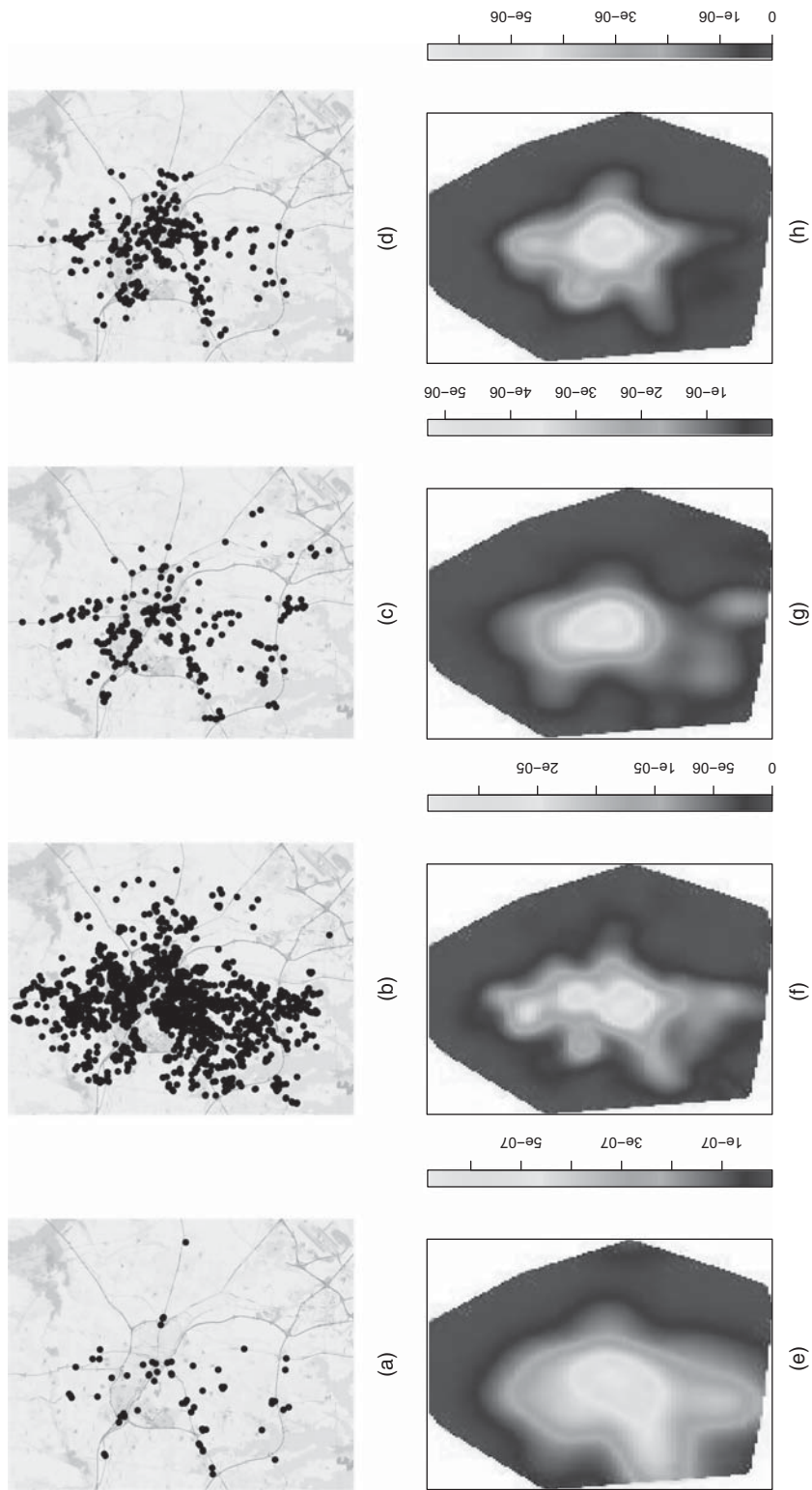


Fig. 2. (a)–(d) Locations of all crimes of each of four types occurring in Durham, North Carolina, during the period of interest and (e)–(h) intensity plot for each type of crime with the respective bandwidths given in Table 1: (a), (e) robberies; (b), (f) residential burglaries; (c), (g) commercial burglaries; (d), (h) individual robberies

susceptible to crime than others. Our interest is in clustering that occurs on top of that due to geographic variations in the population at risk. Thus, a modification of the K -function, called the inhomogeneous K -function (Baddeley *et al.*, 2000), allows the intensity of the process to vary throughout the domain. By allowing the intensity to vary, we characterize and condition our conclusions on the large-scale propensity for crime of a given type to occur across the domain (see also Mohler *et al.* (2011) and Hering *et al.* (2009)).

The inhomogeneous K -function is defined to be the average number of additional events observed in a disc of radius h centred at each event such that the intensity at each location is allowed to vary. KDE (Silverman, 1986; Scott, 1992; Wand and Jones, 1995; Hart, 1997) is one technique for obtaining a non-parametric estimate of a spatially varying intensity for each type of crime based on the historical crime data. The density and intensity functions are linked but unique concepts (Waller and Gotway (2004), pages 130–136), but they differ only by a constant of proportionality. Therefore, plots of either tend to be used interchangeably. Although KDE has become very popular in criminal hot spot identification (McLafferty *et al.*, 2000; Chainey and Ratcliffe, 2005; Eck *et al.*, 2005; Chainey *et al.*, 2008), most analysts use the default bandwidth that is supplied by their software or use arbitrary and common distances, and objective methods are rarely used to select it (Johnson, 2010). We use a Gaussian product kernel with the initial bandwidth specified as in Scott (1992). Writing σ_x and σ_y as the standard deviations of the x - and y -co-ordinates of the event locations and n as the number of events, Scott's bandwidths in the x - and y -directions are defined as $b_x = \sigma_x n^{-1/6}$ and $b_y = \sigma_y n^{-1/6}$.

Given Scott's bandwidths as a starting point, residuals based on the fitted non-parametric intensity can be obtained and used for diagnosing the fit proposed (Baddeley *et al.*, 2005). Five plots are typically used in evaluating the fit, as shown in Fig. 3. A good fit is indicated by the cumulative sum of residuals plotted against a variable of interest, such as the x - or y -co-ordinates, (the top right-hand and bottom left-hand plots of the 2×2 matrix) falling within a 2σ -envelope based on the variance of the observed point pattern. The mark plot (the top left-hand plot of the 2×2 matrix) shows the size of circles proportional to the size of the residual of the event observed at that location, and large circles can indicate potential outliers. The contour plot (the bottom right-hand plot of the 2×2 matrix) shows the smoothed residual field, and a lack of pattern with contours all close to zero indicates a good fit. Finally, the QQ -plot (Figs 3(b) and 3(d)) assesses the fit of the distribution, and correct specification is indicated when the residuals lie within the broken curves.

To illustrate with the Durham individual robberies historic data, Scott's bandwidths in the x - and y -directions are 0.95 km and 1.45 km respectively. Often, these are averaged to obtain one bandwidth, and the residual plot for this overall bandwidth of 1.2 km is shown in the top panels of Fig. 3. The residuals of the fitted intensities for each bandwidth in the set $\{0.5, 0.6, \dots, 3.0\}$ are examined to justify the final choice of bandwidth selected. The separate Scott's bandwidths in the x - and y -directions were selected on the basis of the residual plots shown in Fig. 3, which shows an adequate fit for this bandwidth (bottom panels). Although the fit is still not completely perfect, all indices lie more closely if not within their respective bounds than they do for an overall bandwidth. Generally, the residual plots either indicate that Scott's bandwidth is reasonable, or they lead to choosing a larger bandwidth than Scott's rule suggests, producing smoother densities that mirror the overall spatial placement of events.

A Monte Carlo test is then used to assess the null hypothesis that the observed locations of a crime series are independent of each other with the same spatial distribution as the historical crimes. For each city, 99 new data sets with the same sample size as the crime series of interest are drawn from the relevant estimated intensity function $\hat{\lambda}(s)$, for a 5% level test (Schabenberger and Gotway (2005), page 87). The inhomogeneous K -function is calculated for each simulated data

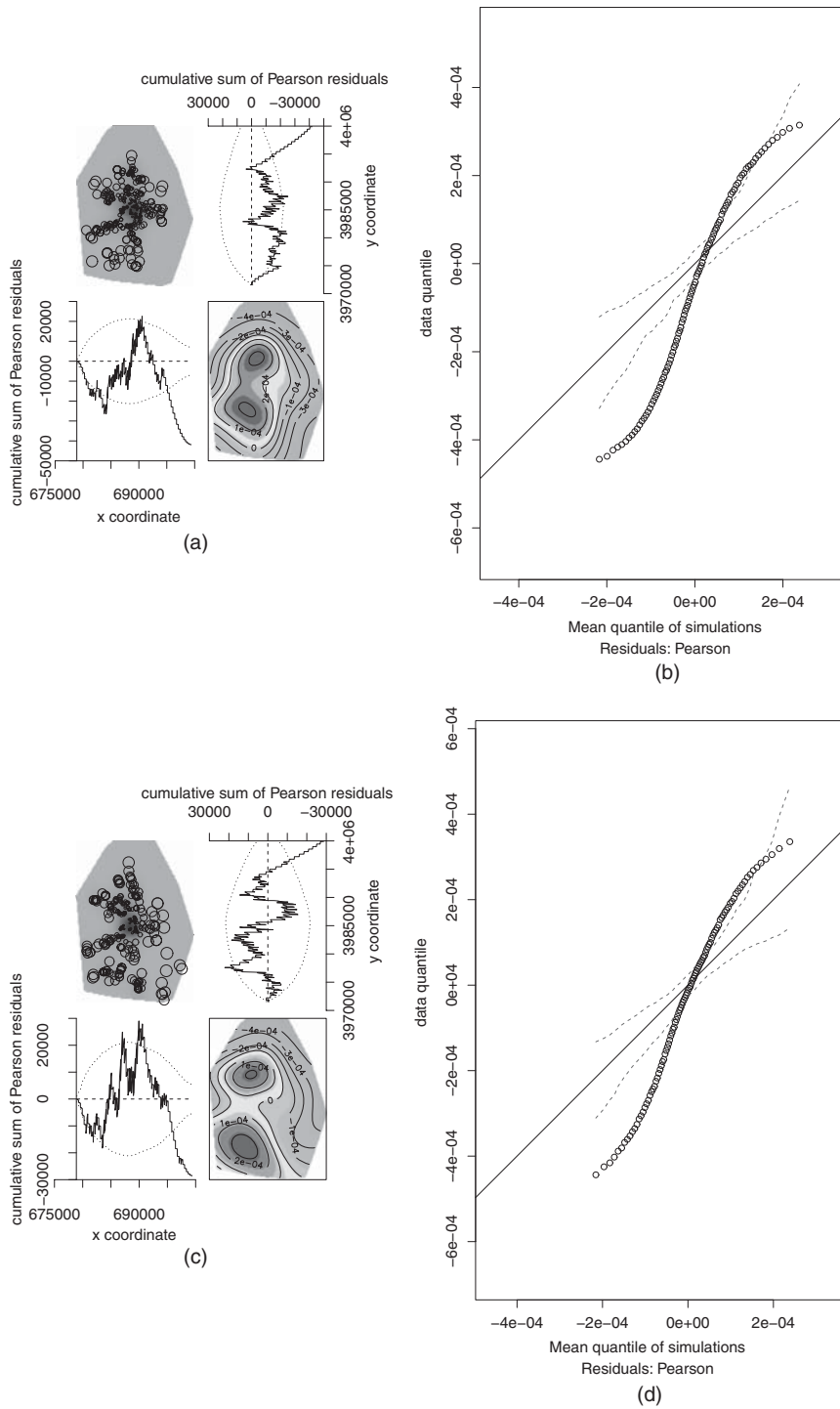


Fig. 3. Residential diagnostic plots for a non-parametric intensity estimator of individual robberies in Durham: (a), (b) residual plots for Scott's overall bandwidth of 1.2 km; (c), (d) residual plots for a bandwidth of 0.95 km in the x -direction and 1.45 km in the y -direction

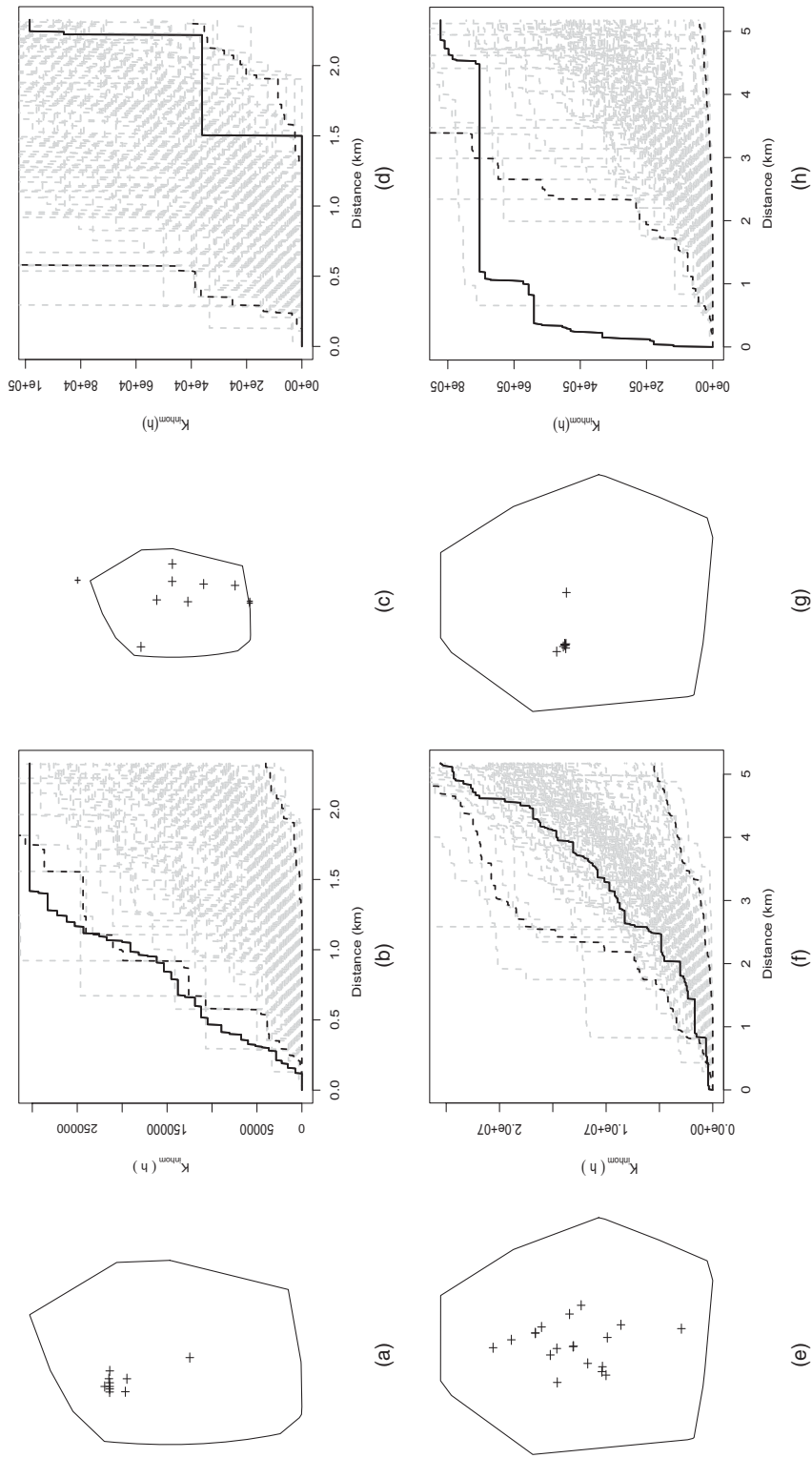


Fig. 4. (a)–(d) Locations and K -functions for two Tempe crime series and (e)–(h) for two Durham series (—, K -functions computed for simulated data): (a), (b) commercial robbery, $n = 10$; (c), (d) commercial robbery, $n = 19$; (e), (f) commercial robbery, $n = 10$; (g), (h) residential burglary, $n = 12$

set. Under the null hypothesis, the K -function derived from the observed crime series should lie within the 2.5% and 97.5% quantiles of K -functions obtained from the simulated data (Diggle, 2003). When the observed inhomogeneous K -function for a given crime series falls above the envelope, then we can conclude that significant clustering occurs at those distances, beyond what is expected under the spatially varying intensity. Similarly, when the observed inhomogeneous K -function falls below or coincides with the lower bound, we can conclude that significant regularity is observed in the event locations.

3.2. Spatial results

Although it is not possible to display results for all 31 crime series, Fig. 4 gives results for four representative crime series that demonstrate some interesting patterns. In Figs 4(a)–4(d) are two commercial robbery series in Tempe. For the commercial robberies in Figs 4(a) and 4(b), the locations are quite closely spaced, but the inhomogeneous K -function shows that the events are only slightly more clustered than the distribution of all robbery series in Tempe. In Figs 4(c) and 4(d), another commercial robbery series with 10 events shows strong evidence of uniformity since the observed K -function is its minimum value of 0 until 1.5 km. Three of these events fall just outside the boundary (the two at the bottom are very close together) that is used to estimate the intensity based on the historic robberies so, in this case, we simply expand the boundary to include these points so that we do not obtain a zero estimate of the intensity. The large jump in the K -function occurs around 1.5 km since the closest nearest neighbours of any pair of points in the domain occur at this distance.

Figs 4(e)–4(h) give two crimes series from Durham. For the robbery series of 19 events in Figs 4(e) and 4(f), we fail to reject the null hypothesis, but this conclusion is just as interesting as the alternative since it contradicts the commonly held belief that serial offenders cluster their crimes. The probability of observing events at these locations is already elevated, and no strong clustering is observed beyond this trend. The locations of the residential burglary series on the right are very close in space, and this is an example in which this cluster of points is unusual with respect to the historic crimes, so significant clustering is indicated.

Table 2 summarizes the $\hat{K}_{\text{inhom}}(h)$ results for all 31 crime series and is sorted by type of crime, crime series length and spatial scale. We categorize the spatial scale into short, middle and long-range scales as follows: for Tempe, the short scale is 0–0.5 km, the middle scale is 0.5–1.5 km and the long scale is over 1.5 km. In Durham, the short scale is 0–1 km, the middle scale is 1–3.5 km and the long scale is over 3.5 km. If the observed $\hat{K}_{\text{inhom}}(h)$ indicates significant clustering, randomness or significant uniformity, the labels ‘C’, ‘R’ and ‘U’ respectively are given. In several of the Tempe crime series, events fall outside the original domain (as noted in Table 2). Crime series routinely cross city boundaries, especially in dense metro regions, so ideally the intensity would be estimated on the basis of historic crimes from all jurisdictions in the region of interest. Unfortunately, it becomes even more difficult to acquire and compile data from each police department so, for series with many crimes falling far outside the original Tempe boundary, we do not compute the K -function.

Only the robbery and burglary crime types have a sufficient number of series to examine for patterns within and between these types. In general, we observe the following patterns.

- (a) Robbery series appear to exhibit more significant uniformity than expected. However, some robbery series exhibit significant clustering at both short and middle spatial scales. If a crime series demonstrates this type of pattern, protection of potential victims can be focused in the observed clusters.
- (b) Burglary series exhibit a tendency to cluster at all scales. Burglars tend to target multiple

Table 2. Summary of significant clustering or uniformity observed in the inhomogeneous K -function for each crime series at one of three spatial scales—short, middle and long†

Crime type	Sample size n	State	Results for the following spatial scales:		
			Short	Middle	Long
Robbery	22‡	AZ	C	C	R
	19	NC	R	R	R
	14§	AZ	—	—	—
	10	AZ	C	R	R
	10‡	AZ	U	R	R
	9‡	AZ	U	R	R
	9‡	AZ	C	C	R
	8§	AZ	—	—	—
	7‡	AZ	C	R	R
	7§	AZ	—	—	—
	6‡	AZ	U	U	R
	6§	AZ	—	—	—
	6§	AZ	—	—	—
	6	NC	U	R	R
	5	AZ	C	C	C
	5§	AZ	—	—	—
	5	NC	C	R	R
Burglary	92‡	AZ	C	R	R
	61	AZ	C	C	C
	44	AZ	C	C	C
	20‡	AZ	R	R	R
	13	AZ	C	C	C
	13‡	AZ	U	C	C
	12	NC	C	C	R
	10	NC	C	C	C
	10	NC	C	C	C
	10	NC	C	C	R
	8	NC	C	C	C
	8	NC	C	C	C
Arson	15	AZ	C	C	C
	11‡	AZ	C	C	C

†‘C’ represents significant clustering, ‘R’ represents randomness and ‘U’ represents significant uniformity. Series with ‘—’ are those for which the K -function could not be computed since too many of its events fell outside the domain. AZ, Arizona; NC, North Carolina.

‡Indicates a series with events falling immediately outside the Tempe domain.

§Indicates a series with many events outside the Tempe domain.

victims in the same vicinity or repeatedly target the same victim, so they can quickly develop a significant cluster of events. However, the longer they evade capture, the more they may need to branch out and to find new areas to target as illustrated by the $n = 92$ series.

- (c) Burglary series exhibit significant clustering more often than robbery series do. This could be due to differences in the density of potential victims since burglars tend to target multiple homes or vehicles in the same neighbourhood, which can lead to significant clustering. However, a robber may be more wary of identification since he encounters his victims personally, leading him to disperse his crimes more strategically.

4. Sequential target selection

The sequential order of each crime series is now considered in addition to the spatial distribution of events. The goal is to identify any patterns in target selection over time. It is hypothesized that, as an offender begins to commit crimes, he may scatter the crimes out as much as possible, but, over time, he may return to previous areas. Thus, at the beginning of the series, crimes may be randomly scattered, but more clustering may appear as each new event is added to the series. Fig. 5 illustrates this concept by using arrows to connect each crime with the subsequent crime in the series. Some clusters of events appear, but there is much criss-crossing of the domain, indicating that the offender moved frequently. Conclusions could change depending on the type of crime. For example, robberies, as indicated in Section 3.2, may follow this pattern more frequently than burglaries. Again, any deviations from this hypothesized behaviour would also be of interest, and this information helps in characterizing the behaviour of the individual offender.

In this section, we focus on short-range clustering for two reasons. The methodology that was used in Section 3 would require extending the inhomogeneous K -function to three dimensions in which the third dimension is time, which is not technically difficult. However, in any test for space–time clustering, such as Assunção *et al.* (2007), the required intensity estimate could vary in both space and time, so bandwidths in time, the x -co-ordinates and y -co-ordinates could all be different, and residual diagnostics would need to be extended to handle this three-dimensional case. Significant programming efforts would be required to implement such extensions. Secondly,

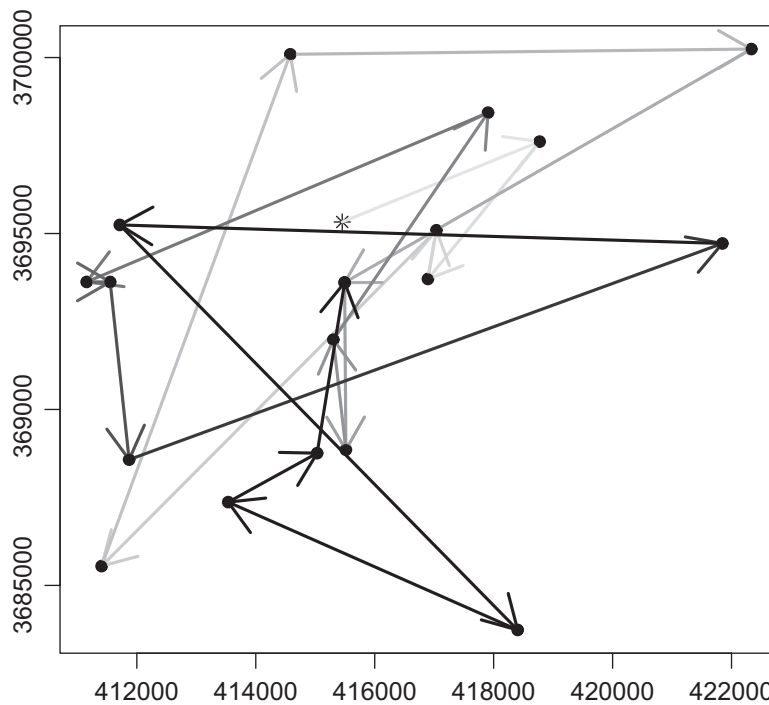


Fig. 5. Example of the sequential selection of targets in one crime series (Tempe, burglary, $n = 20$): *, first crime in the series; \rightarrow , connection of the first event to the next in the series (changing from light grey to black as the series progresses)

if significant clustering occurred when considering all events simultaneously, the majority of crime series exhibited short-range clustering (see Table 2).

Thus, we take a two-pronged approach to investigating the sequential selection of targets by serial offenders. First, as an exploratory step, we examine how the area of the MCH containing the first i events in the series changes as each additional event is added. Next, we compute the familiar mean nearest neighbour statistic but use a Monte Carlo test that generates new sets of events conditional on the spatially varying intensity. This second approach is outlined in Section 4.1 and results are described in Section 4.2.

4.1. Nearest neighbour Monte Carlo analysis

For a given series, the following procedure tests for clustering at short spatial scales conditional on the likelihood of that type of crime occurring throughout the domain, and the test is repeated as the series length grows from 5 to n_k . For a given crime series, carry out the following steps.

Step 1: compute the nearest neighbour distances for the first j events in the series, and find the average \bar{h}_{obs} .

Step 2: simulate j new events independently distributed within the domain and conditional on the city's spatially varying intensity $\hat{\lambda}(s)$ for the same type of crime as the crime series.

Step 3: compute \bar{h}_b , the mean nearest neighbour distance, for the simulated data.

Step 4: repeat steps 3 and 4 $B = 99$ times for a 5% level test.

Step 5: the p -value is computed as the proportion of $|\bar{h}_b|$ that exceed $|\bar{h}_{\text{obs}}|$.

Step 6: repeat steps 1–6 for values of $j = 5, 6, \dots, n_k$, where n_k is the sample size of the k th crime series.

The behaviour of the p -value as each additional event is added to the series should yield some information about how the offender selects targets. If the p -value remains low throughout the sequence, then the series exhibits short-range spatial clustering conditional on the intensity throughout the sequence. However, if the p -value begins high and then becomes low, then the offender began the series by spacing crimes out as much as possible but begins to revisit previous areas as more crimes are committed. Alternatively, if the p -value begins low and then becomes high, then the offender begins the series with a clustered set of crimes and then begins to spread crimes throughout the domain.

4.2. Sequential results

First, just by examining how the area of the MCH containing events 1– i for $i = 5, 6, \dots, n_k$ changes, one of two patterns is observed. Either the area is continually increasing with plateaus along the way, or the area remains nearly constant. Fig. 6(a) shows two robbery, two burglary and one arson series from Tempe. The residential burglary and arson series near the bottom of the plot are classified as 'constant'. A pattern that is identified as constant may rise once but, otherwise, the area of the MCH remains the same. The remaining series in Fig. 6(a) exhibit the increasing plateau behaviour. The longer commercial burglary series in this plot is the same series as displayed in Fig. 5, and the MCH results support the hypothesized behaviour of this series, which is that the events are initially spread apart and then begin to be clustered as the offender revisits previously targeted areas. Table 3 categorizes all crime series with enough events to identify a pattern as either increasing (with plateaus) or constant and results in the following conclusions.

- (a) Over two-thirds of robbery series have an increasing area within which the offender operates. This suggests that, as an offender becomes more comfortable committing crimes,

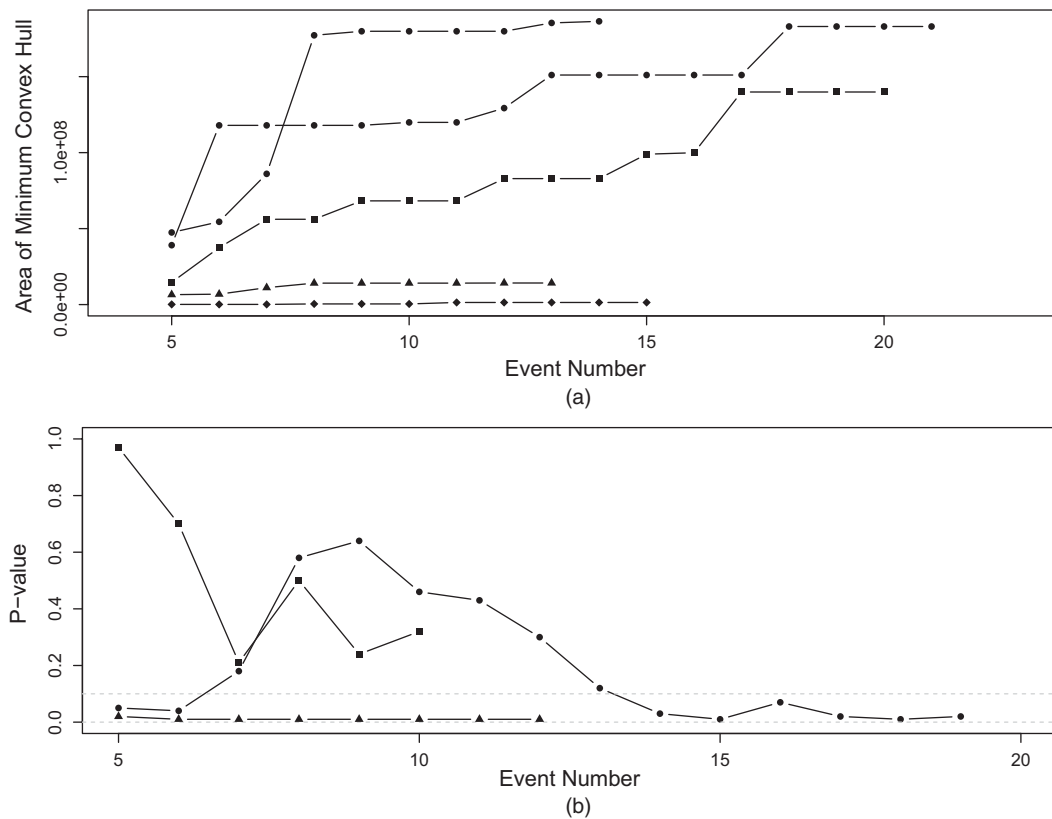


Fig. 6. (a) Examples of series (for Tempe) that show an increasing trend with plateaus and that are relatively constant in the areas covered by their MCHs as each additional event in the series is added and (b) examples of series (for Durham) whose nearest neighbour Monte Carlo test for short-scale clustering begins with high p -values and is followed by low p -values and of a series whose p -value begins and remains low: ●, commercial robbery; ▲, residential burglary; ■, commercial burglary; ◆, arson

he periodically expands his ‘hunting-ground’ and then continues to offend within this newly defined region, and then expands again.

- (b) Burglary series exhibit the opposite behaviour from robbery series with two-thirds of the series remaining relatively constant in MCH area. Of the four burglary series that do increase in area, two of them ($n = 20$ and $n = 10$) are commercial burglaries, which may demonstrate behaviour that is more consistent with robberies than with residential burglaries.
- (c) The two arson crime series both have constant MCH areas. However, with so few arson series, general conclusions cannot be made for this type of crime.

Second, the Monte Carlo test for short-range clustering using the mean nearest neighbour distance conditionally on a spatially varying crime risk throughout the domain also displays primarily one of two patterns, although three of the series do not fall into either of these two categories. Fig. 6(b) shows the p -values for the nearest neighbour Monte Carlo test for one robbery and two burglary crime series from Durham as additional events are added to each series. Table 3 summarizes the pattern that is observed in each crime series with enough events to identify a pattern and yields the following conclusions.

Table 3. Summary of patterns observed in the area of the sequential MCH and in the p -values of the sequential nearest neighbour Monte Carlo tests†

Crime type	Sample size n	State	Results for MCH area		Results for nearest neighbour Monte Carlo test			
			Increasing	Constant	High then low	Low	High	Other
Robbery	22	AZ	×		×			
	19	NC	×		×			
	14	AZ	×			×		
	10	AZ		×		×		
	10	AZ	×		×			
	9	AZ		×	×			
	9	AZ	×		×			
	8	AZ	×			×		
	7	AZ		×			×	
	7	AZ	×			×		
Percentage Burglary			70	30	50	40	10	0
	92	AZ	×					×
	61	AZ		×		×		
	44	AZ		×		×		
	20	AZ	×		×			
	13	AZ		×	×			
	13	AZ	×				×	
	12	NC		×		×		
	10	NC		×		×		
	10	NC		×		×		
	10	NC	×		×			
	8	NC		×		×		
	8	NC		×		×		
			33	67	25	58	8	8
Percentage Arson	15	AZ		×		×		
	11	AZ		×		×		

†AZ, Arizona; NC, North Carolina.

- (a) Half of the robbery crime series begin with high p -values when the series is short and then become lower as the series progresses. Thus, offenders are avoiding short-range clustering when they first begin to commit crimes, but they eventually return to areas with which they are familiar. One robbery series has high p -values throughout, which may be an indication that the series did not continue sufficiently long to revisit previous locations.
- (b) Nearly 60% of the burglary series have significant short-range clustering no matter how many crimes are a part of the series, which is likely to be a function of the density of potential victims, but it is interesting to note that not all burglars operate in this fashion. Four of the series have p -values that at least begin high, and two of these series are commercial burglaries. This indicates that commercial burglars and some residential burglars may space their crimes to avoid clustering.

5. Discussion

This paper employs methods that can be applied to a wide variety of types of data and addresses some of the difficulties that are inherent in clustering and KDE analyses. In crime mapping problems, it is generally acknowledged that crime risk is not constant across the domain (Johnson,

2010). The inhomogeneous K -function allows the risk across the domain to vary and can detect clustering at various spatial scales. An intensity map can provide a non-parametric map of the expected number of crimes per area, and residual analysis can be used to justify an appropriate bandwidth. With this estimated intensity, Monte Carlo realizations of crime series will be conditional on events being more likely to occur in some parts of the domain than others. As a result, conclusions are adjusted for the underlying trend of crimes that are observed across a domain, so a crime series in which all crimes are located in a hot spot of crime is not automatically classified as significantly clustered.

To apply these methods to aggregated data, such as all burglaries in a city, the desired background risk to be modelled and removed should be carefully considered since misrepresenting the spatially varying density of crimes can strongly impact the results. The data that are used to obtain $\hat{\lambda}(s)$ depend both on the goals of the study and the availability of data. For example, if the research question is to determine how all burglaries in 2010 differ spatially from burglaries that were observed in the previous 5 years, then $\lambda(s)$ should be estimated on the basis of the locations of burglaries in the previous 5 years, and $K_{\text{inhom}}(h)$ would be applied to the 2010 burglary data.

In particular, this research builds a foundation for the analysis of spatial behaviours of serial offenders by using crime series attributed to individual decision makers. This unique type of data allows us to identify common patterns of behaviour in criminals, which may differ depending on the type of crime. Burglars tend to choose targets in a more clustered fashion than robbers, which is consistent with literature analysing all burglaries and not just those attributable to a specific individual (Grubestic and Mack, 2008). Robbery series display more uniformity at short scales when the series is short and more clustering as the series lengthens. The majority of serial robbers extend the area that they are willing to target as time progresses, and over half begin a series with crimes spaced such that they are not significantly clustered. In contrast, the majority of serial burglars operate within a comfort zone with the result that most of them wind up significantly clustering their targets. Whether these patterns are consciously or subconsciously created or are simply a function of the spatial distribution of potential victims would require further investigation, but they do appear to demonstrate that serial burglars and robbers put different weights on the competing demands of acquiring resources and exposure. Burglars already limit their exposure by seeking to avoid encounters with victims, so perhaps they feel that they can afford to spend more time acquiring resources and less time travelling to new locations, and this finding is consistent with forager theory.

Ultimately, the goal is to apprehend serial offenders, thereby reducing crime. Conclusions that are reached in this work may be applied by law enforcement when tracking an individual perpetrator (Paulsen *et al.*, 2009), but the most efficient means to do so are not yet entirely clear. However, the analyses described herein can certainly be applied to an active crime series, one in which investigators suspect a number of crimes to be attributable to an individual who has not yet been arrested. Questions such as ‘Does the offender choose spatial targets that are consistent with the hot spots (i.e. $\lambda(s)$) of crime in this area?’, ‘Does the offender cluster or space targets on top of what can be explained by the background intensity?’ and ‘Is the area or clustering pattern in the target selection changing with each new target chosen?’ can be answered with the techniques that are described herein and may inform the investigation.

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IACP LAW ENFORCEMENT POLICY CENTER

Unbiased Policing

Concepts and Issues Paper

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I. INTRODUCTION

A. Purpose of the Document

This paper is designed to accompany the *Model Policy on Unbiased Policing* established by the IACP Law Enforcement Policy Center. It provides essential background material and supporting documentation on the developmental philosophy and implementation requirements of the model policy. This material will be of value to law enforcement executives in their efforts to tailor the model to the requirements and circumstances of their communities and their law enforcement agencies.

B. Background

One of the basic tenets of law enforcement in a democracy is that justice be based on fair and equitable treatment. As the Law Enforcement Code of Ethics states:

[As a law enforcement officer] I will never act officiously or permit personal feelings, prejudices, political beliefs, aspirations, animosities, or friendships to influence my decisions. With no compromise for crime and with relentless prosecution of criminals, I will enforce the law courteously and appropriately without fear or favor, malice or ill will, never employing unnecessary force or violence and never accepting gratuities.¹

If law enforcement agencies expect to gain and foster public trust and cooperation, they must ensure that every effort is made to enforce the law impartially and deliver

services to the public in an equitable manner. This is not only a basic requirement of law enforcement but also the right of all persons in our society to be treated equitably under the law.²

Law Enforcement Discretion. Law enforcement officers are often confronted with the issue of bias with regard to traffic stops and allegations of what has commonly been referred to as racial profiling. This is one prominent aspect of what can be regarded as biased policing, but it is not the only aspect of this practice. In response to charges of racial profiling, many law enforcement agencies have established policies specifically banning the practice. But the majority of these policies are narrowly drawn, addressing only traffic enforcement issues, and overlook or avoid the many other ways bias, prejudice, or discrimination can emerge in law enforcement work. Any contact with the public can raise the issue of law enforcement bias—whether a victim or complainant summons law enforcement, officers take independent enforcement action, or officers make discretionary decisions concerning crime prevention or service delivery.

Chief Justice Warren Burger once described the significant discretion afforded law enforcement officers:

² The concepts of justice and fairness have been variously defined and debated by legal scholars and philosophers. It is not the intent of, nor does it serve the underlying purpose of, this document to debate the meaning of these constructs. Rather, this document and the underlying model policy on which it is based accept the conventional notion of fairness, that is, unbiased and objective administration of the law and the delivery of law enforcement services. This includes not only adherence to procedural due process as defined in law but also the impartial interaction of law enforcement with the public in all its forms.

¹ Excerpt from the Law Enforcement Code of Ethics.

It is often overlooked that no public officials in the entire range of government are given such wide discretion on matters dealing with the daily lives of citizens as are police officers.

In the broad terms of public administration, I think it would be a safe assumption that the scope of discretion enlarges as we look upward in the hierarchy of government. In other words, the higher the rank, the greater is the discretion. But this is not true of police work.

The policeman on the beat, or in the patrol car, makes more decisions and exercises broader discretion affecting the daily lives of people, every day and to a greater extent, in many respects than a judge will ordinarily exercise in a week.

No law book, no lawyer, no judge can really tell the policeman on the beat how to exercise this discretion perfectly in every one of the thousands of different situations that can arise in the hour-to-hour work of the policeman. Yet we must recognize that we need not choose between no guidelines at all and perfect guidelines. There must be some guidance by way of basic concepts that will assist the officer in these circumstances.

Basically . . . it is a matter of common sense and sound judgment, and yet we know that one man's common sense may be another man's mistake. Hence the need for carefully devising basic standards to guide the exercise of this discretion and, second, for careful and comprehensive training of officers before they are thrust into situations that would baffle the wisest judge.³

Discretion is an undeniable part of law enforcement work. The outcome of discretionary decision making across the spectrum of policing unquestionably leads to differences in when to enforce, how to enforce, and what to enforce. Law enforcement officers must have the discretion to apply the law based on individual circumstances and conditions that they, by training and experience, perceive to be in the best interests of the individual and the community. However, discretion cannot be unchecked. Where discretionary decisions of officers are found to be at odds with statutory law, department policy, rules, or training, there must be provisions for review of such decisions, and the application of disciplinary sanctions where warranted.

For example, an officer engages in biased policing when he or she does not provide preventive patrol equitably in a beat based on personal preference for or antipathy towards certain economic or social classes or

other groups of people based on related demographics. Biased policing is also evident, for example, when an officer purposely fails to enforce domestic violence laws because of preconceptions and attitudes about the victim and perpetrator's culture or race; when an officer fails to adequately provide assistance to a female prostitute who has been raped because of her profession or social class; or when an officer does not ticket a speeding motorist because the driver is a well-known and highly respected person in the community. Such abuses of discretion cannot be left unchecked by law enforcement agencies.

Nearly all policy guidance, however, acknowledges that there are exceptions to strict adherence to the letter of the law and departmental procedures. This discussion, then, is not about the prudence, propriety, or necessity of law enforcement discretion generally. Rather, it is directed to the use of law enforcement discretion based on false or unreasonable perceptions, preconceptions, or biases of officers that cloud objectivity and interfere with professional decision making and training.

Often, officials view biased policing solely as enforcement activities based on race, ethnic background, national origin, gender, gender identity, sexual orientation, religion, age, disability, or cultural group. But, biased policing goes beyond the requirement to engage in law enforcement activities irrespective of race and other individual differences protected by law. It also includes equal treatment irrespective of one's economic, social, or political status.

Equal treatment in the context of the model policy means that all persons, irrespective of race or other individual distinctions, should be treated the same way under the same or reasonably similar circumstances. It does not mean, however, that all persons in the same or similar circumstances must be, or even should be, treated identically in all cases. Reasonable concessions and accommodations may be, and sometimes should be, made when dealing with uncommon circumstances.

For example, a man is taken into custody for a nuisance offense and failure to comply with law enforcement orders. His caregiver tells law enforcement that the man is autistic and, as such, did not fully comprehend the gravity of his actions or the need to heed law enforcement commands. The officer decides that a reasonable alternative to arrest is to release the individual to the caregiver's custody without taking further enforcement action. This decision may constitute unequal application of the law, but it is a reasonable and fair decision. Reasonable concessions and accommodations such as this may be, and sometimes are, the best action when dealing with persons who have such individual differences as mental or physical disabilities, injury, illness, or related conditions, or when a violation of the law is otherwise mitigated by similar extenuating

³ Chief Justice Warren E. Burger, addressing the FBI National Academy, June 1981.

circumstances. Such discretionary actions, while providing individualized or even preferential treatment, do not constitute biased policing or professional misconduct. In fact, they are a reflection of professionalism and good training.

Biased policing can also be evidenced in decisions, customs, or practices related to whether and how police services are provided. Sometimes referred to as community caretaking functions, such law enforcement actions and activities do not normally include enforcement of the law, but contribute to the overall well-being and safety of the public. These functions include, but are not limited to, assistance to disabled motorists; certain crime prevention activities such as home security inspections; providing public information and education; and providing aid to injured persons or others in distress. An officer who purposefully fails to deliver, is intentionally ineffectual or disrespectful in delivering, or who effectively rations these and other types of discretionary services to the public based on prejudice, favoritism, or related motives, is engaged in another form of biased policing.

Favoritism or cronyism toward individuals based on familial relationships, deferential treatment of friends, associates, or mutual acquaintances, and preferential treatment of persons in high places or persons of influence may occur within an agency. These actions are among the types of biased policing that may be overlooked or hidden from scrutiny, but are examples of unjust, biased policing nonetheless.

II. PROCEDURES

A. Traffic Enforcement

Motor vehicle stops are the most common circumstances in which citizens and law enforcement come into face-to-face contact.⁴ Thus, it is more understandable that this environment has been the source of the largest number of complaints of biased policing in recent times. As such, it is appropriate to pay particular attention to biased policing in this enforcement context.

Considering the inconvenience and stress that vehicle stops typically create among motorists, it also follows that this environment is ripe for the development of negative reactions by motorists to include charges of law enforcement bias. Motorists often ask themselves or others: Why me? Why single me out for speeding rather than one of the other motorists? Why was I stopped as opposed to them?

⁴ According to the Bureau of Justice Statistics, 44 percent of face-to-face citizen contacts with the police are in the context of traffic stops. See *Contacts between Police and the Public 2008* by Christine Eith and Matthew R. Durose (U.S. Department of Justice, October 2011, <http://www.bjs.gov/content/pub/pdf/cpp08.pdf>)

Officer decision making with respect to such matters as who is issued a warning as opposed to a citation, who is asked for permission to a consent search and who is not, and who is arrested and who is not are the types of decisions that deserve scrutiny by individual officers, their supervisors, and their agencies. Traffic stops were the source of particular attention with regard to biased policing in the past—not only because they are the main source of law enforcement-public interaction—but also because they involve wide law enforcement discretion.

Officers must be particularly attuned to possible negative cultural and racial preconceptions and recognize that law enforcement has the opportunity, through professional conduct, to help reverse such stereotypes. This holds true during traffic stops, as well as in the broad range of situations in which officers interact with the public.

B. Promoting Fair and Impartial Treatment

Biased law enforcement comes with a price tag, as it unfairly allocates law enforcement intervention, protection, or police services. To this end, the model policy on unbiased policing states that officers shall “take equivalent enforcement actions and provide quality services to all persons in the same or similar circumstances.” It limits the use of individual demographics such as race, ethnic background, national origin, gender, gender identity, sexual orientation, religion, socioeconomic status, age, disability, cultural group, or political status when performing law enforcement duties or delivering police services to those situations where “such characteristics are part of a specific subject description.”

Additionally, officers who witness or who are aware of instances of biased policing are required, under the policy, to report the incidents to their supervisors. In addition, in situations where such action is appropriate, officers are encouraged to intervene at the time the biased policing incident occurs.

There are other measures that departments can take to help prevent biased policing. One of those is the prohibition against participation in enforcement actions by officers who are personally involved in the matter in question. Such situations are most common among officers who are off duty.⁵ For example, an officer is visiting a friend who becomes engaged in an argument with a neighbor. The argument escalates into a physical confrontation and the officer’s friend asks him to arrest the neighbor for assault. Unless exigent circumstances prevail, an officer in this and similar situations should summon an on-duty officer rather than take individual enforcement action. Unbiased law enforcement work requires dispassionate, objective analysis of the facts, and that unbiased viewpoint can be compromised in such situations.

⁵ See the IACP *Model Policy on Off-Duty Arrests*.

Departments can take a number of other steps to help ensure unbiased policing. They can start by identifying recruits who harbor cultural insensitivities, biases, and prejudices that would render them unfit for law enforcement service. There is no uniformly accepted testing instrument that can be used as a single determinant of a person's bias, although the MMPI is often used to raise flags on potential problems in this area. Moreover, studies have determined that totally unbiased persons do not exist.⁶ All people carry some level of bias—often referred to as implicit or unconscious bias—whether they know it or not. The ability to classify, draw parallels, and categorize people, places, and things, is a common characteristic of all human beings. So the issue is to first weed out recruits and employees who *act* upon biases and to ensure that all officers can police in an unbiased manner.

Interviews present one opportunity to question recruits on this subject but may not provide the best forum for eliciting candid responses. Perhaps more valuable are comprehensive background investigations that explore this subject with persons who are in a reasonably objective position to assess a candidate's views and perspectives.

Recruit, in-service, and remedial training should be made available to officers on a range of subjects related to unbiased policing. These courses should include instruction on cultural awareness, law enforcement ethics, police-public interaction, standards of conduct, ethics, implicit bias, and communication techniques. And, on a larger leadership level, law enforcement agencies should ensure that their supervisors and commanders promote unbiased policing practices to their subordinates and hold them accountable for supervision, monitoring, and enforcing agency policy by taking corrective actions when necessary.

Here, as in other issues surrounding officer misconduct, it is better to focus on preventing wrongdoing than to focus on investigating and punishing misconduct. Agencies should also establish and monitor early warning systems that help identify potentially problematic officers.⁷

The agency should also take seriously all complaints of biased policing and should accept these and other complaints by all means available whether the complainant does or does not choose to remain anonymous. All such complaints should be forwarded to the agency's internal affairs or professional standards authority. The internal affairs or related authority should maintain data relating specifically to complaints of biased policing and the outcome of those investigations. Information should be provided to the chief executive officer of the agency or other designated authority in a manner most suitable

for administrative review, problem identification, and development of corrective actions.

C. Professional Law Enforcement-Community Encounters

Officer adherence to sound agency policy and procedures is essential in countering biased policing. However, it should not stop there. Attention should be paid to actions that officers should take to enhance communication and foster understanding between law enforcement agencies and the diverse communities they serve. Again for example, in the context of traffic stops, providing a brief explanation about why a stop was made can help to dissuade a person from thinking that he or she is being singled out and treated unfairly. An officer may explain to a stopped motorist that the law enforcement agency has stepped up enforcement for speeding in the neighborhood because residents have complained of the danger of speeding cars to their children who play there. This explanation lets the individual involved know that the officer is performing a legitimate law enforcement activity based on the express wishes of the community rather than on some personal motives or attitudes.

Establishing law enforcement legitimacy is essential to build community trust and confidence in law enforcement and foster cooperation in crime fighting and related activities. Legitimacy encompasses the notion that a law enforcement agency has earned the public's confidence, trust, and respect and that, in so doing, has been given their unspoken endorsement to fulfill their mission honestly and fairly. Gaining legitimacy is an important factor in reducing impressions of law enforcement bias within the community and replacing it with the feeling that law enforcement is dealing with the public in an unbiased and neutral manner. There are several approaches that law enforcement leadership should stress in order to help establish legitimacy and promote trust in interactions with the public. These approaches are contained in the concepts associated with procedural justice. Specifically, they refer to providing the public with (1) voice: the perception that their side of the story has been heard; (2) respect: the perception that law enforcement treats them with dignity and respect; (3) neutrality: the perception that an officer's decision-making is unbiased and trustworthy; (4) understanding: providing persons with some basic information on why and how officers made their decision in a given matter; and (5) helpfulness: showing that an officer is interested in the individual's personal situation to the extent reasonable and allowable.

For example, an important component of following procedural justice is to allow members of the public to express themselves and relate their concerns, thereby giving them a voice in policing their community. This can

⁶ See for example, Joshua Correll, et.al, "Across the Thin Blue Line: Police Officers and Racial Bias in the Decision to Shoot," *Journal of Personality and Social Psychology*, 92, no. 6 (June 2007): 1006–1023.

⁷ See, for example, the IACP *Model Policy on Early Warning Systems*.

be pursued on a macro level through public forums and community meetings where community concerns can be aired and agency policy and procedures can be discussed and explained. Seeking the assistance of communities by involving them in problem identification and problem solving through initiatives such as community watch programs and the promotion of neighborhood livability.

On an individual officer level, it is important for officers to take the time to listen to the persons with whom they interact. Again, in the context of traffic enforcement, it may be something as simple as allowing an individual to express why he or she was driving over the speed limit or why he or she failed to stop at a stop sign. Giving people the opportunity to explain their actions or mitigating circumstances provides them with a greater sense of fairness in law enforcement interactions, even if they are ultimately given a citation or warning.

Another approach to achieving law enforcement legitimacy within the community is to demonstrate neutrality in enforcement activities. When members of the community understand that officers are interacting with them according to agency policy, and not on the basis of personal attitudes or biases, it goes a long way in demonstrating to the public that officers are performing their duties from a neutral perspective.

And finally, from a law enforcement agency perspective, it is essential that the agency requires its officers to treat all persons with dignity and respect. Dismissive, indifferent, or condescending attitudes toward the public in general may be among the most damaging of actions that law enforcement officers can take when the agency is attempting to establish agency legitimacy within a community. People are keenly aware of an officer's attitude, however conveyed, which has a lasting effect on their views of law enforcement and their future willingness to provide support and cooperation.

Acknowledgment

This document was developed by the IACP Law Enforcement Policy Center in conjunction with Lorie Fridell. Ms. Fridell is an Associate Professor of Criminology at the University of South Florida and a national expert on biased policing. With funding from the COPS Office, she has developed the Fair and Impartial Policing training program, which is based on the modern science of bias.

Every effort has been made by the IACP Law Enforcement Policy Center staff and advisory board to ensure that this document incorporates the most current information and contemporary professional judgment on this issue. However, law enforcement administrators should be cautioned that no "model" policy can meet all the needs of any given law enforcement agency. Each law enforcement agency operates in a unique environment of federal court rulings, state laws, local ordinances, regulations, judicial and administrative decisions and collective bargaining agreements that must be considered. In addition, the formulation of specific agency policies must take into account local political and community perspectives and customs, prerogatives and demands; often divergent law enforcement strategies and philosophies; and the impact of varied agency resource capabilities among other factors. This document is not intended to be a national standard.

IACP Law Enforcement Policy Center Staff: Philip Lynn, Manager; Sara Dziejma, Project Manager; and Vincent Talucci, Executive Director, International Association of Chiefs of Police.

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Model Policy

<i>Effective Date</i> December 2015		<i>Number</i>	
<i>Subject</i> Unbiased Policing			
<i>Reference</i>		<i>Special Instructions</i>	
<i>Distribution</i>		<i>Reevaluation Date</i>	<i>No. Pages</i> 2

I. PURPOSE

The purpose of this policy is to emphasize this agency's commitment to unbiased, equitable treatment of all persons.

II. POLICY

Persons having contact with members of this agency shall be treated in a fair, impartial, equitable, and objective manner, in accordance with law, and without consideration of their individual demographics as defined in this policy.

III. DEFINITIONS

Biased Policing: Discrimination in the performance of law enforcement duties or delivery of police services, based on personal prejudices or partiality of officers toward classes of individuals or persons based on individual demographics.

Fair and Impartial Treatment: The belief that persons, irrespective of race or other distinctions, shall be treated in the same basic manner under the same or similar circumstances. This does not mean that all persons in the same or similar circumstances can or must be treated identically. Reasonable concessions and accommodations may be, and sometimes should be made, when dealing with individuals with physical or mental disabilities, injury, illness, or similar conditions, or when information about them necessitates different treatment.

Individual Demographics: For the purposes of this policy, personal characteristics, to include, but not limited to race, ethnic background, national origin, gender, gender identity, sexual orientation, religion, socioeconomic status, age, disability, cultural group, or political status.

Police Services: Sometimes referred to as community caretaking functions, these are actions and activities that may not directly include enforcement of the law but that contribute to the overall well-being and safety of the public. These include, but are not limited to, such tasks as assistance at fire scenes, traffic accidents, and medical emergencies; lifesaving services; crime prevention; preventive patrol; traffic control; public information; education; and similar activities.

IV. PROCEDURES

A. Fair and Impartial Treatment

1. Biased policing is prohibited both in enforcement of the law and the delivery of police services.
2. Officers shall take equivalent enforcement actions and provide equal services to all persons in the same or similar circumstances.
3. Officers shall not consider individual demographics when performing law enforcement duties or delivering police services except when such characteristics are part of a specific subject description.
4. Unless exigent circumstances exist, officers shall not engage in a law enforcement matter when it involves a family member, friend, relative, or other person with whom he or she has a personal relationship, such that the officer's objectivity may be, or may appear to be, compromised. In situations where the officer is personally involved, he or she will summon other officers for assistance.

B. Compliance

1. Officers who witness or who are aware of instances of biased policing shall report the incident to a supervisor. Also, where appropriate, officers are encouraged to intervene at the time the biased policing incident occurs.
2. Depending on the nature and seriousness of the incident, supervisors may provide the involved officer(s) with informal, non-punitive intervention such as training and counseling.
3. All external complaints and internal complaints that cannot be resolved effectively and appropriately by supervisory personnel—or that are determined to be potentially serious in nature—shall be forwarded to the agency’s internal affairs office or other designated authority for investigation.
4. The internal affairs office shall maintain data relating specifically to complaints of biased policing. Information shall be provided to the chief executive officer or designated authority in a manner most suitable for administrative review, problem identification, and development of appropriate corrective actions.

C. Training

All employees will receive basic and periodic in-service training and, where deemed necessary, remedial training on subjects related to police ethics, cultural diversity, police-citizen interaction, standards of conduct, conducting motor vehicle stops, implicit bias, and related topics suitable for preventing incidents of biased policing.

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IACP NATIONAL LAW ENFORCEMENT POLICY CENTER

Responding to Persons Affected by Mental Illness or In Crisis

Concepts and Issues Paper

Originally Published: December 1997

Revised: January 2014

I. INTRODUCTION

A. Purpose of the Document

This paper was designed to accompany the *Model Policy on Responding to Persons Affected by Mental Illness or in Crisis* developed by the IACP National Law Enforcement Policy Center. This paper provides essential background material and supporting documentation to provide greater understanding of the developmental philosophy and implementation requirements for the model policy. This material will be of value to law enforcement executives in their efforts to tailor the model policy to the requirements and circumstances of their community and their law enforcement agency.

B. Background

Law enforcement agencies across the country are increasingly required to respond to and intervene on behalf of people who are affected by mental illness or in emotional crisis. Many trends have converged to result in larger number of persons affected by mental illness being housed in jails, prisons, and juvenile detention centers rather than publicly funded mental health treatment facilities. With the movement to deinstitutionalize the nation's mental health system in the 1960s and 1970s, there was no associated mechanism for adequate funding or provision of public resources into community mental health options. To this day, resources that were supposed to accompany deinstitutionalization have never

materialized. Thus, people affected by mental illness who are unable to obtain effective treatment through the limited available resources are likely to behave in ways that bring them into contact with law enforcement. In far too many communities the local jail is the primary or only location available for police to bring those who are behaving erratically due to mental illness or emotional crisis.

Another trend that has increased the likelihood that persons affected by mental illness will be arrested is an increased emphasis on responding assertively to "quality-of-life" crimes. These include petty theft, aggressive panhandling, public urination, littering, and trespassing; offenses that often characterize the behavior of homeless people affected by untreated mental health disorders. Unless enhanced enforcement is accompanied by increased access to treatment and support services, persons affected by mental illness who commit these "nuisance" offenses will likely become trapped in a repetitive cycle of arrest, short jail stays, and return to the streets without treatment, only to commit more minor illegal acts that result in their re-arrest.

Over the past several decades, the net result is that the United States has replaced one inadequate system for addressing the needs of persons affected by mental illness—state hospitals that were often merely warehouses for persons affected by mental illness—with another—local jails and state prisons, which are unsuited and unable to provide appropriate mental health treatment. A more effective approach involves redirecting societal resources

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from containment to treatment of people affected by mental illness whose behaviors are seen as annoying, troubling, or threatening. In a number of jurisdictions, law enforcement agencies have partnered with justice system, mental health, and other community agencies to develop more compassionate and cost-effective approaches that emphasize providing community-based treatment instead of arrest and incarceration for adults and juveniles affected by mental illness. Ideally, the only persons affected by mental illness who should come into contact with law enforcement are those who are suspected of committing crimes or who are a danger to themselves or others. Those who do not fall into this category of potentially dangerous behavior are more appropriately handled by mental health provider response and referral. Also, if mental health services and other social support systems were functioning optimally, a much smaller proportion of persons affected by mental illness would likely engage in criminal, threatening, or suicidal behavior that becomes the focus of a law enforcement response.

Since these ideals are not yet the standard, the need to assess the mental state and intention of individuals remains a routine requirement of officers performing enforcement and investigative functions. Persons experiencing a mental health crisis and their families rely on first responders, particularly law enforcement officers, to behave in an effective manner, treating the person affected by mental illness with compassion and respect. Law enforcement officers who face these complex situations must be as fully prepared as possible so that they can respond in ways that ensure their safety, the public's safety, and the safety of the person in mental health crisis. Unfortunately, due to the current lack of consistent policy, procedure, training, and education among law enforcement agencies, too many of these calls end badly for all involved. Most response calls involving persons affected by mental illness are not the result of criminal behavior, but of behavior associated with emotional crisis. While law enforcement officers may arrest anyone who is breaking the law, it is critical for the officer responding to a mental health call to have the information needed to adequately assess the situation and the support required so that a determination of the appropriate action can be made in the best interests of the subject, the officer, and the community.

To this end, it is helpful for officers to understand the symptomatic behavior of persons who are affected by some form of mental illness or emotional crisis. In this way, officers are in a better position to formulate appropriate strategies for gaining the individual's compliance and determining whether medical or other assistance is required, whether detention is appropriate or required, and, whether the suspect is in a suitable state to be questioned. This is not to say that a law enforcement officer should

ever attempt to diagnose persons who appear to be affected by mental illness. Mental illness is often difficult for even the trained professional to diagnose under controlled circumstances; for an officer who confronts such an individual in an enforcement setting with other aggravating factors in play, the task would be even more complex and uncontrolled. But officers can and should be able to recognize behavior that is characteristic of mental illness and particularly that which is potentially destructive and/or dangerous. This is the primary focus of the *Model Policy on Responding to Persons Affected by Mental Illness or in Crisis*, the elements of which are discussed in the following section of this discussion paper.

II. POLICY RECOMMENDATIONS

A. Symptoms of Mental Illness

Mental health problems are health conditions involving changes in thinking, mood, and/or behavior and are associated with distress or impaired functioning. When these conditions are more severe, they are called mental illnesses. Mental illness is an impairment of an individual's normal cognitive, emotional, or behavioral functioning, caused by physiological or psychosocial factors. A person may be affected by mental illness if he or she displays an inability to think rationally (e.g., delusions or hallucinations); to exercise adequate control over behavior or impulses (e.g., aggressive, suicidal, homicidal, sexual); and/or to take reasonable care of his or her welfare with regard to basic provisions for clothing, food, shelter, or safety. Some types of mental illness include anxiety disorders, attention-deficit/hyperactivity disorder, depressive and other mood disorders, eating disorders, schizophrenia, and other disorders. The following are some of the more commonly encountered conditions of mental illness.

Schizophrenia. More than 3.5 million Americans at any one time experience schizophrenia; the prevalence is 1.1 percent of the population.¹ It is equally common in men and women. Schizophrenia tends to appear earlier in men than in women, showing up in their late teens or early 20s, as compared to their 20s or early 30s in women. Schizophrenia often begins with an episode of psychotic symptoms like the individual hearing voices (i.e., hallucinations) or irrationally believing that others are trying to control or harm him or her (i.e., delusions). The delusions—thoughts that are fixed, bizarre, and have no basis in reality—may occur along with hallucinations and disorganized speech and behavior, leaving the individual frightened, anxious, and confused. The person with

¹ "Schizophrenia," National Institutes of Health, <http://www.nimh.nih.gov/statistics/1SCHIZ.shtml> (accessed August 4, 2013).

schizophrenia may exhibit grandiose delusions, such as “I am Christ,” or persecutory delusions such as “Everyone is out to get me.” Delusional persons may also have generalized fears or beliefs such as unrealistic fears that they are being constantly watched; that their conversations or even their thoughts are being overheard, recorded, or monitored; or, that they are being talked about, followed, or otherwise persecuted, harassed, or controlled.

Hallucinations are usually present with schizophrenia. Hallucinations may involve any of the five senses, but hearing or seeing things that are not based in reality are the most common. For example, the individual may hear voices commanding him or her to act in a particular way, may feel his or her skin “crawl,” smell strange odors, or see “devils” or “ghosts.” While hallucinations are usually symptomatic of schizophrenia, they may also be caused by controlled substances or alcohol.

Bipolar Disorder. Bipolar disorder, formerly called manic-depressive illness, is a type of mood disorder characterized by recurrent episodes of highs (mania) and lows (depression) in mood. These episodes involve extreme changes in mood, energy, and behavior. Manic symptoms include extreme irritable, euphoric, or elevated mood; a very inflated sense of self-importance (grandiosity); increased high-risk behaviors; distractibility; increased energy; and a decreased need for sleep. Depressive episodes of bipolar disorder involve a period of a pervasive sense of sadness and/or loss of interest or pleasure in most activities that interferes with the ability to work or function. This is a severe condition that can impact a person’s thoughts, sense of self-worth, sleep, appetite, energy, and concentration. It is frequently associated with thoughts of suicide. The course of a bipolar disorder will demonstrate alternating cycles of a mood disturbance with repeated episodes of depression, mania, or a mixture of both.

Major Depressive Disorder. Like the periods of depression in a bipolar disorder, major depressive disorder involves a pervasive sadness and/or loss of interest or pleasure in most activities. The disorder interferes with the ability to work, study, sleep, eat, and enjoy once pleasurable activities. The condition can impact a person’s thoughts, sense of self-worth, sleep, appetite, energy, and concentration. Suicidal thoughts are prominent. The condition can occur as a single debilitating episode or as recurring episodes. It differs from bipolar disorder in that it is unipolar—the person suffers only from periods of depression.

Post-traumatic Stress Disorder (PTSD). Post-traumatic Stress Disorder affects about 7.7 million adult Americans.² PTSD occurs after an individual experiences a terrifying event such as a frightening accident, military combat, sexual or physical assault, automobile accidents, or a natural disaster. First responders can be traumatized by exposure to calls such as collecting human remains or through repeated exposure to details of child abuse. With PTSD, individuals struggle with re-experiencing the original trauma either through nightmares or disturbing, intrusive thoughts throughout the day that may make them feel detached, numb, irritable, or aggressive. Attempts to avoid thinking about the trauma are present including amnesia for all or part of the event. Persistent negative thoughts or feelings (e.g., survival guilt) continue beyond the trauma. Ordinary events may serve as reminders of the trauma and may cause flashbacks, hyperarousal, or panic. Some people recover a few months after the event, but others will suffer lasting or chronic PTSD.

Personality Disorders. Personality disorders are conditions marked by enduring maladaptive personality traits and characteristics. No psychotic symptoms (i.e., hallucinations and delusions) are present. Two of these conditions are frequently encountered by law enforcement: Borderline Personality Disorder and Antisocial Personality Disorder. However, while Antisocial Personality Disorder is commonly seen by law enforcement personnel, it usually does not present in a way that rises to the level of distress or emotional crisis that is the topic of this paper.

Borderline Personality Disorder. Borderline Personality Disorder causes uncertainty about the person’s identity or view of themselves. As a result, his or her interests and values can change rapidly and behavior is fickle and unstable. The individuals affected by the disorder tend to view things in terms of extremes, such as either all good or all bad. Their views of other people can change quickly. A person who is looked up to one day may be looked down on the next day. These suddenly shifting feelings often lead to intense and unstable relationships, extreme fear of being abandoned, intolerance for being alone, recurring feelings of emptiness and boredom, and frequent displays of inappropriate anger and impulsiveness, such as with substance abuse or sexual relationships. Recurring suicidal behaviors or threats or self-harming behavior, such as cutting, frequently occur.

B. Other Causes of Abnormal Behavior

Officers should not confuse mental illness with abnormal behavior that is the product of other physical disabilities. This includes intellectual disability or other

² “Post-Traumatic Stress Disorder,” fact sheet, National Institutes of Health, <http://report.nih.gov/NIHfactsheets/ViewFactSheet.aspx?cid=58&key=P#P> (accessed August 4, 2013).

developmental disabilities that may manifest some of the characteristic behaviors of mental illness. There are important differences between individuals affected by these other medical conditions and those affected by mental illness. These conditions include the following.

1. Intellectual Disability. Intellectual disability refers to subnormal intellectual capacity and deficiencies in a person's ability to deal effectively with social conventions and interaction. The intellectually disabled may display behaviors that are rational but that are similar to younger persons who are not disabled. By contrast, individuals affected by mental illness may not be impaired intellectually and may act in many instances as rational, functional members of society. Their behavior generally fluctuates between the normal and the irrational. The intellectually disabled individual does not demonstrate this type of behavioral fluctuation. Intellectual disability is evident during one's early years and is a permanent condition for life, whereas mental illness may develop during any period of an individual's life. Additionally, mental illness may not be a permanent condition, and many forms of mental illness can be cured or at least controlled by therapy and/or medication.

Another important distinction is that the intellectually disabled individual does not usually engage in violent behavior without the types of provocations that may initiate violence among the non-disabled person. On the other hand, a person affected by mental illness, depending upon the nature of the illness and the circumstances of the situation, may become violent for no apparent reason because of the individual's distorted perception of reality.

2. Cerebral palsy. Persons affected by cerebral palsy exhibit motor dysfunction that may, at first glance, be confused with some characteristics of either an intellectually disabled or mentally ill person. These include awkwardness in walking, involuntary and uncontrollable movements, or seizures and problems in speech and communication.

3. Autism Spectrum Disorders. The characteristics of a person affected by an autism spectrum disorder may also be confused with those of intellectual disability or mental illness. Autistic persons often engage in compulsive behavior, or repetitive and peculiar body movements, and can become very distressed over minor changes in their environment. They may also display unusual reactions to objects or people they see around them; appear insensitive to pain; and may be hyperactive, passive, or susceptible to tantrums. Such persons may also appear intellectually disabled in some areas, but highly capable or even gifted in others.

C. Persons in Crisis

Without regard to whether a person is affected by mental illness, he or she may react in inappropriate ways or display bizarre behavior if in crisis. "Crisis," for purposes of this discussion and policy, relates to an individual's emotional, physical, mental, or behavioral response to an event or experience that results in trauma. A person may experience crisis during times of stress in response to real or perceived threats and/or loss of control and when normal coping mechanisms are ineffective. Symptoms may include emotional reactions such as fear, anger, or excessive giddiness; psychological impairments such as inability to focus, confusion, nightmares, and potentially even psychosis; physical reactions like vomiting/stomach issues, headaches, dizziness, excessive tiredness, or insomnia; and/or behavioral reactions, including the trigger of a "fight or flight" response. Any individual can experience a crisis reaction regardless of previous history of mental illness.

D. Police Response to Persons Affected by Mental Illness or in Crisis

The dynamics and circumstances of response to a call involving a person believed to be affected by mental illness will be determined to some degree by the manner in which the contact is initiated. Possibly the largest percentage of police officer contacts with mentally ill persons are initiated by officers as the result of their observation of bizarre, disruptive, or other abnormal behavior. In many cases, however, persons affected by mental illness will seek out assistance from law enforcement, particularly when there is a degree of familiarity between the officer and person based on prior contacts. Family members of a person affected by mental illness are also frequently the initiators of police contact, often when the affected person has created a family disturbance. Such family disturbances can be the source of complex and challenging dilemmas for police. Family members usually call asking for assistance in the hopes of gaining access to treatment for their mentally ill family member. These situations often have a high potential for noncompliance and resistance from the mentally ill family member to the police, which frequently leads to misunderstandings and dissatisfaction, particularly when the situation results in a use of force and/or an arrest.

Possibly one of the more significant points of contact between law enforcement and a person affected by mental illness is on city streets and in other public places. In both enforcement and investigative capacities, officers often encounter persons affected by mental illness among the homeless population inhabiting public places on a full-time or part-time basis. A large proportion (possibly as high as 50 percent in some areas) of these individuals are affected by serious mental illness, often schizophrenia. Other homeless persons may have milder forms of mental

illness that often allow them to move between living on the street and the homes of relatives and friends, shelters, care homes, or other living arrangements. Among these are also persons who are affected by a combination of mental illness, alcoholism, drug abuse, head injury, and degenerative or incapacitating diseases.

E. Assessing Risk

Due to the unpredictable nature of some persons affected by mental illness, when dealing with those individuals, officers must be particularly conscious of their own safety and that of bystanders. Promotion of a more thoughtful approach to calls involving persons affected by mental illness does not reduce the emphasis on officer safety. Assessment of the individual and the situation must be ongoing throughout the contact beginning with the receipt of basic information about the individual and continuing until the contact is over. The more the officer can obtain health-related information about the individual (e.g., does he or she have a diagnosed condition, is he or she taking medication, is there a mental health provider), the better prepared the officer is to make responsive decisions. If the initial contact is made through a dispatched call for service, some basic information can be obtained from the dispatcher. The same type of information should be obtained if possible from other sources of the police contact, whether that is a concerned citizen, another officer, the court, jail personnel, family member, or other individual.

For example, responding officers should seek information, as available, on the characteristics and specific behavior of the subject, relationship of the complainant to the subject (if any), whether a crime is involved, the availability of weapons to the subject, prior police contact with the person, and the nature of any previous mental health dispositions.

Once armed with all the available information, the responding officer can better determine an appropriate response. Unless a crime of violence has been committed and/or a dangerous weapon is involved, officers should normally respond to the incident or approach a person who is known or believed to suffer from mental illness in a low-profile manner. Emergency lights and sirens should be used only when urgent response is critical, and these devices should be turned off as soon as possible upon arrival. Emergency equipment can have a disturbing and altogether negative impact on a person affected by mental illness, may potentially heighten the person's anxiety, and hinder the officers' efforts to calm the situation. When circumstances allow, contacts with persons affected by mental illness should be slowed down. Officers should try to establish themselves as helpers, rather than enforcers; the uniform, duty weapon, and

badge always imply that a uniformed officer is capable of using force and is authorized to engage in enforcement, so it need not be emphasized. Before attempting to gain compliance, officers should try to understand the person's issues and concerns and focus on developing rapport—so the relationship can increase an officer's ability to use influence rather than force to gain compliance.

Where there is reason to believe that the subject is in a crisis situation, such as threatening suicide or involved in a hostage and/or barricade situation, officers should request any specialized crisis intervention assistance available while taking initial steps necessary to moderate or defuse the situation. This may include summoning officers with special training in crisis negotiations, such as CIT-trained officers or hostage negotiators.

At the scene of an incident involving a person believed to be affected by mental illness, officers should first take time, if possible, to assess the situation and gather necessary information, avoiding hasty and potentially counterproductive decisions and actions. Such calls usually have a better outcome if slowed down and time is used to an officer's advantage. Often, circumstances preclude such inquiries, but, where time permits, family members or friends of the individual can often lend some insight into the person's background and specifics about his or her behavior. Friends or acquaintances may be able to provide some insight into the cause of the person's present behavior problem. Pinpointing the cause of the behavior, as perceived by the individual, can provide officers with a basis for discussion and possible moderation of the person's distress and behavior. It can also help the officer decide if the problem is the result of a disability.

Also important is information on the person's present or past use of psychiatric medication. Many persons who suffer from mental illness fail to use medication that has been prescribed for their diagnosed mental illness. This is common, for example, among persons affected by schizophrenia and bipolar disorder. Many people affected by schizophrenia receive treatment on an outpatient basis and gain a degree of self-control and remission of symptoms as long as that treatment is continued. However, without medical supervision, many are incapable or unwilling to maintain the prescribed treatment regimen on their own, either due to lack of insight into their illness, inability to afford or access medication, or substantial discomfort from the medication's side effects. As such, they often revert to their previous pattern of bizarre behavior.

In addition, many persons affected by mental illness attempt to alleviate their anxieties and related mental illness symptoms through self-medication with alcohol, controlled substances, or a combination of these. The use of these drugs tend to exacerbate existing mental problems,

compound the difficulty in diagnosing and treating these individuals, and cause additional difficulty for officers in their attempts to gain control of the individual's behavior.

Before approaching the person believed to be affected by mental illness, officers should attempt to control the immediate surroundings and establish a perimeter. Persons affected by mental illness are generally adversely influenced by distractions including noise and crowds. Crowds of curious bystanders generally, and antagonistic or rowdy persons, in particular, can excite and unduly agitate a person affected by mental illness, particularly those who are in a crisis mode such as one who is threatening suicide or violence. Therefore, where such crowds or bystanders are on hand they should be controlled and preferably removed so officers may better communicate with and control the subject. Family members who create disruption or who contribute to the confusion of the subject are no exception. However, witnesses and those who can provide information or assistance that is helpful in resolving the situation should be asked to remain nearby.

Once the immediate surroundings are under control, attention should be directed toward determining whether the individual represents a danger to himself, herself, or others. The presence of a dangerous weapon is an obvious indication that violence is possible, but there are other behavioral characteristics that an officer can use to help determine whether the subject is prone to dangerous conduct toward self or others. The model policy cites the following as examples.

1. *Statements of the subject.* Any threatening statements made by the subject should be given serious consideration and should not be dismissed simply as the ramblings of a confused or troubled individual. This is particularly the case where the capacity or capability to engage in dangerous conduct exists. Such statements may range from subtle innuendo to direct threats. Comments that suggest intent to commit a dangerous act do not have to be taken at face value. When taken in conjunction with other information, such threats can paint a more complete picture of the potential for violence. Inasmuch as a direct threat is not required to conclude a person is dangerous to himself or herself or others, the officer should assess in totality whether the subject poses a serious threat of substantial harm to himself or herself or others.

2. *Personal history.* It is not uncommon for police officers to have some familiarity with a person affected by mental illness based on prior contacts with them in the community. Under such circumstances, officers are in a better situation to assess the individual's propensity for violence as well as the predictability of the individual's behavior. Where the subject is unknown to the officers, friends, family, or others may be able to provide some insight into the individual's behavior and capacity for

dangerous behavior. With or without such information, officers should be cautioned that individuals affected by mental illness may be unpredictable. Even the familiar and often compliant person affected by mental illness can sometimes react in a dangerous manner without perceived provocation.

3. *Observed actions.* The subject's actions while officers are on the scene as well as those that were observed prior to the officers' arrival are relevant to a determination of the individual's propensity for dangerousness. Acts of violence or threats of violence during those periods should be taken seriously. Failure to act in a dangerous manner prior to an officer's arrival does not guarantee that there is no danger, but it does tend to diminish the potential for danger.

Officers should make mental notes of the precise actions and behaviors taken by the individual so that these can be entered into their report. Descriptions of the exact actions of an individual who is suspected of being affected by mental illness are particularly important when justification is required for arrest or evaluation and possible commitment to a mental health facility. Use of generalized terms such as "bizarre" or "crazy" to describe the nature of an individual's actions are not sufficient and should be substantiated with concrete illustrations of actual behavior. Verbatim quotes are very helpful when providing a description of the subject's comments, both when taking a subject in custody for a mental health evaluation or during an arrest for a crime that may lead to later questions regarding the arrestee's mental state at the time of the crime.

4. *Degree of control.* The amount of control that an individual demonstrates is significant, particularly the amount of physical control over emotions of rage, anger, fright, or agitation. Signs of a lack of control include extreme agitation, inability to sit still or communicate effectively, wide eyes, and rambling thoughts and speech. In addition, clutching oneself or other objects to maintain control, begging to be left alone, or offering frantic assurances that one is all right may also suggest that the individual is close to losing control.

5. *Volatility of the environment.* The general environment surrounding the event should also be taken into consideration. This potentially covers a broad range of issues in addition to those involving crowds, noise, and confusion already mentioned. For example, if a criminal offense is involved and an arrest is required, attempts to restrain the individual can be the source of agitation and confrontation between the officers and the person affected by mental illness if not handled wisely and skillfully. In open public spaces where attention is being drawn, the individual may be more easily distracted and/or agitated as opposed to isolated or private settings.

F. Approaching and Dealing with Persons Affected by Mental Illness

When officers are preparing to approach a person thought to be affected by mental illness, they should take several factors into consideration. The model policy includes the following factors as among the most important. First, officers should always be aware of their personal safety when dealing with persons who exhibit characteristic behavior of mental illness. When possible, a backup officer should be summoned to provide assistance. This is particularly necessary prior to efforts to take the person into custody.

Officers should also recognize that they are not in a position personally to solve the problems of a mentally ill person. However, it is entirely possible that this same person will again come into contact with the police in a similar or related context, so officers should remember that their actions may have a long-term impact on the perceptions of that person toward the police. Dealing with persons affected by mental illness can be one of the more trying of police tasks and one that few inexperienced officers would normally invite. But dealing with those persons in a dismissive manner or with disdain is neither a humane approach nor one that will reap any long-term benefit for either law enforcement or the person affected by mental illness. It will also invariably create difficulty for the same or other officers in future interactions with that individual. In a worst-case scenario, failure to deal responsibly and fairly with the individual may lay the groundwork for a later, more serious confrontation with the police and the community involving potential physical injury or loss of life.

When approaching a person suspected of being affected by mental illness, officers should assume a physically defensive posture in relation to the individual while attempting to slow things down and build rapport by speaking in a calm and relaxed manner. Officers should avoid closely approaching the subject until a degree of rapport has been developed if this is at all possible. When speaking with the individual, officers should attempt to exhibit a caring attitude without becoming authoritarian, overbearing, condescending, or intimidating. While the person affected by mental illness may not be in command of his or her behavior at all times, he or she does not necessarily lack intellectual abilities or insight, and may be provoked by demeaning, condescending, arrogant, or contemptuous attitudes of others. Attempts to deal constructively with the person in a calm, non-judgmental manner, develop some understanding, and demonstrate some empathy for the individual's problems or concerns while avoiding a tough or threatening manner should greatly assist in gaining compliance.

Officers should engage in active listening (e.g., reflection of feelings, restating, paraphrasing, and supportive statements) by asking the person to express his or her concerns. This verbal tactic is a control strategy that helps de-escalate or defuse an agitated, fearful, or angry subject. The officer can enhance the person's willingness to engage by frequent communication of the officer's understanding of the person's concerns. In addition, avoiding issues and topics that may serve to agitate the individual is recommended along with efforts to guide the conversation toward subjects that help bring the subject back to reality. Officers should reassure the individual that the officers are there to help and that an appropriate resolution of the problem can be reached. All attempts should be used to reassuringly communicate with the person first by allowing him or her to vent in order to determine the possible source of agitation or conflict. Efforts should be made to relate the officer's concern for the individual's feelings and an appreciation for the problems and concerns that the individual describes, no matter how trivial or bizarre they may appear. The emphasis here is to slow things down and develop a rapport with the individual that will provide reassurance that the officer is not there simply in an authoritarian role but there to assist the individual. In attempts to assist, however, officers should always attempt to be truthful with a person displaying behaviors associated with mental illness. If the person becomes aware that officers are deceiving him or her, he or she may withdraw from contact in distrust and may become hypersensitive or retaliate in anger.

The individual should not be threatened with arrest or other enforcement action as this will only add to his or her fright and stress and may potentially spark aggression. However, should arrest or detention be necessary, the officer should inform the person of what is about to occur, ask for his or her cooperation, and proceed with taking him or her into custody. In doing so, the officers should consider the following.

G. Taking Custody or Making Referrals to Mental Health Professionals

Based on the overall circumstances of the situation, applicable state law, and departmental policy, an officer may take one of several courses of action when dealing with an individual who is suspected of being affected by mental illness. The options for dealing with such individuals generally fall into one of four response categories as suggested by the model policy.

1. Counsel and/or refer. When a criminal or other offense is not involved and there is not sufficient grounds for taking the person into custody for his or her own protection, the protection of others, or for other reasons (e.g., grave disability) as specified by law, it is often best

to make mental health referrals and provide some basic guidance for the individual. For the person affected by mental illness who resides in public places, referrals to community mental health facilities are often futile efforts. Many individuals in this situation do not have the presence of mind to recognize their mental health problems and even less ability or interest in acting upon referral recommendations. If the agency keeps track of calls involving the mentally ill or works with liaisons in the mental health community, notifications should be made to these individuals. Some mentally ill persons go through periods of relative lucidity during which they may be able to recognize their needs and act upon an officer's suggestions, particularly if the location and telephone number of local mental health facilities has been provided to them in writing.

In cases where persons affected by mental illness have friends, family, and other support systems in the community, information on mental health facilities may also be provided directly to these individuals. With this information, they may be in a better position to seek assistance for their friend, acquaintance, or relative who is affected by mental illness.

In cases where the individual is extremely agitated, it is generally inadvisable to leave him or her unattended. In many such cases, when left alone in a highly emotional state, the person affected by mental illness may resort to the same behavior that was the basis for police intervention in the first place. In such cases, officers may, if permitted by departmental policy, provide transportation for the individual to a group home, respite care, or other facility that can provide shelter, counseling, or related mental health services or, to the home of a friend, family member, or acquaintance who may be willing to provide assistance.

2. Professional assistance. Because it is not possible for officers to diagnose mental illness or understand the degree to which some persons may need professional care in order to avoid violence to themselves or others, use of a trained mental health professional is often a preferred option. Some agencies are fortunate to have a mental health professional, such as a counselor or crisis intervention specialist on staff who may be employed in this capacity. Agencies may also have contract community mental health providers who can assist (such as a MAC team). In any of these cases, officers may, based on the nature of the situation, request assistance by either direct intervention at the scene of the incident, by telephone consultation with a mental health professional, or by transporting the subject to a centralized location where assessment and other treatment can be obtained.

Refusal to submit to voluntary examinations or professional assistance can be expected in many instances since many persons affected by mental illness lack an

understanding that they are ill. However, it is entirely acceptable for officers to explain that such refusal may leave the officer with no other option than to seek alternative remedies, such as arrest where justified or detention for an involuntary examination in a mental health facility where legal grounds exist. Many persons affected by mental illness, recognizing that they are not fully in control of their actions and/or thoughts, and who may be aware of stories of confinement related by other mentally ill acquaintances, fear mental health professionals and examinations. Officers can dispel some of that fear by explaining that an examination does not mean incarceration or confinement in a mental health facility but may provide them with much-needed assistance and possibly allow them to avoid future confrontations with others, including the police.

3. Involuntary examination. State laws provide the legal criteria and limitations for involuntary commitment of individuals for mental health examinations. While state statutes vary, they generally provide for a brief involuntary examination when the person is a danger to self or others, is gravely disabled by mental impairment, and/or is so impaired as to not understand the need for mental treatment. Officers must refer to specific state statutes for details in these regards and should be aware of the rights of those who are detained for mental health examinations and any special requirements expected of the officer in such situations. Where the criteria for involuntary mental examination has been satisfied, and a misdemeanor or other less serious violations have also been committed, officers may, depending upon departmental policy, choose the course of involuntary commitment in lieu of or in addition to lodging criminal charges (and may ask for notification from the facility at the time of discharge from the commitment, if permitted by law in the jurisdiction).

The issue of involuntary examination may be problematic for officers and others involved. Many state and local institutions have limited resources or have a full census, and under such circumstances it becomes difficult and time-consuming for officers to deal with persons affected by mental illness in this manner. At the same time, failure to take action when there are sufficient grounds to believe that a person affected by mental illness may be a danger to himself or herself or others can have serious consequences. In such situations, officers may place themselves and/or their agency in jeopardy of civil liability should a serious incident develop as the result of their inaction. Jurisdictions that have developed a coordinated police-mental health partnership to deal with persons affected by mental illness are in a far better position to deal with these and other related issues than those that have lacked interest, concern, and/or resources to adequately address the mental health problem within their community.

4. Arrest. As noted in the foregoing, arrest may be used solely or in combination with involuntary commitment. However, when a felony or other serious offense is involved, officers should normally make the arrest and rely on supervisory and other command-level personnel to determine whether an involuntary mental health examination is warranted.

Before taking a person into custody under arrest or for involuntary mental examination, officers should consider summoning a supervisor. As noted, taking custody of a person who is possibly affected by mental illness can be a difficult undertaking. Once a decision has been made to take a suspected mentally ill person into custody, it should be done as soon as possible to avoid prolonging a potentially violent situation. Officers should immediately remove any objects that can be used as a dangerous weapon and restrain the person if necessary. While the use of restraints can, with some individuals, aggravate their aggression, officers should take these and related security measures necessary to protect their safety and the safety of others with whom the mentally ill person will come in contact.

Every effort has been made by the IACP National Law Enforcement Policy Center staff and advisory board to ensure that this document incorporates the most current information and contemporary professional judgment on this issue. However, law enforcement administrators should be cautioned that no “model” policy can meet all the needs of any given law enforcement agency. Each law enforcement agency operates in a unique environment of federal court rulings, state laws, local ordinances, regulations, judicial and administrative decisions and collective bargaining agreements that must be considered. In addition, the formulation of specific agency policies must take into account local political and community perspectives and customs, prerogatives and demands; often divergent law enforcement strategies and philosophies; and the impact of varied agency resource capabilities among other factors.

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RESPONDING TO PERSONS AFFECTED BY MENTAL ILLNESS OR IN CRISIS

Model Policy

<i>Effective Date</i> January 2014		<i>Number</i>	
<i>Subject</i> Responding to Persons Affected by Mental Illness or in Crisis			
<i>Reference</i>		<i>Special Instructions</i>	
<i>Distribution</i>		<i>Reevaluation Date</i>	<i>No. Pages</i> 4

I. PURPOSE

It is the purpose of this policy to provide guidance to law enforcement officers when responding to or encountering situations involving persons displaying behaviors consistent with mental illness or crisis.

II. POLICY

Responding to situations involving individuals who officers reasonably believe to be affected by mental illness or in crisis carries potential for violence; requires an officer to make difficult judgments about the mental state and intent of the individual; and necessitates the use of special police skills, techniques, and abilities to effectively and appropriately resolve the situation, while avoiding unnecessary violence and potential civil liability. The goal shall be to de-escalate the situation safely for all individuals involved when reasonable, practical, and consistent with established safety priorities. In the context of enforcement and related activities, officers shall be guided by this state's law regarding the detention of persons affected by mental illness or in crises. Officers shall use this policy to assist them in determining whether a person's behavior is indicative of mental illness or crisis and to provide guidance, techniques, and resources so that the situation may be resolved in as constructive and humane a manner as possible.

III. DEFINITIONS

Mental Illness: An impairment of an individual's normal cognitive, emotional, or behavioral functioning, caused by physiological or psychosocial factors. A person may be affected by mental illness if he or she displays an inability to think rationally (e.g.,

delusions or hallucinations); exercise adequate control over behavior or impulses (e.g., aggressive, suicidal, homicidal, sexual); and/or take reasonable care of his or her welfare with regard to basic provisions for clothing, food, shelter, or safety.

Crisis: An individual's emotional, physical, mental, or behavioral response to an event or experience that results in trauma. A person may experience crisis during times of stress in response to real or perceived threats and/or loss of control and when normal coping mechanisms are ineffective. Symptoms may include emotional reactions such as fear, anger, or excessive giddiness; psychological impairments such as inability to focus, confusion, nightmares, and potentially even psychosis; physical reactions like vomiting/stomach issues, headaches, dizziness, excessive tiredness, or insomnia; and/or behavioral reactions including the trigger of a "fight or flight" response. Any individual can experience a crisis reaction regardless of previous history of mental illness.

IV. PROCEDURES

A. Recognizing Abnormal Behavior

Only a trained mental health professional can diagnose mental illness, and even they may sometimes find it difficult to make a diagnosis. Officers are not expected to diagnose mental or emotional conditions, but rather to recognize behaviors that are indicative of persons affected by mental illness or in crisis, with special emphasis on those that suggest potential violence and/or danger. The following are generalized signs and symptoms of behavior that may suggest mental illness or

crisis, although officers should not rule out other potential causes such as reactions to alcohol or psychoactive drugs of abuse, temporary emotional disturbances that are situational, or medical conditions.

1. Strong and unrelenting fear of persons, places, or things. Extremely inappropriate behavior for a given context.
2. Frustration in new or unforeseen circumstances; inappropriate or aggressive behavior in dealing with the situation.
3. Abnormal memory loss related to such common facts as name or home address (although these may be signs of other physical ailments such as injury or Alzheimer's disease).
4. Delusions, the belief in thoughts or ideas that are false, such as delusions of grandeur ("I am Christ") or paranoid delusions ("Everyone is out to get me").
5. Hallucinations of any of the five senses (e.g., hearing voices commanding the person to act, feeling one's skin crawl, smelling strange odors); and/or
6. The belief that one suffers from extraordinary physical maladies that are not possible, such as persons who are convinced that their heart has stopped beating for extended periods of time.

B. Assessing Risk

1. Most persons affected by mental illness or in crisis are not dangerous and some may only present dangerous behavior under certain circumstances or conditions. Officers may use several indicators to assess whether a person who reasonably appears to be affected by mental illness or in crisis represents potential danger to himself or herself, the officer, or others. These include the following:
 - a. The availability of any weapons.
 - b. Statements by the person that suggest that he or she is prepared to commit a violent or dangerous act. Such comments may range from subtle innuendo to direct threats that, when taken in conjunction with other information, paint a more complete picture of the potential for violence.
 - c. A personal history that reflects prior violence under similar or related circumstances. The person's history may already be known to the officer—or family, friends, or neighbors might provide such information.
 - d. The amount of self-control that the person, particularly the amount of physical control over emotions of rage, anger, fright, or agitation. Signs of a lack of self-control in-

clude extreme agitation, inability to sit still or communicate effectively, wide eyes, and rambling thoughts and speech. Clutching oneself or other objects to maintain control, begging to be left alone, or offering frantic assurances that one is all right may also suggest that the individual is close to losing control.

- e. The volatility of the environment is a particularly relevant concern that officers must continually evaluate. Agitators that may affect the person or create a particularly combustible environment or incite violence should be taken into account and mitigated.
 2. Failure to exhibit violent or dangerous behavior prior to the arrival of the officer does not guarantee that there is no danger, but it might diminish the potential for danger.
 3. An individual affected by mental illness or emotional crisis may rapidly change his or her presentation from calm and command-responsive to physically active. This change in behavior may come from an external trigger (such as an officer stating "I have to handcuff you now") or from internal stimuli (delusions or hallucinations). A variation in the person's physical presentation does not necessarily mean he or she will become violent or threatening, but officers should be prepared at all times for a rapid change in behavior.
- #### C. Response to Persons Affected by Mental Illness or in Crisis

If the officer determines that an individual is exhibiting symptoms of mental illness or in crisis and is a potential threat to himself or herself, the officer, or others, or may otherwise require law enforcement intervention as prescribed by statute, the following responses should be considered:

1. Request a backup officer. Always do so in cases where the individual will be taken into custody.
2. Take steps to calm the situation. Where possible, eliminate emergency lights and sirens, disperse crowds, and assume a quiet nonthreatening manner when approaching or conversing with the individual. Where violence or destructive acts have not occurred, avoid physical contact, and take time to assess the situation. Officers should operate with the understanding that time is an ally and there is no need to rush or force the situation.

3. Move slowly and do not excite the person. Provide reassurance that the police are there to help and that the person will be provided with appropriate care.
 4. Communicate with the individual in an attempt to determine what is bothering him or her. If possible, speak slowly and use a low tone of voice. Relate concern for the person's feelings and allow the person to express feelings without judgment. Where possible, gather information on the individual from acquaintances or family members and/or request professional assistance if available and appropriate to assist in communicating with and calming the person.
 5. Do not threaten the individual with arrest, or make other similar threats or demands, as this may create additional fright, stress, and potential aggression.
 6. Avoid topics that may agitate the person and guide the conversation toward subjects that help bring the individual back to reality.
 7. Always attempt to be truthful with the individual. If the person becomes aware of a deception, he or she may withdraw from the contact in distrust and may become hypersensitive or retaliate in anger. In the event an individual is experiencing delusions and/or hallucinations and asks the officer to validate these, statements such as "I am not seeing what you are seeing, but I believe that you are seeing (the hallucination, etc.)" is recommended. Validating and/or participating in the individual's delusion and/or hallucination is not advised.
 8. Request assistance from individuals with specialized training in dealing with mental illness or crisis situations (e.g., Crisis Intervention Training (CIT) officers, community crisis mental health personnel, Crisis Negotiator).
- D. Taking Custody or Making Referrals to Mental Health Professionals
1. Based on the totality of the circumstances and a reasonable belief of the potential for violence, the officer may provide the individual and/or family members with referral information on available community mental health resources, or take custody of the individual in order to seek an involuntary emergency evaluation. Officers should do the following:
 2. Offer mental health referral information to the individual and or/family members when the circumstances indicate that the individual should not be taken into custody.
 3. Summon an immediate supervisor or the officer-in-charge prior to taking custody of a potentially dangerous individual who may be affected by mental illness or in crisis or an individual who meets other legal requirements for involuntary admission for mental examination. When possible, summon crisis intervention specialists to assist in the custody and admission process.
 4. Continue to use de-escalation techniques and communication skills to avoid provoking a volatile situation once a decision has been made to take the individual into custody. Remove any dangerous weapons from the immediate area, and restrain the individual if necessary. Using restraints on persons affected by mental illness or in crisis can aggravate any aggression, so other measures of de-escalation and commands should be utilized if possible. Officers should be aware of this fact, but should take those measures necessary to protect their safety.
 5. Document the incident, regardless of whether or not the individual is taken into custody. Ensure that the report is as detailed and explicit as possible concerning the circumstances of the incident and the type of behavior that was observed. Terms such as "out of control" or "mentally disturbed" should be replaced with descriptions of the specific behaviors, statements, and actions exhibited by the person. The reasons why the subject was taken into custody or referred to other agencies should also be reported in detail.

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IACP NATIONAL LAW ENFORCEMENT POLICY CENTER

Officer-Involved Shootings, In-Custody Deaths, and Serious Uses of Force

Concepts and Issues Paper

Originally Published: August 1999

Revised: May 2012

I. INTRODUCTION

A. Purpose of Document

This paper was designed to accompany the *Model Policy on Officer-Involved Shootings, In-Custody Deaths, and Serious Uses of Force* established by the IACP National Law Enforcement Policy Center. This paper provides essential background material and supporting documentation to provide greater understanding of the developmental philosophy and implementation requirements for the model policy. This material will be of value to law enforcement executives in their efforts to tailor the model to the requirements and circumstances of their community and their law enforcement agency.

The revised version of this document includes protocols for the investigation of in-custody deaths and serious uses of force, recognizing that such incidents generally require the same or similar degree of departmental investigative scrutiny as do uses of force involving firearms.

B. Background

Statistically, few officers become involved in hostile shooting situations. However, all officers—not just those who investigate these incidents—should have an understanding of steps that must be taken in such an event. The initial response of involved officers at the scene and the steps taken thereafter by first responders, supervisory and investigative personnel often determine whether an

accurate and complete investigation can be conducted. The accuracy and professionalism of such investigations can have a significant impact on involved officers and their department.

Similarly, discharges of firearms by police officers, whether on or off duty, should be the subject of departmental investigation as should other serious uses of force and the deaths of suspects and offenders that take place in custody or while attempting to take a person into custody. The extent and complexity of these investigations vary to some degree, but all have commonalities that will be explored in this document. Shootings that take place under hostile circumstances and, in particular those in which injuries or fatalities occur, are situations that require more intensive investigation and involve a broader range of potential information requirements.

Investigations of officer-involved shootings, in-custody deaths, and serious uses of force should be designed to accomplish several important goals. First, the legality of the shooting or other police action must be determined. The department must be in a position following the investigation to determine whether officers involved, in the course of their duties, took measures that were objectively reasonable under the circumstances of the incident. Second, the investigation must be capable of determining whether officers acted in accordance with departmental policy, procedures, rules, and training. Results of the foregoing investigations have direct bearing on possible criminal charges or administrative discipline and liability

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that may attach to the officers, the department, or both.

From a broader standpoint, findings from these investigations have a direct bearing on risk management within departments. Information gathered on the circumstances surrounding officer shootings, as well as assaults, deaths, and motor vehicle crashes and injuries, for example, are essential in identifying patterns, trends, and contributing causes that can lead to changes in agency practices, procedures, tactics, training, equipment, and other matters that will serve to mitigate the risks associated with police work, both for officers and civilians alike.¹

Accurate and complete investigation of these incidents requires agency planning and the establishment of protocols that must be followed in such instances. It also depends largely upon the prudence of decisions made and steps taken immediately following such incidents by the involved officers, supervisory personnel, criminal investigators, and internal affairs officers. Many agencies, because of their limited resources and expertise in these types of investigations, may rely all or in part on outside agencies, such as the state police, county sheriff's department, or another law enforcement authority with appropriate jurisdiction. Some departments also run investigations in cooperation with the local prosecutor's office. However, most of the burden for evidence preservation and protection of the crime and/or incident scene is the responsibility of involved officers and first responders. Therefore, it is essential that all officers have an understanding of the significance and importance of taking appropriate initial actions and measures that will prove essential as investigations of the incident unfold.

II. PROCEDURES: OFFICER-INVOLVED SHOOTINGS

A. Involved Officer Responsibilities

As indicated in the model policy, for officers involved in a hostile shooting situation there are four general areas of concern that should be addressed after the initial confrontation has ended: (1) welfare of officers and others at the scene; (2) apprehension of suspects; (3) preservation of evidence; and (4) identification of witnesses. If physically capable, involved officers at the scene should take actions in each of these areas if circumstances permit. Upon arrival, backup officers should take a quick inventory of the situation and begin to take actions that involved officers were not capable of performing or could not complete.

¹ Please see *Officer Safety and Risk Management: Avoiding and Mitigating Officer Deaths, Assaults, and Injuries*, IACP National Law Enforcement Policy Center, Alexandria, Va.

Safety and Welfare. The safety and well-being of the involved officer(s) and any innocent bystanders is the first priority. Officers should ensure that the threat from the suspect(s) has been terminated. This includes, but is not limited to disarming, handcuffing, or otherwise securing the suspect. An officer should never assume that because a suspect has been shot or otherwise incapacitated that he or she is unable to take aggressive action.

All suspects should be handcuffed unless emergency life-saving activities being employed at the time would be hindered by these actions. If not secured during the application of emergency first aid, an unencumbered armed officer must be present at all times to oversee security of the suspect and safety of emergency service providers. All firearms or other weapons in the vicinity of the suspect should be confiscated and secured. Otherwise, dropped or discarded firearms should be left in place when they cannot be accessed by suspects or any third parties who may be in the immediate area. If not already summoned, emergency service providers should be requested as a matter of routine even when there are no immediate indications that injuries have been sustained. The adrenaline rush of such critical incidents often masks injuries to officers and others. It also creates a severe elevation in blood pressure, pulse rate, respiration, and body temperature, which individually or collectively can prove dangerous to even healthy and physically fit police personnel.

Apprehension of Suspects. The agency's communication center should be provided with information on any suspects or suspicious persons who may have left the area, to include their physical description, mode and direction of travel, and whether they are armed.

A decision to pursue suspects will generally be based on a wide array of factors to include in particular, the well-being of the officer(s) involved and other injuries at the scene. Even in the best-case scenario, foot pursuits are highly stressful and inherently dangerous.² This is compounded by critical incidents in which the officer's body and mind are already stressed and undergoing various types of emotional and physical reactions. Before engaging in a foot pursuit, the officer should consider the potential for apprehension of suspects and the need to provide assistance to injured parties at the scene.

Thus, it is often better for involved officers to stay at the incident scene; wait for emergency medical assistance and backup officers; and, where possible, assist the injured, protect evidence, identify witnesses, and provide EOC information on suspects and other immediate needs. For example, officers should request the presence of a supervisor and specialized units such as SWAT, K-9, crime scene technicians, and a public information officer (PIO),

² See the *Model Policy and Concepts and Issues Paper on Foot Pursuits*, IACP National Law Enforcement Policy Center, Alexandria, Va.

among other possibilities.

Initial Protection of the Incident Scene. Following the shooting, involved officers should try to focus their attention on their surroundings and take note of important facts such as lighting conditions, persons present, those who may have departed the scene, witnesses or potential witnesses, possible suspects or accomplices, and suspect vehicles, to name only a few. In some cases, emergency medical personnel and/or firefighters may be on hand prior to the arrival of backup police personnel. Officers at the scene should make note of this with the understanding that these personnel may unknowingly move, misplace, or even inadvertently destroy evidence in the course of performing their duties. Other items of potential evidentiary value should be of particular concern.

One of the principal evidentiary items among these is firearms. In this regard, officers should ensure that their firearm is secured safely until it can be examined by investigators or other designated police personnel. The firearm should not be removed if it is holstered, nor should it be opened, reloaded, or tampered with in any other manner. In some instances, the officer's or suspect's firearm may have been dropped at the scene. In such cases, it should be left in place if this can be done safely. If safety precludes this, officers may mark the location and position of the firearm and secure it in the holster or in another acceptable manner. However, the preferred procedure is that weapons, expended cartridge casings, brass, speed loaders, magazines, and related items be left in place undisturbed.

Before backup officers and supervisory personnel arrive, as time and the officer's physical and psychological condition may permit, he or she should protect the immediate scene from incursion by bystanders and others, note and secure anything of evidentiary value, and request any eyewitnesses to remain present for a brief statement. At this juncture, securing the scene may involve no more than keeping evidence from being blown or washed away or touched by third parties. Beyond performing these basic responses when possible, officers involved in a hostile shooting incident where injury or death has occurred should prepare themselves for an extended period of sitting, waiting, and interviewing with agency investigators. Officers should not be insulted by tough questions asked by investigators following such incidents. Only by asking the tough questions can all of the facts and circumstances surrounding the shooting event be compiled.

B. Physical and Emotional Reactions

As noted, immediately following shooting incidents as well as many other types of critical incidents, it is not uncommon for officers to experience some forms of

emotional and physical disorientation.³ The ability of an officer to recognize and understand these problems is important in his or her attempts to regain a degree of control over the situation and take appropriate actions. It is also important for others to understand that these types of reactions may be encountered. Emotional and physical reactions vary according to many factors involved in a critical incident. These may include the officer's perceived vulnerability during the incident, the amount of control he or she had over the situation, and his or her ability to react effectively among many other factors. The shooting of a hardened and notorious killer can have a different effect on an officer than one that involves a scared teenager. Similarly, shooting a person who used the officer to commit suicide may evoke an angry response while other situations may produce far different feelings.

A complete discussion of the symptoms and effects of post-traumatic stress is beyond the scope and purpose of this paper. However, for purpose of the present discussion, it may be sufficient to recognize that such emotional and psychological phenomena are relatively common. As such, officers should be aware of these possibilities and recognize first that they are natural responses to traumatic and unusual events and second, that the officers are not "going crazy" or responding in bizarre and irrational ways. In fact, they are exhibiting natural adaptive reactions to highly unusual life-threatening situations. These physical and emotional reactions will factor into this document's later discussion on when and how to conduct post-incident interviews.

A variety of traumatic reactions caused by a shooting incident may interfere with an officer's ability to cope and react effectively and appropriately. For example, it is quite common for an officer involved in a hostile shooting incident to experience perceptual distortions of various types. Some may experience time distortion in which events appear to occur in slow motion. For others, time may seem to accelerate. Auditory distortions are also common among officers involved in shootings. For most, sound diminishes and gunshots, shouts, or other sounds may be muffled or unheard. An officer may not hear all the shots being fired and may not be able to relate this type of information accurately if questioned at a later date. Involved officers should be aware of the possibility that their recall is impaired in one or more of these ways and investigative officers should keep these and related factors in mind when conducting interviews and interrogations. Officers may simply be unable to provide accurate information concerning the shooting at this stage.

³ See the *Model Policy and Concepts and Issues Paper on Critical Incident Stress Management*, IACP National Law Enforcement Policy Center, Alexandria, Va.

Departments may choose not to conduct in-depth interviews with officers immediately following their involvement in a shooting. Interviews conducted at a later time after the officer has had the opportunity to regain his or her composure may be more productive. However, investigators should be available if officers voluntarily choose to participate in an interview immediately following the incident.

Given the above context, it is not uncommon for involved officers to be unable to perform many of the first aid and post-shooting actions discussed in this paper. But officers must attempt to muster as much self-composure as possible in order to protect themselves and be cognizant of events around them. Understanding that they are experiencing one or more of these emotional or psychological reactions may assist officers in their attempts to regain their composure immediately following a shooting incident.

C. Incident Command Responsibilities

Incident assessment and establishing command. The first supervisor to arrive at the scene of an officer-involved shooting should be designated as the incident commander (IC) and initiate the incident command system.⁴ This officer should retain this position until such time as he or she is relieved from this responsibility by an investigator or other appropriate senior officer who then becomes the IC. The incident command system is appropriate for use in a police-involved shooting or other similar incident in which many tasks need to be performed concurrently and cooperatively. The IC's role is to assign, where necessary, individual responsibility for the completion of tasks discussed here.

The IC must assess the situation upon arrival and initiate appropriate actions. The IC's first responsibility is to ensure that the safety and security of officers and others at the scene has been adequately addressed. The potential threat from assailants should be eliminated first, and any suspects at the scene should be detained or arrested. Emergency medical personnel should be summoned if not previously requested.

The IC should take measures to secure the incident scene and maintain its integrity until criminal investigators arrive. As personnel arrive and assignments can be made, the perimeter should be secured, and all nonessential personnel should be precluded from entering the incident scene. Any items of potential evidentiary value should be protected. If emergency, fire, or medical personnel need to move persons or items in order to provide medical assistance, their original position and condition should be

noted. Photographs of the scene should be taken as soon as possible to assist in evidence preservation.

The IC should then deal with those issues discussed in the foregoing section of this paper if officers at the scene were not able to do so. That is, there may still be a need to broadcast lookouts for suspects; request backup and related support services; identify persons who may have been at or within close proximity to the scene of the incident, as well as identify witnesses and request their cooperation. These individuals should be separated so that their personal perceptions can be obtained without the potential influence of opinions and observations gleaned from others. The name, address, and phone number of witnesses and other persons in the general vicinity of the shooting should be recorded. In some cases, these persons will claim that they did not see anything in order to not become involved. Nevertheless, officers should attempt to collect identifying information from them so that they can be contacted at a later date or upon arrival of investigators. Any witnesses or potential witnesses who have been identified should be asked to remain on hand until a statement has been taken.

Interaction with involved officer(s). If involved officers are physically capable, they should provide a brief public safety statement at the scene as soon as reasonably possible. The purpose of this statement is to establish the level of danger that may still exist, aid the initial operational response to locate suspects, and focus the investigation. Questions should be limited to the

- type of force used by the officer and the suspect;
- direction and approximate number of shots fired by officers and suspects;
- location of injured persons;
- description of at-large suspects and their mode and direction of travel, time elapsed since they fled and weapons that were available to them;
- description and location of any known victims or witnesses;
- description and location of any known evidence; and
- information that would help ensure officer and public safety and assist in apprehension of suspects.

Supervisory personnel should be aware of the possibility that officers involved in the shooting may be suffering from post-traumatic stress. If this is the case, they should be handled in a manner consistent with agency policy and professional practice.⁵ For example, the officer(s) should be moved away from the immediate shooting scene and placed in the company of a companion officer, such as a peer support team member—where these individuals are available through the police agency.

⁴ The incident command system and its processes are discussed in the *Model Policy on Incident Command*, IACP National Law Enforcement Policy Center, Alexandria, Va.

⁵ See the *Model Policy and Concepts and Issues Paper on Critical Incident Stress Management*, IACP National Law Enforcement Policy Center, Alexandria, Va.

All involved officers should be instructed not to talk about the incident to persons other than their attorneys, mental health providers, or authorized investigators. The companion officer should not elicit statements or entertain conversation about specifics of the shooting but should rather provide whatever company and comfort to the officer as is necessary and appropriate.

If an officer has been shot or otherwise injured, another officer should accompany him or her to the hospital and remain until relieved. As mentioned, it is wise to routinely transport officers directly involved in shootings and other critical incidents to an emergency care facility where they can be checked for injuries and monitored for any delayed physical or emotion reaction to the incident that demands medical attention. At some point following the incident, whether at the hospital or another facility, involved officers should be tested to determine if alcohol or drugs are in their system. This information will be essential to defend against any future allegations that the officers were impaired when the incident took place.

The IC should assign responsibility for notifying the officer's family or next-of-kin, if the officer is incapable of performing the notification himself or herself. This should be done on a priority basis and in person wherever possible. An in-person notification should always be made when a death has occurred and should be performed by the department's chief, sheriff, or another senior officer with additional aid from clergy or other trained persons, an officer who is close to the family, or a combination of these individuals. An officer should be assigned to transport immediate family members to the location where they are needed. Particular care should be taken to keep the name of the involved officer(s) from the media or other sources until the immediate family members of the officer have been notified.⁶ An officer should be assigned to the family of a slain or injured officer in order to provide them with security, emotional support, assistance in dealing with the press, and related matters. As deemed appropriate and necessary, the officer should determine whether the family would like the company and assistance of other family members, friends, and/or a member of the clergy.

Ongoing duties. The IC should determine based on circumstances at the scene, the need for specific actions and make assignments of responsibility for their completion. These include actions that may not have been taken by the involved officer(s) due to their physical incapacity and checks of those actions that have been taken to ensure that they were completed properly. These tasks may include but are not limited to the following:

- Locating and securing in place the officers' weapon(s) and expended casings
- Locating and securing in place weapons used by suspects
- Securing any clothing that may have been removed from suspects or officers by paramedics
- Marking the location(s) of all involved officers and suspects at the scene

In addition to the notification of backup and specialized assistance previously mentioned, other necessary personnel in the agency should be contacted depending upon the seriousness of the incident and the requirements of agency policy. Such notifications may include the agency's chief executive, patrol commander, homicide shooting team, internal investigative authority, coroner or medical examiner, legal advisor, chaplain, or peer support coordinator.

It may also be necessary and prudent to establish a command post in order to better coordinate the personnel involved in the investigation and when an extended period of time will be required to complete on-scene investigative activities. In these circumstances, it is also a good idea to appoint one officer as a "recorder" for the incident. The duties of a recorder are to document the event and establish a chronological record of the activities at the scene. This record should include but need not be limited to: the identities of all persons present and those who entered the incident/crime scene including emergency medical and fire personnel; actions taken by police personnel; evidence processed; and any other matters of significance.

It may also be necessary to establish a staging area in situations that are likely to attract significant media attention. Police officer-involved shooting incidents invariably draw sizeable contingents of media representatives. If the agency has a PIO, this individual may be used to manage media representatives and provide them with information as available and appropriate. Should a PIO not be employed or readily available, the IC should appoint an officer at the scene to control these individuals and to provide them with the basic details of the incident as they become available and as they are appropriate for release. Caution should be exercised in the release of any information at the scene prior to a full investigation of the incident.⁷

As time permits, and within the parameters of the police agency's policy and procedures, personnel should begin to document the scene or ensure that this activity is undertaken by authorized agency personnel. The overall scene should be diagrammed manually, indicating the

⁶ See the *Model Policy and Concepts and Issues Paper on Line-of-Duty Death and Serious Injury*, IACP National Law Enforcement Policy Center, Alexandria, Va.

⁷ For a detailed discussion of information that may and may not be released at the scene of these and other incidents, see the *Model Policy and Concepts and Issues Paper on Police-Media Relations*, IACP National Law Enforcement Policy Center, Alexandria, Va.

location and relative distances between key points and items of evidence. Then, photographs and, where possible, a videotape recording should be made of the overall scene and all pieces of evidence. Videotaping is recommended wherever possible as it provides an added perspective and dimension that still photography cannot always provide. At the same time, the primary and backup firearms of any officers who may have been at the scene during the incident should be inspected to determine if they were fired. In so doing, an agency may be able to respond more accurately to potential allegations or concerns about additional shots fired by police personnel. If possible, it is also a good practice to videotape and/or photograph, in a general manner, any bystanders or onlookers who may be at the scene. Some of these individuals may be witnesses to the incident but may disperse before their identity can be determined. Some may fail to come forward as witnesses, fail to provide information if questioned, or provide false identification. A visual image may assist investigators at a later time in identifying and locating these individuals, if necessary. If the involved officer is still at the scene of the incident and it is reasonably possible to do so, it is highly advisable to take color photographs of his or her physical appearance and any wounds or injuries that he or she has sustained. These photographs can provide graphic documentation regarding the extent of visible injuries at the scene and can provide compelling testimony to the nature and impact of the incident. Should this not be possible at the scene, such photographs should be taken with the permission of hospital emergency service providers.

D. Investigator's Responsibilities

Law enforcement agencies vary with regard to the unit assigned responsibility for the investigation of an officer-involved shooting. Depending largely on the capabilities of the agency, this responsibility may be assigned to internal affairs, officers assigned to person-to-person crime investigations in the detective division, or to homicide investigators. Frequently, agencies conduct concurrent administrative and criminal investigations of tactical shootings (e.g., where an officer and/or suspect is wounded or killed), the former to establish conformity with departmental policies, procedures, and training and the latter to establish whether the shooting was in conformance with law. Depending on the seriousness of the shooting, the circumstances involved, and the protocols of the specific agency, it may be appropriate to conduct parallel investigations of officer-involved shootings, a criminal investigation conducted by homicide investigators or other criminal investigators, and an administrative investigation conducted by internal affairs officers.

Larger agencies often use specially trained "shooting teams" to respond to such incidents, typically composed

of homicide investigators. Some work the investigation together with an attorney from the prosecutor's office. On the other hand, it is not uncommon for small agencies to turn these investigations over to larger state or county police or sheriff's departments. The necessity of these arrangements is largely based on the experience and capabilities of the officers who staff internal affairs and homicide investigation positions within the involved officer's department. As a general rule, trained and experienced homicide investigators are the best persons to conduct criminal investigations of officer-involved shootings. Their experience generally allows them to more readily identify, organize, and evaluate relevant details of a shooting situation and to establish the facts of the event such as are encountered in many homicide investigations.

After being briefed by the IC, investigative officers who are assigned the lead role in an officer-involved shooting should assume responsibility of the shooting scene. Supervisory officers and other police personnel at the scene should, from that point on, answer to the lead investigator who becomes the IC. The investigator should determine the degree to which the foregoing on-scene tasks discussed in this document have been completed and, where deficiencies exist, ensure that these tasks are fully completed.

The previous IC or his or her designee should give the investigator(s) a status briefing and a walk-through of the incident scene. The IACP Psychological Services Section suggests that the officer(s) interview be delayed in order to provide the officer with sufficient "recovery time," which can range from a few hours to several days.⁸ The walk-through is a good way of helping officers recreate the shooting incident in preparation for a formal statement or interview. In the interim, involved officers should be directed to consult with the departmentally authorized mental health provider.

A question sometimes arises in the foregoing context that deserves comment here. That is, some may ask, why a police officer should be given the opportunity to delay making a formal statement to aid in overcoming the "shock disruption period" when a legally armed civilian in a similar shooting situation would not be afforded this opportunity. This question centers on the issue of whether, in the public eye, police departments provide officers with privileges and allowances in shooting situations that are not accorded to civilians and whether this suggests an attempt to influence the findings of a police shooting investigation.

With regard to the use of force in general, and the use of a firearm in particular, there is a substantial difference between how the actions of civilians and police officers should be judged. Police officers are distinguished from a

⁸ *Officer-Involved Shooting Guidelines*, IACP Police Psychological Services Section.

civilian in a number of ways to include their unique legal authority to employ force where reasonably necessary under color of law; the legal requirement that they undergo specialized training as required by the state; the requirement to adhere closely to established legal restrictions, departmental policy, procedures, and rules; and the fact that they are supervised and their performance and judgment evaluated on an ongoing basis. To become a police officer, an individual must pass intensive screening to include background checks and psychological and fitness evaluations.

On the other hand, a civilian's right to use deadly force is narrowly drawn. A civilian is not acting under color of law and is not under the control and management of a department, supervisor, or state authority. A civilian is generally an unknown quantity to police in terms of training, background, psychological status, and other factors. In short, while a community member may perceive partiality provided police in shooting investigations, the reality is that officers are under tight controls, regulations, and scrutiny and their competency documented throughout their careers—none of which are required of a civilian.

Investigators should ensure that all essential details of the shooting have been or are being documented. These include the nature of the call to which the officer was responding; the time it was received, dispatched, and time of arrival; the general circumstances in which suspects were encountered; the time of day of the incident; the weather and lighting conditions; the full identity and assignment of all involved officers, the identities of all persons who have had access to the shooting scene, including emergency medical services (EMS) personnel and firefighters; the time of dispatch and arrival of any backup officers; whether the officers were in uniform or, if in plainclothes, whether they were identifiable as police officers at the time of the shooting; the types of vehicles involved by officers and suspects, if appropriate; and the identities and background of all suspects and others involved in the shooting.

When interviewing witnesses, investigators should be aware of the often fragile nature of perception and memory. This is particularly the case if eyewitnesses have had time to confer with one another about what they saw or believed they saw. Investigators must remain completely neutral and impartial during these interviews and focus on gathering, verifying, and corroborating eyewitness statements. They should never share their opinions or divulge investigative information in an effort to elicit information or statements from witnesses.

The problems associated with the reliability of eyewitnesses and the accuracy and validity of their accounts are well documented. There are no guarantees that their accounts will be trustworthy. How, for example,

do you explain a deadly force incident where one or more seemingly uninvolved and independent witnesses describe the shooting of a suspect in totally different or implausible ways and one or both accounts are contrary to physical evidence. Lying is one, but not the only, explanation. It is possible and has been proven that perception can be colored and influenced by an individual's background, experiences, and predispositions, not to mention the turmoil and emotional impact of a shooting incident.

While law enforcement officers are trained to be exacting in both observation and descriptions, they also are not immune to these same problems of perception. In addition, officer judgments and perceptions can be influenced by heightened levels of fear or anxiety when operating in dangerous environments as well as the psychological trauma of the actual shooting as heretofore described. The vast majority of officer-involved shooting investigations reveal that actions taken by officers were warranted under the circumstances. But, claims by an officer that he or she believed the suspect was armed, was in the process of drawing a firearm, was holding a firearm, or was otherwise posing a threat of death or serious bodily harm, for example, cannot always be taken at face value. Careful collection and examination of physical evidence in conjunction with witness statements will generally prove sufficient to support or refute these claims and thereby focus the investigation.

With these issues in mind at the scene of an officer-involved shooting, investigative officers should ensure that all pertinent evidence has been or is in the process of being collected, in particular, the officer's firearm(s) and ammunition. The officer's firearm and any other firearm discharged during the incident should be taken into custody and handled as evidence and the officer should be provided with another firearm that he or she is qualified to use.⁹ At an appropriate juncture, the serial number, make, model, and caliber of all officer and suspect weapons used at the scene should be recorded. Expended bullets and cartridge casings should be marked, if not already completed, photographed in place, and eventually collected as evidence for forensic examination.

Officer and suspect clothing can provide important (often the most important) information about the shooting and should be preserved. Often the suspect's clothes can prove the proximity of the officer(s) to the suspect; the position of the suspect's arms (either up or down); the distance and trajectory of shots that were fired; or entrance

⁹ The need to conduct forensic comparison of ballistic evidence in officer-involved shootings underscores the importance of obtaining ballistic samples from all officers' primary and backup firearms as part of the agency's firearms authorization requirements. For example, officers should be authorized to carry only departmentally approved firearms and ammunition with specified loads. Ballistic samples of these firearms should be required as part of the authorization process.

and exit points. Examination of the clothing can help prove or refute charges that the officer fired shots while the suspect was handcuffed, lying on the ground, standing with hands and arms raised, or when the suspect was not a threat to the officer. Therefore, investigators should ensure that arrangements have been made to secure this clothing before it is discarded by emergency service workers, hospital personnel, or others.

Voice transmissions are also potentially important pieces of information or evidence. Therefore, arrangements should be made during the course of the investigation to identify and interview the complaint taker and dispatcher who handled the incident and to secure and review all recorded voice and data transmissions surrounding the incident, to include the logs of mobile data terminals (MDTs) where employed. Video recordings, audio recordings, or both may also be available through devices mounted in patrol vehicles and on Tasers, personal recording devices worn by officers, and a commercial or governmental surveillance camera. However, these should not be provided for viewing by involved officers during or prior to questioning.

In obtaining statements during the course of the investigation, investigators should not overlook information and observations made by emergency service personnel such as paramedics and firefighters. Often, these are the first responders to the scene and have dealt directly with the suspects and officers immediately following the shooting. Their initial impressions concerning the circumstances of the incident upon their arrival, what may have been said by those involved, actions taken at the scene, and other matters can be of great value to the investigation.

Tape-recorded interviews should be conducted with each officer irrespective of statements made previously at the scene. By recording interviews, the department ensures the existence of an accurate record. Group interviews should not be conducted since group dynamics can negatively influence individual recall and judgment. Individual officers may also not be inclined to offer views and opinions that differ from the majority of officers present. Individual interviews of all involved officers should be conducted, and each involved officer should prepare a written report on the incident that should be attached to the investigative officers' final report. These interviews should be conducted in a private location away from sight and hearing of other agency members and persons who do not have a need and a right to the information solicited from the officers.

When time permits, investigators may follow up on leads and additional points of contact. For example, all pertinent suspect information should be obtained, such as a complete description and any prior criminal records to include parole or probation history. Search warrants

for suspect residences and any vehicles involved in the incident should be obtained and searches conducted where appropriate in a timely manner.

If officers or suspects have died, it is particularly important to work closely with the coroner or medical examiner's office, including attending the autopsies. Among issues of importance are those related to the determination of entrance and exit wounds,¹⁰ estimates of shooters' positions, the presence of any controlled substances in the decedents' blood, and related matters.

The lead investigator should brief the agency chief executive as soon as practical once preliminary results of the investigation have been established.¹¹ Following this, with approval of the agency chief executive or his or her designee, a staff memorandum should be prepared that provides the general facts of the incident. This memorandum should be posted or distributed to all personnel as soon as possible following the shooting. By doing so, staff rumors can be kept to a minimum and concerns over unknown circumstances of the event can be resolved before speculation supplants fact.

An additional briefing of the prosecutor's office is also necessary in a timely manner following the shooting incident. In some cases, a member of the prosecutor's office will respond to an officer-involved shooting as a matter of established protocol. Nonetheless, the police agency should make a preliminary statement of facts as soon as possible to the prosecutor's office and work with them closely throughout the investigation. This statement may then be released to the press with the approval of the agency chief executive or other designated personnel.

¹⁰ The importance of employing experienced officers who are completely familiar with shooting investigations cannot be overemphasized. For example, recent research has demonstrated that normal delays in the reaction time of officers in hostile shooting encounters often explain unusual bullet entrance and exit wounds of suspects and others, to include seemingly unexplained and suspicious shots to the suspect/victim's back. The entrance wounds of bullets do not always provide a full explanation of the circumstances surrounding the shooting event. Only highly trained and experienced investigators can decipher the full range of potential evidence involved in a complex shooting investigation.

¹¹ For a discussion of procedures to be used in the event that criminal or administrative charges are brought against an officer in the course of a shooting or other investigation, see *Model Policy and Concepts and Issues Paper on Investigation of Employee Misconduct*, National Law Enforcement Policy Center, International Association of Chiefs of Police, Alexandria, Va.

III. PROCEDURES: IN-CUSTODY DEATHS AND SERIOUS INJURIES

A. Definition of In-Custody Death

The model policy defines an in-custody death as the death of an individual while in custody or while attempts to effect custody are being made. It is meant to indicate only that the subject died while he or she was the subject of law enforcement actions.

Investigation of incidents in which suspects die in police custody or are seriously injured (absent the use of firearms) in many ways mirror procedures related to officer-involved shootings; yet there are some differences in the types of investigative inquiries that should be made. Requirements related to protection of the incident scene, personnel notifications, establishment of a security perimeter, identification of witnesses, location and collection of evidence, incident scene photography, and the use of the incident command system are among the many tasks that should be undertaken to some degree during investigations of in-custody deaths or serious injuries.

B. In-Custody Death Investigations

Information gathered by emergency communications personnel from reporting parties can prove particularly helpful during investigations of in-custody deaths. Some of the information provided and circumstances surrounding the call can provide leads that may point to the possible cause or contributing cause of death. These include such things as background noises like shouts, screams, or specific words; information provided about the subject's behavior; use of drugs or alcohol; the presence of weapons; prior police interventions; or potential mental health concerns.

During officer interviews, investigators should attempt to reconstruct circumstances and conditions at the incident scene. For example, was the subject

- calm or emotionally charged;
- sitting, standing, pacing, or running;
- seemingly rational or confused in manner or speech;
- communicating in a reasonable manner or displaying difficulty in conversing;
- acting in a delusional manner or hallucinating;
- perspiring or breathing heavily;
- visibly injured or complaining of injury;
- wearing inappropriate clothing for the conditions, or in a state of undress;
- armed with a weapon;
- threatening others or threatening to do harm to him- or herself;

- exhibiting a high tolerance for pain, unusual strength or endurance; or
- physically exerting him- or herself?

Family and friends at the scene of the incident may have been able to provide some of the foregoing information to involved officers if time and circumstances permitted. These individuals should also be interviewed by investigators.

What measures did the officer(s) use to gain control of the subject and take him or her into custody? For example, were efforts taken to deescalate the situation by talking the subject down in a nonconfrontational, reassuring manner; asking simple questions; maintaining some distance from the subject; and attempting to reduce confusion by turning off vehicle sirens and directing others to move away from the incident scene? Other areas of inquiry may include the following.

- Why was custody required? For example, did the subject commit or threaten to commit a crime, or were his actions in general posing a threat to others?
- At what point did officers take measures to gain control of and take the subject into custody? How long did it take to gain control of the subject, and, if there was a physical altercation, how long did it last? What means were used to restrain the subject and where and how was he or she placed following custody and pending transportation (e.g., standing, sitting, or lying down on one side or facedown)?
- Did the subject make any comments following his or her arrest and did he or she become submissive, passive, or unresponsive? Did he or she complain of any physical injuries, difficulties in breathing, or other physical problems?
- Were EMS personnel called to the scene? If so, why and what actions did EMS personnel take?
- If EMS was not summoned, was the subject monitored routinely for any physical difficulties in breathing, or other physical ailment? Did the subject lose consciousness at any time or did he or she become unresponsive following custody? If so, what measures were taken?
- When, where, and by whom was death pronounced? If an autopsy was performed, what were the results?

C. Serious Uses of Force

In addition to the topics of inquiry and investigation noted in investigation of officer-involved shootings and in-custody deaths, there are some additional issues that should be explored when officers are involved in situations that result in serious injuries or serious uses of force to suspects or other third parties. Serious uses of force, in the context

of this paper and the associated model policy, is defined as any use of force that results, or is reasonably likely to result, in death, permanent or substantial injury, loss of any body part or function, or permanent disfigurement. Also included are situations in which a person is admitted to a hospital as the result of police use of force. Among the issues that may be subject to inquiry and investigation in this regard are answers to the following questions.

- What was the conduct and behavior of the subject being confronted as perceived by the officer(s) at the time of the incident? One can draw upon the types of questions outlined in the foregoing section for this inquiry.
- What was the relative age, size, strength, and physical capability of the officer compared to the subject?
- What was the experience of the involved officer in terms of years of service, types of assignments, and training?
- How many officers were present?
- Were illegal or prescription drugs or alcohol factors in the incident?
- Was the subject armed or within close proximity to weapons or had the subject already been frisked for weapons? Had he or she threatened the use of violence?
- What reasonable force options were available to the officer to bring the situation under control?
- Was the subject suspected of committing a serious or violent offense and was the officer aware of the subject's criminal history?
- Was it reasonable to believe that the subject was, or would represent, a danger to the public if he or she escaped? What was the risk of escape?
- To what degree and in what manner did the subject resist arrest or otherwise use force against the officer or others?
- What types of restraints were used on the subject?

D. Force Review Board

Once an investigation is completed, some agencies bring these findings to a Force Review Committee, Shooting Review Committee, Board of Inquiry, or similar entity within the organization that sits on an ad hoc basis to review these findings. These inquiries should not be punitive in nature as matters of criminal or civil liability or administrative punishment for involved officers should be dealt with through other established agency procedures. Rather, the scope and intent of these forums is to assess such incidents to determine whether they have any implications for the department's training function, policies, and procedures. These forums are an effort to bring together all elements of an investigation in a risk

management context to improve the agency's response to these critical incidents and to make any corrections in agency practice or procedure that will help avoid identified problems in the future.

These reviews should be conducted by command level officers, personnel at the supervisory level who were not involved in the incident and investigation, and any other agency specialists who can provide insight to the incident. The committee should review the reports and interview materials of involved officers, first responders, supervisors, and investigators. On initial review of this material, additional clarification may be required by personnel tasked with the initial investigation of the incident, tactical or specialist teams, or others. Upon completion of this review, findings and recommendations may be made concerning modifications in established agency policy, training, supervision, equipment, or related matters.

Every effort has been made by the IACP National Law Enforcement Policy Center staff and advisory board to ensure that this document incorporates the most current information and contemporary professional judgment on this issue. However, law enforcement administrators should be cautioned that no "model" policy can meet all the needs of any given law enforcement agency. Each law enforcement agency operates in a unique environment of federal court rulings, state laws, local ordinances, regulations, judicial and administrative decisions and collective bargaining agreements that must be considered. In addition, the formulation of specific agency policies must take into account local political and community perspectives and customs, prerogatives and demands; often divergent law enforcement strategies and philosophies; and the impact of varied agency resource capabilities among other factors.

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**OFFICER-INVOLVED SHOOTINGS,
IN-CUSTODY DEATHS AND SERIOUS
USES OF FORCE**

Model Policy

<i>Effective Date</i> May 2012		<i>Number</i>	
<i>Subject</i> Officer-Involved Shootings, In-Custody Deaths and Serious Uses of Force			
<i>Reference</i>		<i>Special Instructions</i>	
<i>Distribution</i>		<i>Reevaluation Date</i>	<i>No. Pages</i> 5

I. PURPOSE

It is the purpose of this policy to provide guidelines for the investigation of officer-involved shootings. The policy also provides guidance for investigation of in-custody deaths and other serious uses of force.

II. POLICY

It is the policy of this department that officer-involved shootings, whether on or off duty, be investigated so as to determine whether officer actions conform with law and this department's policy, procedures, rules, and training. This policy may also apply to the investigation of situations in which a person dies while in police custody or while an officer is attempting to effect custody and other serious uses of force.

III. DEFINITIONS

Companion Officer: An officer assigned to another officer to provide emotional support and assistance following a critical incident, such as an officer-involved shooting. The assigned officer is normally a member of the department's peer support program but may also be another officer who has had a similar experience, a close friend, or both.

Critical Incident: An incident that is unusual, is violent, and involves perceived threat to, or actual loss of, human life. The incident is a significant emotional event that breaks through an individual's normal coping mechanisms and may cause extreme psychological distress.

In-Custody Death: The death of an individual while in custody or while attempts to effect custody are

being made.¹

Involved Officers: Unless otherwise indicated, refers to those sworn personnel in on-duty or off-duty status who discharge their firearm in a hostile situation or by accident; arrest or are in the process of arresting an individual who subsequently dies; engage in other serious uses of force; and are direct witnesses to such events.

Officer-Involved Shooting: A discharge of a service weapon by an officer during a hostile encounter or an accidental discharge, while on-duty or off-duty, irrespective of injuries to suspects, officers, or third parties.

Serious Use of Force: Any use of force that results, or is reasonably likely to result, in death, permanent or substantial injury, loss of any body part or function, or permanent disfigurement. Also included are situations where a person is **admitted** to a medical facility for treatment that is the result of police use of force.

IV. PROCEDURES

- A. Officers shall be thoroughly familiar with this department's policies on Post-Shooting Personnel Support and Critical Incident Stress Management.² Awareness of and attempts to mitigate the potential effects of critical incident stress, combined with professionally accepted investigative procedures

¹ Note: This policy does not cover jail or prison settings. For more information, please contact the American Correctional Association

² For more information for officers who discharged their weapons, please refer to the IACP *Model Policy on Post-Shooting Personnel Support*, IACP National Law Enforcement Policy Center, Alexandria, Va. For officers who witnessed the incident, but did not discharge their weapons, please see the IACP *Model Policy on Critical Incident Stress Management*, National Law Enforcement Policy Center, Alexandria, Va.

provide the best opportunity for establishing an accurate record of events surrounding officer-involved shootings.

- B. Officers involved in a shooting incident shall, to the degree reasonably possible, take initial steps to protect their safety and to preserve evidence.

C. Incident Command Responsibilities

The ranking officer at the scene shall serve as incident commander (IC) and brief superior officers of investigation status when turning over IC responsibility. The IC shall assign responsibility for completion of the following tasks as appropriate and in the order deemed necessary.

1. Identify any remaining threats and take necessary action.
2. Determine the physical condition of officers, suspects, and third parties; provide emergency first aid if necessary; and ensure that emergency medical assistance has been summoned.
3. Ensure that a brief public safety statement is collected individually from the involved officer(s), covering only information necessary to focus initial police response and direct the preliminary investigation. This includes information on
 - a. type of force used;
 - b. direction and approximate number of shots fired by officers and suspects;
 - c. location of injured persons;
 - d. description of at-large suspects and their direction of travel, time elapsed since the suspects were last seen, and any suspect weapons;
 - e. description and location of any known victims or witnesses;
 - f. description and location of any known evidence; and
 - g. any other information necessary to ensure officer and public safety and to assist in the apprehension of at-large suspects.
4. Ensure the adequacy of the inner perimeter. Direct that an outer perimeter be established to prevent all from entering except those who have a specific function to perform. Ensure the names of all those who enter the perimeter are recorded.
5. Locate and secure—or secure in place—the officers' weapon(s) and mark expended ammunition casings. Physically check the firearms and other weapons of all officers who were present during the incident for evidence of a discharge. Weapons that were fired shall be secured as evidence, and primary service firearms shall be replaced by a similar firearm as soon as

reasonably possible.

6. Locate and secure in place weapons, ammunition, and expended cartridges used by the suspect.
7. Collect information available about the suspect from anyone at the scene.
8. Ensure that all potential witnesses have been identified and separated and ask that they remain on hand to provide a statement. If witnesses wish to leave, obtain their contact information for future communications.
9. Locate and secure as evidence any clothing or other personal items that may have been discarded or removed from suspects or officers by medical personnel.
10. Determine and mark the position(s) of the officers and the suspects at the time of the shooting.
11. Separate and remove all involved officers from the immediate scene. Ensure that a companion officer is assigned to each.
12. Direct all involved officers not to discuss any aspects of the shooting among themselves or with others with the exception of their attorney, a qualified mental health professional, or authorized investigative personnel.
13. If an officer is transported to the hospital, ensure that the companion officer accompanies or meets him or her there.
 - a. The companion officer should provide all reasonable support to the involved officer and act as liaison between the officer and the hospital.
 - b. If the officer is incapable of calling, the companion officer shall notify or ensure that another department member notifies his or her immediate family as soon as possible and in person, whenever reasonably possible. The notification shall provide the family members with basic information on the status of the officer and when and where they will be able to see him or her. At this time the companion officer shall arrange for their transportation to the hospital or other location as required. In the case of serious injury or death, notifications shall be conducted in conformance with the department's Death Notification policy.³
14. Whenever possible, photograph officers as they appear at the scene, to include any injuries sustained.

³ Please see the IACP *Model Policy on Line-of-Duty Death and Serious Injury*, IACP National Law Enforcement Policy Center, Alexandria, Va.

15. Offer a peer support counselor to the involved officer's family for security, support, and management of media inquiries and visitors.
 16. Ensure all necessary department notifications have been made, such as those to the following:
 - Chief of police or sheriff
 - Patrol commander
 - Homicide shooting team
 - Internal affairs
 - Evidence technicians
 - Public information officer
 - Coroner or medical examiner
 - Legal advisor and/or assistant district attorney
 - Department chaplain, police advocate, qualified mental health professional, or peer support program coordinator
 17. Establish a command post when it appears that an extended on-site investigation will be necessary.
 18. Appoint an officer to serve as a "recorder," with responsibility for making a chronological record of activities at the scene, to include persons present and those who have been at the scene and actions taken by police, EMTs, or other personnel.
 19. If equipment is available, ensure that video recordings are made of the entire crime scene and those present, including witnesses and bystanders. Determine if video recordings were made by in-car cameras, electronic control weapons, or surveillance cameras and secure them as evidence as soon as reasonably possible.
 20. Ensure that a media staging area is established beyond the outer perimeter and that it is appropriately staffed.
 21. Place officers who discharged their weapons on mandatory leave with pay.
 22. The agency shall facilitate contact with, and involved officers will make themselves available to meet with, the department's designated qualified mental health provider within 24 hours of the incident, as prescribed by this department's policies on Post-Shooting Personnel Support and Critical Incident Stress Management.
- D. In-Custody Death Investigations
- Facts that are germane to investigations of in-custody deaths include, but are not limited to, the following:
1. Information noted by the dispatcher from background noises during the call, as well as information provided by the reporting party that may be related to the subject's behavior, use of drugs or alcohol, previous law enforcement encounters, presence of weapons, and mental health concerns.
 2. Officer observations of the subject's behavior in the course of making the arrest, for example, was the person
 - a. calm or emotionally charged,
 - b. rational or confused,
 - c. able to communicate or difficult to engage in conversation,
 - d. experiencing hallucinations or delusions,
 - e. perspiring heavily,
 - f. wearing inappropriate clothing or in a state of undress,
 - g. exhibiting a high tolerance for pain, or
 - h. engaging in a protracted physical encounter with officers?
 3. Whether family or friends indicate that the subject had been drinking heavily, using drugs, or both; whether the subject had been involved with the police on prior occasions; any other relevant information provided; and whether the subject was threatening anyone or in possession of a weapon.
 4. Whether the subject was visibly injured in any way when the police arrived and what, if any injuries were sustained prior to death.
 5. What measures the officer(s) took to gain control and custody, such as
 - a. attempting to calmly "talk the person down,"
 - b. maintaining distance,
 - c. reducing noise by turning off sirens,
 - d. reassuring the subject,
 - e. buying time,
 - f. asking simple questions to determine the subject's level of coherence,
 - g. attempting to deescalate the situation or other actions, and
 - h. directing others at the scene to move away?
 6. Whether custody was required.
 7. The length of time it took to gain control of the subject. Whether there was a protracted struggle or the subject was subdued quickly.
 8. The means used to restrain the subject.
 9. When in custody, where and how the individual was situated (e.g., placed facedown on the ground, in a seated position, in a police vehicle sitting or lying down).
 10. The physical reactions of the subject once arrested. For example, did he or she become calm or continue to struggle and act physically

and verbally combative?

11. Whether EMS was called and, if so, at what point during the confrontation.
12. Whether the subject's condition (such as breathing and consciousness) was monitored after arrest. Whether the subject became unresponsive, who was present at the time, and what steps were taken by the officer(s).
13. When death was pronounced and by whom and the results of the autopsy.
14. The information provided in the subject's medical history and lifestyle.
15. If the subject did not die but was seriously injured or admitted to a medical facility, discover the answers to these questions:
 - a. What were the nature and severity of the injuries?
 - b. Were the injuries consistent with the use of force described by the officer(s)?

E. Serious Injury

Where serious injury is reported, investigators shall gather relevant information and take actions deemed appropriate from the foregoing section of this policy in addition to collecting information on the following:

1. Conduct and behavior of the subject being confronted as perceived by the officer at the time of the incident
2. The relative age, size, strength, and physical ability of the officer to the subject
3. Experience of the officer
4. The number of officers present
5. Potential influence of alcohol or drugs
6. Subject's proximity to weapons
7. Weapons used or threatened to be used by the subject
8. Force options available to the officer
9. Seriousness of the offense, basis for subject contact, and information known about the subject by the officer
10. Potential for injury to the public, officer, or subject
11. Risk of escape
12. Degree of subject resistance
13. Use of restraints
14. Other exigent circumstances

F. Investigator's Responsibilities

1. The lead homicide investigator whenever possible shall do the following:
 - a. Receive a briefing from the IC including details of the incident as available, a summary of all actions completed or in progress as noted in items B. and C. of this policy and be provided a walk-through of

the incident scene.

- b. Ensure that all items of potential evidentiary value are identified and properly collected.
 - c. Obtain audio-taped preliminary statements from suspects and witnesses.
 - d. Ensure that efforts are under way to collect and compile information on the suspect(s).
2. Consult with the coroner or medical examiner at the scene and at, or subsequent to, the autopsy, and compile information as available, such as, entrance and exit wounds, estimates of shooters' positions, the presence of alcohol or controlled substances in the suspect's body, and any other facts that may be deemed relevant.
3. Canvas the immediate area for potential witnesses who have not come forth and obtain information or statements as available.
4. Obtain search warrants for any vehicles, containers, homes, or vehicles as may be necessary.
5. Where possible, tape record interviews with EMTs, fire department personnel, and first responding officers regarding conditions at the shooting scene when they arrived to include any action that may have been taken to move or otherwise alter persons or objects of potential evidentiary value.
6. Develop a summary of preliminary information concerning the shooting for the chief executive officer.

G. Investigative Process

The investigation of officer-involved shootings shall normally be conducted in two separate parts and by separate authorities—a criminal investigation and an administrative investigation. The criminal investigation is normally completed by homicide investigators prior to the administrative investigation, which is most often conducted by the department's internal affairs authority, although circumstances may dictate that concurrent investigations be undertaken.

1. Criminal Investigation Phase

The lead homicide investigator shall manage the criminal investigation unless, by interagency agreement, the lead is passed to another investigative authority. Parallel or sequential criminal investigations, one investigation related to state offenses and the other by federal authorities relating to offenses under federal law, may be undertaken but are not typical. Upon completion of the criminal investigation, findings shall be submitted to the

department's chief executive officers and the office of the district attorney or the appropriate prosecuting agency.

2. Administrative Investigation Phase

This investigation, undertaken by the department's internal affairs authority, must be kept separate and apart from the criminal investigation. It is intended to determine whether violations of departmental policy, procedures, rules, or training have occurred and, if so, whether disciplinary action should be recommended or modifications to policy, procedures, or training considered.

3. Criminal investigators may not be present during internal affairs questioning nor may information gained as a result of administrative interviews be shared with criminal investigators.
4. All interviews shall be audio- and videotaped in order to provide evidentiary record of statements.
5. Investigators shall be cognizant of symptoms of post-traumatic stress during officer interviews, such as time and space distortions, confusion, hearing and visual distortions associated with recalling details of the incident, as well as emotional impairment during questioning.
6. Officers shall file individual use of force reports. The OIC shall prepare a separate overall use of force report and attach the individual reports for submission to the chief executive officers and the office of the district attorney.

Every effort has been made by the IACP National Law Enforcement Policy Center staff and advisory board to ensure that this document incorporates the most current information and contemporary professional judgment on this issue. However, law enforcement administrators should be cautioned that no "model" policy can meet all the needs of any given law enforcement agency. Each law enforcement agency operates in a unique environment of federal court rulings, state laws, local ordinances, regulations, judicial and administrative decisions and collective bargaining agreements that must be considered. In addition, the formulation of specific agency policies must take into account local political and community perspectives and customs, prerogatives and demands; often divergent law enforcement strategies and philosophies; and the impact of varied agency resource capabilities among other factors.

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IACP LAW ENFORCEMENT POLICY CENTER

Reporting Use of Force

Concepts and Issues Paper

March 2017

I. INTRODUCTION

A. Purpose of the Document

This paper is designed to accompany the *Model Policy on Reporting Use of Force* established by the IACP Law Enforcement Policy Center. This paper provides essential background material and supporting documentation to provide greater understanding of the developmental philosophy and implementation requirements for the model policy. It is anticipated that this material will be of value to law enforcement executives in their efforts to tailor the model to the requirements and circumstances of their communities and their law enforcement agencies.

B. Background

Law enforcement use of force is a matter of the highest concern among law enforcement administrators and officers. To meet the many questions that arise internally and externally around this issue, there must be systematic reporting of use of force by law enforcement officers.

Both the mission of law enforcement and the circumstances that law enforcement officers encounter in their patrol and related duties make it inevitable that, from time to time, force will have to be used. However, as any law enforcement officer or executive knows, when force is used, questions arise as to whether the use of force was necessary, or, if it was necessary, whether the degree of force used was appropriate.

In recent years, a number of well-publicized incidents occurred in which the use of force by law enforcement was scrutinized. Some of these incidents have created public outcry and generated severe criticism of law enforcement, not only by the public and the news media, but also by the courts that have been called upon to address these cases. In

some cases, these incidents have come under investigation by the Civil Rights Division of the U.S. Department of Justice under provisions of 42 U.S.C. §14141 where a pattern or practice of unconstitutional conduct has been identified or is suspected. Many of these investigations involve use of force and force reporting issues. These investigations can, and have, resulted in consent decrees that can enforce considerable agency changes, extend for years, and cost local governments millions of dollars. In addition, in May 2015, calls for reforms reached the highest levels of government and resulted in a report by the President's Commission on 21st Century Policing.¹

For these and other reasons, it is essential that every law enforcement agency ensure and be able to document that its officers employ only the force that is objectively reasonable to effectively bring an incident under control and only the level of force that a reasonably prudent officer would use under the same or similar circumstances.² While law enforcement executives may encounter initial resistance in response to increased use-of-force reporting requirements, it must be stressed that the information collected can be used for a variety of purposes, not the least of which is to protect officers. For example, agencies are in a much better position to defend themselves against charges of excessive force if they can document the types of situations in which their officers have used force. By combining a strong policy on use-of-force compliance with officer training, supervision, and discipline in this area, law

¹ The President's Task Force on 21st Century Policing, *Final Report of the President's Task Force on 21st Century Policing* (Washington, D.C.: Office of Community Oriented Policing Services, 2015), http://www.cops.usdoj.gov/pdf/taskforce/taskforce_finalreport.pdf.

² See ASCIA, CALEA, FOP, FLEOA, IACP, HAPCOA, IADLEST, NAPO, NAWLEE, NOBLE, and NTOA, *National Consensus Policy on Use of Force*, January 2017.

enforcement agencies can better apply internal controls and more readily defuse charges that can tarnish officer and agency credibility within the community.

C. Federal Use-of-Force Data Collection Efforts

In response to the lack of reliable, nationwide data on law enforcement use of force, the Federal Bureau of Investigation (FBI) formed a task force to address this dearth of data. As a result of the work of this task force, the FBI is creating the National Use-of-Force Data Collection reporting portal to provide a standardized means for the voluntary submission of data related to law enforcement use of force. However, only information related to uses of force that result in death or serious bodily injury³ and discharges of a firearm at or in the direction of an individual will be collected in the portal.

While the information collected in the FBI portal is crucial for a better understanding of trends regarding serious uses of force, for internal purposes such as early warning systems and liability assessments, agencies should also collect data on incidents beyond those included in the portal.

II. POLICY RECOMMENDATIONS

Because of the foregoing reasons and the adverse consequences that a failure to control agency use of force might entail, positive steps must be taken by each law enforcement agency to ensure that use-of-force is strictly monitored. In addition to the reporting requirements that are the focus of this document, a comprehensive approach may be divided into five categories:

- *Policies.* The agency must establish policies that effectively govern use of force and reporting use-of-force incidents.
- *Training.* The agency must train its officers to ensure that they all understand the policies' provisions and adhere to them.
- *Monitoring.* The agency must monitor use-of-force policy compliance by effective first-line supervision and by establishing and maintaining a system of reporting of all use-of-force incidents.
- *Sanctions.* The agency must be prepared to take prompt, effective action against officers who employ excessive force in violation of the agency's policies.

- *Public Disclosure.* The agency should issue reports on use of force in a summary manner that are available to the public. It has been demonstrated that transparency enhances public trust and demonstrates that an agency adheres to constitutional policing.

A. Policy

Every agency must establish a written policy setting forth the guidelines for the use of force. Such policies should be carefully drafted to ensure that they specifically and clearly define agency requirements—yet provide enough flexibility to deal with the infinite variety of situations that officers may face in the field. The policy must not impose requirements that cannot or will not be observed by officers in use-of-force situations.⁴

As noted, agency policies should not only address the use of force, but also require the reporting of incidents in which force is used. Without this stipulation, the agency will be unable to determine whether the use-of-force policy is being followed, the number of incidents that occur, the types of force employed, or the circumstances surrounding those incidents. The authority to use force carries with it the need for accountability in order to safeguard the rights of the public and to preserve the integrity of the law enforcement agency. As such, it should be the policy of law enforcement agencies that uses of force, as designated by the agency, be reported in a timely, complete, and accurate manner by involved officers and those who witnessed the use of force.

The agency must define the instances in which reporting use of force is required. The policy should ideally cover, with a few specific exceptions, the reporting of any use of force occurring while an officer is acting in his or her official law enforcement capacity, whether on- or off-duty, in uniform, in plainclothes, or on undercover assignment. Uses of force should include, but need not necessarily be limited to the following:

- *Physical Force:* Use of any part of the officer's body, such as open-handed strikes, punches, or kicks, and the use of law enforcement horses or canines.
- *Chemical Force:* Use of any chemical irritant such as o-chlorobenzylidenemalononitrile (CS) or oleoresin capsicum (OC) aerosol or foam spray.
- *Impact Force:* Use of any issued impact weapon (e.g., nightstick, baton, flashlight, bean bag round, or similar impact projectile) or other object.
- *Electronic Force:* Use of any electronic control device.

³ Serious bodily injuries are defined by the FBI based on 18 U.S.C. 2246 (4) as those involving a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

⁴ See ASCIA, CALEA, FOP, FLEOA, IACP, HAPCOA, IADLEST, NAPO, NAWLEE, NOBLE, and NTOA, *National Consensus Policy on Use of Force*.

- *Firearms Force*: The displaying of a firearm for purposes of compelling compliance, to include pointing the weapon at an individual, or discharging a firearm.
- *Vehicular Force*: The deliberate use of a vehicle in such a way that could reasonably cause bodily injury. This use of force may include ramming a subject vehicle during a vehicular pursuit or use of the precision immobilization technique (PIT) maneuver or roadblocks to stop a fleeing subject's vehicle.

For the purposes of this document, use of force should not include the application of handcuffs or similar restraints; the physical removal of passively resisting demonstrators; the mere presence of officers, horses, or canines; or the issuance of verbal commands. In addition to the recommendations included in the model policy, some agencies may elect to include anytime an officer draws a firearm outside of training to provide for self-protection, whether or not the weapon is pointed at an individual.

B. Actions Following the Use of Force

Following a use of force, the officer who employed the force should immediately verbally notify his or her supervisor. Notification should also be made by any officer who witnessed the use-of-force incident. These reports should be made without delay so that the time, place, nature of the force used, and the circumstances surrounding the use of force become a matter of record. Immediate establishment of the facts protects both the officers and the agency from later charges arising from the incident. Also, corroboration of the account of the officer who employed the force by other officers who witnessed the incident serves to verify the individual officers' reports.

The notifications described above should be followed up with a written report of the incident as soon as possible, but no later than the end of shift. Note that the officer who employs the force and any officers who witnessed the incident should file separate reports. In some agencies, the supervisor collects the information provided in the initial notifications and then combines it into one written report. Whichever way is selected, it is important that the report be as comprehensive and accurate as possible.

The written report should conform to the previously reported facts, or, if there is a discrepancy, this discrepancy and the reasons for it should be clearly stated in the written report. This will substantiate the original notifications of the incident and minimize the possibility of contention by a civil plaintiff or criminal defendant. All reports should be comprehensive and provide the level of specificity necessary to fully document the force response. The reports should be an accurate account of what the officer knew, observed, or believed at the time of the incident. Any

information that is revealed following the incident should not be included in the initial report, but should instead be noted in a supplemental report. The reasoning behind this is that the legal basis for determining whether the use of force is justified is based on what the officer believed to be true at the time of the incident, rather than in hindsight.⁵

The following is a list of the types of information that should be captured in use-of-force reports; however, this list is not meant to be an exhaustive index of potentially pertinent information. The list ensures that agencies collect, at a minimum, the data necessary to meet the FBI reporting portal requirements related to uses of force.

- The nature of the incident
- Where (address or latitude and longitude) and when (date and time) the incident took place
- Location type of the incident (using location codes from NIBRS)
- Whether the incident was in response to a call for service or an officer-initiated action
- Information on the subject, including age, sex, race, and ethnicity
- Information on the officer including age, sex, race, ethnicity, years of service, and whether serving full-time
- The size and build of the subject in relationship to the officer
- Reason for initial contact between the subject and officer, including any suspected unlawful or criminal activity
- Whether the incident was an ambush
- Whether the officer was
 - Readily identifiable as law enforcement, including whether he or she was in uniform or plainclothes;
 - operating a marked or unmarked law enforcement vehicle or on foot patrol;
 - on or off duty; and
 - accompanied by other officers
- Whether a supervisor or a senior officer acting in a supervisory capacity was present or consulted at any point during the incident
- Whether backup was requested and if so, when it arrived
- Whether the officer approached the subject or was approached by the subject
- Whether associates of the subject were present at the time
- Whether witnesses were present at the time

⁵ See *Graham v. Connor*, 490 U.S. 386 (1989) – “the ‘reasonableness’ of a particular use of force must be judged from the perspective of a reasonable officer on the scene, rather than with the 20/20 vision of hindsight.”

- Whether there was any cause to believe the subject was armed or hostile
- The subject's general demeanor including any known or apparent impairments
- Any verbal exchange that transpired
- The full circumstances that supported a detention or arrest decision, where applicable, to include the severity of the crime or evidence discovered prior to the detention or arrest attempt by the officer(s)
- Any threat to the officer or another person
- Type, intensity, and duration of resistance to arrest by the subject, to include any threat to others
- Any de-escalation attempts made
- Any force options available to the officer and the reason for the level of force response employed
- Any subject and officer injury or complaint of injury, medical treatment received, or refusal of medical treatment
- Photographs of subject and officer injuries
- Video and audio recordings made of the incident, including those made by body-worn cameras

C. Supervisory Responsibilities

It is essential that first-line supervisory officers ensure that agency policies and procedures are followed. Failure to fulfill supervisory responsibilities in connection with a use-of-force incident may result in civil liability for the supervisor, as well as for the agency and the involved officers.

When a notification concerning use of force is received, the officer's immediate supervisor should respond to the scene on a priority basis. The supervisor should then undertake, at a minimum, the following duties:

- Document both the officer's and the subject's statements regarding the event. This should include statements regarding the actions taken, injuries sustained, and medical treatment needed or desired.
- Identify and interview witnesses. Even when the officers on the scene have interviewed a witness, the supervisor should conduct a corroborative interview and resolve any conflicts between the witness's statements and the account of the officer.
- Ensure that details of the scene of the incident are documented as necessary for future reference, to include photographing and/or videotaping of the scene.
- Ensure that medical attention for anyone at the scene has been obtained if required or requested. If a health care provider conducts an examination, he or she should be interviewed regarding the injuries, if any were sustained during the incident. The health care provider's view of the consistency

of the injuries with the reported use of force should also be obtained.

- Complete a supervisor's use-of-force report.

In addition to the above, the supervisor should notify the appropriate agency investigative authority, through the chain of command, whenever there are injuries or complaints of injury, hospitalization, or death to a person or officer resulting from a use of force.⁶

D. Force Analysis and Assessment

The agency's internal affairs or other appropriate investigative authority should review all use-of-force reports. Further investigations should be conducted in cases where there are inconsistencies in reports by officers, supervisors, or witnesses; in instances of irregularities in reports; or in other cases deemed necessary.

All uses of force that result in injury, serious bodily injury, or death to a subject or officer should be reviewed by the agency chief executive or his or her designee in order to identify any deficiencies in agency policy, procedures, rules, training, supervision, equipment, or any aspects of organizational culture that may have a negative impact on officer use of force. In any use-of-force incident in which a subject has died or received serious bodily injury, information should be provided to the public in a timely manner on the results of an internal investigation or an investigation conducted by another authorized law enforcement agency.

An analysis of force reports should be conducted by the internal investigation authority or another entity designated by the agency chief executive on a regular basis. In addition to this analysis, an annual summary of all use-of-force incidents should be prepared and provided to the public. This summary should include basic details of force incidents and the findings of any internal or external investigations or reviews. The summary should strive to enhance the transparency of use-of-force incidents and the investigation of these incidents by the agency, while balancing the need for confidentiality in accordance with applicable laws.

In addition to internal reporting requirements, agencies should report all relevant statistical data related to serious uses of force, as previously defined, to the FBI National Use-of-Force Data Collection reporting portal. While this reporting requirement is voluntary, it is crucial to provide reliable nationwide data on the overall frequency and outcomes of law enforcement use of force—data that are currently unavailable.

⁶ Incidents in which a use of force results in death or serious bodily injury to a subject or an officer require that reporting and investigations be conducted in a systematic manner. For information on responses to these incidents, see *IACP Model Policy and Concepts and Issues Paper on Officer Involved Shootings, In-Custody Deaths and Serious Uses of Force*.

E. Conclusion

Because of the many concerns related to the use of force by law enforcement, both professionalism and the protection of officers require that use of force by officers be documented and monitored. Good reporting procedures, well drafted and properly enforced, represent the best defense that an agency can have against allegations of excessive force or brutality, either in individual incidents or as a matter of general agency behavior. Failure of an agency to respond to allegations of these types because of a deficiency in the collection of essential information on the subject risks not only the professional careers of its officers but the agency's overall credibility within the community. Through analysis of the data obtained, agencies can better determine if their policies and training are adequate and be better suited to make adjustments where necessary in a nimble, efficient manner. In addition, the information gathered through use-of-force reports and subsequently shared with the public increases transparency, in turn fostering public trust.

Every effort has been made to ensure that this document incorporates the most current information and contemporary professional judgment on this issue. Readers outside of the United States should note that, while this document promotes procedures reflective of a democratic society, its legal basis follows United States Supreme Court rulings and other federal laws and statutes.

Law enforcement administrators should be cautioned that no "model" policy can meet all the needs of any given law enforcement agency. Each law enforcement agency operates in a unique environment of court rulings, state laws, local ordinances, regulations, judicial and administrative decisions and collective bargaining agreements that must be considered, and should therefore consult its legal advisor before implementing any policy.

This document is not intended to be a national standard.

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Model Policy

Reporting Use of Force

March 2017

I. PURPOSE

It is the purpose of this policy to provide guidelines for reporting use of force.

II. POLICY

The authority to use force carries with it the need for accountability in order to safeguard the rights of the public and to preserve the integrity of the law enforcement agency and the jurisdiction that provides this authority. As such, it is the policy of this law enforcement agency that use of force, as designated herein, be reported in a timely, complete, and accurate manner by involved officers and as otherwise prescribed by this policy.

III. DEFINITIONS

Use of Force: For purposes of this document, use of force is the amount of effort required by law enforcement to achieve compliance or overcome a subject's physical resistance to any command, arrest, or detention. This includes any use of force occurring while the officer is acting in an official law enforcement capacity, including undercover, plainclothes, or uniform assignments, whether the officer is on or off duty. Use of force may include, but is not limited to, use of chemical or electronic force; open-handed strikes, punches, or kicks; displaying a firearm for purposes of compelling compliance; discharging a firearm; or using physical intervention with a vehicle that could reasonably result in injury or death. This does not include the use of handcuffs as a restraint in arrest and transport activities; physical removal of passively resisting demonstrators; presence of officers, horses, or canines; or issuance of verbal commands.

Serious Bodily Injury: Injury that involves a substantial risk of death, protracted and obvious disfigurement, or extended loss or impairment of the function of a body part or organ.

IV. PROCEDURES

A. Responsibility for Reporting

1. Officers shall provide a verbal notification to a supervisor immediately following any use of force. This includes both officers who used force and those who witnessed the use of force.
2. In addition to the verbal notification, officers shall file a written use-of-force report before the end of the shift.
3. Each officer who uses force or witnesses an incident involving force shall submit a separate written use-of-force report.

B. Report Content/Information

1. All use-of-force reports shall be comprehensive and provide the degree of specificity necessary to fully document and evaluate the officer's force response.
2. Officers should ensure that their use-of-force report accurately relates what the officer knew, observed, or believed at the time of the incident. Facts or information revealed following the incident should not be included in the officer's initial use-of-force report, but may be included in a supplemental report.
3. At a minimum, reports shall include the following information. Any additional information should be included that would add to a complete understanding of the incident.
 - The nature of the incident
 - Where (address or latitude and longitude) and when (date and time) the incident took place
 - Location type of the incident (using location codes from NIBRS)
 - Whether the incident was in response to a call for service or an officer-initiated action
 - Information on the subject, including age, sex, race, and ethnicity

- Information on the officer, including age, sex, race, ethnicity, years of service, and whether serving full-time
- The size and build of the subject in relationship to the officer
- Reason for initial contact between the subject and officer, including any suspected unlawful or criminal activity
- Whether the incident was an ambush
- Whether the officer was
 - Readily identifiable as law enforcement, including whether he or she was in uniform or plainclothes;
 - operating a marked or unmarked law enforcement vehicle or on foot patrol;
 - on or off duty; and
 - accompanied by other officers.
- Whether a supervisor or a senior officer acting in a supervisory capacity was present or consulted at any point during the incident
- Whether backup was requested and if so, when it arrived
- Whether the officer approached the subject or was approached by the subject
- Whether associates of the subject were present at the time
- Whether witnesses were present at the time
- Whether there was any cause to believe the subject was armed or hostile
- The subject's general demeanor, including any known or apparent impairments
- Any verbal exchange that transpired
- The full circumstances that supported a detention or arrest decision, where applicable, to include the severity of the crime or evidence discovered prior to the detention or arrest attempt by the officer(s)
- Any threat to the officer or another person
- Type, intensity and duration of resistance to arrest by the subject to include any threat to others
- Any de-escalation attempts made
- Any force options available to the officer and the reason for the level of force response employed
- Any subject and officer injury or complaint of injury, medical treatment received, or refusal of medical treatment
- Photographs of subject and officer injuries
- Video and audio recordings made of the incident, including those made by body-worn cameras

C. Supervisory Responsibilities

1. An officer's immediate supervisor shall respond to any incident of use of force on a priority basis. In any instance of use of force, the supervisor shall ensure the following are completed.
 - a. The officer's and subject's statements of actions are taken, and injuries sustained and medical treatment needed or desired are documented.
 - b. Witnesses are identified and interviewed, as appropriate.
 - c. The scene of the incident is documented, as necessary.
 - d. Health care providers are interviewed concerning the injuries sustained and their consistency with reported uses of force.
 - e. A supervisor's use-of-force report is completed.
2. The immediate supervisor shall notify the appropriate authority via the chain of command in cases involving injury or complaint of injury, hospitalization, or death of a person resulting or allegedly resulting from an officer's use of force.¹

D. Force Analysis and Assessment

1. This agency's internal affairs or other appropriate investigative authority shall review all use-of-force reports. Where further documentation or investigation is warranted, appropriate personnel shall be notified by investigators.
2. All uses of force that result in injury, serious bodily injury, or death to a subject or officer will be reviewed by the chief executive or his or her designee for purposes of identifying any violations of and deficiencies in agency policy, procedures, rules, training, or equipment or any aspects of organizational culture that may have bearing on the force used.

E. Force Reporting

1. Following a use-of-force incident in which a subject has died or received serious bodily injury, information shall be provided to the public in a timely manner on the results of an internal investigation or investigation conducted by another authorized agency.
2. An annual summary of all use-of-force incidents shall be prepared by this agency and made publicly available, providing basic details of force incidents and the findings of internal or external investigations or reviews.

¹ For more information, see the IACP *Model Policy and Concepts & Issues Paper on the Investigation of Officer-Involved Shootings, In-Custody Deaths, and Serious Uses of Force*.

3. Agencies shall also submit all relevant statistical data related to incidents that result in the death or serious bodily injury of a person, as well as when an officer discharges a firearm at or in the direction of a person, to the FBI National Use-of-Force Data Collection reporting portal.

Every effort has been made to ensure that this document incorporates the most current information and contemporary professional judgment on this issue. Readers outside of the United States should note that, while this document promotes procedures reflective of a democratic society, its legal basis follows United States Supreme Court rulings and other federal laws and statutes.

Law enforcement administrators should be cautioned that no “model” policy can meet all the needs of any given law enforcement agency. Each law enforcement agency operates in a unique environment of court rulings, state laws, local ordinances, regulations, judicial and administrative decisions and collective bargaining agreements that must be considered, and should therefore consult its legal advisor before implementing any policy.

This document is not intended to be a national standard.

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IACP NATIONAL LAW ENFORCEMENT POLICY CENTER

Standards of Conduct

Concepts and Issues Paper

October 1998

I. INTRODUCTION

A. Purpose of the Document

This document was designed to accompany the *Model Policy on Standards of Conduct* developed by the IACP National Law Enforcement Policy Center. This paper provides essential background material and supporting documentation to provide greater understanding of the developmental philosophy and implementation requirements for the model policy. This material will be of value to law enforcement executives in their efforts to tailor the model to the requirements and circumstances of their community and their law enforcement agency.

Unlike many of the policies developed by the National Law Enforcement Policy Center, law enforcement agencies should regard the present policy as pertinent to all members of their agency, not solely to sworn officers. While sworn personnel may be at greater risk with regard to many of the issues addressed herein, all members of police agencies should be cognizant of and may be held equally accountable for the mandates set forth in this policy.

B. Background

It has been said that policing is a morally dangerous occupation. Most officers who have been in line operations for even a limited period of time can affirm this view. The public is not totally unaware of this fact either. Indeed, most popular literature and movie depictions of police work deal extensively with the moral and ethical dilemmas that officers face on the job. Police officers confront many temptations and difficult decisions that often involve conflicting notions of what is right and wrong and what is expected from them. There are several issues in the police environment that set the stage for such moral and ethical

dilemmas.

Probably the most common among these is the fact that police officers possess substantial power that can be exerted for the benefit or detriment of many individuals. The legal right to employ coercive force to gain compliance of individuals, up to and including the use of deadly force, makes law enforcement unique among occupations. Such power is attractive to some persons who wittingly or unwittingly attempt to coopt police authority for their own advantage. From the seemingly benign offer of a free cup of coffee for an officer on the beat to a substantial financial inducement for an officer to "look the other way," law enforcement authority is a source of many temptations that can strain the limits of personal and professional integrity.

There are other, maybe not so obvious, sources of moral and ethical conflict in police work. For example, most police officers are required to deal with many persons and situations that reflect some of the more demeaning and dehumanizing aspects of life. These situations can and often do have negative long-term side effects on the attitudes, opinions, and philosophy of officers who are forced to deal with them on a day-to-day basis. The impressionable, idealistic young recruit may, over time, become disillusioned, cynical, or frustrated, feeling that his or her efforts are ineffectual and unappreciated. Such officers may be more tempted to adopt a "who cares?" attitude, to lose the ethical and moral focus that they originally brought to police work, to bend the rules and possibly become involved in questionable or illegal conduct.

Frustrations arise from a variety of other sources. For example, many officers perceive the legal system as being weighted far too heavily against law enforcement and in favor of criminal suspects. Further, police officers often

see other individuals or segments of society as flouting or “stretching” the law and getting away with or even being rewarded for it, while honest cops labor years in relatively low-paying, often dangerous, and many times thankless jobs.

Finally, one cannot overlook the fact that officers are often caught in a moral dilemma by the very nature of their profession. Society asks police officers to control crime and to apprehend perpetrators while at the same time placing severe restrictions on the manner in which these can be accomplished. On the one hand, for example, officers are rewarded for their effectiveness in apprehending criminals, but, should their zeal cross the bounds established by law, these same efforts can be punished. These seemingly conflicting demands may lead some officers to feel that the courts, prosecutors, defense attorneys, and others in the criminal justice system are working at odds with them and the good of society. The need to find the proper balance between protection of society and adherence to the dictates of individual rights and liberties can be a difficult effort for many officers, one that often pits means against ends and involves them in organizational, professional, and personal dilemmas.

In this context, the police officers’ standards of conduct can become unclear. Matters regarding agency policy, acceptable practices, and appropriate behavior can be interpreted by officers in differing ways. Therefore, police agencies must clearly define what is and is not acceptable conduct. It has long been acknowledged that, to do their job properly, law enforcement officers must accept and abide by a high ethical and moral standard that is consistent with the rule of law they are sworn to uphold. They must also back up those beliefs and demonstrate their adherence to those values by consistently employing propriety and discretion in their personal lives that reflects favorably on themselves as professionals and the law enforcement agency that they represent. Without this, police agencies cannot expect to gain the respect and cooperation of citizens that is essential to the success of policing.

Personal integrity, a conscious decision to do the right thing even in the face of overwhelming pressure, and recognition of personal responsibility for one’s actions are all indispensable ingredients in achieving high levels of professional conduct. Developing formal values and institutionalizing ethical standards within the police agency are also essential to this end. These norms and ethical precepts should serve as guidance to officers when making decisions about the propriety of specific types of behavior or actions absent express agency policy. But, while values, codes of conduct, and ethical standards are important guides, it is also important that agencies make clear what is acceptable police conduct under specific situations so that there are no misunderstandings. This is particularly

the case in highly sensitive areas of police operations. With this in mind, the IACP National Law Enforcement Policy Center developed the *Model Policy on Standards of Conduct*, the components of which are discussed here.

The model policy deals with a limited number of issues from the large number of possible concerns relating to police conduct. The rules of conduct addressed in the model policy are not intended to serve as an exhaustive treatment of requirements, limitations, or prohibitions on officer conduct and activities. Rather, the issues discussed here are among those that have traditionally presented the most trouble for police agencies and officers and are among the most sensitive traditionally in terms of their impact on law enforcement agencies and the community.

The model policy’s statement of purpose also notes that it is intended to specify, where possible, actions and inactions that are contrary to and that conflict with the duties and responsibilities of law enforcement officers. And, it is meant to guide officers in conducting themselves and their affairs in a manner that reflects standards of deportment and professionalism as required of law enforcement officers. Not all matters of conduct can be addressed in a single policy on conduct. Expectations with regard to conduct cut across many aspects of law enforcement operations. Therefore, officers should not overlook guidance available through specific policies, procedures, and directives as well as through the guidance and recommendations of supervisory and command officers.

II. PROCEDURES

A. Policy Rationale

A succinct justification and rationale for the development of the policy on standards of conduct is found in the model policy statement:

Actions of officers that are inconsistent, incompatible, or in conflict with the values established by this agency negatively affect its reputation and that of its officers. Such actions and inactions thereby detract from the agency’s overall ability to effectively and efficiently protect the public, maintain peace and order, and conduct other essential business. Therefore, it is the policy of this law enforcement agency that officers conduct themselves at all times in a manner that reflects the ethical standards consistent with the rules contained in this policy and otherwise disseminated by this agency.

As in the above statement, it is important in any policy to lay the groundwork or the premise upon which the

policy and procedures are built. This baseline information is perhaps nowhere more important than in a policy that deals with personal and professional conduct of officers. Standards of conduct often involve personal liberties, including freedom of association, freedom of speech, and related matters that are among the more closely guarded of individual rights. Most persons feel strongly that these and other matters of personal conduct should be, within reason, the subject of their own choice and personal preference. Many resent an employer's attempts to dictate the terms of what is deemed appropriate and inappropriate conduct.

In virtually all working environments and areas of employment, there are limitations upon an employer's capacity to dictate the terms of employment with regard to personal conduct of employees. Of course, it is reasonable for employers to require that their personnel conduct themselves with decorum and good taste. However, when it comes to matters that are perceived to be of a more personal nature, employees are far more sensitive. In these matters, employers must be even more sure that the restrictions or limitations they wish to impose are legally grounded, reasonable, and justifiable as job related.

The courts have, in many cases, upheld the notion that law enforcement work carries certain unique features that distinguish it from other types of employment. As such, certain types of conduct and employee activities are deemed inimical to the efficient and effective operation of police agencies and can be limited, curtailed, or modified in some manner. For example, almost every police agency desires to regulate, at least to some degree, the personal appearance of its officers, to include hairstyles. Predictably, policies on these and similar issues have been and are still subjected to legal challenge. While the subject of personal appearance is not covered in the present policy on standards of conduct, case law in this regard carries some lessons that form a good backdrop to the discussion in this concepts and issues paper. Specifically, police agencies desiring to regulate hairstyles, especially hair length, have received considerable support from the courts. The landmark decision in this area is the 1976 Supreme Court case of *Kelley v. Johnson*,¹ in which officers challenged a regulation of the Suffolk County, New York, Police Department.

The regulation at issue in *Kelley* governed the style and length of officers' hair, sideburns, and mustaches, and also prohibited beards. The regulation was challenged on the grounds that it violated the officers' rights of free expression under the First Amendment and guarantees of due process and equal protection under the 14th Amendment. The department contended that the regulations were necessary to ensure uniformity of appearance, thereby making officers readily recognizable

by the public, and that it also contributed to the agency's esprit de corps.

The U.S. Supreme Court upheld the police department's regulation. The Court noted that the officers might indeed have a "liberty interest" in their hairstyles that could not be curtailed by the department absent rational justification. However, the Court held that uniformity of appearance and the maintenance of esprit de corps were sufficient rational justifications for imposing the regulations. Therefore, under *Kelley*, a hairstyle regulation will be upheld as long as the department has a "rational justification" for its enforcement. In this case, the rational justification is based on the logical connection between the policy and the promotion of legitimate agency interests (and those of the public) to protect property and persons.

Clearly from the above example, police policies generally, and particularly those that have bearing on liberty interests of personnel, must be based on rational, articulably justifiable grounds that relate to the promotion of legitimate law enforcement agency and/or public interests. In addition to meeting these tests, a policy on employee conduct as well as any other agency policy cannot be overly broad or overreaching so as to unfairly or unnecessarily impact personnel. In the same manner, the policy must be specific enough that officers can reasonably be expected to understand what is expected of them and to follow its mandates. For example, a hair regulation for officers should indicate the length and style of hair that is acceptable and state any exceptions to those rules that may be applicable, such as in the case of officers who may be working in undercover capacities. Finally, the policy must be uniformly applied. There should be no unjustified exceptions to the application of the policy to individuals within the agency, or it may be reasonably argued that the policy is arbitrary, capricious, and discriminatory. These principles should be reemphasized whenever police policies of any type are formulated and enforced and particularly in cases that deal with standards of conduct.

B. Obedience to Laws

The model policy states that officers are responsible for observance of all laws, regulations, and orders. This may appear at first glance to be a matter of such a fundamental nature as not to deserve specific mention in an agency policy. Certainly, police officers are as subject to the law as any other person. But reality dictates and history has shown that some officers, whether through misguided zeal or for other reasons, may come to view themselves and their police colleagues as exempt from the law on a general, selective, or situational basis. This element of the policy is intended to stress the importance of the rule of law for all officers and to hold each officer accountable for any legal wrongdoing.

¹ *Kelley v. Johnson*, 425 U.S. 238, 96 Sct. 1440 (1976).

In particular, the mandates of procedural due process for accused persons must remain paramount in the minds of law enforcement officers as they go about the task of protecting life and property. These legal protections and individual rights cannot be placed on hold as a matter of convenience to achieve agency or officer objectives. They must be recognized as an indispensable and non-negotiable part of law enforcement in a democratic state, and a recognized cornerstone of police agency policy. The fact that officers cannot disregard their own responsibility to the law or circumvent the rights of individuals as prescribed by law in the course of performing their duties is a matter that deserves repetition and reinforcement in a policy on police conduct as well as in the agency's code of conduct and core values.

By the same token, the model policy specifically states that officers shall not violate any agency policy, rule, or procedure and that they shall obey all lawful orders. The term lawful is included to acknowledge the uncommon yet potential situation in which an order may be given that is unlawful and/or that is in violation of agency policy. An example of an unlawful order is one in which a subordinate is directed to use excessive force.

C. Conduct Unbecoming an Officer

The model policy prohibits officers from engaging in "any conduct or activities on- or off-duty that reflect discredit on the officers, tend to bring the agency into disrepute, or impair its efficient and effective operation." These actions are sometimes referred to as "conduct unbecoming and officer"(CUBO). Unbecoming conduct incorporates those acts that may not be specifically identified by policy but that could reasonably be regarded as so improper or inappropriate by their nature and in their context that they are harmful to the agency's and officers' reputations.

One of the problems in defining prohibited conduct is that one cannot reasonably itemize all forms of conduct that may be considered damaging to officers or their agency. Attempts by an agency to itemize all prohibited acts become excessively tedious and invariably overlook certain types of behavior that would be considered unacceptable. Under these circumstances, it is more difficult to hold an officer accountable for improper behavior if it is not listed in the defined list of prohibited actions. Therefore, CUBO is an attempt to incorporate the array of improper acts not specifically identified in the standards of conduct policy. But, to do this effectively, CUBO must be linked effectively to an agency's code of conduct and/or values, and officers should receive training in its meaning.

Some agency administrators may hesitate to incorporate CUBO into their standards of conduct because

it does not identify specific prohibited acts and presents the possibility that charges brought under this umbrella could more easily be challenged as being arbitrary. While this possibility exists, it is also true that most disciplinary measures relating to conduct violations are subject to similar challenges based on the alleged transgression's relevance to the officer's job and the efficient and effective operation of the agency. In all cases of conduct violations, the agency must be prepared to defend its position based on the connection of the behavior to negative outcomes on the agency's officers and mission. This issue of relevance should be as important to the agency in standards formulation as it is to officers charged with standards infractions.

Charges of conduct unbecoming an officer should be brought only when there is articulable reason and a rational justification for enforcing the standard. Absent such criteria, charges should not be brought whether specified under CUBO or other conduct prohibitions. As in the case of the grooming standards (i.e., hair length) brought under Kelley previously noted, there is normally a presumption that the regulation is valid. The officer, to overcome this presumption, must show that "there is no rational connection between the regulation ... and the promotion of safety of persons and property."²

In addition to the above, agencies should be particularly cognizant of the need to enforce CUBO on a consistent and equitable basis. The agency should recognize that it may be setting precedent in some cases when disciplining officers for conduct that is not specified in the agency's policy and procedure manual. To avoid charges of disparate treatment, the agency should make every effort to ensure that similar acts of offending conduct by officers are dealt with through similar disciplinary measures. Also, to provide officers with the information necessary to make informed decisions on such matters, the agency should provide in-service training on an initial basis upon introduction of the policy and on a periodic basis thereafter.

D. Accountability, Responsibility, and Discipline

Officers are reminded in the model policy that they are directly accountable for their actions through the chain of command to the agency's chief executive officer. Further, the model policy requires that officers "cooperate fully in any internal administrative investigation conducted by this or other authorized agency and shall provide complete and accurate information in regard to any issue under investigation" and, that they "shall be accurate, complete, and truthful in all matters."

The importance of these admonitions is lodged primarily in the recognition that police officers have

² *Kelley v. Johnson*, 425 U.S. 238, 96 S.Ct. 1440 (1976).

traditionally been a generally closed social and professional group. Among the common characteristics of police officers in this context are silence and solidarity with respect to attacks on fellow officers. The sense of camaraderie and cohesiveness that these traits reflect clearly have positive side effects in many aspects of police work. But, they can also have a negative influence in some cases where officers face charges of wrongdoing. The model policy makes it clear that officers owe their first allegiance and responsibility to the agency that employs them, and that failure to cooperate in any internal investigation in an effort to protect oneself or a fellow officer is a separate violation of policy.

Along these same lines, the model policy states that:

Officers shall accept responsibility for their actions without attempting to conceal, divert, or mitigate their true culpability nor shall they engage in efforts to thwart, influence, or interfere with an internal or criminal investigation.

This requirement is intended to expand on the requirement for truthfulness and cooperation from officers, particularly during internal investigations. But in addition to being truthful in response to questions that may be posed to them in an investigation or other matter, officers are expected to accept responsibility for inappropriate or improper conduct without attempting to cover up their mistakes or misdeeds. Attempts to withhold information necessary for the conduct of an internal investigation, or to interfere or influence such an investigation for one's own protection or to protect another, should be considered a separate violation of policy.

In fact, failure to fully cooperate in a purely administrative investigation can form the basis for disciplinary action up to and including termination of employment. In such investigations, officers must be informed of this fact prior to questioning as well as the fact that anything they say may not be used against them in a subsequent criminal proceeding. However, it should be noted that where officers are the subject of a criminal investigation, officers are under no duty to cooperate. Police officers have the same constitutional rights to remain silent and to consult with an attorney as do civilians in such situations.

Finally, with regard to issues of accountability and responsibility, the model policy recommends adoption of the requirement that officers "who are arrested, cited, or come under investigation for any criminal offense in this or another jurisdiction shall report this fact to a superior as soon as possible." Most often this issue arises when an officer is arrested or cited in another jurisdiction where the incident would not normally be reported to the employing agency. This information—either as a single incident or in

the context of repeated problems—may have bearing upon an officer's ability to serve as a law enforcement officer generally or in specific assignments within the police agency. Therefore, agencies should require that any such criminal arrests, citations, or investigations be reported to a superior in a timely manner.

E. Conduct Toward Fellow Employees

Establishment of a working environment that is constructive and supportive is one of the better means of developing esprit de corps among employees and motivating them toward maximum personal and agency achievement. Dissension, squabbling, and in-fighting among staff members creates a dysfunctional working environment that can have serious negative implications for law enforcement efforts—an occupation where teamwork is so vital. All working environments experience some degree of discord on one level or another. The workplace is not always a bastion of civility, and some degree of friction between personalities can be expected. However, an employee can reasonably expect, and indeed should require, a workplace free from harassment and discrimination. The model policy contains two provisions that address this area of concern:

- a. Officers shall conduct themselves in a manner that will foster cooperation among members of this agency, showing respect, courtesy, and professionalism in their dealings with one another.*
- b. Employees shall not use language or engage in acts that demean, harass, or intimidate another person. (Members should refer to this agency's policy on "Harassment and Discrimination in the Workplace" for additional information on this subject.*

The issue addressed in the model policy is intended to reinforce the need for general civility and the idea that professionalism and respect toward fellow workers are at the heart of a healthy, productive police organization. An extreme example of a breakdown in conduct between employees involves instances of harassment and discrimination in the workplace, an issue that is also addressed in the policy. Workplace harassment and discrimination not only expose the organization and offending personnel to civil liability as well as possible prosecution under state and federal law, but also have other destructive effects on the police organization. Harassment has serious debilitating effects on its victims and creates disruptions to productivity. Many good employees often quit as a result of such harassment or develop a pattern of lost or unproductive time while on the job. Workplace harassment and discrimination are antithetical to the

precepts of a professional law enforcement agency designed to uphold the law and the rights of all persons. Harassment and discrimination in the workplace are crimes as well as the basis for internal administrative discipline and, as such, run counter to the values and ethics of law enforcement.

Finally, with regard to workplace harassment and discrimination, executives must consider that an employee who harasses a fellow employee may also be carrying those same behavior patterns into the community that he or she serves. It is not hard to image the types of charges that could be leveled against an officer and his/her law enforcement agency should this prejudicial attitude be manifested within the community. The types of persons who display harassing and discriminatory types of behavior within their agencies among their colleagues are generally not suitable for law enforcement careers.

The issue of harassment and discrimination within the workplace is a highly complex and evolving field of law and one that has routinely created some of the greater concerns for police personnel management. Agencies should address these issues in a separate comprehensive policy on this matter and remain cognizant of the broader applicability of workplace harassment and discrimination law.³

F. Conduct Toward the Public

Interaction with the public is the police officer's central focus. A positive police-community relationship is essential for gaining the public's confidence in the police and cementing their support in crime prevention and criminal apprehension. Research has confirmed what all police officers know from experience: that the public is the primary resource for successful criminal apprehension and crime prevention. Without public support and cooperation, the job of law enforcement is substantially more difficult and far less successful.

But public support and cooperation with the police do not come naturally. They are built upon mutual respect, a relationship that is largely the product of fair treatment by the police. The police image among citizens is delicate and often fickle. It is generally the product of a single or a few brief personal encounters with the police or the product of what are perceived as reliable stories passed on by friends or acquaintances who have had such experiences.

³ On March 4, 1998, the U.S. Supreme Court ruled in *Oncale v. Sundowner Offshore Services, Inc. Et. Al.* (No. 96-568) that severe and pervasive harassment between members of the same sex can be actionable under the same law (i.e., Title VII of the 1964 Civil Rights Act) that originally intended to deter male discrimination and harassment against women on the job. For additional information on the entire issue, see the *Model Policy on Harassment and Discrimination in the Workplace*, IACP National Law Enforcement Policy Center, IACP, Alexandria, VA 22314.

Even a single negative public encounter can have a ripple effect, particularly in areas where police presence is more conspicuous and/or prevalent, such as in high-crime areas. Unfortunately, the public retains memories of bad incidents concerning the police far longer than it remembers favorable ones, and negative incidents can often undo or seriously damage long-standing positive police-community relationships.

All of the above indicate that good conduct of the police toward the public is not only proper from a professional and ethical standpoint but is "smart policing" as well. It is not simply a public relations tool: it is or should be a conscious attempt to nurture community good will and respect for the police so that the public's contributions to crime control can be fully realized. To this end, the model policy specifies several general rules of conduct that if followed by officers on a consistent basis when dealing with the public should assist in building and maintaining public support.

Specifically, the model policy states the following:

- a. Officers shall conduct themselves toward the public in a civil and professional manner that connotes a service orientation and that will foster public respect and cooperation.*
- b. Officers shall treat violators with respect and courtesy, guard against employing an officious or overbearing attitude or language that may belittle, ridicule, or intimidate the individual, or act in a manner that unnecessarily delays the performance of their duty.*
- c. While recognizing the need to demonstrate authority and control over criminal suspects and prisoners, officers shall adhere to this agency's use-of-force policy and shall observe the civil rights and protect the well-being of those in their charge.*

G. Use of Alcohol and Drugs

The model policy addresses the issues of consumption of alcoholic beverages and legal use of drugs whether over the counter or as prescribed by a physician. Use of drugs illegally as a controlled substance is an issue that is addressed in the model policy under the heading of adherence to laws and is not further discussed here.

The use of alcohol while on duty (with limited exceptions) is almost universally prohibited by police agency policy. Disciplinary measures based upon unauthorized on-duty use are almost always upheld by the courts. The model policy addresses this concern primarily in the first two statements in section IV.A.6. In particular, the policy states that "Officers shall not consume any

intoxicating beverage while on duty unless authorized by a supervisor.” This prohibition recognizes that officers on undercover assignments or on certain types of surveillance, sting, or similar operations may have to consume alcoholic beverages as part of their role.

The policy also prohibits the serving or consumption of alcohol “on police premises or in vehicles owned by this jurisdiction.” This is generally intended to address situations in which on-duty or off-duty officers may consume alcohol for informal celebrations or other similar events, but it also includes other circumstances in which alcohol may be served or consumed. Police premises are generally open to the public, and the potentiality of citizens witnessing police officers consuming alcohol on duty—whether or not this is in fact the case and irrespective of the circumstances or the quantity of alcohol in question—is not conducive to the image of a professional police organization. There are also liability considerations associated with officers consuming alcohol on police premises whether formally or informally sanctioned by the agency should accidents or similar incidents occur as a result.

While the consumption of alcohol by on-duty officers is almost universally disallowed, departmental regulation of off-duty alcohol consumption, and disciplinary action for such use, involves more difficult questions.

The model policy addresses the issue of off-duty alcohol consumption by stating that

- a. an officer shall not be under the influence of alcohol in a public place, whether on or off duty,*
- b. shall not “report for duty with the odor of alcoholic beverage on his or her breath,” and*
- c. shall not “report to work or be on duty as a law enforcement officer when his or her judgment or physical condition has been impaired by alcohol, medication or other substances.*

Item (a) above is intended primarily to protect the image of the police agency against charges of inappropriate officer conduct while off duty just as the issue of on-duty consumption of alcohol is addressed elsewhere. The question could easily and legitimately be raised by members of the public about the professionalism and stability of an officer who lacks the self restraint and good judgment to appear in public in an inebriated condition. There is also the potentially serious problem of an officer in a public setting being required to take emergency police action while under the influence of alcohol. Items (b) and (c) are also intended to address this issue. The odor of alcohol on the breath of any officer who reports for work should constitute sufficient basis alone to remove the

officer from duty irrespective of how much alcohol the officer consumed.

Item (c) above is also meant to protect the agency and the public against the potential of officers reporting for work or being on duty whenever their judgment has been impaired by alcohol or other substances. Alcohol and certain forms of prescription and non-prescription medication affect individuals differently. Additionally, alcohol and certain medications taken in conjunction with one another can markedly diminish judgment, perception, and/or reactions. This may render the officer unfit to perform essential functions of the job and constitute a danger to him- or herself or others. The model policy employs this admonition as a caution to officers, prior to reporting to work, to avoid the use of any drug, including alcohol, that could negatively affect their performance.

Furthermore, the policy requires that officers “report the use of any substance, prior to reporting for duty, that impairs their ability to perform as a law enforcement officer.” This places a burden upon officers for self-control and self-appraisal, considering that they are often in the best position to assess their performance capabilities. While many officers may avoid reporting impairment for fear of repercussions, it is useful to place officers on notice that they are personally responsible for reporting to work in a fit condition and that they will be held accountable for negative consequences stemming from their consumption of alcohol and/or medication.

A measure of the burden for ensuring that on-duty officers are not impaired by drugs or alcohol falls upon their first-line supervisors. Therefore, the policy directs that

Supervisors shall order a drug or alcohol screening test when they have reasonable suspicion that an employee is using and/or under the influence of drugs or alcohol. Such screening shall conform to [the] agency’s policy on employee drug-screening and testing.

The above requirements and admonitions are considered to be reasonable restrictions upon officers to protect themselves, others, and the interests of the police agency. Some law enforcement agencies may wish to add additional or more stringent restrictions on the off-duty use of alcohol and prescription drugs. For example, some agencies place restrictions on officer consumption of alcoholic beverages within a specific time of reporting for duty—a practice that has been employed by some other types of employers to include commercial airlines for their flight crews. Still other police administrators take the position that officers reporting for duty with any amount of alcohol in their bloodstream are operating at diminished levels of proficiency. This, they argue, coupled with the potential need for these officers to employ deadly

force, creates an unacceptable risk to the agency and the public. While it is difficult to argue against more restrictive policies of this nature, the same argument could be used with regard to any substance that impairs, no matter how slight, the judgment and reaction of officers.

A near-zero tolerance approach to this issue is difficult to manage administratively, and measures designed to enforce such rules risk overstepping the legitimate interests of agencies to control their personnel. Advocacy of zero tolerance or near-zero tolerance for alcohol risks opening a much broader array of issues that can further complicate the matter. For example, a difficult question arises when an officer's ongoing off-duty use of alcohol so debilitates the officer that, although sober when reporting for work, his or her performance has been impaired by alcohol-related illnesses. By the same token, even common cold medicines, such as those containing codeine and antihistamines, can diminish many individuals' judgment and perception.

In the end, one must place the lion's share of the responsibility for controlling this matter on the shoulders of individual officers and their immediate supervisors to ensure that their performance is in keeping with acceptable agency standards. In addition, agency administrators should not lose sight of the fact that alcoholism (should that be involved) may be regarded as a handicap under federal and state law, and policies promulgated or actions taken in this context must take this into account.

H. Use of Tobacco Products

The model policy prohibits police officers from using tobacco products unless they are used in a designated smoking area and only when officers are not conducting police business. Smokeless tobacco products, such as snuff or chewing tobacco, are included as well as cigarettes, both because of the health risks involved as well as the poor public image they impart of police officers. Officers are also not permitted to use tobacco products in a vehicle owned or maintained by the law enforcement agency. This restriction is based on several factors, to include concern over the appearance of officers smoking on duty in public; concern for the health and well-being of both smoking officers and those who may be subjected to their secondhand smoke in the vehicle; and to a far lesser degree, the negative effect cigarette smoke has on vehicle cleanliness.

In the first regard, smoking by officers while on duty has always been perceived as a public relations or public image problem. In fact, the common and time-honored policy of many departments prohibiting smoking in patrol cars or while on duty in public places may in many instances be traced to a concern over the public perception of the department rather than to health issues.

This is a problem that predates the current focus on the adverse health effects of smoking by many years. It has long been a feeling among law enforcement executives that a uniformed officer with a cigarette dangling from his or her mouth presents an image to the public that is not acceptable to the department, hence the frequent incidence of prohibitions against uniformed officers smoking in public.

Now, as smoking increasingly becomes perceived by the public as something detrimental to the health of both smokers and nonsmokers, smoking by officers while on duty has become and will continue to be a matter of increased departmental attention. In this regard, the Environmental Protection Agency (EPA) has made it clear that the inhalation of secondhand smoke by nonsmokers has a "serious and substantial public health impact" on nonsmokers. According to the EPA, about 3000 nonsmokers die annually in the United States due to lung cancer caused by secondary smoke. The EPA also found that secondary smoke was responsible for a significant number of cases of pneumonia, bronchitis, and other respiratory infections, as well as leading to the development or aggravation of asthma.

Of equal importance are the effects of smoke on the health and productivity of police officers themselves. Even before the EPA issued its landmark report, many health-conscious police agencies had made their own decisions on the risks and negative impact of smoking on the health of their officers and fellow employees. Many of those agencies took steps to limit smoking on duty, and many more today are prohibiting smoking both on and off duty for newly hired officers.

First among agency concerns is the fact that a law enforcement officer, in the course of his or her employment, will be required to perform certain demanding physical tasks that will require cardiovascular endurance. Cigarette smoking is a substantial inhibitor to the development and maintenance of this physical condition. Second, police agencies in general have come to recognize the significant financial and professional value of career officers. Cigarette smoking is a serious health risk that increases the possibility of officers' contracting debilitating diseases preventing them from completing their full term of career employment.

Historically, U.S. courts have been willing to grant law enforcement organizations some legal leeway in situations in which the efficient functioning of the department, and therefore, public safety is implicated. In view of the documented health reasons alone connected with the use of tobacco products, restrictions on smoking in the law enforcement environment will most likely withstand legal

challenges directed against them.⁴

I. Abuse of Law Enforcement Powers and Position

Abuse of power by law enforcement officers can take many forms to include the use of excessive force, denial of civil rights, and related acts. These types of acts are dealt with separately in the model policy. The present discussion deals primarily with those acts or inactions committed by police officers for purposes of financial gain, privilege, or advantage not otherwise available to them as private citizens.

The abuse of power or position is one of the more serious of conduct violations that can be leveled against a law enforcement officer. Such violations range in severity from acceptance of nominal tokens of appreciation to the systematic exploitation of persons or organizations for gain. The history of law enforcement is replete with examples of this form of abuse of power, some of which have grown within police agencies to near-systemic corruption. The early 1970s reports of the Pennsylvania Crime Commission and the New York City Knapp Commission are examples of investigations that identified wide-scale corruption in two of this nation's larger police departments. Fortunately, such large-scale abuses are rare. But it is from the small, seemingly benign acts that take advantage of police power or position that an environment of tolerance grows within agencies, sometimes leading to more frequent and egregious transactions. From this historical perspective and with the intent of avoiding even the appearance of impropriety, the model policy assumes a position of zero tolerance for corruption.

The model policy addresses six issues relative to the abuse or potential abuse of police power and position. In particular, the model policy requires first, that

Officers report any unsolicited gifts, gratuities, or other items of value that they receive and ... provide a full report of the circumstances of their receipt if directed.

This reporting requirement is designed to ensure that all such items come to the attention of the law enforcement agency. Even though officers are prohibited from receiving gifts, gratuities, and similar items, such items may nevertheless be received by them through the mail or by other means on an unsolicited basis. The requirement that officers report these items helps to ensure that their receipt receives official notice, thus protecting the officer from allegations of misconduct and providing the agency with the opportunity to take any action deemed appropriate. Under provisions of the model policy, officers are also

prohibited from using their

authority or position for financial gain, for obtaining or granting privileges or favors not otherwise available to them or others except as a private citizen, to avoid the consequences of illegal acts for themselves or for others, or to barter, solicit, or accept any goods or services (to include, gratuities, gifts, discounts, rewards, loans, or fees) whether for the officer or another.

This restriction addresses the majority of concerns of police administrators with regard to an officer's use of authority for financial gain. It prohibits situations such as accepting special access to and treatment at public events or gatherings; negotiating with officers from the same or another jurisdiction to overlook violations of the law for themselves, their friends, or members of their family; or asking for, engaging in barter for or accepting outright any goods, services, or similar gains. These are only examples of possible scenarios covered by this directive, which is designed to address a broad waterfront of situations in which officers could willfully or inadvertently benefit from their position or authority.

Some will argue that a complete ban on the acceptance of goods, services, and favors is too far reaching and fails to recognize that gestures are sometimes made by citizens as tokens of appreciation without any expectation of special treatment. Each agency must make its own decision regarding what it will tolerate in this area. But as a matter of principle, it should be made clear to officers that they are in a high-profile position within the community as a representative of local government and are given a special level of trust and authority not available to persons in any other occupation. As such, they will be faced with situations in which persons or groups may, intentionally or unintentionally, attempt to coopt their authority and influence them for unauthorized purposes. The simple cup of coffee or a discounted meal from a friendly restaurateur may be nothing more than a courteous gesture or token of appreciation. However, it may also incorporate subtle manipulation intended to extract favors from officers, such as spending more time in and around the establishment than would normally be necessary or permitted.

Moreover, even simple gestures by business owners or individuals, provided and accepted on a routine basis, can easily lead officers down the slippery slope from appreciation to expectation. Within time, simple gestures can grow into significant gifts or rewards and become an anticipated part of officer compensation, or be regarded as perquisites of the job. With this subtle and gradual change of an officer's attitude comes a relatively easy transition into development of an expectation that such privileges or benefits will be forthcoming. When they are not, they may

⁴ For a more detailed treatment of this subject, see for example, "Smoking in the Workplace," *Policy Review*, Volume 4, Number 3, IACP National Law Enforcement Policy Center, IACP, Alexandria, VA 22314.

be requested or even demanded. The acceptance of “perks” from the public can degenerate into a downward spiral that leads to, in a worst-case scenario, establishment of a culture of corruption within the law enforcement agency.

Many agencies have adopted the zero-tolerance approach to this matter in view of the above concerns and realities. In addition, they recognize that the acceptance of gratuities and the like presents a bad image of the officers and the agency to the public. Citizens who witness or learn of officers receiving special treatment or gratuities can understandably feel a degree of resentment toward not only the officers involved but the police agency as a whole. They may question the degree to which favoritism influences the decision-making process of officers in general, whether law enforcement resources are provided equitably and fairly within the community, even whether the apparently simple gesture may reflect a more pervasive degree of corruption within the police agency. The ability of law enforcement to deal with public safety effectively is greatly diminished when such actions erode the confidence of the public in their law enforcement agency.

In the above context, the model policy also prohibits officers from purchasing, “converting to their own use, or having any claim to any found, impounded, abandoned, or recovered property, or any property held or released as evidence.” Here again, the issue is one primarily of appearances. In situations involving the above, charges could be made that officers are engaged in a subterfuge by procuring property unnecessarily or inappropriately with personal intentions for its use or acquisition. Such appearances should not be permitted to germinate. However, this does not preclude the agency from selling at public auction or in other acceptable ways dispensing of abandoned, recovered, or related property after a reasonable amount of time and following legitimate and earnest attempts to locate owners.

Officers are also limited in the manner in which they can solicit funds as part of or on behalf of the police organization. The model policy states that

Officers shall not solicit or accept contributions for this agency or for any other agency, organization, event, or cause without the express consent of the agency chief executive or his or her designee.

Some jurisdictions have experienced problems with persons soliciting funds from the community and those who claim to be doing so on behalf of their police organization. This directive is intended to impose controls over all fund-raising activities so that legitimate activities can be sanctioned and managed by the agency.

Another issue in this realm of concern is addressed in item IV.A.8.e. of the model policy, which states that

Officers are prohibited from using information gained through their position as a law enforcement officer to advance financial or other private interests of themselves or others.

Concerns in this area can take a number of forms. For example, officers or other employees working in sensitive areas of the agency may sell criminal history records or other restricted information to commercial concerns as part of background investigations. Officers working in part-time jobs for security firms, process servers, or others may use confidential or other sensitive information developed by the agency to promote their interests and those of unauthorized outside parties. These are only a few of the many possible examples of unauthorized uses of police information that may benefit the financial interests of police employees.

Finally, the model policy takes the position that “officers who institute or reasonably expect to benefit from any civil action that arises from acts performed under color of authority shall inform their commanding officer.” Officers may initiate civil lawsuits or otherwise become party to civil actions against persons with whom they have had dealings in the course of their employment and from which they could realize monetary compensation. In some cases for example, officers may bring actions for physical injuries, infliction of psychological injuries, improper subjection of the officer to legal process (e.g., malicious prosecution), actions that are injurious to the officer’s professional status and reputation (as in the case of defamation suits), or similar actions.⁵ While these lawsuits are not common and officers have the right to bring such actions, the model policy directs that involved officers notify their commanding officer in such cases. This will allow the agency to become aware of cases in which officers appear to be abusing this right or conspiring to use this legal avenue solely for personal gain or punishment of others.

J. Off-Duty Police Action

Actions taken under color of authority by off-duty police officers have traditionally been an arena ripe with problems both for police administrators and individual officers. The breadth of those problems hinge on a number of factors within the police agency which include but are not limited to (a) whether officers are considered peace officers under state statute or case law on a 24-hour basis within their own jurisdiction and whether that extends to other jurisdictions within their state where employed; (b) whether they are required by their agency to remain armed while off duty or do so by agency custom or practice in the absence of specific policy; (c) whether agency

⁵ For a complete treatment of such actions, see for example, Charles E. Friend, J.D.; *Police Rights: Civil Remedies for Law Enforcement Officers*, Callaghan and Co., Wilmette, Ill. (1987).

policy governs when and how officers should respond to violations of the law in an off-duty capacity in their own jurisdiction and other jurisdictions of the state; and (d) the degree to which the agency maintains control of off-duty employment of its officers. To the degree that the forgoing are not regulated by statute, case law or agency policy, situations involving actions taken by off-duty officers will remain problematic.

The *Model Policy on Standards of Conduct* is not designed to address these widely varied issues. The National Policy Center has established a *Model Policy on Off-Duty Conduct* that may be of assistance to agencies in resolving some of the forgoing issues. The present policy is designed to address only one aspect of this issue involving the inappropriate use of police powers.

The model policy provides two specific directives in this regard. First, the policy prohibits officers from

Using their police powers to resolve personal grievances (e.g., those involving the officer, family members, relatives, or friends) except under circumstances that would justify the use of self defense, actions to prevent injury to another person, or when a serious offense has been committed that would justify an arrest. In all other cases, officer shall summon on-duty police personnel and a supervisor in cases where there is personal involvement that would reasonably require law enforcement intervention.

While many officers are armed while off-duty, they are generally out of uniform and/or driving unmarked privately owned vehicles and thus not readily identifiable as law enforcement officers to the public or even some of their own colleagues. Additionally, most officers do not wear soft body armor while off-duty and do not have access to a police radio or other on-duty types of equipment. All these factors can place off-duty officers in awkward situations. With these factors in mind, the model policy provides some direction designed to limit the exposure of officers to danger and the agency to charges of civil liability.⁶

Beyond these personal safety considerations, the intent of this policy statement is to avoid instances that may involve conflicts of interest and that would consequently tend to negatively influence officers' judgment. Generally speaking, an officer should not invoke police powers for the purpose of resolving personal grievances or those of family or friends. An exception to this is when the officer, friends or family become victims of a crime or when the violations of law are so serious as to require immediate

action.

For example, an off-duty officer becomes engaged in a conversation with a neighbor over loud music from a party at the neighbor's home. The officer resides in the jurisdiction where he is employed and, by statute, may take police action while off-duty. The neighbor becomes abusive and uncooperative and refuses to turn down the music. At that point the officer identifies himself as a police officer and issues a noise citation to the offending party with a threat that failure to comply will result in arrest.

In these and similar scenarios, the model policy requires that the officer refer the matter to an on-duty officer rather than issue the citation or make an arrest. However, in the same situation, should the neighbor become physically assaultive to the officer, or his friends or family, the officer would be justified in taking necessary action to include the possibility of making an arrest. A supervisor should also be summoned in such cases in order to ensure third-party impartiality and the authority necessary to make judgments and resolve differences. From the viewpoint of officer and public safety, the model policy also states that

Unless operating a marked police vehicle, off-duty officers shall not arrest or issue citations or warnings to traffic violators on sight, except when the violations is of such a dangerous nature that officers would reasonably be expected to take appropriate action.

This prohibition is based on the fact that the identity of out-of-uniform officers in unmarked vehicles is not easily determined by motorists or other third parties. The chance for mistaken identity provides fertile ground for a variety of dangerous situations. These include the possibility that a motorist who an off-duty officer is attempting to stop may mistakenly assume that he or she is being accosted.

K. Prohibited Associations and Establishments

In early 1998, the superintendent of one of the nation's largest police agencies resigned his position in the wake of accusations that he had maintained a long-standing friendship with a known felon. This illustrates an old problem area for law enforcement agencies affecting officers at all levels.

Many departments seek to prevent employees from associating with "undesirable" persons, other than in official capacities—that is, those who have a notorious criminal reputation or history that could present a potential threat to the department's reputation and effectiveness or present the potential of compromising the officer. This is generally considered a matter of legitimate departmental interest, and a policy prohibiting such associations may therefore be upheld by the courts. However, as with most

⁶ For a comprehensive treatment of policy on off-duty powers of arrest, see, for example, the *Model Policy on Off-Duty Conduct: Powers of Arrest*, IACP National Law Enforcement Policy Center, IACP, Alexandria, VA 22314.

issues that affect individual rights, there are limitations that must be observed and that have been built into the model policy. Where restrictions or prohibitions on such relationships exist within police organizations, questions often arise as to whether the rule serves a legitimate governmental interest, whether it impinges upon an employee's constitutional right to freedom of association, and where the balance falls between the two competing interests.

First, restrictions of this nature should not be overly broad. A policy that fails to provide specific guidance as to the types of associations that are prohibited may be held void for reason of vagueness. For example, a policy that merely prohibits association with "undesirables" would probably be considered too broad and vague. As with the other policy issues discussed in this document, the department should be prepared to give specific, articulable reasons why association with a named class of individuals will damage the department's reputation or otherwise interfere with the department's mission.

Second, the policy should provide an exception for family relationships or other associations that are similarly unavoidable. Most courts would not uphold a policy, for example, that prevents an officer from associating with his or her spouse or parents. Finally, the policy should provide an exception for contents legitimately made in the line of duty. The nature of police work requires that officers deal with persons who, under traditional moral standards, would be considered undesirable as routine company. These include situations where officers are cultivating informants or working undercover assignments. The model policy addresses issues of prohibited associations by stating that

Officers shall not knowingly commence or maintain a relationship with any person who is under criminal investigation, indictment, arrest, or incarceration by this or another police or criminal justice agency, and/or who has an open and notorious criminal reputation in the community (for example, persons whom they know, should know, or have reason to believe are involved in felonious activity), except as necessary to the performance of official duties, or where unavoidable because of familial relationships.

This statement incorporates the three areas of concern previously discussed. The wording of the policy does not necessarily preclude officers from associating with persons solely because they have a criminal record. This is not advisable for police officers and many agencies may wish to discourage it. But association with persons who have served their sentence and who have reentered society, and who otherwise are pursuing legitimate occupations is consistent with the letter and intent of the model policy.

On the other hand, should the individual's past criminal history be so notorious and infamous as to cast doubt on that person's reputation after having reentered society, and/or there is question concerning the individual's continued connection to criminal enterprises, there would be legitimate grounds for the agency to prohibit such association unless it is work related or the individual in question is an immediate family member. In short, whenever there are questions concerning the reputation of persons with whom officers associate, officers are well advised to restrict or eliminate their associations with such individuals and/or to discuss the matter with an appropriate supervisor.

The model policy also prohibits arresting, investigating, or custodial officers from commencing "social relations with the spouse, immediate family member, or romantic companion of persons in the custody of the agency." The same may also be said for persons in the custody of other criminal justice agencies. This directive is designed to remove the appearance of impropriety involving officers involved in such cases. For example, it may reasonably be claimed that an officer's judgment and objectivity could be clouded by such associations or that the officer's credibility in general or court testimony, in particular, may be similarly tainted. Such associations may also give rise to other speculation to include the pre-arrest relationship of the officer to the person in question and the possible interplay of the relationship to the arrest.

With regard to associations involving business establishments, the model policy suggests two restrictions. The first of these states that "except in the performance of official duties, officers shall not knowingly enter any establishment in which the law of that jurisdiction is regularly violated." Again, the issue involved here is the protection of the image and reputation of officers and their agencies. Officers who, outside of the scope of their employment, enter gambling establishments, houses of prostitution, or any location that has a reputation for illegal activity risk sparking speculation about the officer's integrity, judgment, impartiality, and professionalism.

Finally, the model policy prohibits officers from "knowingly join[ing] or participat[ing] in any organization that advocates, incites, or supports criminal acts or criminal conspiracies." While uncommon, there are cases in which officers have affiliated off-duty with such organizations. The policy includes organizations that not only support criminal acts or conspiracies but also any that advocate such acts. Affiliation with so-called "hate groups" such as white supremacists, anti-Semites, militants, and other extremists that espouse and/or support criminal acts or criminal conspiracies are among those that run counter to the core values of law enforcement. Any affiliation of officers with such groups has a significant

debilitating effect on the reputation of offices and their law enforcement agency.

L. Public Statements, Appearances, and Endorsements

The model policy covers several concerns with respect to public statements made by officers. Perhaps the most controversial of these is the first directive in section IV.B.1 of the policy, which reads Officers shall not, under color of authority, make any public statement that could be reasonably interpreted as having an adverse effect upon department morale, discipline, operation of the agency, or perception of the public.

Police personnel in recent years have become increasingly willing to make adverse public statements regarding their departments. While police agencies may wish to limit or control such statements, the essence of the problem, of course, is the constitutionally guaranteed right to free speech. The extent to which a department may regulate speech by its personnel depends upon many factors and is a complex point of law to which only limited guidance has been given by the courts. Generally speaking, however, the basis for any discussion of the subject must distinguish between speech of a “personal” versus a “public” nature. For example, if an employee makes statements detrimental to the department, the department may be able to take disciplinary action as long as the statements are of “personal interest” only. If however, the statements deal with matters of “public concern,” then the department may take action against the employee only if the “public concern” is outweighed by the interest of the public employer “in promoting the efficiency of the public services it performs.”⁷

Supposedly, something is a matter of public concern if it relates to “any matter of political, social, or other concern to the community.”⁸ Unfortunately, the deciding line between that which is of “personal interest” only and that which is a matter of “public concern” is very vague, and, as with other free-speech issues, the outcome depends largely on the political makeup of the court considering the question. In general, however, personal insults directed at superiors and complaints regarding the individual treatment of the complaining employee are often considered matters of “personal interest” for which action may be taken,⁹ whereas complaints about, for example, the alleged misuse of public funds or similar acts of official misconduct by superiors are likely to be regarded as matters of “public concern,” however intemperate or outrageous they may be. In the long run, whether the matter is one of “personal

interest” or “public concern” is a question of law to be decided by the judge.¹⁰

Another aspect of the freedom-of-speech issue is reflected in the following statement of the model policy:

Officers shall not, under color of authority, divulge or willfully permit to have divulged, any information gained by reason of their position, for anything other than its official, authorized purpose; or, unless expressly authorized, make any statements, speeches, or appearances that could reasonably be considered to represent the views of this agency.

The first part of this directive is clearly intended to protect confidential information from being released without authorization or to be used by officers for any purposes other than those for which they were intended. This may include but is not limited to the use of such information for private purposes or in conjunction with outside business endeavors, (such as private security or private investigative operations), that could benefit from information contained in criminal history and related departmental files.

The second element of this policy directive is intended to control unauthorized statements that may be interpreted by those outside the agency as representing official agency policy. Normally, all policy and position statements are provided to the media and others through the chief executive officer, the public information officer, or another designated spokesperson. Other officers who may appear in public either in uniform or as clearly designated members of the police agency must ensure that their comments with regard to their work and the agency are within the parameters of policy established by the agency for the release of information.¹¹ The final element of the model policy in this area of concern relates to restrictions on endorsements by officers. The policy states that

Officers may not, under color of authority, endorse, recommend, or facilitate the sale of commercial products or services. This includes but is not limited to the use of tow services, repair firms, attorneys, bail bondsmen, or other technical or professional services. It does not pertain to the endorsement of appropriate governmental services where there is a duty to make such endorsements.

¹⁰ For a more detailed discussion of this topic, see, for example, “Free Speech and Departmental Policies,” IACP National Law Enforcement Policy Center, *Policy Review*, Volume 5, Number 2, June 1993, IACP, Alexandria, VA 22314.

¹¹ For more information on this and guidelines on media relations by officers and others see, for example, the *Model Policy on Police-Media Relations*, IACP National Law Enforcement Policy Center, IACP, Alexandria, VA 22314

⁷ *Pickering v. Board of Education*, 391 U.S. 563 (1968).

⁸ See *Connick v. Myers*, 461 U.S. 138 (1984).

⁹ See, for example, *Pickering v. Board of Education*, 391 U.S. 563 (1968); *Ohse v. Hughes*, 816 F.2d. 1144 (7th Cir. 1987).

This directive prohibits the promotion of products or services by any personnel who are clearly identified with their employing agency as a law enforcement officer. It is inappropriate for a governmental agent to do so in most capacities as it may imply governmental sanctioning of and support for specific products and services. This is both misleading and may provide an unfair trade advantage to competing product manufacturers or service providers. It may also give the impression that the officer and/or the agency is receiving remuneration for such endorsements and/or that they vouch for and stand behind product or service quality and customer satisfaction.

In some instances, officers may be approached by product or service providers for testimonials or endorsements. However, the officer's identification with their employing jurisdiction and police agency may give the improper impression that these entities also stand behind these products. Finally, it could be argued by some that recommendation of products and services directly to individual consumers by a police officer carries a degree of coercion that is improper even if unintended.

Such endorsements and recommendations do not apply to recommendations concerning governmental services when authorized by the law enforcement agency. For example, this may include recommendations regarding the use of family counseling or crisis intervention services, health clinics, social welfare or housing assistance services, or similar municipal, county or state services.

M. Political Activity

Political activity is also generally regarded as a matter of free speech. As such, there are limitations on what law enforcement administrators can do to restrict their officers' political activity. The demarcation line in limiting such activity is based generally upon whether or not the activity in question is being performed by the officer during working hours, while in uniform or while otherwise serving as a representative of the law enforcement agency. The model policy makes this distinction and also indicates that state law, where applicable, will take precedent over model policy recommendations.

It has now been well-established that the First Amendment prohibits officials from discharging or threatening to discharge public employees solely for not supporting the political party in power, unless the party affiliation is an appropriate requirement for the position involved.¹² While such patronage has been considered appropriate for high-level policy-making personnel within agencies, it has been considered inappropriate for actions

against lower-level, non-policy-making personnel.¹³

Thus, during working hours, while officers are in uniform, or otherwise serving as representatives of their law enforcement agency, the model policy prohibits them from engaging in the following political activities:

- Placing or affixing any campaign literature on city- or county-owned property.
- Soliciting political funds from any member of the law enforcement agency or another governmental agency of the employing jurisdiction.
- Soliciting contributions, signatures, or other forms of support for political candidates, parties, or ballot measures on property owned by the jurisdiction.
- Using official authority to interfere with any election or interfere with the political actions of other employees or the general public
- Favoring or discriminating against any person seeking employment because of political opinions or affiliations

N. Expectations of Privacy

This component of the model policy addresses an issue that is not traditionally or routinely regarded as a matter of employee conduct but one that can become involved in investigations of improper conduct. The need to access officers' desks, lockers, file cabinets, storage areas, assigned vehicles, or other areas can also come into play with respect to line inspections, in searching for evidence that officers may have stored inappropriately from a crime scene, in the search for missing property, or in other regards.

Officers do not normally have any expectation of privacy in the aforementioned types of areas that are owned by or under the control of the law enforcement agency. However, absent any notice to this effect by management, officers may develop a presumption of personal privacy in such areas—particularly if there is a generally accepted or long-held tradition or custom within the agency of observing or granting such privacy—that may become binding upon the agency unless explicitly countermanded.

Agency administrators who wish to reserve the right to gain access to agency-owned or -controlled property that is or can be used to house the personal property of officers should make their intentions clear in written agency policy. The model policy recommends the following language for this purpose:

¹² See *Elrod v. Burns*, 427 U.S. 347 (1976); and *Branti v. Finkel*, 445 U.S. 507 (1980).

¹³ See *Rutan v. Republican Party of Illinois*, 110 S.Ct. 2729 (1990). Note that this does not apply to policy-making employees, nor does it apply to employees who hold "confidential" positions. See, for example, *Soderstrum v. Town of Grand Isle*, 925 F.2d 135 (5th Cir. 1991) where a new chief discharged the confidential secretary of the old chief.

Officers shall not store personal information or belongings with an expectation of personal privacy in such places as lockers, desks, departmentally owned vehicles, file cabinets, computers,¹⁴ or similar areas that are under the control and management of this law enforcement agency. While this agency recognizes the need for officers to occasionally store personal items in such areas, officers should be aware that these and similar places may be inspected or otherwise entered—to meet operational needs, internal investigatory requirements, or for other reasons—at the direction of the agency chief executive or his or her designee.

The second component of this area of the model policy involves the unauthorized storage of agency documents outside the confines of the police department. For example, it is not uncommon to find an occasion that police officers and criminal investigators in particular have accumulated and/or stored files relating to criminal cases at home. This is often in conjunction with work officers are conducting off-duty on cases that are long-standing or that in some manner need extra attention. Over time, the accumulation of records can increase and include sensitive or confidential materials as well as the original or sole copy of documents that if misplaced, lost or destroyed could cause critical problems. Once outside the confines and security of the police agency, documents may also fall into the wrong hands or, should the officer be dismissed or leave employment of the agency, the documents may be difficult to recover. With these and related problems in mind, the model policy restricts this practice in stating that

No member of this agency shall maintain files or duplicate copies of official agency files in either manual or electronic formats at his or her place of residence or in other locations outside the confines of this agency without express permission.

Every effort has been made by the IACP National Law Enforcement Policy Center staff and advisory board to ensure that this document incorporates the most current information and contemporary professional judgment on this issue. However, law enforcement administrators should be cautioned that no “model” policy can meet all the needs of any given law enforcement agency. Each law enforcement agency operates in a unique environment of federal court rulings, state laws, local ordinances, regulations, judicial and administrative decisions and collective bargaining agreements that must be considered. In addition, the formulation of specific agency policies must take into account local political and community perspectives and customs, prerogatives and demands; often divergent law enforcement strategies and philosophies; and the impact of varied agency resource capabilities among other factors.

This project was supported by a grant awarded by the Bureau of Justice Assistance. The Bureau of Justice Assistance is a component of the Office of Justice Programs, which also includes the Bureau of Justice Statistics, the National Institute of Justice, the Office of Juvenile Justice and Delinquency Prevention, the Office for Victims of Crime, and the Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking. Points of view or opinions in this document are those of the author and do not necessarily represent the official position or policies of the U.S. Department of Justice or the IACP.

IACP National Law Enforcement Policy Center Staff: Philip Lynn, Manager; Sara Dziejma, Project Specialist; and Vincent Talucci, Executive Director, International Association of Chiefs of Police.

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¹⁴ For more explicit information on this subject, see the *Model Policy on Electronic Messaging* published by the IACP National Law Enforcement Policy Center, IACP, Alexandria, VA 22314.



Model Policy

<i>Effective Date</i> August 1997		<i>Number</i>	
<i>Subject</i> Standards of Conduct			
<i>Reference</i>		<i>Special Instructions</i>	
<i>Distribution</i>		<i>Reevaluation Date</i>	<i>No. Pages</i> 4

I. PURPOSE

It is the purpose of this policy to provide additional specificity to the standards of conduct embodied in the law enforcement officer's code of ethics and this agency's statement of values so that officers of this agency will better understand prohibitions and limitations pertaining to their conduct and activities while on and off duty. The rules of conduct set forth in this policy are not intended to serve as an exhaustive treatment of requirements, limitations, or prohibitions on officer conduct and activities established by this agency. Rather, they are intended to (1) alert officers to some of the more sensitive and often problematic matters involved in police conduct and ethics; (2) specify, where possible, actions and inactions that are contrary to and that conflict with the duties and responsibilities of law enforcement officers, and (3) guide officers in conducting themselves and their affairs in a manner that reflects standards of deportment and professionalism as required of law enforcement officers. Additional guidance on matters of conduct is provided in regard to specific policies, procedures, and directives disseminated by this agency and from officers' immediate supervisors and commanders.

II. POLICY

Actions of officers that are inconsistent, incompatible, or in conflict with the values established by this agency negatively affect its reputation and that of its officers. Such actions and inactions thereby detract from the agency's overall ability to effectively and efficiently protect the public, maintain peace and order, and conduct other essential business.

Therefore, it is the policy of this law enforcement agency that officers conduct themselves at all times in a manner that reflects the ethical standards consistent with the rules contained in this policy and otherwise disseminated by this agency.

III. DEFINITION

Accountability: In the context of this policy, accountability means the duty of all officers to truthfully acknowledge and explain their actions and decisions when requested to do so by an authorized member of this agency without deception or subterfuge.

IV. PROCEDURES

A. General Conduct

1. Obedience to Laws, Regulations, and Orders
 - a. Officers shall not violate any law or any agency policy, rule, or procedure.
 - b. Officers shall obey all lawful orders.
2. Conduct Unbecoming an Officer

Officers shall not engage in any conduct or activities on- or off-duty that reflect discredit on the officers, tend to bring this agency into disrepute, or impair its efficient and effective operation.
3. Accountability, Responsibility, and Discipline
 - a. Officers are directly accountable for their actions through the chain of command, to this agency's chief executive officer.
 - b. Officers shall cooperate fully in any internal administrative investigation conducted by this or other authorized agency and shall provide complete and accurate

- information in regard to any issue under investigation.
- c. Officers shall be accurate, complete, and truthful in all matters.
 - d. Officers shall accept responsibility for their actions without attempting to conceal, divert, or mitigate their true culpability nor shall they engage in efforts to thwart, influence, or interfere with an internal or criminal investigation.
 - e. Officers who are arrested, cited, or come under investigation for any criminal offense in this or another jurisdiction shall report this fact to a superior as soon as possible.
4. Conduct Toward Fellow Employees
 - a. Officers shall conduct themselves in a manner that will foster cooperation among members of this agency, showing respect, courtesy, and professionalism in their dealings with one another.
 - b. Employees shall not use language or engage in acts that demean, harass, or intimidate another person. (Members should refer to this agency's policy on "Harassment and Discrimination in the Workplace" for additional information on this subject)
 5. Conduct Toward the Public

Officers shall conduct themselves toward the public in a civil and professional manner that connotes a service orientation and that will foster public respect and cooperation.

 - a. Officers shall treat violators with respect and courtesy, guard against employing an officious or overbearing attitude or language that may belittle, ridicule, or intimidate the individual, or act in a manner that unnecessarily delays the performance of their duty.
 - b. While recognizing the need to demonstrate authority and control over criminal suspects and prisoners, officers shall adhere to this agency's use-of-force policy and shall observe the civil rights and protect the well-being of those in their charge.
 6. Use of Alcohol and Drugs
 - a. Officers shall not consume any intoxicating beverage while on duty unless authorized by a supervisor.
 - b. No alcoholic beverage shall be served or consumed on police premises or in vehicles owned by this jurisdiction.
 - c. An officer shall not be under the influence of alcohol in a public place, whether on- or off-duty.
 - d. No officer shall report for duty with the odor of alcoholic beverage on his or her breath.
 - e. No officer shall report to work or be on duty as a law enforcement officer when his or her judgment or physical condition has been impaired by alcohol, medication, or other substances.
 - f. Officers must report the use of any substance, prior to reporting for duty, that impairs their ability to perform as a law enforcement officer.
 - g. Supervisors shall order a drug or alcohol screening test when they have reasonable suspicion that an employee is using and/or under the influence of drugs or alcohol. Such screening shall conform to this agency's policy on employee drug-screening and testing.
 7. Use of Tobacco Products

While on duty, a police officer shall not use a tobacco product unless in a designated area and while not conducting police business. Additionally, officers are not permitted to use tobacco products in a vehicle owned or maintained by this agency.
 8. Abuse of Law Enforcement Powers or Position
 - a. Officers shall report any unsolicited gifts, gratuities, or other items of value that they receive and shall provide a full report of the circumstances of their receipt if directed.
 - b. Officers shall not use their authority or position for financial gain, for obtaining or granting privileges or favors not otherwise available to them or others except as a private citizen, to avoid the consequences of illegal acts for themselves or for others, to barter, solicit, or accept any goods or services (to include, gratuities, gifts, discounts, rewards, loans, or fees) whether for the officer or for another.
 - c. Officers shall not purchase, convert to their own use, or have any claim to any found, impounded, abandoned, or recovered property, or any property held or released as evidence.
 - d. Officers shall not solicit or accept contributions for this agency or for any other agency, organization, event, or cause without the express consent of the agency chief executive or his or her designee.

- e. Officers are prohibited from using information gained through their position as a law enforcement officer to advance financial or other private interests of themselves or others.
 - f. Officers who institute or reasonably expect to benefit from any civil action that arises from acts performed under color of authority shall inform their commanding officer.
9. Off-Duty Police Action
- a. Officers shall not use their police powers to resolve personal grievances (e.g., those involving the officer, family members, relatives, or friends) except under circumstances that would justify the use of self-defense, actions to prevent injury to another person, or when a serious offense has been committed that would justify an arrest. In all other cases, officers shall summon on-duty police personnel and a supervisor in cases where there is personal involvement that would reasonably require law enforcement intervention.
 - b. Unless operating a marked police vehicle, off-duty officers shall not arrest or issue citations or warnings to traffic violators on sight, except when the violation is of such a dangerous nature that officers would reasonably be expected to take appropriate action.
10. Prohibited Associations and Establishments
- a. Arresting, investigating, or custodial officers shall not commence social relations with the spouse, immediate family member, or romantic companion of persons in the custody of this agency.
 - b. Officers shall not knowingly commence or maintain a relationship with any person who is under criminal investigation, indictment, arrest, or incarceration by this or another police or criminal justice agency, and/or who has an open and notorious criminal reputation in the community (for example, persons whom they know, should know, or have reason to believe are involved in felonious activity), except as necessary to the performance of official duties, or where unavoidable because of familial relationships.
 - c. Except in the performance of official duties, officers shall not knowingly enter any establishment in which the law of that jurisdiction is regularly violated.
- d. Officers shall not knowingly join or participate in any organization that advocates, incites, or supports criminal acts or criminal conspiracies.
- B. Public Statements, Appearances, and Endorsements
- 1. Officers shall not, under color of authority,
 - a. make any public statement that could be reasonably interpreted as having an adverse effect upon department morale, discipline, operation of the agency, or perception of the public;
 - b. divulge or willfully permit to have divulged, any information gained by reason of their position, for anything other than its official, authorized purpose; or
 - c. unless expressly authorized, make any statements, speeches, or appearances that could reasonably be considered to represent the views of this agency.
 - 2. Endorsements
Officers may not, under color of authority, endorse, recommend, or facilitate the sale of commercial products or services. This includes but is not limited to the use of tow services, repair firms, attorneys, bail bondsmen, or other technical or professional services. It does not pertain to the endorsement of appropriate governmental services where there is a duty to make such endorsements.
- C. Political Activity
- Officers shall be guided by state law regarding their participation and involvement in political activities. Where state law is silent on this issue, officers shall be guided by the following examples of prohibited political activities during working hours, while in uniform, or otherwise serving as a representative of this agency:
- 1. Engage in any political activity;
 - 2. Place or affix any campaign literature on city/county-owned property;
 - 3. Solicit political funds from any member of this agency or another governmental agency of this jurisdiction;
 - 4. Solicit contributions, signatures, or other forms of support for political candidates, parties, or ballot measures on property owned by this jurisdiction;
 - 5. Use official authority to interfere with any election or interfere with the political actions of other employees or the general public;
 - 6. Favor or discriminate against any person seeking employment because of political opinions or affiliations;

7. Participate in any type of political activity while in uniform.

D. Expectations of Privacy

1. Officers shall not store personal information or belongings with an expectation of personal privacy in such places as lockers, desks, departmentally owned vehicles, file cabinets, computers, or similar areas that are under the control and management of this law enforcement agency. While this agency recognizes the need for officers to occasionally store personal items in such areas, officers should be aware that these and similar places may be inspected or otherwise entered—to meet operational needs, internal investigatory requirements, or for other reasons—at the direction of the agency chief executive or his or her designee.
2. No member of this agency shall maintain files or duplicate copies of official agency files in either manual or electronic formats at his or her place of residence or in other locations outside the confines of this agency without express permission.

Every effort has been made by the IACP National Law Enforcement Policy Center staff and advisory board to ensure that this document incorporates the most current information and contemporary professional judgment on this issue. However, law enforcement administrators should be cautioned that no “model” policy can meet all the needs of any given law enforcement agency. Each law enforcement agency operates in a unique environment of federal court rulings, state laws, local ordinances, regulations, judicial and administrative decisions and collective bargaining agreements that must be considered. In addition, the formulation of specific agency policies must take into account local political and community perspectives and customs, prerogatives and demands; often divergent law enforcement strategies and philosophies; and the impact of varied agency resource capabilities among other factors.

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IACP NATIONAL LAW ENFORCEMENT POLICY CENTER

Motor Vehicle Stops

Concepts and Issues Paper

Originally Published: April 1992

Revised: December 2003, December 2006, January 2008

I. INTRODUCTION

A. Purpose of Document

This document was designed to accompany the *Model Policy on Motor Vehicle Stops* established by the IACP National Law Enforcement Policy Center. This paper provides essential background material and supporting documentation to provide greater understanding of the developmental philosophy and implementation requirements for the model policy. This material will be of value to law enforcement executives in their efforts to tailor the model to the requirements and circumstances of their communities and their law enforcement agencies.

B. Background

Motor vehicle stops are one of the most frequently performed activities for many law enforcement officers. As such, there is a tendency among some officers to regard these encounters as routine and in some cases to approach them without sufficient caution or regard for the inherent dangers. The Federal Bureau of Investigation (FBI) statistics indicate that vehicle stops, on a national basis over a 10-year period, account for about 11 percent of all officers feloniously killed or assaulted in the line of duty.

Unlike many other police-citizen encounters, motor vehicle stops involve a variety of potential dangers. In a majority of such cases these stops involve police contact with individuals whose identities, background, mental state and motivations are unknown. A police officer is therefore at a distinct initial disadvantage without information concerning potential danger.

In addition, many motorists, and particularly those involved in or concealing criminal activities, carry firearms and other weapons in their vehicles or on their person. Recognizing that most vehicle stops involve some checks of personal identification and vehicle registration, many suspects are willing to resort to violence rather than risk being identified and arrested. The increased use of motor vehicles for the transportation and selling of illegal drugs also adds to the possibility that an unsuspecting officer may happen upon a dangerous confrontation even when initiating what appears to be a simple traffic stop.

Even otherwise law-abiding citizens can become assaultive during vehicle stops because of fear, frustration or anxiety caused or precipitated by the police encounter. In particular, intoxicated persons or those under the influence of illegal drugs often lack the judgment and restraint necessary to control themselves, particularly when they realize that they will be or are being taken into custody.

The physical conduct of a vehicle stop can also be hazardous to officers and other users of the roadway when it involves the use of inadequate areas to stop, poor lighting, high traffic speeds, improper vehicle placement or a variety of other factors. Therefore, it is essential that all traffic stops be given the same attention and degree of caution and that established procedures for these responsibilities be adhered to closely.

This paper discusses vehicle stops from two distinct levels—routine vehicle stops and high-risk vehicle stops. However, it should be made clear that these two classifications are used primarily for purposes of organizing the discussion. Officers must keep in mind that a seemingly routine vehicle stop can quickly or

unexpectedly escalate into a felony or high-risk stop. However, unless an officer has information that allows him or her to clearly designate a vehicle stop as high risk—such as information that the driver is a wanted fugitive or is driving a stolen automobile—the stop should generally be regarded as unknown in terms of danger. The majority of all traffic citation stops fall within this unknown classification in which the officer has little or no information about the driver’s background, present mental state, propensity toward violence, or other important matters. Only during the subsequent police-citizen encounter will information normally be gathered to allow an officer to formulate an opinion concerning the risks involved. During these encounters, officers should be highly observant of the violator and their surroundings and be prepared to quickly change their assessment of the situation based upon information gathered. An officer who is quick to formulate an opinion concerning the risk of a vehicle stop, and who is relatively inflexible in modifying that viewpoint throughout the encounter based on incoming information, is unnecessarily placing himself or herself in harm’s way and potentially jeopardizing public support and good will.

II. PROCEDURES

A. General Legal Authority to Stop Motorists

The rules applicable to motor vehicle stops and searches have been the subject of close judicial scrutiny for many years. The court decisions on this subject have helped law enforcement to the extent that they have, in many instances, clarified what officers can and can’t do in making a motor vehicle stop and dealing with the stopped vehicle’s driver, passengers, and contents. However, the sheer number of these decisions has created a problem for police, inasmuch as the results of the cases have often varied from jurisdiction to jurisdiction, the cases have not always been entirely consistent in their outcomes, and there are so many variables involved in these incidents that it is often difficult to determine whether a particular case applies in another similar but factually variant situation.

Many searches of motor vehicles occur in conjunction with a stop of the motor vehicle on the street or highway. Over several decades, the Supreme Court has fashioned a set of rules that govern when a motor vehicle search may occur following a vehicle stop, and how far the search may extend. These rules are complex and their application depends upon the circumstances of the stop and subsequent developments, but one common principle applies, i.e., that actions of the police following a vehicle stop, including any arrest, search, seizure, etc. that follows the stop, are lawful only if the stop itself is lawful. It is therefore vital

that officers understand when they may stop a vehicle and what subsequent actions each type of stop will justify.

Making a vehicle stop requires logistical planning and knowledge of the law by a law enforcement officer. First, officers must be sure that they have sufficient grounds to make a stop. In *Commonwealth of Pennsylvania v. Edwards* the U.S. Supreme Court found that an individual has a reasonable expectation of privacy in an automobile and when a vehicle is stopped, a seizure within the meaning of the Fourth Amendment has occurred.¹ Quoting the 1979 *Prouse* decision the justices ruled that

*[E]xcept in those situations in which there is at least articulable and reasonable suspicion that a motorist is unlicensed or that an automobile is not registered, or that either the vehicle or an occupant is otherwise subject to seizure for violation of law, stopping an automobile and detaining the driver in order to check his driver’s license and the registration of the automobile are unreasonable under the Fourth Amendment.*²

The critical question under the Fourth Amendment is whether the seizure was *reasonable*. Generally, to meet this test, the officer must be able to demonstrate that a traffic violation has been committed or a criminal act has been, is being, or is about to be committed in order to stop a vehicle. Discretionary stops have been considered violations of the Fourth Amendment because of their arbitrary, intrusive, and discriminatory nature.

As noted in the model policy, reasonable suspicion to sustain a vehicle stop is established in each incident by an assessment of the totality of the circumstances. Such an analysis must provide an officer with a particularized and objective basis for suspecting legal wrongdoing. As the U.S. Supreme Court has noted, “The process allows officers to draw on their own experience and specialized training to make inferences from and deductions about the cumulative information available to them that might elude an untrained person.”³

Conducting an investigative detention requires that officers look at the totality of the circumstances in each case to determine whether there is a particularized and objective basis for suspecting legal wrongdoing. For example, an anonymous tip, without additional supporting information and facts to support it may not be sufficient to establish reasonable suspicion.⁴ Reasonable suspicion

¹ *Commonwealth of Pennsylvania v. Edwards*, 355 PA Super. 311, 513 A.2d 445 (1986).

² *Delaware v. Prouse*, 440 U.S. 648, 99 S.Ct. 1391 (1979).

³ *United States v. Arvizu*, 534 U.S. 266 (2002), 232 F.3d 1241.

⁴ See for example, *Florida v. J.L.*, 529 U.S. 266, 120 S.Ct. 1375 (2000).

is more than a hunch or feeling that an officer might have about an individual or circumstance. It is based on specific facts that, when taken together with rational inferences, reasonably warrant the vehicle stop.

In order to arrest the driver of a motor vehicle, the passengers, or both, an officer must have probable cause. In determining probable cause the arresting officer must examine all of the factors and events leading up to the arrest and decide whether these facts, viewed from the standpoint of an objectively reasonable police officer, support the belief that an individual has committed, is committing, or is about to commit a crime.

Failure to establish legal justification for conducting a vehicle stop will invalidate the stop and enforcement action taken, whether that is with respect to the basis for the stop or with regard to any evidence of a crime that may be discovered during the stop.

In addition to the above, officers are specifically prohibited from stopping motor vehicles under the guise of legal authority when in fact the stop is based solely on the person's race, ethnicity, gender, or similar distinction. Commonly referred to as profiling, allegations of prejudicial enforcement have been widely discussed, litigated, and submitted to administrative and judicial review. Such practices are antithetical to the law enforcement code of conduct and the mission of law enforcement and officers who engage in such practices destroy the public trust. The U.S. Supreme Court has made it clear that the underlying motive of an officer for making a vehicle stop does not invalidate an objectively justifiable and otherwise legal motor vehicle stop.⁵ However, that motive does not include the use of discretion that constitutes prejudicial or discriminatory enforcement of the law.

In addition, officers should ensure that the stop of a motor vehicle is only for a period of time that is reasonable to conduct the business at hand. Should reasonable suspicion develop in the course of the stop that violations of the law have been or are about to be committed, officers are free to extend the vehicle stop until such time as those suspicions have been satisfied. However, officers must not engage in fishing expeditions in attempts to unearth evidence of violations based on mere hunches or other unsubstantiated feelings. By the same token, officers should not routinely or arbitrarily request permission of motor vehicle operators to conduct searches of their vehicle.

B. Legal Summary of Justifications for and Prohibitions against Stopping Motor Vehicles⁶

Ordering Occupants Out of a Vehicle during a Stop.

A major concern for officers stopping a motor vehicle is the extent of the officers' authority over the occupants of the vehicle following the stop. Both the safety of the officer and the legal validity of the officers' subsequent actions depend upon that authority. The Supreme Court has enunciated the following rules on this subject:

Driver. During a lawful traffic stop, the driver may be ordered out of the vehicle "as a matter of course."

Pennsylvania v. Mimms, 434 U.S. 106 (1977).

Passengers. During a lawful traffic stop, an officer may order a passenger out of the car as a precautionary measure, even without any "reasonable suspicion" that the passenger poses a safety risk. *Maryland v. Wilson*, 519 U.S. 408 (1997). The court held that the "danger to an officer from a traffic stop is likely to be greater when there are passengers in addition to the driver in the stopped vehicle." Id. at 886

A Vehicle Stop is a "Seizure" under the Fourth Amendment.

Driver. Under the Fourth Amendment, a traffic stop is a seizure of the driver of the vehicle "even though the purpose of the stop is limited and the resulting detention quite brief." *Delaware v. Prouse*, 440 U.S. 648 (1979). See also *Whren v. United States*, 517 U.S. 806 (1996).

Passengers. A traffic stop constitutes a Fourth Amendment seizure of passengers riding in the vehicle. *Brendlin v. California*, No. 06-8120, Supreme Court of the United States, June 18, 2007. This case is important because it addresses the question of the admissibility against the passenger of any evidence found during the stop. In *Brendlin*, the Supreme Court held that because the stop is a seizure of the passenger as well as of the driver, a passenger so seized has the right to challenge the admissibility of any evidence against him or her that is discovered during the stop. This ruling "comports with the views of all nine Federal Courts of Appeals, and nearly every state court, to have ruled on the question." *Brendlin v. California*, No. 06-8120, Supreme Court of the United

⁶ The summaries presented here state broad principles only, as suggested by the cases cited. In many instances, a general rule announced by the courts may be altered by the circumstances of a particular case. In addition, later decisions may have altered the principles stated here, and state decisions and statutes may impose rules that are more restrictive than those announced by the Supreme Court under the federal Constitution. Consequently, the statements contained in this article are offered for information only. They do not constitute legal advice, and they should not be used as the basis for any police action without consultation with local legal advisors, a review of all applicable cases decided prior or subsequent to the cases mentioned here, and thorough consideration of all the facts and circumstances of a particular incident or situation.

⁵ *Whren v. United States*, 517 U.S. 806, 116 S.Ct. 1769 (1996).

States, June 18, 2007, citing cases from the 1st, 3rd, 4th, 5th 6th, 7th, 8th, 9th, and 10th Circuit Courts of Appeals and numerous state cases.

Where contraband, fruits, or instrumentalities of a crime are uncovered during the search of a vehicle, both driver and passengers may be subject to arrest, but in order to arrest the passengers, the officer must have probable cause to believe that the passengers had knowledge of and control over the illegal items, or were engaged in a common enterprise with the driver to conceal the items, or both. As in *Pringle*, when an officer stops a vehicle and finds drugs concealed in it, in some cases all the passengers may be considered to be engaged in a common enterprise with regard to the drugs, and may be arrested. This does not mean that officers may arrest any and all passengers in any and all such circumstances. In *Pringle*, the determining factors were that (a) the men and the drugs were found in the vehicle; (b) Pringle was seated in close proximity to a large sum of money; (c) drugs were found in the passenger compartment in a place accessible to all passengers; and (d) none of the three men in the vehicle admitted to being or singled out anyone as being the owner of the drugs. *Maryland v. Pringle*, 540 U.S. 366 (2003).

Stopping a Vehicle by Use of Force. As with any other vehicle stop, using force to stop a fleeing vehicle constitutes a “seizure” under the Fourth Amendment. See *Brower v. County of Inyo*, 489 U.S. 593 (1989) (roadblock); *Scott v. Harris*, 127 S. Ct. 1769 (2007) (ramming).

The use of force to stop a vehicle raises legal issues as to the admissibility of any evidence found in the vehicle after the stop. It also presents civil liability questions, particularly if occupants of the vehicle are injured or killed during the forceful stop. This was particularly the case in *Brower* where officers positioned an unilluminated 18-wheel tractor-trailer across both lanes of a two lane highway behind a curve and positioned a police vehicle with its headlights on, between the oncoming vehicle and the truck so that it blinded the driver on his approach.

More recently, the Supreme Court ruled that terminating a vehicle chase by ramming (as opposed to use of a PIT maneuver) the suspect’s vehicle may be reasonable under the circumstances of the case, and, if it is, in that event the use of force to stop the vehicle does not violate the Fourth Amendment even when it places the fleeing motorist at risk of serious injury or death. *Scott v. Harris*, 127 S. Ct. 1769 (2007) (officer rammed rear end of fleeing vehicle).

Evidence Found during an Unlawful Stop. As noted earlier, because a vehicle stop is a seizure under the Fourth Amendment, if the stop was unlawful, evidence discovered during the stop is subject to suppression. See *Brendlin v.*

California, No. 06-8120, Supreme Court of the United States, June 18, 2007.

Grounds for Stopping a Motor Vehicle. A vehicle stop is lawful only if legal grounds existed for the stop. Further, the nature of the grounds will dictate what type of search may be conducted, what part of the vehicle may be searched, and what may be done regarding containers found in the vehicle.

Probable cause or reasonable suspicion. The “stop and frisk” rule of *Terry v. Ohio*, 392 U.S. 1 (1968), applies to motor vehicles. Therefore, if an officer observes, or receives from reliable sources, information that creates reasonable suspicion or probable cause to believe that the vehicle or its occupants are involved in a crime, the vehicle may be stopped. See *United States v. Sharpe*, 470 U.S. 675 (1985); *United States v. Cortez*, 449 U.S. 411 (1981).

It is the “totality of the circumstances” that will determine whether an officer has a reasonable basis for suspecting criminal activity in connection with a motor vehicle. *United States v. Arvizu*, 532 U.S. 266 (2002).

Traffic violation. The decision to stop an automobile is reasonable where the police have probable cause to believe that a traffic violation has occurred. See, e.g., *Pennsylvania v. Mimms*, 434 U.S. 106 (1977); *Delaware v. Prouse*, 440 U.S. 648 (1979).

Other justifications. There are other justifications for stopping a motor vehicle, including safety reasons related to the vehicle, the road, or other conditions; pursuant to a warrant; or where the officer has reasonable suspicion that the occupants of the vehicle have engaged in, are engaging in, or are about to engage in criminal activity.

Checking license and registration. The random stop of an individual vehicle for the purpose of checking license or registration or both is not permissible.

Except in those situations in which there is at least articulable and reasonable suspicion that a motorist is unlicensed or that an automobile is not registered, or that either the vehicle or an occupant is otherwise subject to seizure for violation of law, stopping an automobile and detaining the driver in order to check his driver’s license and the registration of the automobile are unreasonable under the Fourth Amendment. *Delaware v. Prouse*, 440 U.S. 648 (1979).

However, a checkpoint established for the purpose of stopping all vehicles for examination of license and registration may be lawful. See *Delaware v. Prouse*, 440 U.S. 648 (1979) and Section 6, “Checkpoints,” below.

Subjective motives of the officer. Subjective motives of an officer do not invalidate a stop that is supported by independent probable cause or reasonable suspicion to believe that a violation has occurred. *Whren v. United*

States, 517 U.S. 806 (1996). However, a stop based upon race or other discriminatory motives may nevertheless be held unlawful. See, e.g., *United States v. Brignoni Ponce*, 422 U.S. 873 (1975), in which the Supreme Court observed that it was improper for officers to stop a vehicle “when the only ground for suspicion is that the occupants appear to be of Mexican ancestry.” In addition, many state courts hold that a stop based on a pretext is unlawful. (See *Unbiased Policing*, IACP Concepts and Issues Paper (2006)).

Checkpoints. There has been a great deal of litigation over the lawfulness of vehicle checkpoints. Major cases include the following:

A checkpoint for license and registration at which all vehicles were stopped was approved in *Delaware v. Prouse*, 440 U.S. 648 (1979).

A checkpoint set up solely for the purpose of drug interdiction was held unlawful, because it was established to “detect evidence of ordinary criminal wrongdoing.” *City of Indianapolis v. Edmond*, 531 U.S. 32, (2000). In the view of the Court, the interdiction of narcotics is just another aspect of general law enforcement tasks dealing with criminal activity. Therefore, the Court took the position in *Edmond* that the time-honored principle requiring “individualized suspicion” to justify traffic stops invalidates checkpoints operated for the primary purpose of interdicting narcotics. Further, except for the purposes already approved by the Court, any checkpoint operated solely on the possibility that it will reveal to police some person or persons involved in any other sort of criminal activity is forbidden

Although “individualized suspicion” of a particular vehicle is normally required, “special law enforcement concerns” (such as driving under the influence) may sometimes justify checkpoint stops without individualized suspicion. See, e.g., *Michigan Dept. of State Police v. Sitz*, 496 U.S. 444 (1990) (sobriety checkpoint held lawful).

A checkpoint established to solicit information from passing motorists to assist police in identifying a specific perpetrator of a specific and know crime is permissible. *Illinois v. Lidster*, 540 U.S. 419, 124 S.Ct. 885 (2004).

A Border Patrol checkpoint on a highway near the Mexican border to detect illegal immigrants was upheld in *United States v. Martinez-Fuerte*, 428 U.S. 543 (1976). However, even where the object is the detection of illegal aliens, “roving patrols” and stops based solely upon the fact that occupants of the vehicle appear to be of Mexican ancestry have been held improper. See *United States v. Brignoni Ponce*, 422 U.S. 873 (1975).

The Supreme Court has suggested in dictum that checkpoints established for the purpose of apprehending a fleeing fugitive or thwarting a terrorist attack may be permissible. *City of Indianapolis v. Edmond*, 531 U.S. 32, (2000).

Even when the purpose of a checkpoint is one that has been approved by the courts, if the stops made at the checkpoint are to be lawful, the checkpoint must be operated under very strict rules as set forth in the cases cited above, particularly *Michigan Dept. of State Police v. Sitz*, 496 U.S. 444 (1990).

In addition to the legal requirements on conducting vehicle stops, officers should not initiate traffic stops if they are improperly attired or equipped. Specifically, officers who are not in uniform and who are operating unmarked patrol vehicles with concealed emergency lights and siren should not normally initiate vehicle stops for traffic violations. For example, plainclothes officers working investigative assignments should contact communications to request that a patrol officer make the stop rather than initiate action on their own. Only in situations where failure to act would create an unnecessary risk of injury, death, or serious property damage should these officers intervene.

Where officers are in plainclothes and operating vehicles without emergency lights or siren, attempts to stop a motor vehicle should be made only in the most serious and urgent of situations. When not in uniform or not operating an emergency vehicle or both, an officer cannot easily or readily make his identity known. Under these circumstances, violators, bystanders or even other law enforcement personnel may take actions that may not be in the officer’s or others’ best interest. For example, violators may easily and naturally mistake the officer for a pursuing civilian with suspicious intentions and be evasive or take aggressive actions against the officer. Therefore, off-duty officers or others who are operating out of uniform and in unmarked vehicles without emergency lights or a siren should only attempt to make vehicle stops when they reasonably believe that failure to do so would result in imminent loss of life. But whatever the circumstance, the initial burden of justification will generally fall on the officer to demonstrate the prudence of his decision to take traffic enforcement actions when so attired and equipped.

As an alternative to personal involvement where action must be taken, the officer should request that a marked patrol unit make the stop while the officer assists in directing the unit to the violator’s location.

C. Methods for Stopping and Approaching Traffic Violators

The conditions under which motorists may be stopped vary considerably depending upon road and weather conditions, time of day, volume of traffic and the urgency involved in making the stop, among other factors. Therefore, standard procedures may sometimes need to be adjusted by officers in order to accommodate these various circumstances.

Once the decision to make a vehicle stop has been made, the officer should select a location that will allow him to effectively and safely deal with the motorist. For example, lighting conditions are a significant factor during nighttime stops and it is normally prudent to use street lighting where available. At the same time, officers should not position their vehicles so that their headlights will blind oncoming motorists or allow stopped vehicles to do the same. The stop should not be made so that it unnecessarily interferes with normal traffic flow, even though some slow down of traffic can generally be expected as a result of the actions of curious motorists. Normally, vehicle stops should be made on the right shoulder of the highway or in the breakdown lane of thoroughfares if such lanes are available.

However, on multi-lane highways divided with permanent barriers it may be advisable to conduct the stop in the left-hand breakdown lane, if available, rather than attempt to cross several lanes of traffic. In either case, on freeways and other high-speed roadways it is critical that the vehicles of both the violator and the officer are well off the traffic lanes. Whenever possible, officers should avoid the use of businesses or private drives for conducting vehicle stops unless there are no other reasonable options and they should never conduct traffic stops on roads without shoulders, on sharp curves or where the flow of traffic or configuration of the roadway would create a potential hazard for the officer, the violator or others.

At the desired location, the officer should signal the violator to stop his vehicle by activating emergency lights and, if necessary, using hand signals, the vehicle's horn or siren. Some discretion should be used in activating the siren to make routine traffic stops as it can startle some motorists and, in some cases, cause panic reactions such as making dangerous lane changes or even stopping in the middle of the roadway. In most cases, following the violator while activating the vehicle's emergency lights will be sufficient to gain the violator's attention and guide him or her to the desired stopping area.

The violator should be directed to stop as far to the right of the roadway as possible under the circumstances. At night, if the situation dictates, instructions to the driver may best be given through the patrol vehicle's public address system. On interstate highways and other thoroughfares where the speed of heavy vehicles and other traffic creates particularly difficult conditions, it may be preferable to move the vehicles to a location off the roadway before conducting the business associated with the stop. Directing a violator to exit an off ramp from a freeway or expressway by using the patrol vehicle's public address system is another alternative to the use of other more dangerous stopping alternatives.

While stopping the violator or immediately after the stop has taken place and prior to approaching the vehicle, the officer must notify communications that a traffic stop is being made and provide a complete description of the vehicle, its license tag number and the number and general description of its occupants. Because many agencies are able to provide officers with status information on vehicles very quickly, it is generally advisable for the officer to remain in his or her vehicle until this information becomes available.

This procedure is particularly recommended when officers are operating at night, are assigned to one-man vehicles, patrolling in rural or remote areas, or where they have any suspicions that the vehicle may be stolen or its occupants wanted or otherwise dangerous.

Once the stop is made, the officer should position the patrol vehicle about 20 to 30 feet behind the violator's vehicle and at a slight angle with the front about two feet to the traffic side of the violator's vehicle. This position provides some protection to the officer and violator from traffic approaching from the rear. It also provides the officer with the front portion of the patrol vehicle that could be used for cover during an attack.

In two-man patrol units, the driver should be responsible for initiating contact with the violator while the second officer provides contact with communications and provides backup for his partner. Upon exiting the patrol vehicle, the backup officer should assume a position at the right rear door of the violator's vehicle that provides good visibility of the operator and any occupants. The approach pattern and position of the officer initiating the contact will vary somewhat depending upon the nature and circumstances of the vehicle stop.

The model policy advocates approaching the violator from the driver's side. However, this approach is predicated on the assumption that there is minimal perceived risk in conducting the stop. Under minimal perceived risk, an approach on the driver's side of the vehicle is reasonable. However, when conducting vehicle stops that are less predictable or where the circumstances are less than desirable—that is, when operating in one-man patrols, in rural areas, during nighttime hours or when more than one individual is in the vehicle, for example—it is recommended that the officer approach the subject vehicle from the passenger's side.

A passenger side approach is recommended for officer safety and survival. From the safety perspective, dealing with the violator on the passenger's side takes the officer away from the traffic lanes of the roadway. More officers are injured during traffic stops by approaching motorists than by attacks from suspects within vehicles. Nighttime is particularly risky for officers, as the lights of the patrol vehicle confuse many motorists. Drunk drivers, who are

more prevalent at night, have particular difficulty in dealing with flashing lights and are often involved in nighttime accidents at such stops.

In addition to officer safety, an approach from the passenger's side provides the officer with the element of surprise, as most motorists are not accustomed to this practice. An officer also has far greater visibility when approaching from the passenger side and, consequently, far more warning and time to respond to the threat of a firearm. For example, upon reaching the right rear door of the suspect vehicle, an officer has a far better view of the front seat of the vehicle and the position of the occupants' arms. The officer also has cover readily available by simply falling to the ground where he or she can move anywhere around the vehicle. If the driver wishes to attack the officer with a weapon when the officer is in this position, the driver is forced to turn his or her head and shoulders and then swing his or her arm over the rear of the seat to do so. This movement is far more difficult for the would-be attacker than one in which he or she need only turn and point his or her weapon out the left side of the vehicle, should the officer be approaching from the passenger side. Case studies also demonstrate that attackers are far less accurate in hitting targets from this position, generally pulling the shot high and to the left or hitting the doorpost.

When approaching on the driver's side, an officer has little if any warning and essentially no cover once he or she moves alongside of the vehicle. In this position, the driver need only raise a handgun and rest it on the door panel to provide a clear shot of the officer with essentially no fear of retaliation. Many case studies of officers killed during vehicle stops demonstrate the potential danger of a driver's side approach when unknowingly dealing with an armed and dangerous offender.

If several persons occupy a stopped vehicle and the officer has some indication of potential risk, he or she may choose to direct the driver to exit the vehicle and join him on the curbside of the patrol unit. For safety purposes, officers are legally permitted to order any or all occupants to exit the motor vehicle until the stop is completed.⁷ More on this and related topics is contained in section E of this discussion paper.

When using either the driver's side or passenger's side approach to the subject vehicle, officers should keep their strong hand free of objects so that their sidearm is readily available. It is also good to routinely check the vehicle's trunk lid to ensure that it is locked, thus eliminating any threat from a suspect hiding within.

Particular care must be taken when approaching panel trucks and vans, vehicles with heavily tinted windows, and any other vehicle that in any way prohibits an officer from clear view of its interior. In the case of panel trucks and

vans, approaching officers should keep the violator in sight by using the vehicle's rear view mirror and be aware of any movement of the rear or side doors.

In this or in any other instance during a vehicle stop, officers should remember that they can and should exercise their legal authority to order any or all individuals out of a vehicle if they feel their safety is threatened. Additionally, officers should never hesitate to wait for backup assistance when confronting even a routine traffic stop that appears suspicious or unnecessarily hazardous. In the case of panel trucks, an officer may decide to use a more cautious approach by requesting the driver to exit the vehicle. Using the patrol unit's public address system or by voice command he or she may also instruct the driver to open the rear and side doors of the van to ensure that there are no other persons inside.

In the case of motor vehicles with heavily tinted windows, an officer may also request the driver to exit the vehicle and to roll down one or more of the windows to provide a clear view of the interior. At night the effect of tinted windows can be largely negated by requesting the driver to turn on the vehicle's interior dome light and by turning off the patrol vehicle's headlights. In at least one circuit, officers are permitted under federal law to proactively open the door of vehicles with heavily tinted windows for their own protection when they are unable to see inside.⁸ In *United States v. Stanfield* the Court declared:

the government's substantial interest in officer safety during a lawful traffic stop outweighs the intrusion on the privacy interests of the vehicle's occupants which results when, because of heavily tinted windows that prevent the interior compartment from being viewed, an officer opens a door of the vehicle in order to ensure that there are no other occupants who might threaten his safety during the investigatory stop. [at 978]

When viewing the interior of the violator's vehicle, officers should never position their face or body within reach of the violator or a passenger. Agencies that use citation clipboards should consider using those designed to provide some ballistic resistance. These may be used as a form of portable cover by holding them between the officer and the violator while interacting face-to-face during a vehicle stop.

D. Communication during Traffic Stops

The most frequent and arguably the most significant point of contact between the police and the community it serves is during traffic stops. There is a set of communication skills that officers can employ during

⁷ *Maryland v. Wilson*, 519 U.S. 408, 117 S. Ct. 882 (1997).

⁸ *United States v. Stanfield*, 109 F.3d 976 (4th Cir. 1997).

these brief encounters that will enhance police-community relationships, save time, and permit citations to be written with fewer complaints and court appeals. The customer service and educational approach advocated by the model policy is outlined below.⁹

The majority of law-abiding citizens form their perceptions of the police based upon the brief traffic stop. Since most traffic stops involve simply issuing a citation to typical, law-abiding citizens, the traffic stop is the ideal place for officers to perfect communication skills while performing critical traffic enforcement responsibilities.

Attitude and Demeanor. Many complaints that police agencies receive from angry motorists regard the perception of an officer's attitude and demeanor while issuing a citation. Frequently, it is not so much what the officer said but how he said it.

In the customer service approach, officers are trained to use courtesy and respect when communicating with normal, law-abiding citizens who have committed minor traffic violations.

These are some of the key ingredients to the customer service approach in traffic stops. One of these involves making a distinction between aggressive and assertive body language. Aggressive people often use pointed fingers, a gruff, condescending tone of voice, and the body language of a bully. Assertive people, on the other hand, use a very erect body posture that indicates high self-esteem. They are positive and friendly, but not familiar. They do not try to provoke guilt or hostility while issuing citations. They realize that the purpose of issuing citations is to enforce traffic laws, not to make the public feel intimidated or fearful toward police officers.

Difficult Motorists. Not all motorists are polite. Frequently, a courteous, assertive, professional officer finds himself or herself engaging in a verbal transaction with a highly manipulative or angry driver. A motorist can use several basic ways to try to manipulate his way out of a ticket. Once an officer can recognize the type of manipulation being used, he or she can learn responses that will save time, keep the transaction positive, and enhance police-community relationships.

One approach used by motorists is the use of oneself or another as a source of authority. Approximately a third of the time, officers will hear a version of the following: "Do you know who I am?" or "Do you know my son, attorney so-and-so?" or "I know your chief." These are all appeals to authority.

Excuses are another common tactic. About a quarter of the time, officers will hear such excuses as, "I'm already late for class/work/doctor's appointment." "My parents will kill me." "I have three tests today."

Some motorists will attempt to challenge an officer's perception. There are four primary ways a violator can challenge the officer's perceptions: denying, challenging radar, playing dumb, and feigning innocence.

Some motorist may even challenge the validity of the law—there are motorists who exhort, know it all, argue, debate, and use the bandwagon as their rationale. "Everybody else was speeding; why'd you pick on me?"

About one in 10 motorists will claim that they have been stopped because "I'm white," "I'm black," "I'm driving a red sports car," "I'm female," "I'm a senior citizen," "I'm young," "I'm from out of town," or something similar. There is a standard response the officer can give to easily mitigate this situation, "I'm here to enforce the law equally for all races, all creeds, all colors, all types of vehicles, all ages, etc." The professional officer knows how to remain calm and not personalize the accusation.

Resisters are difficult motorists who characteristically refuse to talk to the officer, refuse to roll down their window, don't listen, refuse to sign the ticket, and the like. For some officers, the resister is the easiest of the difficult motorists to deal with because the officer can issue the ticket without engaging in a verbal battle. Some departments advise their officers to mark "refused" where the driver is supposed to sign the ticket and shove the ticket through the window crack. Other department policy requires the arrest of any driver who refuses to sign the ticket: an action that normally requires back-up assistance.

Many officers believe that silence works well with hostile or resistive persons. But silence, especially when used with hostile aggressives, is seen as a sign of weakness. By others, it is viewed as a form of hostility. Many officers have received complaints because they said..."nothing."

Information Mode. In each of the above situations, a professional officer will remain calm and friendly, yet in command, and speak to the violator in an information mode. The information mode should be distinguished from the parental mode. Information mode is a communication style that is marked by a calm, friendly, assertive voice. Only information is discussed, and the verbal transaction is not tainted with emotional terms or phrases that are meant to provoke feelings of guilt or hostility. It depersonalizes messages to avoid unnecessary conflict during the traffic stop or during other transactions. Professional law enforcement officers speak in information mode when they speak, for example, in such terms as, "You can sign this ticket here. It is not an admission of guilt." "I have you on radar doing 75 in a 55 mph zone." "If you believe this

⁹ This section is adopted from IACP, "Police Communication in Traffic Stops" *Training Key* 440 (1993). This *Training Key* was prepared by Angela V. Woodhull, Ph.D., a specialist in communications and listening skills development who has taught widely for law enforcement agencies and the general business community.

ticket is unfair, you have the right to appeal.”

Education. Professional law enforcement officers who have been trained to communicate in information mode know the importance of educating the public during the traffic stop transaction. By using a tone of voice that is gruff and unfriendly, an officer sends mixed messages. The motorist is confused about whether he is being chastised or informed. Using the customer service approach, an officer would start the verbal transaction with a question: For example, “Ms. Jones, is there a reason why you are driving with your high beams on?” By starting the traffic stop transaction with a question, rather than a harsh-sounding lecture, the officer can make issuing a citation a non-emotional, professional transaction.

Listening Skills. Listening is actually a very complex skill that is comprised of four separate skills. In order for a person to be an effective listener, he or she must be able to (1) pay attention, (2) interpret messages from the speaker’s point of view, (3) evaluate the speaker’s message, and (4) respond. Most unnecessary conflict is the result of poor listening.¹⁰ The listening model outlined above often breaks down in a domino effect. If the listener fails to pay attention, he or she will misinterpret the speaker’s message. If the message is misinterpreted, an error in judgment is more likely and the officer’s response will be inappropriate and unnecessary conflict will ensue. Practicing the skills of good listening is a complex and difficult process but one that is at the heart of most effective law enforcement operations.

Customer Service Skills. Often, during the typical traffic stop, a citizen requests information from the officer. At the heart of the good customer service approach is the ability to tell citizens what they CAN do, rather than what they CAN’T do. When a person hears, “You CANNOT do this or that,” it negates the question they asked and leaves them in a vacuum. Compare and contrast the following communications:

- “You CANNOT file an insurance claim if it is less than your deductible.” “You CAN file an insurance claim if the costs of repairs exceed your deductible.”
- “I CANNOT destroy or take back this ticket.” “You CAN appeal this ticket if you believe it’s unfair. Here are your options.”
- “The word DON’T also unnecessarily frustrates people. Instead of telling people, “DON’T turn here; DON’T do this,” an expert communicator says, “DO turn there; DO that.” The positive alternative is expressed rather than the negative statement. Using the words CAN and DO, rather

than CAN’T and DON’T, help to eliminate unnecessary frustration. Instead of saying, “I don’t know anything about that. It’s not my job,” the expert communicator says, “You CAN get that information from the desk sergeant at headquarters.”

To build confidence, use “I will...” Another communication technique is to use the phrase “I will” rather than “I’ll try,” or “I don’t know.” Instead of saying, “I’ll try to get that information for you,” an expert communicator says, “I will check with headquarters and have an answer for you as soon as possible.” Such forms of positive communication help to build public confidence and trust and thus enhance police-community relationships.

To reduce frustration, use, “Will you...” instead of saying, “You have to fill out these forms.” The expert says, “Will you please fill out these forms?” instead of saying, “Why don’t you call us when you find out about the changes?” The professional says, “Will you call us as soon as you know of any changes?” “Will you” and “Will you please” are two phrases that help enhance professional law enforcement communications.

To save time, give the reason first. Instead of saying, “We can’t give you that information over the phone,” the professional says, “To ensure that we are giving this information to the proper person, you need to come in person.”

These customer service techniques make it easier for the public to cooperate with law enforcement personnel, reduce officers’ frustration because these helpful phrases obviate unnecessary conflict, and reduce the hard feelings that often result from a traffic stop.

E. Issuing Citations

In section C of this discussion paper, it was noted that officers may legally order the driver and any or all passengers out of a motor vehicle following a legally conducted traffic stop.¹¹ If this is done, officers should ensure that occupants remain in a safe location away from the traffic lanes where the officer may also maintain visual contact with them. By the same token, officers may order the driver or passengers or both back into a stopped vehicle if preferable under the circumstances. However, the legal authority of officers to detain passengers at the scene of the stop for a reasonable time while the officer completes the inquiry is an open question under the Fourth Amendment as it was not addressed by the U.S. Supreme Court in *Wilson*.

Considering that the most dangerous point during a vehicle stop is during the approach and initial contact, officers should ensure that they maintain the same degree of caution whenever contact is broken with the violator and a subsequent approach and re-contact is necessary. This is

¹⁰ “The Importance of Listening.” This listening model was developed by Dr. Lyman K. Steil, founder and first president of the International Listening Association.

¹¹ See endnote 7

often the case when an officer returns to his or her vehicle to write a citation and then returns to the suspect vehicle with the citation. This and any subsequent approach should be viewed with the same caution as the first approach to the vehicle. In some instances, a stopped traffic violator will exit his or her vehicle in an apparently innocent attempt to speak with the officer. This poses a safety hazard to the individual who may be exposed to traffic in the travel lane. It can also create a hazard to the officer through open contact with an unknown individual. Where more than one individual emerges from the subject vehicle, officers must exercise particular caution to ensure that the situation does not escalate or get out of control.

An officer must maintain a comfortable zone of safety from the individual who approaches in this manner, and be particularly alert to hands that are not visible and any furtive movements of the individual. In these situations, it is normally best to direct the individual to stop and return to his or her vehicle. If the individual fails to do so, the officer should make a tactical withdrawal or secure the most appropriate police weapon or both in anticipation of a possible attack. In these situations, the recommended 20 to 30 foot distance between the patrol vehicle and suspect vehicle is vitally important, as it gives the officer some essential room in which to maneuver and additional time in which to assess the situation and take appropriate tactical actions. The officer who has positioned his or her vehicle only a car length away from the violator has little or no time to respond to an aggressive individual who approaches in this manner.

An officer must also consider whether the violator who approaches him or her in this manner is attempting to keep the officer away from his or her vehicle for fear that it may reveal incriminating evidence of some type.

For safety reasons, if business must be transacted outside the vehicle, it should be conducted to the side of the road clear of the motor vehicles. Violators and officers should never position themselves in front of, behind or in between stopped motor vehicles.

The model policy also takes the position that violators should not be permitted to sit in patrol vehicles while a citation is being written or other business is being transacted. From this position, the violator is able to overhear radio transmissions that could compromise officer security and safety. Within the patrol vehicle the violator is also within reach of other weapons such as a shotgun, nightstick, mace, or the officer's own sidearm, for example. In some instances, most often involving inclement weather, some agencies permit civilians to be seated in police vehicles while information is collected, citations issued or other business is transacted. While this situation is unquestionably more convenient for officers and citizens alike under certain circumstances, case studies have

demonstrated that allowing an essentially unknown person in one's patrol vehicle without even a pat-down search is a dangerous practice.

Although it is self-evident that an officer should always keep the violator clearly visible during the vehicle stop, an officer should never turn his or her back on the violator or allow himself or herself to be distracted. Many tragedies have occurred because of failure to observe these simple and basic rules. For example, some officers become so preoccupied with the completion of necessary paperwork that they lose visual and mental contact with the violator. To help avoid this, an officer should position paperwork in a manner that also allows him or her to maintain visual contact with the violator, such as by placing the citation book, registration, and related documents on the steering wheel where they will be about eye level with the violator's vehicle. A preferable alternative in many cases is for the officer to position himself or herself in the right front seat of the patrol vehicle. This position can be confusing to a would-be attacker, as it forces him or her to confront the officer in a crossover pattern whether the individual exits his or her vehicle to make the attack or fires a weapon directly from his or her vehicle. It also provides the officer with ready access to open ground and cover from his or her vehicle without potential direct exposure to traffic and without being encumbered in any way during the exit by the steering wheel.

If probable cause is established to search the vehicle, the belongings of passengers may also be searched, provided that the belongings are capable of concealing the type of object for which officers have probable cause to search the vehicle.¹²

Finally, the model policy recommends that officers not arrest motor vehicle operators for traffic violations or other infractions in which a citation is authorized unless there is probable cause to believe that a more serious offense has been or is about to be committed. In the case of *Atwater v. Lago Vista*,¹³ the U.S. Supreme Court held that custodial arrests may be made for minor offenses punishable only by a fine. While permissible under the U.S. Constitution, the desirability of making such arrests is highly questionable. The Court noted that statutes in all 50 states and the District of Columbia permit warrantless misdemeanor arrests by at least some (if not all) peace officers without requiring any breach of the peace. However, the Nevada Supreme Court on June 26, 2003 announced that in contrast to the Fourth Amendment as interpreted by the U.S. Supreme Court in this case, the Nevada Constitution prohibits police officers from making a warrantless arrest for a nonjailable offense in the absence

¹² *Wyoming v. Houghton*, 526 U.S. 295, 119 S.Ct. 1297 (1999).

¹³ *Atwater v. Lago Vista*, 532 U.S. 318, 69 CrL 75 (2001).

of special circumstances.¹⁴ Other states may interpret their constitution in a similar manner. In the majority of states where such arrests are permitted, police departments should determine the purpose or value that is served by such police actions before they are permitted.

F. Stopping an Approaching or Following Vehicle

In a variety of situations, officers will be required to stop motorists who are approaching them in the oncoming travel lane.

To make this type of vehicle stop safely and effectively, the officer should move his or her vehicle as far as possible to the right side of the highway, allow the vehicle to pass and then conduct the traffic stop in the manner prescribed in this policy. This approach is best used on two-lane roads with shoulders that allow the officer to pull off the travel lane. It is also a preferred maneuver when the travel lane behind the officer is clear of traffic or where traffic is very light. Under these conditions, officers reduce the risk of confusing motorists behind them and creating other traffic hazards.

Only under unusual circumstances should an officer attempt to stop an oncoming motorist by leaving his or her vehicle to direct the individual to stop. This is standard practice at sobriety checkpoints and similar traffic checks where warning devices and similar precautions are employed to reduce traffic danger. However, without these precautionary measures it is a potentially dangerous practice that should not normally be used.

Whatever the reaction of the violator—whether he or she stops as directed, does not see the officer or ignores his or her signals—the officer will be required to turn his or her vehicle around into the opposite lane of travel in order to approach the violator in the manner previously described. In many instances this is the preferred means of stopping the motorist rather than making any attempt to gain his or her attention from the opposite lane.

The procedures for stopping a motorist following a police vehicle are somewhat easier than stopping a violator driving on the opposite side of the roadway. In this situation, the simplest maneuver is to pull the patrol vehicle over to the shoulder of the roadway and, as the motorist approaches, signal for the driver to pull the vehicle over. If the motorist fails to comply, the officer may then activate emergency lights, return to the highway and approach the violator in the prescribed manner.

G. Making High-Risk Vehicle Stops

Making a high-risk vehicle stop requires planning and cautious action by the arresting law enforcement officer. The stopping maneuver and removal of suspects is a dangerous undertaking but one in which inherent risks

can be minimized by the systematic use of officer survival skills and established tactical procedures. Officers should never minimize the risks involved in a high-risk stop, the threat posed by imminent arrest can cause an individual to react in unpredictable and often reckless ways. Individuals who face criminal charges and serious punishment will be emotionally charged and may be prepared to take what is perceived by others to be impossible risks to effect an escape or overcome an officer.

High-risk vehicle stops may be defined as “any vehicle stop in which the officer knows or reasonably believes that the operator or other passengers in the vehicle are armed and dangerous.”

Although officers must have reasonable suspicion to stop the vehicle, the basis for the stop need not involve suspicion that a felony has been committed in order to employ high-risk vehicle stop procedures.

The term felony stop, which has been used traditionally in these contexts, paints a common scenario in which officers are confronting individuals who are attempting to escape the scene of a major crime or a situation in which the suspects or their vehicle match the description of wanted persons or stolen property, respectively. However, high-risk vehicle stop procedures may be and sometimes should be employed under other circumstances. For example, a so-called routine vehicle stop involving traffic violations may quickly develop into a high-risk vehicle stop when more facts are established by the officer.

As noted in the background section of this document, to be fully prepared for any contingency, officers should develop a mindset that regards all but the obvious high-risk stops as unknown in terms of danger. Only then will officers be able to keep an open mind toward the individuals involved and maintain an adequate degree of mental preparation for any contingency. In this manner, the officer will be in a position to critically evaluate any new information about the violator or the circumstances of the stop and quickly alter his or her procedures to properly accommodate any added degree of risk. It is not possible or reasonable to attempt to define all the conditions under which high-risk vehicle stop procedures should be employed. It should be sufficient to state that an officer may take any and all reasonable steps necessary to protect himself or herself and others when the officer has reason to believe, in the context of felony or any other vehicle stops, that his, her, or another person’s life or safety is in danger. It should be remembered, for example, that motor vehicle passengers who are known or believed to be dangerous may be treated the same as the driver to include requiring that they exit the vehicle and submit to a pat-down search. In accordance with this directive, it is essential that officers be adequately trained to recognize suspicious circumstances during their encounters with motorists.

¹⁴ *State v. Bayard*, 119 Nev. Adv. Op., No. 29, (June 26, 2003).

To illustrate, an officer's suspicions may be prompted by the appearance or the behavior of the vehicle or driver; an altered or obscure license plate, indicating a possible attempt to conceal the vehicle's identity and ownership; or an extremely dirty tag on a clean automobile, or the reverse of this, indicating that the tags may have been recently transferred from one vehicle to another. None of these factors alone provides reasonable grounds for initiating a vehicle stop or concluding that a crime has been committed. However, when the behavior and appearance of the vehicle operator or occupants or both are incorporated with other factors and grounds exist to make a stop, the totality of the circumstances may lead a trained officer to reasonably conclude that a greater degree of caution should be taken. This knowledge is essential for an officer to properly identify the degree of risk involved and, in the event of post-incident review proceedings, to justify the actions that were taken by the officers.

As with other vehicle stops, the first step in planning a high-risk vehicle stop is to contact communications and provide information concerning the reason for the stop; the vehicle license number; a description of the vehicle, including the make, model, color and any other unusual identifying characteristics; number and description of the occupants; direction and speed of travel; and the amount of assistance required.

Normally, officers who are alone should not initiate a high-risk vehicle stop, particularly when more than one suspect is within the vehicle. However, in circumstances where failure to act in a timely manner would allow a dangerous offender to escape and create an unacceptable risk to the community, action by these lone officers would be warranted and necessary. Officers who are alone may also need to act quickly in order to avoid or minimize the potential danger to themselves or others. Additionally, in most rural environments, backup officers can be far from the scene of the stop and unavailable to provide assistance in a reasonable amount of time. As an alternative to conducting a vehicle stop alone, officers may choose to follow the suspect vehicle while relaying the course of travel and other information to communications in order to coordinate a stop.

Site Selection. It is important to select an appropriate site for conducting a high-risk vehicle stop. Safety issues relating to protection from the flow of traffic also come into play, particularly when recognizing that some space will be required to safely remove suspects from the vehicle and to conduct the search and arrest. In addition, one must be aware of the risks associated with conducting high-risk stops where sympathizers or even the overly curious may make the stop particularly dangerous. For example, in some high-crime inner city areas it may be inadvisable to conduct high-risk stops near common gathering places

such as parks and playgrounds during warm weather, near nightclubs or other drinking establishments, fast-food eateries, or other locations where pedestrian traffic could intervene or interfere. In particular, should deadly force become necessary, errant rounds could prove fatal to innocent bystanders. Whenever possible, officers should also attempt to make high-risk stops where cover is not readily available to assist the suspect in launching an attack or attempting an escape.

Vehicle Positioning. Positioning of vehicles is a critical issue in conducting high-risk stops and should be the focus of refresher training so that all officers will fully understand their roles under various circumstances. Too many officers on the scene who do not adequately understand where they should be and how they should position themselves can create as much danger as the lack of adequate personnel. This can only be controlled and coordinated through training under a variety of situations.

There are several schools of thought regarding positioning of patrol vehicles during high-risk vehicle stops. In addition, the circumstances of the stop—such as the position and nature of the suspect vehicle, the number of suspects involved and the area and terrain in which the vehicle is stopped—will dictate the position of primary and backup vehicles. However, under the proper circumstances good patrol vehicle positioning will meet several basic officer survival requirements: (1) it will provide separate cover positions for each officer, all of whom have a clear, well-lit view of the suspect vehicle; (2) offer clear lines of fire that cover the suspect vehicle and the perimeter; and (3) allow officers to move safely between positions and provide an area in which to efficiently conduct arrest and search procedures of prisoners.

While there must be some flexibility in high-risk vehicle stop procedures to accommodate varied conditions, the following is considered a solid approach that is suitable for most incidents and one that may be adapted easily to accommodate unusual situations. The procedures discussed here relate to a stop conducted on the right-hand side of the roadway.

When preparing to stop, officers should be ready to exit their vehicle quickly once in position, as this is one of the most hazardous points during high-risk stops. Just prior to the stop, officers should ensure that they will have immediate access to such equipment as the shotgun and radio if these are going to be necessary. Ideally, three police units should be on the scene of a high-risk vehicle stop. A single officer may make the initial stop if circumstances dictate but should contain the suspects in the vehicle until adequate backup is on the scene to assist in the extraction of the suspects.

The secondary unit should drive to a position to the rear of and parallel to the primary unit. If the primary unit

is angled, the secondary unit should also be angled so that the driver's door when opened is at the left rear fender of the primary unit. This position will provide the secondary unit officers with excellent cover when exiting their vehicle and the ability to move safely between the primary and secondary units using the vehicles as cover. At this point, the headlights of the primary and secondary units will provide nighttime illumination to the left and right sides of the suspect vehicle while spotlights can be used from both vehicles to further illuminate the suspect vehicle's interior.

The third police unit should be driven to a position behind and parallel to the secondary unit or on an angle with the secondary unit as appropriate. This unit should extinguish its lights when in position to avoid blinding the officers in front and silhouetting them to individuals in the suspect vehicle. If a fourth unit is deployed, it should be positioned slightly ahead of and to the left of the primary unit so that the engine block is between the officer and the suspect vehicle.

Officer Positions and Responsibilities. In these police unit positions, the primary officer should exit his vehicle through the driver's door and remain in that position through completion of the vehicle stop. The primary officer is responsible for issuing all instructions and commands to suspects in the vehicle but should wait to initiate this activity until all units and personnel are in place. Until that time, the driver should be instructed to turn off the engine and drop the keys outside the vehicle, and all suspects in the vehicle should be instructed to interlock their fingers behind their heads.

The primary officer is also initially responsible for communications, but should relinquish that responsibility to the first backup officer on the scene so that all his or her attention can be focused on the suspects.

The secondary officer on the scene should assume a position behind the closed passenger door on the right side of his or her patrol unit by sliding across the front seat and out the door or by exiting the driver's door and moving in a crouched position around the rear of his or her vehicle. This position provides maximum cover by positioning the engine block between the officer and the suspect vehicle and also provides good visual coverage of the right side of the suspect vehicle. An alternative is for the officer to position himself or herself at the left rear wheel of the primary unit. The secondary backup officer should direct the third officer on the scene into position and thereupon turn over responsibilities for radio communication and coordination of any other arriving police units to that officer. This will allow the primary and secondary officers to focus their attention upon the suspect vehicle.

The third officer should take a position of cover either at the left rear trunk area of the primary unit, if that position is not manned, or with the primary officer. This

officer should coordinate any additional responding units to appropriate locations at the stop or to other positions for traffic control. He or she should also take control of radio communications and assist in searching and securing the suspects as they are removed from the vehicle.

Removing Suspects from the Vehicle. The primary officer should be responsible for issuing all commands to the suspects through the patrol unit's public address system, if available. He or she should first identify himself or herself as a police officer and inform all occupants of the vehicle that they are considered to be armed and dangerous, that all occupants in the vehicle are under arrest and that his or her instructions to them must be followed without hesitation or suspicious movements. If not already directed to do so, all suspects in the vehicle should be instructed to interlock their hands behind their heads and leave them in that position until told to do otherwise. The primary officer should keep the initial notification and all subsequent instructions as brief as possible using a clear, authoritative voice.

When the vehicle contains more than one suspect, each should be removed individually starting with the driver and front passengers, and then the rear seat passengers. Each should be instructed to exit from the nearest door to avoid unnecessary movement and confusion. Beginning with the driver, the primary officer should instruct him or her to lower his or her window, if appropriate, then in separate commands to remove the keys from the ignition and drop them out the window. In individual steps thereafter, the suspect should be instructed in the following order to open the door from the outside, step out of the vehicle and raise his or her arms high above his or her head, turn completely around slowly and then face away from the officers, walk backward until commanded to stop, and then to lie face down on the pavement.

As the suspect turns around, officers should be particularly alert to any hidden weapons. If evident, the suspect should be told that the weapon(s) is visible to the officers and that he or she should not touch it. The suspect should then be ordered into either a prone or kneeling handcuffing position and immediately restrained while another officer provides cover. Suspects should not be instructed to remove the weapon(s) themselves.

These procedures are particularly advisable because they place the officers in a consistent position of advantage but also allow the stop to be completed in a reasonable amount of time. Procedures that become too complicated and take too much time to complete provide suspects with additional time to plot attacks or escapes and possibly secure weapons. Taking suspects into custody in a timely fashion also becomes particularly important when the vehicle stop is being conducted in a potentially hostile neighborhood or when vehicular or pedestrian traffic is a

concern.

As part of the above procedures, many agencies follow the practice of having the driver and any other suspects in the vehicle leave the car door open when exiting. This allows better visibility for the officers who will later secure the vehicle. In the case of vans and vehicles with heavy window tinting, it is also advisable to instruct the driver to keep the keys in his hand and to open the back and side doors wide before backing him or her up to be searched and handcuffed.

The suspect should be backed up to a point forward and to the left of the police vehicle's bumper so that he or she will not be able to easily move to the front of the police vehicle in an effort to gain cover. In the prone position, suspects should be instructed to either stretch their arms as far in front of them as possible or behind their back with palms up. When in place in the prone position, the second backup officer should approach the suspect, and then handcuff, search and remove the prisoner to the transportation vehicle. This entire procedure should be used to remove and secure each suspect in turn.

Some police agencies follow the practice of removing all suspects before handcuffing, searching and removing them for transportation. However, this practice has some disadvantages. In particular, it places the officer performing the custody search in close proximity to initially unsecured, presumed dangerous and, at this juncture, potentially desperate criminal suspects. Since the officer conducting the search will necessarily have holstered his or her sidearm, he or she will be vulnerable to takedown moves that are sometimes practiced by experienced criminals. Also, since the vehicle's interior has not yet been secured, it places the same officer in a position for potential ambush or even capture in spite of the fact that the officer is being covered.

After all visible suspects have been removed from the suspect vehicle it should be checked for additional suspects under the plus one theory, which means that officers should act as though there is one more suspect in the vehicle than is visible. The primary officer should conduct the approach, working round to the front of the vehicle in a wide arc. Any suspect in hiding would normally expect to see the officer approach from the rear and would position himself or herself accordingly. This approach allows the suspect to be seen more easily from the front of the vehicle.

Initially, the officer may issue a bluff command such as, "You, hiding in the car, step out with your hands up." If available, a canine may also be deployed to alert or to force any suspects out of hiding. The trunk should be unlocked with the officer low and as far to the side of the vehicle as possible. Once checked, it should be shut in order not to restrict visibility and cover by fellow officers. If the doors of the vehicle have been left open, the officer may

choose to search the vehicle by flanking it wide to observe the interior. If a suspect is hiding inside, this will give the officer an advantage by increasing the element of surprise and reducing his vulnerability to fire.

After all suspects have been removed from the vehicle and the vehicle cleared, the primary officer may proceed to the police station for booking and interviews. The officers at the scene should be responsible for searching and impounding the vehicle according to applicable state and federal law and departmental procedure.

H. Stopping Oversize and Overweight Vehicles

Many of the principles advocated for the stop of passenger vehicles also pertain to stopping oversize and overweight vehicles such as tractor-trailers or buses. However, there are special considerations involved in stopping these larger vehicles. With the increased volume of thefts of oversize vehicles and the increased use of these vehicles for the transportation of contraband, law enforcement officers will be increasingly required to make a greater number of these types of vehicle stops.

Selection of a suitable location to conduct oversize or overweight vehicle stops is of particular importance. The officer must plan a stop that allows the vehicle operator sufficient time and distance to make the stop safely. The officer should select an appropriate paved or solid shoulder to accommodate the weight of the vehicle and its added size. If an officer's vehicle is equipped with a citizens' band radio it is often best to contact the vehicle operator and guide him or her to an appropriate location. Whenever possible, officers should avoid stopping oversize or overweight vehicles on commercial or private property, as many asphalt or even concrete parking lots are not sufficient to support the weight of tractor-trailers without sustaining damage.

As with all vehicle stops, the officer should contact communications prior to the stop and provide information on the vehicle, location, license, occupants' direction of travel and reason for the stop. When stopping buses or tractor-trailers, officers should always request a backup. During daylight hours, the officer's vehicle should be offset at an angle to the rear of the vehicle and at night the patrol vehicle should be parallel with and offset to the left in order to provide light down the side of the truck. The backup officer's vehicle should be positioned to provide light down the length of the passenger side of the trailer.

When stopping a bus, officers should be mindful that most bus doors are on the right side, thus generally necessitating a vehicle position that will provide light down the full length of that side. Whenever stopping buses, particularly customized noncommercial models, officers should be particularly aware of danger from the rear door and side windows.

When conducting a stop of a tractor-trailer, officers should be aware of both the safe and danger areas of the vehicle. The safe areas are those places that provide an officer with cover from gunfire, such as behind wheels, or an avenue of escape, such as rolling under the trailer to the other side. Once forward of the trailer, an officer becomes far more vulnerable as most of the safe areas are eliminated by the drive wheels and the fuel tank. Therefore, it is normally safest to request that the driver exit the cab and walk to the rear of the trailer. This can be accomplished by use of a citizens' band radio, public address system, or through hand signals. Using this procedure, the officer should instruct the operator to bring all appropriate documentation with him or her. The operator should also be instructed to turn off the engine and to shut the cab's door when exiting. A closed cab door removes a potential traffic hazard and provides the officer with advance notice should someone else in the cab attempt to exit. By meeting the vehicle operator at the rear of the trailer, the officer will also remove the high ground advantage that the driver would have if he or she were allowed to remain in the cab.

Should the officer elect to approach the cab, he or she should check under the trailer to ensure that someone has not exited on the passenger's side in an attempt to circle around. The officer should also check the rear cargo doors to ensure that they are closed. At night, it is advisable to shine the vehicle's spotlight or a flashlight in the vehicle's mirror to provide better visibility into the cab and protect the officer's approach by restricting the driver's visibility. The officer should stop at the front end of the trailer, check in the open area between the cab and the trailer and look through the window in the rear of the cab, if available. Officers who make these type of approaches should be aware that at this point they have few safe areas and are at a distinct disadvantage to the driver on the higher ground.

The officer should stop just behind the rear edge of the door, a position that will require the driver to turn to see and talk to the officer. The officer should also instruct the driver not to open the door unless told to do so and to turn off the engine. An officer should never climb onto the cab as he or she will be off balance and may easily be knocked to the ground. Once the driver has been removed from the cab, he or she should not be allowed to return without the officer present. As with passenger vehicle stops, it is not recommended that violators be allowed to sit in the patrol vehicle while the citation is being written. Rather, the violator should remain on the curbside of the trailer so that the officer can maintain visual and voice contact with him or her while the officer is seated on the passenger side of the patrol vehicle. From this position, the officer may easily maintain contact at some distance with the violator while completing the citation. The officer also has ready access to the radio, is unencumbered by the patrol unit's

steering wheel and may exit the vehicle rapidly if necessary without fear of traffic.

In felony stops involving overweight or oversize vehicles, additional planning is essential. Backup assistance in these cases is always needed, and officers should not attempt to make a stop until adequate backup is in position. Primarily because of the size of the vehicle involved, traffic control must be assigned to stop approaching vehicles from each direction. The procedures for effecting an arrest under these circumstances is essentially the same as that involved with passenger vehicles. However, during a nighttime felony stop involving these larger vehicles, the command vehicle or a backup should be positioned so that it may utilize its headlights and spotlight to fully illuminate the cab.

Depending upon the circumstances of the stop, an officer may be required to enter the trailer to inspect the cargo. Prior to doing so, the officer should request a backup officer, if one is not already present, to watch any passengers during the inspection.

Every effort has been made by the IACP National Law Enforcement Policy Center staff and advisory board to ensure that this document incorporates the most current information and contemporary professional judgment on this issue. However, law enforcement administrators should be cautioned that no “model” policy can meet all the needs of any given law enforcement agency. Each law enforcement agency operates in a unique environment of federal court rulings, state laws, local ordinances, regulations, judicial and administrative decisions and collective bargaining agreements that must be considered. In addition, the formulation of specific agency policies must take into account local political and community perspectives and customs, prerogatives and demands; often divergent law enforcement strategies and philosophies; and the impact of varied agency resource capabilities among other factors.

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MOTOR VEHICLE STOPS

Model Policy

<i>Effective Date</i> December 2006		<i>Number</i>	
<i>Subject</i> Motor Vehicle Stops			
<i>Reference</i>		<i>Special Instructions</i>	
<i>Distribution</i>		<i>Reevaluation Date</i>	<i>No. Pages</i> 4

I. PURPOSE

It is the purpose of this policy to establish guidelines for stopping and approaching motorists in a manner that promotes the safety of the officer and the motorist.

II. POLICY

It is the policy of this department that motor vehicle stops shall be performed professionally and courteously. This department will maintain a view towards educating the public about proper driving procedures while recognizing and taking steps to minimize the dangers involved in this activity for the officer, the motorist, and other users of the highway.

III. DEFINITIONS

Reasonable Suspicion: In the present context, the totality of the circumstances in each incident or situation that provides an officer with a particularized and objective basis for suspecting legal wrongdoing. The process allows officers to draw on their own experience and specialized training to make inferences from and deductions about the cumulative information available to them. Reasonable suspicion is more than a hunch or feeling that an officer might have about an individual or circumstances. It is based on specific facts that, when taken together with rational inferences, reasonably warrant the vehicle stop.

Reasonable suspicion justifies a vehicular stop. But, in order to arrest the motorist, passengers, or both, the officer must establish probable cause.

Probable Cause: In determining probable cause the arresting officer must examine all of the factors and events leading up to the arrest and decide whether these

facts, viewed from the standpoint of an objectively reasonable police officer, support the belief that an individual has committed, is committing, or is about to commit a crime.

IV. PROCEDURES

A. Legal Basis for Stopping Motor Vehicles

1. Officers have legal justification to stop a motor vehicle based on reasonable suspicion.
2. Officers are prohibited from stopping vehicles under the guise of legal authority when in fact the stop is based solely on the officer's prejudice concerning a person's race, ethnicity, sex, or similar distinction.
3. A motor vehicle may be stopped only for a period of time that is reasonable to issue a citation or conduct other legitimate police business.
4. Officers should avoid arrests solely for minor vehicle infractions even if permitted by law when a citation in lieu of arrest is a reasonable alternative.

B. Stopping and Approaching Traffic Violators

The following procedures are to be followed whenever possible. It is recognized that varying conditions such as roadway construction, volume of traffic, and the urgency of making vehicle stops may require officers to adjust these procedures to particular conditions.

1. Officers shall select an area that provides reasonable safety, avoiding curves, hills, heavily trafficked and poorly lit areas and roads without shoulders. Whenever possible, the officer shall also avoid the use of private

- drives, business locations and areas where a large volume of spectators are likely to gather. Where available, in-car video cameras should be activated.
2. When a location has been selected for the stop, the officer shall notify the communications center of its nature—providing unit location, a description of the vehicle, vehicle tag number, and the number of occupants prior to approaching the vehicle. At the officer's discretion or communications' request, additional information may be exchanged.
 3. At the desired location, the officer should signal the operator to stop at the far right side of the roadway or at the safest shoulder by activating the overhead emergency lights and siren as necessary.
 - a. On multi-lane roads, the officer may facilitate movement to the right shoulder by gradually changing lanes behind the violator until the right side of the roadway is reached.
 - b. Should the violator stop abruptly in the wrong lane or location, the officer should instruct the driver to move by using the appropriate hand signals or by activating the vehicle's public address system.
 4. Once properly stopped, the officer should position the police vehicle about 20-30 feet behind the violator's vehicle and at a slight angle, with the front approximately two feet to the traffic side of the violator's vehicle.
 5. At night, the spotlight should not be used to direct the violator but may be used to illuminate the vehicle's interior once stopped. The patrol vehicle should use its low beams if high beams would blind oncoming motorists.
 6. When exiting the patrol vehicle, the officer should be particularly alert to suspicious movements or actions of the vehicle operator or passengers. Where possible, back-up should be requested.
 7. Approaching from the driver's side, the officer should be observant of the passenger compartment and stop at a point to the rear of the trailing edge of the left front door in order to communicate with the driver.
 - a. Where circumstances dictate, particularly where traffic is close enough to create a potential problem or when a high-risk approach is required, the officer may choose to approach the violator's vehicle from the right-hand side and stop at the trailing edge of the right front door.
 - b. When the violator's vehicle has occupants in the rear seat, the officer should approach to a point near the leading edge of the left front door, being particularly observant of occupant movements and choosing a path that will not allow the occupants to thrust the door open against the officer.
 - c. In two-officer police vehicles, one of the two officers shall be responsible for radio communications, note taking, and relaying messages to the communications center. He or she will also act as an observer and cover for his or her fellow officer.
 - d. An officer may order passengers out of the vehicle pending completion of the stop.
 8. If deemed necessary for the officer's protection and safety, the driver and any or all passengers may be ordered out of the vehicle or directed to remain in the vehicle.
 9. If probable cause is established to search the vehicle, the belongings of passengers may also be searched, provided that the belongings are capable of concealing the type of object for which officers have probable cause to search the vehicle.
 10. Where contraband, fruits, or instrumentalities of a crime are uncovered during the search of a vehicle, the driver and any and all passengers may be arrested. In order to do so, the officer must have probable cause to believe that such passengers had common knowledge of and control over the illegal items or evidence or where engaged in a common enterprise with the driver to conceal the fruits or evidence of a crime.
 11. Non-uniformed officers operating unmarked patrol vehicles with concealed emergency lights and siren shall not normally make vehicle stops for traffic violations. In situations where failure to act would create unreasonable risks of injury, death, or significant property damage, such personnel shall contact the communications center to request a marked patrol unit to make the stop. Depending upon the urgency of the situation, an officer may activate emergency lights and siren to make a traffic stop.
 12. Non-uniformed officers operating vehicles not equipped with emergency lights or siren shall not make motor vehicle stops unless there is imminent danger of loss of life should they fail to act. In other less urgent cases that demand attention, officers shall contact the communications center, request that a marked patrol

vehicle perform the stop, and assist in directing the marked unit to the subject vehicle's location.

C. Stopping an Approaching Vehicle

In cases where a motorist must be stopped from oncoming traffic, the following actions may be taken:

1. Drive the police vehicle to the extreme right portion of the roadway and, as the violator approaches, signal him or her to stop by using hand signals and emergency lights.
2. Because of the potential hazard involved, an officer shall not leave his or her vehicle when attempting to stop oncoming motorists.
3. If the subject motorist complies with the instructions, the police vehicle may then be turned around and appropriately positioned to the rear of the violator's vehicle.
4. Should the motorist fail to comply with the officer's instructions, the officer should turn the vehicle around and pursue, stop, and approach the violator in the prescribed manner.

D. Stopping a Following Vehicle

When stopping a motorist to the rear of the police vehicle, the officer should drive to the right shoulder of the road, reduce speed, allow the violator to pass and then conduct a stop in accordance with the procedures outlined here.

E. Making High-Risk Vehicle Stops

The following procedures may be employed when an officer initiating a vehicle stop has reason to believe that the occupants may be armed and dangerous:

1. When planning to stop the suspect vehicle, the officer shall notify the communications center; describe the nature or reason for the stop; provide information on the vehicle, tag number and number of occupants; and request appropriate assistance to make the stop.
2. An officer should not individually initiate high-risk vehicle stops unless back-up units will not be available in an appropriate amount of time or the urgency of the situation demands immediate action.
3. After selecting an appropriate location and with adequate support units in position, the officer should signal the suspect to stop. Officers shall then follow departmental training for vehicle positioning, and the removal and securing of occupants.

F. Stopping Oversize and Overweight Vehicles

In the event an officer needs to stop commercial and similar oversize or overweight vehicles, the following procedures should be followed:

1. Select a location for the stop that provides enough room for the vehicle and sufficient stability to support the vehicle's weight, and allow the operator sufficient time and distance to make the stop.
2. Approach the cab from the rear, using the driver's outside mirror to observe the driver and activity in the cab.
3. Never climb onto the vehicle to make contact with the operator. Maintain a position to the rear of the driver's door and ask him or her to exit the vehicle, if and when necessary.

G. Communication during Traffic Stops

Most persons form their perceptions of the police based on brief encounters with officers during stops for traffic violations. Therefore, officers should adopt a customer service and educational approach when dealing with otherwise law-abiding members of the public who have violated traffic laws. This approach includes the following measures:

1. Introduce yourself and the police department that you work for. Specify the reason for making the vehicle stop, and solicit the necessary documents.
2. Be courteous and respectful.
3. Use command presence as compared to an aggressive or condescending approach, tone of voice, or facial expressions.
4. Provide the violator with any information deemed appropriate to educate rather than lecture them about the infraction.
5. Be positive and friendly but not familiar and avoid the use of language that provokes guilt, hostility, fear, or intimidation.
6. When dealing with motorists who become troublesome, uncooperative, or argumentative, maintain an information mode by using a calm, friendly, and assertive voice in which only information is provided.
7. Ask if there are any questions concerning court dates and similar issues.

H. Issuing Citations

1. When issuing citations, conducting roadside sobriety tests or conversing with the violator, the officer and other parties shall be positioned to the side of the road, clear of the motor vehicles. At no time shall the officer or others stand in front of, between, or behind the stopped vehicles.
2. Officers should not arrest operators of motor vehicles for traffic violations in which a citation is authorized unless special circumstances exist or there is probable cause to believe that a

more serious offense has been or is about to be committed.

3. During the stop, the violator should remain in his or her motor vehicle while the officer writes the citation or conducts other business. Violators should not be permitted to sit in patrol vehicles while citations are being prepared or other police business is being conducted.
4. When preparing citations, the officer should position paperwork and related materials in a manner that allows him to maintain vantage over actions of the violator and other occupants.

Every effort has been made by the IACP National Law Enforcement Policy Center staff and advisory board to ensure that this document incorporates the most current information and contemporary professional judgment on this issue. However, law enforcement administrators should be cautioned that no “model” policy can meet all the needs of any given law enforcement agency. Each law enforcement agency operates in a unique environment of federal court rulings, state laws, local ordinances, regulations, judicial and administrative decisions and collective bargaining agreements that must be considered. In addition, the formulation of specific agency policies must take into account local political and community perspectives and customs, prerogatives and demands; often divergent law enforcement strategies and philosophies; and the impact of varied agency resource capabilities among other factors.

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IACP NATIONAL LAW ENFORCEMENT POLICY CENTER

Motor Vehicle Searches

Concepts and Issues Paper

Originally Published: May 1993

Revised: October 2002, August 2009

I. INTRODUCTION

A. Purpose of Document

This paper is designed to accompany the *Model Policy on Motor Vehicle Searches* developed by the IACP National Law Enforcement Policy Center. This paper sets forth essential background material and supporting documentation to provide greater understanding of the developmental philosophy and implementation requirements for the model policy. This material will be of value to law enforcement executives in their efforts to tailor the model to the requirements and circumstances of their communities and their law enforcement agencies.

B. Background

The case law governing motor vehicle searches is one of the most complex legal areas affecting law enforcement officers. However, for many officers, it is one of the most important, since contact with motorists is commonplace and vehicles are increasingly used to transport contraband, including weapons and narcotics. Confusion over the permissibility of various types of vehicle searches has also been compounded by many changes in the law over the years.

However, since this model policy was first published, several rulings by the U.S. Supreme Court have served to provide law enforcement agencies with added support in the conduct of vehicle searches. These and related cases are discussed here together with an overview of legal procedures governing motor vehicle searches. When understood and employed properly in the field, this information may be of substantial assistance to law

enforcement officers, particularly in efforts to interdict drug trafficking on roadways.

II. STOPPING A MOTOR VEHICLE

The search of a motor vehicle is valid only if the opportunity to search has arisen in a lawful manner. Most vehicle searches occur after an officer has stopped a moving vehicle, and therefore the validity of the subsequent search often will depend upon the legality of the initial stop. The Fourth Amendment to the U.S. Constitution applies to motor vehicle stops by police, and, unless the requirements of the Fourth Amendment are observed during the stop, any search of the vehicle following the stop is likely to be held unlawful, and any evidence discovered in the process will be inadmissible in court.¹

A. Legal Justification for Vehicle Stops

Moving motor vehicles may properly be stopped for several reasons, the most common of which are as follows:

- An officer has observed a traffic violation
- An officer has observed a threat to motorist safety, such as a hazardous road condition or a vehicle, or some part of it, in unsafe condition
- Officers are participating in a lawfully conducted vehicle checkpoint

¹ State constitutions may also contain provisions applicable to search and seizure. These may be more stringent in their requirements, or in their interpretation by state appellate courts, than the mandates of the U.S. Constitution.

- An officer has a reasonable and articulable suspicion that the occupants of the vehicle are involved in criminal activity²

Although these are the most frequently cited justifications for making a motor vehicle stop, any lawful reason for stopping the vehicle may suffice. The critical point is that the initial stop of the vehicle must be lawful if any subsequent search of the vehicle is to be upheld. An unlawful stop inevitably leads to an invalid search and will lead to the exclusion of all evidence found during that search.

B. Vehicle Checkpoints

Many vehicle stops occur at checkpoints established by police. If the checkpoint is lawful, evidence seized as the result of a vehicle stop at the checkpoint may be admissible.

Permissible Checkpoint. Several types of checkpoints have been approved by the Supreme Court of the United States. These include checkpoints for the detection of alcohol/drug use,³ inspection of operating permits and vehicle registrations,⁴ and detection of illegal immigrants.⁵ The Supreme Court has also suggested that checkpoints established for the purpose of apprehending a fleeing fugitive or thwarting a terrorist attack may be permissible.⁶

Impermissible Checkpoints. In *City of Indianapolis v. Edmond*,⁷ the Supreme Court ruled that a checkpoint established for the purpose of drug interdiction was unlawful because the checkpoint was set up to “detect evidence of ordinary criminal wrongdoing.” In the view of the Supreme Court, the interdiction of narcotics is just another aspect of the general law enforcement task of dealing with criminal activity. Therefore, the Court took the position in *Edmond* that the time-honored principle requiring “individualized suspicion” to justify a traffic stop invalidates checkpoints operated for the primary purpose of interdicting narcotics. Further, except for the purposes already approved by the Supreme Court, any

² Checkpoints and stops upon suspicion of criminal activity are discussed in Sections II B and II C, below.

³ *Michigan Dept. of State Police v. Sitz*, 496 U.S. 444 (1990). The validity of sobriety checkpoints depends upon the observance by the police of certain criteria, as set forth in *Sitz*.

⁴ *Delaware v. Prouse*, 440 U.S. 648 (1979). License checks may not be conducted randomly. An individual vehicle may be stopped only if there is articulable and reasonable suspicion that the motorist is unlicensed, or that the vehicle or its occupant is subject to seizure for some violation. However, in *Delaware v. Prouse* license checkpoints at which all vehicles are stopped were approved.

⁵ *United States v. Martinez-Fuerte*, 428 U.S. 543 (1976). Stops for brief questioning, routinely conducted at permanent checkpoints, are consistent with the Fourth Amendment.

⁶ *City of Indianapolis v. Edmond*, 531 U.S. 32 (2000).

⁷ *Id.*

checkpoint operated just on the possibility that it may reveal to police some person or persons involved in any other sort of criminal activity is forbidden. A checkpoint operated in violation of the principles is unlawful, and any search resulting from a stop at an unlawful checkpoint is inadmissible in evidence.

C. Motor Vehicle Stops Based upon Reasonable Suspicion of Criminal Activity

The stop-and-frisk doctrine of *Terry v. Ohio*⁸ applies to motor vehicles. Thus, where the officer observes, or receives information from reliable sources that creates reasonable suspicion or probable cause to believe that the vehicle or its occupants are involved in a crime, the vehicle may be stopped.⁹ This reasonable suspicion might, for example, be based upon information received from a dispatcher or other officer regarding a specific crime, or observance by the officer that the vehicle and/or its occupants raise reasonable suspicion. The “reasonable suspicion” basis for the stop of a motor vehicle was affirmed by the Supreme Court in *United States v. Arvizu*.¹⁰ In *Arvizu*, the Court reiterated a principle enunciated in previous cases; that it is the “totality of the circumstances” that determines whether an officer has a reasonable basis for suspecting criminal activity in connection with a motor vehicle.

III. PROCEDURES

Motor vehicle searches may be of several types:

- An external examination of the vehicle
- Inspection of the vehicle identification number
- A frisk of the vehicle for weapons
- A search of the passenger area of the vehicle incident to the arrest of its occupants
- A full search of the vehicle based upon a warrant, probable cause, consent, or emergency circumstances

Each of these types of searches is discussed in detail below.¹¹

⁸ *Terry v. Ohio*, 392 U.S. 1 (1968). See, e.g., *Adams v. Williams*, 407 U.S. 143 (1972).

⁹ See *United States v. Sharpe*, 470 U.S. 675 (1985); *United States v. Cortez*, 449 U.S. 411 (1981).

¹⁰ *United States v. Arvizu*, 534 U.S. 266 (2002). In *Arvizu*, the stop was based upon several factors, including the officer’s observations of the vehicle and its occupants, his vehicle registration check, and his knowledge based upon his experience as a Border Patrol officer that the route being used by the defendant’s vehicle was used by drug smugglers. These were held to be sufficient to establish the “particularized and objective basis” required for reasonable suspicion.

¹¹ Note that inventories conducted incident to the impoundment of a vehicle are not included in this list. See the discussion of inventories later in this paper.

A. Exterior Examinations

Examination of the exterior of a vehicle is not a search,¹² as long as the vehicle is in a public place. In most states, officers may also employ trained police canines for use in sniffing the exterior of a vehicle with or without reason to believe that the vehicle contains illegal drugs. However, entries onto private property to examine a vehicle may implicate the Fourth Amendment. In particular, officers should not enter the curtilage of a dwelling to examine a vehicle unless the requirements of the Fourth Amendment have been met.

B. Inspection of Vehicle Identification Number or Entry to Establish Ownership

Viewing of the vehicle identification number (VIN) from the exterior of the vehicle does not implicate the Fourth Amendment. In addition, when circumstances make it necessary, officers may enter a vehicle for the purpose of examining the VIN or determining the ownership of the vehicle. Such entries must be limited to those actions that are necessary to obtain the desired information. Searching of the vehicle beyond the requirements of establishing the VIN or ownership is unlawful unless justified under one of the other exceptions to the warrant requirement. However, the plain view doctrine applies, and if during the course of examining the VIN or ownership documents the officer sees evidence or contraband in plain view, such items may be seized. Further, the plain view discovery of these items may give probable cause for a full search of the vehicle.

C. Searching a Vehicle for Weapons

As noted above, the stop-and-frisk rule of *Terry v. Ohio*¹³ applies to motor vehicles.¹⁴ Therefore, a police officer may search a vehicle for weapons if the circumstances are such that he reasonably believes that his safety is threatened by the presence of weapons in the vehicle. This is true even in instances where no occupant has been arrested and there is no legal justification for a full-fledged search of the entire vehicle.

However, the mere fact that a vehicle has been lawfully detained by the officer, such as for a traffic violation, does not automatically give the officer the authority to search the vehicle or its occupants. Even though an officer may, during any lawful stop, order occupants out of the vehicle for the officer's own safety,¹⁵ there must be some specific basis for an actual search of these persons or of

the vehicle.¹⁶ Thus, to frisk a vehicle for weapons, there must be specific, articulable facts that justify the officer's conclusion that his or her safety is threatened.¹⁷ Only if the officer has "an objectively reasonable belief that the driver or occupants of the vehicle are potentially dangerous" may the frisk be conducted.¹⁸

Even when a vehicle frisk is justified, it is limited to the passenger compartment of the vehicle, since this is the only area of the vehicle in which a weapon would be immediately accessible to the occupants. In addition, it is limited to those areas of the passenger compartment in which a weapon could be hidden. If, during the frisk, contraband or other incriminating evidence is discovered, this may be seized.

Passengers can pose significant risks when motor vehicle searches are conducted, particularly in conjunction with vehicle stops. Officers need only have a reasonable suspicion to frisk these individuals in order to protect their safety. However, under these circumstances, it is considered preferable for officers to wait for sufficient backup before engaging in the search of a motor vehicle. Interested readers should refer to the IACP *Model Policy on Motor Vehicle Stops* for a complete examination of procedural and safety issues related to this activity.

D. Search Incident to Arrest After *Arizona v. Gant*

Since 1980, police officers have operated on the principle that if any occupants of a vehicle are placed under arrest, the officer is empowered to conduct a warrantless search of the areas of the vehicle that are immediately accessible to the arrestee that might contain weapons or evidence. The arrest itself was deemed sufficient to grant this authority; no specific information or belief regarding the presence of weapons or evidence was deemed necessary. *New York v. Belton*¹⁹ upheld the Court's 1969 *Chimel*²⁰ decision that justified this exception to the warrant requirement on the basis of officer safety and the

¹² *New York v. Class*, 475 U.S. 106 (1986), citing *Cardwell v. Lewis*, 417 U.S. 583 (1974).

¹³ *Terry v. Ohio*, 392 U.S. 1 (1968).

¹⁴ *Adams v. Williams*, 407 U.S. 143 (1972), citing *Terry*.

¹⁵ This includes routine traffic stops. See *Pennsylvania v. Mimms*, 434 U.S. 106 (1977). See also *New York v. Class*, 475 U.S. 106 (1986).

¹⁶ If, when the occupants exit the vehicle, the officers observe something that reasonably leads them to believe that the persons may be armed, this will normally justify a weapons frisk of the persons and of the vehicle itself. See *Michigan v. Long* 463 U.S. 1032 (1983).

¹⁷ See *Terry v. Ohio*, 392 U.S. 1 (1968) and subsequent stop-and-frisk cases. The key word here is articulable, which in this context means simply that the officer must be able to explain the existence and nature of these facts to the satisfaction of a court.

¹⁸ *Michigan v. Long*, 463 U.S. at 1051. A federal court of appeals case indicates that the fact that the officer reasonably suspects that the occupants of the car are drug dealers may in itself be sufficient. See *United States v. Brown*, 8th Cir., decided September 10, 1990.

¹⁹ *New York v. Belton*, 453 U.S. 454 (1981).

²⁰ *Chimel v. California*, 395 U.S. 752, 89 S.Ct. 2034 (1969).

preservation of evidence.²¹

This provision was seriously modified with the high Court's 2009 decision in *Arizona v. Gant*.²² The Court reiterated that the search incident to arrest exception is justified by interests in officer safety and evidence preservation, but when the scene is secure, (for example, arrestees handcuffed and under supervision) that justification no longer exists and will not support a warrantless vehicle search.

In reference to the argument that the search of *Gant*'s vehicle was authorized by *Belton*, the Court states,

*For several reasons, we reject the State's argument. First, the State seriously undervalues the privacy interests at stake. Although we have recognized that a motorist's privacy interest in his vehicle is less substantial than in his home, see New York v. Class, 475 U.S. 106, 112-113 (1986), the former interest is nevertheless important and deserving of constitutional protection, see Knowles, 525 U.S., at 117. It is particularly significant that Belton searches authorize police officers to search not just the passenger compartment but every purse, briefcase, or other container within that space. A rule that gives police the power to conduct such a search whenever an individual is caught committing a traffic offense, when there is no basis for believing evidence of the offense might be found in the vehicle, creates a serious and reoccurring threat to the privacy of countless individuals. Indeed, the character of that threat implicates the central concern underlying the Fourth Amendment—the concern about giving police officers unbridled discretion to rummage at will among a person's private effects.*²³

The Court restated in *Gant* that it is permissible for officers to search a vehicle incident to a lawful arrest if the officer has a reasonable basis to believe that evidence relevant to the crime of arrest might be found in the vehicle. Thus, for example, it would be highly unlikely that the search of a motor vehicle could be justified based solely on the arrest of the operator for driving with a suspended license since no evidence of that offense could reasonably be present in the vehicle. By comparison, it would more likely be considered lawful to search the vehicle of a person stopped and arrested for robbery since it would be reasonable to believe that the fruits, instrumentalities,

or evidence of that crime could be contained within the vehicle.

The *Gant* ruling does not have bearing on consent searches and other warrantless vehicle searches. Justice Scalia's concurring opinion in *Gant* also reemphasizes that:

*Where no arrest is made, we have held that officers may search the car if they reasonably believe 'the suspect is dangerous and ... may gain immediate control of weapons'*²⁴

Scalia also noted that:

In the no-arrest case, the possibility of access to weapons in the vehicle always exists, since the driver or passenger will be allowed to return to the vehicle when the interrogation is completed.

Nevertheless, the ruling negates the long held understanding of police officers, lower courts, and police trainers, who, as Justice O'Connor noted in *Thornton v. United States*, 541 U.S. 615, 625 (2004), "seem now to treat the ability to search a vehicle incident to the arrest of a recent occupant as a police entitlement rather than an exception justified by the twin rationales of *Chimel*."

If a search incident to arrest can be reasonably justified, officers must be able to demonstrate that the arrestee was within reaching distance of the passenger compartment of the vehicle and, presumably, capable of retrieving a weapon or other deadly instrument or device. These searches are limited to the passenger compartment. Unlocked glove compartments or other easily accessible spaces within the passenger compartment are usually considered to be within reach and control. Packages or other unlocked containers within the passenger compartment, whether open or closed, may also be searched incident to the arrest of the occupant.²⁵ Locked glove compartments, the trunk (with the exception of hatchback vehicles), and the engine compartment are not considered to be within reach and control and therefore may not normally be searched incident to an arrest of a vehicle occupant. A warrant, consent, or probable cause is generally required for the search of such areas.

Officers should not leave arrestees and otherwise presumptively dangerous individuals unsecured within reaching distance of the passenger compartment as a pretext to justify a vehicle search. Such practice is inherently dangerous, contrary to training, and may be regarded by the courts as a ruse to circumvent the

²¹ A number of states including New Jersey, Massachusetts, Nevada, New Mexico, and Oregon had already parted with the *Belton* rule, holding incident searches invalid under their state constitutions.

²² *Arizona v. Gant*, 556 U.S. 332 (2009)

²³ *Arizona v. Gant*, 556 U.S. 332 (2009)

²⁴ Citing *Michigan v. Long*, 463 U.S. 1032, 1049 (1983).

²⁵ *New York v. Belton*, 453 U.S. 454 (1981). This applies whether the containers are open or closed. *Id.* However, locked containers, such as suitcases, should be secured and searched after a warrant has been obtained. See the discussion of Containers later in this document.

limitations imposed under the *Gant* ruling.

The search of a vehicle may be deferred until a later time, for example, until the vehicle has been removed to the police station or to an impoundment lot.²⁶ At that point, if an officer intends to search for evidence of a crime, a search warrant must be obtained. An inventory of the vehicle should be performed, but an inventory is not a search. Rather, it is an administrative action to secure the vehicles contents and ensure that it does not contain dangerous substances or objects. Police agencies must have an inventory policy governing inventories of all impounded motor vehicles since any evidence, fruits or instrumentalities of a crime found during the inventory would otherwise be subject to exclusion on the basis that the inventory was in actuality a warrantless search. (See the *Model Policy on Motor Vehicle Inventories*).

Unless otherwise provided by state law, the fact that an offense is minor does not preclude the arrest of a motorist. The Supreme Court has held that an officer may arrest without a warrant for a minor offense punishable only by a fine. In *Atwater v. Lago Vista*, an officer placed a motorist under arrest for a seatbelt violation. The Supreme Court ruled that “[a]n officer may arrest an individual without violating the Fourth Amendment if there is probable cause to believe that the offender has committed even a very minor criminal offense in the officer’s presence.”²⁷ This power, said the Court, extends to offenses punishable only by a fine. Thus, the arrest in *Atwater* was found to be valid.

The arrest of one occupant of a vehicle does not automatically justify the search of other occupants of the vehicle. Such persons may be ordered out of the vehicle²⁸ and may be subject to a weapons frisk if the proper justification exists. However, a full search of their persons may not be conducted unless they have also been arrested.

E. Full Investigatory Vehicle Searches

The procedures discussed above – external examinations, determinations of VIN numbers or ownership, and searches incident to arrest - are all limited in their scope to those areas of the vehicle appropriate to the purpose of the various actions. However, under the proper circumstances, an officer may conduct a complete search of the entire vehicle, including not only the passenger compartment but also a locked glove compartment, the trunk, the areas under the hood, and any other portion of the vehicle. Such a search must be based upon a warrant, or in the absence of a warrant, upon consent or probable cause.

²⁶ *Florida v. Myers*, 466 U.S. 380 (1984); *Michigan v. Thomas* 458 U.S. 259 (1982).

²⁷ *Atwater v. Lago Vista*, Supreme Court of the United States No. 99-1408, decided April 24, 2001. U.S. 121 S. Ct. 1536 (2001).

²⁸ *Pennsylvania v. Mimms*, 434 U.S. 106 (1977).

Warrants. As with any other type of search, a warrant may be obtained for the search of a motor vehicle. Although there are exceptions to the warrant requirement, whenever time and circumstances permit, a warrant should be obtained. For more information regarding warrants, refer to the *IACP Model Policy on Obtaining a Search Warrant*.

Consent. A motor vehicle may be searched with the consent of the owner or operator of the vehicle.²⁹ It has been held that in the case of a leased vehicle, the lessor’s consent is sufficient.³⁰ The consent of the person upon whose land a vehicle is located is probably insufficient, unless that person is the defendant in the case.³¹ Consent is invalid if obtained by coercion or duress, so care should be taken that the consent is indeed voluntary and is not obtained as the result of threats or intimidation.

Consent to search a motor vehicle will normally be construed by the courts to include consent to search all portions of the vehicle. However, as with other types of searches, the consent may be expressly limited to specific portions of the vehicle.

Probable Cause. Motor vehicles may be searched without a warrant when there is probable cause to believe that the vehicle contains fruits, instrumentalities, or evidence of a crime or contraband.³² This rule, the so-called *Carroll* doctrine, is based at least in part upon the mobility of the vehicle and the difficulty of obtaining a warrant before the vehicle is moved and the evidence is lost.³³ The diminished expectation of privacy when a vehicle is used on a public highway is also a factor.³⁴ For this and other reasons, where probable cause to search is present, the warrant requirement is waived.

²⁹ In the past, consent searches have been held valid only if the consent was obtained from a person who had the actual authority to consent. However, in *Illinois v. Rodriguez*, No. 88-2018, decided June 21, 1990, the Supreme Court of the United States held that the search of an apartment conducted with the consent of a person who the police reasonably believed had the actual authority to consent to a search of those premises was valid, even though the person in reality had no such authority. In *Schneckloth v. Bustamonte*, (412 U.S. 218 1973), the Supreme Court indicated that the same rules that apply to premises searches also apply to vehicle searches. Therefore, the holding in *Illinois v. Rodriguez* may be held to apply to consent searches of motor vehicles.

³⁰ *Anderson v. United States*, 399 F.2d 753 (10th Cir. 1968). This would not be true for a premises search.

³¹ *Pasterchik v. United States*, 400 F.2d 696 (8th Cir. 1968), cert. denied 395 U.S. 982 (1969).

³² *Carroll v. United States*, 267 U.S. 132 (1925); *United States v. I*, 456 U.S. 798 (1982). See also *Colorado v. Bannister*, 449 U.S. 1 (1980); *Arkansas v. Sanders*, 442 U.S. 753 (1979).

³³ See *Carroll v. United States*, 267 U.S. 132 (1925).

³⁴ See *California v. Carney*, 471 U.S. 386 (1985); *United States v. Knots*, 460 U.S. 276 (1983); *Robbins v. California*, 453 U.S. 420 (1981); *Arkansas v. Sanders*, 442 U.S. 753 (1979).

A probable cause search under *Carroll* may extend to all parts of the vehicle; it is not limited to the passenger compartment, as it is in a search incident to arrest. Note, however, that this full-fledged search is authorized only when true probable cause is present (that is, when the facts are such that, if presented to a magistrate, they would justify the issuance of a warrant for the search of the vehicle).

The case of *Maryland v. Dyson*,³⁵ decided by the U.S. Supreme Court in 1999, added to the above rule. In *Dyson* the court ruled that a vehicle search may be based on probable cause (in this case an informant's tip) even where there is adequate time for police to obtain a search warrant for the vehicle and the police do not obtain the warrant. In this case, some fifteen hours had elapsed between the time of the receipt of the tip and the stopping of the vehicle.

Some court decisions have suggested that the *Carroll* doctrine applies only when "exigent circumstances" exist. However, it appears that in most instances this is not required, and one federal court of appeals expressly ruled that "exigent circumstances" need not be present for the *Carroll* doctrine to apply.³⁶

A warrantless probable cause search may be conducted on the road or after the vehicle has been moved to a police station or an impoundment lot.³⁷

The *Carroll* doctrine extends to mobile homes, as long as they remain mobile and have not become fixed residences.³⁸ Once such vehicles have been immobilized and are being used as fixed residences, the rationale of the *Carroll* doctrine no longer applies, since by definition the vehicle can no longer be easily moved. In such cases, the Fourth Amendment requires that a warrant be obtained before a search of the "residence" is conducted.

Use of Canines. Use of a drug detection canine to sniff the exterior of a motor vehicle during the course of a lawful vehicle stop is not a search and may be performed without any suspicion that the vehicle's occupants are engaged in criminal activity.³⁹

F. Containers

Normally, luggage and other closed packages and containers may not be searched without a warrant.⁴⁰

However, officers conducting an otherwise-lawful search of a vehicle may usually open containers found therein.⁴¹ As the Supreme Court has stated:

*Where a legitimate search is underway . . . nice distinctions between . . . glove compartments, upholstered seats, trunks and wrapped packages . . . must give way to the interest in the prompt and efficient completion of the task at hand.*⁴²

However, the type of search being conducted may determine whether a particular container may be opened.

Probable Cause Searches. In a probable cause (*Carroll*) search, containers, wherever found in the vehicle, may be opened provided that they could contain the items being searched for. The so-called elephant-in-a-matchbox rule applies to probable cause searches of motor vehicles just as it does to other types of probable cause searches; thus, if the object being searched for could not fit into a particular container found within the vehicle, that container may not be opened.⁴³ Note, however, that if the object being sought is capable of being dismantled into a number of component parts, officers may be able to search containers in which one or more of these parts could be concealed.

Containers found in or near a vehicle under circumstances that do not justify their search as a probable cause (*Carroll*) search (or as a consent search or as a search incident to an arrest) should be secured but not searched until a warrant is obtained to search them.

Searches by Consent. The Supreme Court decided in the case of *Florida v. Jimeno*⁴⁴ that officers searching a vehicle under a general consent may open containers found in the vehicle without asking the defendant for separate, specific permission to open each container. However, the Court in *Jimeno* made it clear that containers may be opened only if it is reasonable to believe that they are included in the consent. For example, permission to open and search the trunk of an automobile would not normally include permission to break open a locked trunk or briefcase. Also, as is the case in any consent search, the owner may limit the scope of the search. For example, he or she may give permission to search the entire vehicle but not containers or packages. It must also be remembered that the search is limited, like other searches, to those containers that might reasonably hold the evidence being sought.

³⁵ *Maryland v. Dyson*, 527 U.S. 465 (1999).

³⁶ *United States v. Panax*, No. 90-1081, 1st Cir., decided July 13, 1990.

³⁷ See *Chambers v. Mahoney*, 399 U.S. 42 (1970); *Texas v. White*, 423 U.S. 67 (1975). See also *United States v. Ross*, 456 U.S. 798 (1982); *Coolidge v. New Hampshire*, 403 U.S. 443 (1971). The search may not be delayed indefinitely, however. It must be performed within a reasonable time. See *United States v. Johns*, 469 U.S. 478 (1985).

³⁸ *California v. Carney*, 471 U.S. 386 (1985).

³⁹ *Illinois v. Cabellas*, 543 U.S. 404, 125 S.Ct. 834 (2005).

⁴⁰ *United States v. Ross*, 456 U.S. 798 (1982). See *United States v. Chadwick*, 433 U.S. 1 (1977).

⁴¹ See *United States v. Ross*, 456 U.S. 798 (1982) (probable cause search); *New York v. Belton*, 453 U.S. 454 (1982) (search incident to arrest but see *Gant* for restrictions).

⁴² *United States v. Ross*, 456 U.S. 798, 821 (1982).

⁴³ See *United States v. Ross*, 456 U.S. 798 (1982).

⁴⁴ *Florida v. Jimeno*, 500 U.S. 248 (1991).

Delayed Search of Containers. Just as the probable cause (*Carroll*) search of a vehicle, where otherwise authorized, may be delayed until the vehicle has been moved to a police station or impound lot,⁴⁵ so also the search of containers found in the vehicle during a probable cause search may be delayed until a later time.⁴⁶ However, the search may not be delayed indefinitely. It should be conducted as soon as reasonably possible.⁴⁷

If containers are discovered during a search incident to arrest, the opening and search of the containers may likewise be deferred until a later time. However, the delayed search of containers may be regarded by the courts as an inventory and may be subject to the rules applicable to inventories. Consequently, if a vehicle is subjected to a delayed search following an arrest, and the court determines that there was an investigatory motive, evidence found during the delayed search incident to an arrest may be held inadmissible at trial because the discovery violated the rules applying to inventories. (See the IACP *Model Policy on Motor Vehicle Inventories* and its accompanying concepts and issues paper for further discussion of the law applying to inventories.)

Search of Containers When there Is No Authority to Search the Vehicle Itself. In *California v. Acevedo*⁴⁸ the Supreme Court held that police who have probable cause to believe that a container located in a motor vehicle contains contraband may stop the vehicle and search the container, even though they have no warrant and there is no probable cause to search the vehicle itself. The decision is particularly important because it overrules part or all of two prior decisions (*U.S. v. Chadwick*⁴⁹ and *Arkansas v. Sanders*⁵⁰) that over the years have, among other things, severely limited the ability of police and federal agents to enforce drug laws.

The Court held in *Acevedo* that the *Carroll* doctrine (permitting a warrantless probable cause search of a motor vehicle) and the *Ross* doctrine (permitting the opening of containers found in a vehicle being searched with probable cause under the *Carroll* doctrine) govern all searches of motor vehicles and any containers found therein. Under this single-rule approach, the Court in *Acevedo* held that

*The police may search an automobile and the containers within it where they have probable cause to believe contraband or evidence is contained.*⁵¹

This rule applies regardless of whether the evidence is believed to be somewhere in the vehicle generally or in a specific container within the vehicle.⁵² In effect, the restrictive *Chadwick-Sanders* rule is laid to rest by the *Acevedo* decision, a development that should be of material assistance to the national anti-drug effort.

Search of Items Belonging to Passengers. The Supreme Court ruled in the case of *Wyoming v. Houghton*⁵³ that when an officer has probable cause to search a motor vehicle, the officer may examine passengers' belongings found in the car if the belonging being searched is capable of concealing the type of evidence that is the object of the search.⁵⁴

G. Abandoned Vehicles

There is no expectation of privacy in abandoned property. This rule applies to vehicles as well as to other types of property.⁵⁵ Thus, for example, it has been held that when a suspect leaves an unlocked vehicle parked on a public thoroughfare with no intention of returning, the suspect has lost his expectation of privacy in the vehicle, and it may be searched without a warrant.⁵⁶

H. Plain View

The plain view doctrine⁵⁷ applies to motor vehicles.⁵⁸ Therefore, an officer may take whatever action is proper when engaged in an otherwise lawful activity in a location where the officer has a right to be and observes contraband or fruits, instrumentalities, or evidence of a crime in plain

⁵¹ *California v. Acevedo*, 498 U.S. 807 (1991).

⁵² Note that the elephant-in-a-matchbox rule still applies. Officers may not look into containers that could not possibly hold the evidence being searched for. In a search for narcotics, however, few containers will be too small to hold some quantity of the substance being sought.

⁵³ *Wyoming v. Houghton*, 526 U.S. 295 (1999).

⁵⁴ This is the familiar elephant-in-a-matchbox doctrine. It means that officers could not, for example, open a woman's handbag in search of a shotgun that was suspected of being used in a robbery. In *Wyoming v. Houghton* the officer was searching for drugs or drug paraphernalia, which could easily have been concealed in the passenger's purse.

⁵⁵ See, e.g., *United States v. Calhoun*, 510 F.2d 861 (7th Cir.), cert. denied 501 U.S. 950 (1975); *United States v. Williams*, 569 F.2d 823 (5th Cir. 1978).

⁵⁶ *United States v. Tate*, 821 F.2d 1328 (8th Cir. 1987). The courts are sometimes reluctant to find that a particular vehicle has been abandoned, and the defendant will, of course, usually deny any such intent. Officers are therefore cautioned to seek a warrant in situations where the exact status of the vehicle is in doubt.

⁵⁷ *Coolidge v. New Hampshire*, 403 U.S. 443 (1971).

⁵⁸ See, e.g., *Texas v. Brown*, 460 U.S. 730 (1983).

⁴⁵ See Search Incident to Arrest section of this document.

⁴⁶ See *United States v. Johns*, 469 U.S. 478 (1985) (packages were opened after seized vehicle was driven from seizure point to DEA headquarters).

⁴⁷ See *United States v. Johns*, 469 U.S. 478 (1985).

⁴⁸ *California v. Acevedo*, 498 U.S. 807 (1991).

⁴⁹ *United States v. Chadwick*, 433 U.S. 1 (1977).

⁵⁰ *Arkansas v. Sanders*, 442 U.S. 753 (1979).

view in a motor vehicle.⁵⁹ Such action may include seizure of the items, arrest of the occupants of the vehicle, and/or a search of the vehicle, as dictated by the circumstances. The plain view doctrine extends to containers discovered in the vehicle.⁶⁰

In the past, plain view would not apply unless the discovery was inadvertent. If the police knew in advance of the evidence and intended to find it and seize it, the plain view doctrine was inapplicable.⁶¹ It appears that this inadvertency requirement was regarded by the courts as a necessary safeguard against pretextual searches, that is, officers pretending to search for one thing while actually searching for another. However, in *Horton v. California*⁶² the Supreme Court ruled that inadvertent discovery is not a necessary element of plain view. Although *Horton* involved a premises search conducted under a search warrant, the result presumably applies to plain view situations in motor vehicle searches as well.

I. Search and Seizure of Evidence

Discovery and seizure of evidence incident to an arrest or other legal search of an automobile should follow the same basic rules of evidence collection as in other situations. That is, it should be collected, handled, packaged, marked, transported, and stored in accordance with professionally accepted practices.⁶³ Where appropriate and feasible, itemized receipts for seized property should be given to the owner and/or occupants of the vehicle.

Once probable cause has been established or permission granted to search a motor vehicle, imagination should be used to conduct a complete search of the vehicle. One should remember that the search for a specific object may limit the areas that can be searched legally and any containers that may be opened. If drugs or firearms are the object of the search, a number of areas may be considered for close examination. For example, on the interior of the vehicle one should examine under the head rest, under the dashboard, heater and air conditioning vents, large control

knobs, steering wheel pads, the steering column, under floor mats, arm rests, on the transmission hump under the seat, the padding and spring area under the seat, any ornaments on the rear deck, and door panels and sun visor coverings.

In the trunk area, officers should examine all containers to include aerosol cans for removable tops or false bottoms, toolboxes and tools, the spare tire to determine if it is deflated and accessible for holding drugs, and all areas around the wheel well. In the engine compartment, include in the search the antifreeze overflow tank, the windshield washer fluid tank, the air filter housing, and the light and grill areas. On the exterior of the vehicle, examine the hubcaps and the inside of bumpers and trailer hitches. Also check for straps or heavy tape around the frame or undercarriage. In many cases, specifically where drugs or explosives are the object of the search, a more thorough and less time-consuming approach is the use of a police canine trained to sniff for these items.

When conducting these searches, officers should take steps to ensure their safety and the safety of others. Handling of explosives is innately dangerous and should be performed only by trained personnel. Officers should normally wear gloves during searches of vehicles, particularly where drugs or drug paraphernalia may be encountered. The potential for suffering puncture wounds from syringes secreted under seats or other areas or the handling of some types of drugs without adequate protection can pose significant health risks to officers. Exposure to these or other hazardous materials should be reported immediately to a supervisor.

Finally, if the search of a vehicle leaves it or any property inside vulnerable to unauthorized theft or damage, search personnel must take any steps that are reasonably necessary to secure and/or preserve the vehicle or property from these risks. Typically this requires that officers impound the vehicle.

J. Search of Vehicles Seized as Contraband

Evidence discovered during a search of a seized vehicle may be inadmissible if the seizure of the vehicle was not lawful. This issue was examined in the 1999 case of *Florida v. White*.⁶⁴ In that case, the police had seized the defendant's vehicle believing it to be forfeitable under the drug laws. During a subsequent warrantless inventory search, cocaine was discovered in the vehicle. The Supreme Court of the United States held that if the police have probable cause to believe that the vehicle is forfeitable under the law as contraband, they do not have to obtain a warrant before seizing the vehicle from a public place.

⁵⁹ The rule applies only if it is immediately apparent that the items observed are contraband, evidence, etc. *Coolidge v. New Hampshire*, 403 U.S. 443 (1971); *Texas v. Brown*, 460 U.S. 730 (1983). This has sometimes been expressed in terms of a need for probable cause to believe that an object in plain view is contraband or fruits, instrumentalities, or evidence of a crime before that object may be seized. See *Arizona v. Hicks*, 480 U.S. 321 (1987).

⁶⁰ Cf. *Texas v. Brown*, 460 U.S. 730 (1983).

⁶¹ See, e.g., *Texas v. Brown*, 460 U.S. 730 (1983). This requirement evolved from a comment made in *Coolidge v. New Hampshire*, 403 U.S. 443 (1971).

⁶² *Horton v. California*, 496 U.S. 128 (1990).

⁶³ For a complete treatment of this subject, one should refer to the IACP National Law Enforcement Policy Center's *Model Policy on Evidence Control*, International Association of Chiefs of Police, Alexandria, Virginia (1997).

⁶⁴ *Florida v. White*, Supreme Court of the United States No. 98-223, decided May 17, 1999.

K. Vehicle Inventories

When a vehicle has been impounded, an inventory of the contents of the vehicle should be conducted. Inventories are not regarded by the law as searches; rather, they are administrative procedures that are governed by rules different from those applicable to vehicle searches. The purpose of a vehicle inventory is to (1) protect the contents from loss, (2) protect the department against civil claims for loss, and (3) protect officers and the public by determining whether there are any hazardous substances in the vehicle. Thus, inventories are not to be conducted for investigatory reasons. For this reason, and except as noted above, they are not included in the coverage of the *IACP Model Policy on Motor Vehicle Searches* or discussed in detail in this paper. For information on the conduct of inventories and the admissibility of evidence discovered during inventories, see the *IACP Model Policy on Motor Vehicle Inventories* and its accompanying concepts and issues paper.

Every effort has been made by the IACP National Law Enforcement Policy Center staff and advisory board to ensure that this document incorporates the most current information and contemporary professional judgment on this issue. However, law enforcement administrators should be cautioned that no “model” policy can meet all the needs of any given law enforcement agency. Each law enforcement agency operates in a unique environment of federal court rulings, state laws, local ordinances, regulations, judicial and administrative decisions and collective bargaining agreements that must be considered. In addition, the formulation of specific agency policies must take into account local political and community perspectives and customs, prerogatives and demands; often divergent law enforcement strategies and philosophies; and the impact of varied agency resource capabilities among other factors.

This project was supported by a grant awarded by the Bureau of Justice Assistance. The Bureau of Justice Assistance is a component of the Office of Justice Programs, which also includes the Bureau of Justice Statistics, the National Institute of Justice, the Office of Juvenile Justice and Delinquency Prevention, the Office for Victims of Crime, and the Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking. Points of view or opinions in this document are those of the author and do not necessarily represent the official position or policies of the U.S. Department of Justice or the IACP.

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MOTOR VEHICLE SEARCHES



Model Policy

<i>Effective Date</i> July 2009		<i>Number</i>	
<i>Subject</i> Motor Vehicle Searches			
<i>Reference</i>		<i>Special Instructions</i>	
<i>Distribution</i>		<i>Reevaluation Date</i>	<i>No. Pages</i> 4

I. PURPOSE

The purpose of this policy is to provide department personnel with guidelines for the search of motor vehicles.

II. POLICY

It is the policy of this department to conduct motor vehicle searches that are both legal and thorough. Such searches are to be conducted in strict observance of the constitutional rights of the owner and occupants of the motor vehicle being searched, and with due regard for the safety of all officers, other persons, and property involved.

III. DEFINITIONS

Motor vehicle: Any vehicle operating or capable of being operated on public streets or highways, to include automobiles, trucks, trailers, recreational vehicles, mobile homes, motor homes, and any other type of vehicle, whether self-propelled or towed. This policy does not apply to vehicles of any type that have been immobilized in one location for use as a temporary or permanent residence or storage facility, or which are otherwise classified by the law as residences or buildings.

Search: An examination of all or a portion of the vehicle with an investigatory motive (i.e., for the purpose of discovering fruits, instrumentalities, or evidence of a crime or contraband). A vehicle search may also be conducted to determine the vehicle identification number or the ownership of the vehicle. Inventories of personal property conducted pursuant to impoundment of a vehicle are not covered by this

policy.¹

IV. PROCEDURES

A. Types of Vehicle Searches

1. Searches with a Warrant

Whenever possible, officers desiring to search a motor vehicle shall first obtain a warrant. Warrantless searches are to be conducted only when lack of time or other exigencies make it impractical for a warrant to be obtained. When searching with a warrant, officers may search all areas of the vehicle unless the warrant states otherwise.

2. Searches and Entries without a Warrant

When it is impractical to obtain a warrant for the search of the vehicle, a warrantless search of, or entry into, the vehicle may be conducted in the following situations:

a. Probable Cause

Officers may search a vehicle without a warrant where there is probable cause to believe that the vehicle contains fruits, instrumentalities, or evidence of a crime or contraband. This type of warrantless search shall be conducted only when the vehicle remains mobile. When a vehicle has broken down, or there is otherwise no significant chance the vehicle will be driven away or that evidence contained within it will be removed or destroyed, officers shall search the vehicle only after

¹ See *Model Policies and Discussion Papers on Motor Vehicle Impoundment and Motor Vehicle Inventories* published by the IACP National Law Enforcement Policy Center.

a warrant has been obtained or the officers determine that some other exception to the warrant requirement is applicable. Probable cause searches may extend to all areas of the motor vehicle, unless the probable cause is limited to a specific area of the vehicle. Officers may not search areas of the vehicle that could not contain the fruits, instrumentalities, or evidence of a crime or contraband being sought.

b. Consent

Officers may search a vehicle with the oral or written consent of the operator or owner of the vehicle. Written consent should be obtained whenever possible. Officers shall not obtain consent by any form of coercion or duress. The extent of a consent search depends upon the terms of the consent itself. If the consent is general, all areas of the vehicle may be searched. If the consent is limited to specific areas of the vehicle, officer may search only the portions of the vehicles covered by the consent.

c. Incident to an Arrest

Officers may conduct a search of a vehicle incident to a valid arrest of the operator or occupants of the vehicle only if the arrestee is unsecured and within reaching distance of the vehicle's passenger compartment or if the search or if is reasonable to believe that the vehicle contains evidence of the offense of arrest. Searches of vehicles conducted incident to the arrest of an occupant shall be limited to areas within reach and control of the arrestee (normally the passenger area of the vehicle). The trunk, the engine compartment, and locked compartments within the passenger area normally may not be searched incident to an arrest.

d. Search for Weapons

Where there is an objectively reasonable belief that a driver or occupant of a vehicle is potentially dangerous, officers may conduct a search of the vehicle for weapons. Searches for weapons normally must be confined to the passenger area of the vehicle and those areas of the passenger compartment in which a weapon could be hidden. Areas may not be searched that are not immediately accessible to the vehicle's occupants, such as locked glove compartments.

e. Vehicle Identification Number or Vehicle

Ownership

Where circumstances require that officers determine the vehicle identification number or ownership of a vehicle, and such information cannot be acquired from the exterior of the vehicle, officers may enter the vehicle to obtain this information. Entries made to examine the vehicle identification number or to determine the ownership of the vehicle must be limited to actions reasonably necessary to accomplish these goals.

f. Emergencies

Officers may enter a vehicle without a warrant where emergency circumstances make it necessary for them to do so in order to protect life or property, or when the exigencies of the situation otherwise require such action. Search of a motor vehicle under emergency circumstances not otherwise covered under the warrant exceptions enumerated above must be co-extensive with the nature of the emergency. The proper extent of the search must therefore be determined by search personnel in each specific situation, but in no event will the extent of the search exceed that necessary to respond properly to the emergency. Note: Where the initial search discloses probable cause to believe that other portions of the vehicle may contain fruits, instrumentalities, or evidence of a crime or contraband, any additional portions of the vehicle may be searched that could reasonably contain the items being sought.

B. Scope of Containers Found in Vehicle

If any otherwise-lawful search of a vehicle is being conducted, containers found in the vehicle may be opened and searched as follows:

1. Unlocked Containers

Authority to search unlocked containers found in the motor vehicle is determined by the nature of the search.

a. Probable Cause Searches

In a probable cause search, containers such as paper bags, cardboard boxes, wrapped packages, etc., wherever found in the vehicle, may be opened, provided that they could contain the items being searched for.

b. Consent

Containers discovered during a consent search of the vehicle may be opened provided that the terms of the consent

expressly permit or reasonably imply that the particular container may be opened.

c. Incident to Arrest

When the passenger compartment of a vehicle is being searched incident to an arrest, unlocked containers found within the passenger compartment may be opened, provided that they could contain the items being searched for.

d. Other Circumstances

Unlocked containers found in a vehicle under circumstances that do not justify an investigatory search of the container under any of the foregoing exceptions to the search warrant requirement should be secured but not searched until a warrant is obtained to search them.

2. Locked Containers

Locked containers such as attaché cases, suitcases, and footlockers found during a vehicle search should be opened only in the following cases:

- a. The search is being conducted under a warrant.
- b. There is probable cause to believe that a container located in the motor vehicle contains contraband or evidence.
- c. A valid consent to open the locked container is first obtained. In other types of searches, locked containers should be secured by search personnel and opened only after a warrant has been obtained.

3. Items Belonging to Passengers

Items belonging to passengers (e.g., wallets, handbags, purses) may be examined only in the following cases:

- a. Officers have probable cause to search the vehicle, and the belonging in question is capable of concealing the item or items being searched for.
- b. Officers have received valid consent to search the item.
- c. A passenger has been placed under arrest, and the arrested passenger's belongings are being lawfully searched incident to that arrest.

C. Location and Time of Search

Whenever possible, search of a motor vehicle and containers found therein should be conducted at the location where the vehicle was discovered or detained. Under exigent circumstances, search of the vehicle or container may be delayed and/or conducted after the vehicle or container has been moved to another location. However, in all

instances searches shall be conducted as soon as is reasonably possible, that is, as soon as adequate personnel are available to conduct a thorough search with due regard for the safety of all officers, citizens, and property concerned.

D. Conduct of the Search

1. Minimizing Intrusiveness

Although all searches should be conducted with thoroughness, motor vehicle searches shall be conducted in a manner that minimizes the intrusiveness of the search and the inconvenience caused to vehicle owners, occupants, and other persons involved.

Where possible, damage to the vehicle or to other property in the course of the search should be avoided. Where unavoidable, such damage should be confined to that reasonably necessary to carry out a safe and thorough search. Where applicable, a backup officer should be summoned if available.

2. Ordering Occupants Out of Vehicles

For their own safety, police officers may order both operator and passengers out of a vehicle during a search.

E. Abandoned Vehicles

If it is determined by an officer that a vehicle has been abandoned, the vehicle may be searched without a warrant.

F. Handling of Evidence Found during Vehicle Searches

Any evidentiary items discovered in the course of a motor vehicle search shall be collected, handled, packaged, marked, transported, and stored in accordance with applicable policies and procedures of this department. Where appropriate and feasible, itemized receipts for seized property shall be given to the owner and/or occupants of the vehicle.

G. Seizure of Forfeitable Vehicles

If there is probable cause to believe that the vehicle is forfeitable under federal or state law, no warrant is needed before seizing the vehicle from a public place. Once seized, vehicles may be inventoried under established departmental inventory policy.

H. Compliance with Health and Safety Requirements

Searches of motor vehicles are to be conducted in strict compliance with all applicable laws, governmental regulations, and departmental policies and procedures pertaining to the protection of department personnel from communicable diseases and hazardous substances. Any exposure of search personnel or others to such substances shall be reported in accordance with regulations, policies, and procedures of this department.

I. Security of Vehicles and Property Contained Therein

If a search of a vehicle leaves the vehicle or any property contained therein vulnerable to unauthorized entry, theft, or damage, search personnel shall take such steps as are reasonably necessary to secure and/or preserve the vehicle or property from such hazards.

J. Responsibility of Supervising Officer

An officer supervising a vehicle search shall be responsible for ensuring that it is conducted in accordance with this policy. In the event that the vehicle search is conducted under a warrant, the officer shall ensure that the execution of the warrant is properly reported to the issuing court or other authority. The officer shall also be responsible for making any other reports regarding the search that may be required by law, policy, or procedure.

Every effort has been made by the IACP National Law Enforcement Policy Center staff and advisory board to ensure that this document incorporates the most current information and contemporary professional judgment on this issue. However, law enforcement administrators should be cautioned that no “model” policy can meet all the needs of any given law enforcement agency. Each law enforcement agency operates in a unique environment of federal court rulings, state laws, local ordinances, regulations, judicial and administrative decisions and collective bargaining agreements that must be considered. In addition, the formulation of specific agency policies must take into account local political and community perspectives and customs, prerogatives and demands; often divergent law enforcement strategies and philosophies; and the impact of varied agency resource capabilities among other factors.

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IACP NATIONAL LAW ENFORCEMENT POLICY CENTER

Field Interviews and Pat-Down Searches

Concepts and Issues Paper

Originally Published: May 1993

Revised: December 1995, May 2000

I. INTRODUCTION

A. Purpose of Document

This paper was designed to accompany the *Model Policy on Field Interviews and Pat-Down Searches* established by the IACP National Law Enforcement Policy Center. This paper provides essential background material and supporting documentation to provide greater understanding of the developmental philosophy and implementation requirements for the model policy. This material will be of value to law enforcement executives in their efforts to tailor the model to the requirements and circumstances of their local communities and their law enforcement agencies.

B. Background

In 1968, the Supreme Court of the United States declared in the case of *Terry v. Ohio*¹ that a police officer may stop a person for questioning if the officer reasonably suspects that the person has committed, is committing, or is about to commit a crime. It is not necessary that the officer have probable cause to arrest the individual at the time that the stop is made. All that is required is that the officer have a reasonable suspicion that the individual is involved in criminal activity. However, to be reasonable, this suspicion must be based upon articulable facts that would lead a reasonable person to suspect that the individual is involved in criminal activity.

The Supreme Court further declared in *Terry v. Ohio* that an officer who has stopped a suspect may "... search for weapons for the protection of the police officer, where

he has reason to believe that he is dealing with an armed and dangerous individual."²

This case is the landmark legal decision that grants officers the authority to conduct the field interviews (also called "investigative detentions" or "Terry stops") and pat-down searches (often referred to as "frisks") that are the subject of the IACP model policy. Numerous federal and state court decisions have interpreted and applied the principles of Terry. In addition, many states have enacted statutes dealing with field interviews and pat-down searches.³

C. Field Interviews Versus "Consensual Encounters"

The IACP model policy and the principles discussed here apply to field interviews only. They do not apply to so-called "consensual" or "voluntary" encounters. Procedures for these encounters with citizens are address in the IACP *Model Policy on Police-Citizen Contacts*. As noted above, an officer may conduct a "field interview" as defined in the policy (an investigative detention or Terry stop) only when the officer has a reasonable suspicion, based upon objective facts, that the individual to be interviewed is engaged in criminal activity.

By contrast, an officer who lacks "reasonable suspicion" as defined above may nevertheless approach a suspect and ask questions designed to produce evidence of criminal activity as long as the encounter is voluntary or "consensual."

² *Terry v. Ohio*, 392 U.S. 1 (1968).

³ State courts' decisions and statutes may place restrictions on officers not imposed by the Supreme Court of the United States. See warning at the end of this paper.

¹ *Terry v. Ohio*, 392 U.S. 1 (1968).

The distinction is a critical one. Field interviews as defined in the model policy are “seizures” of the person within the meaning of the Fourth Amendment, and the discovery of any physical evidence during such an interview is valid only if Fourth Amendment considerations are met. By contrast, consensual encounters are not seizures of the person. Should the officer discover evidence during the consensual encounter, it will normally be admissible in a trial even though there was no basis for “reasonable suspicion” at the time that the officer initiated the encounter.

Thus, it will often be desirable for the officer to approach a suspect in a manner that will make the initial contact a consensual encounter rather than a field interview.

D. Factors Defining a Field Interview

The Supreme Court has held that a police-citizen encounter is consensual (does not amount to a seizure of the person) as long as the circumstances of the encounter are such that the reasonable person would feel that he or she was “free to leave,” that is, to terminate the encounter and depart at any time.⁴ The following factors, among others, may be considered by a court in determining whether the contact was a consensual encounter or a field interview (hereafter sometimes referred to as an “investigative stop”):

1. *Interference with the suspect’s freedom of movement.* If officers position themselves or their vehicles in such a manner as to block the suspect’s path, this indicates that the suspect is not free to leave and may render the encounter an investigative stop.

2. *Number of officers and their behavior.* Confrontation of the suspect by more than one officer may create an atmosphere of intimidation that will cause the courts to consider the contact an investigative stop. Excessive display of weapons, such as drawn or pointed firearms, will have the same effect. Even the prolonged or repeated display of badges or other police identification may be considered intimidating.⁵ A threatening or bullying manner may lead to the same result.

3. *Physical contact with the suspect.* Any physical contact with the suspect for purposes of stopping or holding the individual or to search for weapons or evidence will almost certainly cause the contact to be considered a non-consensual investigative stop or even a full-fledged arrest.

⁴ See, e.g., *United States v. Mendenhall*, 446 U.S. 544 (1980); *Michigan v. Chesternut*, 486 U.S. 567 (1988).

⁵ Officers must, for reasons of both legality and personal safety, adequately identify themselves as police officers. Proper identification as a police officer does not render an encounter non-consensual. It is only the excessive, unnecessary, or deliberately intimidating display of authority that affects the consensual nature of the encounter.

4. *Retaining personal property of the suspect.* If the officer wishes the contact to be regarded as consensual, any personal property taken from the suspect, such as a driver’s license or other identification, should be returned promptly to the suspect. Prolonged retention by the officer of such items may lead a court to conclude that the suspect was not free to leave.

It appears that an officer may ask the suspect to move to another area during the encounter without altering the consensual nature of the contact if it is made clear to the suspect that the request to move to another location is just that—a request only—and that the suspect is free to refuse the request.

One method of emphasizing the consensual nature of the encounter is for the officer to advise the suspect that the suspect has the right to refuse to answer questions, the right to refuse to consent to a search, and so forth. Such warnings may not be legally required under the existing circumstances, but if given, they will often persuade a court that any continuation of the encounter beyond that point was still voluntary on the part of the suspect.

Even if the contact is not a consensual contact, it is still perfectly lawful if conducted in accordance with the principles applicable to investigative stops.

The remainder of this discussion assumes that the contact is not merely a consensual encounter and that the officer is engaged in an investigative stop or “field interview,” as defined in the IACP model policy.

II. PROCEDURES

A. Initiation/Conduct of Field Interviews

As noted earlier, initiation of a field interview is justified only when the officer has a reasonable suspicion that the suspect is engaged in criminal activity. This suspicion must be based on specific facts known to or observed by the officer that the officer can later articulate in detail to a court. Such facts may include the demeanor of a person (furtive behavior); the time of day or night; the area in which the encounter occurs; the inappropriateness of the suspect’s presence in that area at that time; the fact that the suspect is carrying suspicious objects; objective evidence that the suspect may be armed (bulge in the clothing); and knowledge of the officer that a crime has recently been committed in that area, especially if the suspect matches the description of the perpetrator of the crime.⁶

⁶ Knowledge by the officer that this particular individual has a prior criminal history or has been involved in criminal activity may also be considered. However, knowledge of a suspect’s prior record shouldn’t be the sole basis for the stop.

In addition to the above, on January 12, 2000, the U.S. Supreme Court decided the case of *Illinois v. Wardlow* ((98-1036) 183 Ill. 2nd 306, 701 N.E. 2d 484), which provides officers with an additional criterion for establishing reasonable suspicion to initiate a field interview. *Wardlow* deals with the common scenario in which a person notices police approaching and runs away to avoid them. In the past, it has generally been held by the courts that the act of fleeing from police does not, in and of itself, justify officers in pursuing and stopping the individual concerned. The *Wardlow* decision does not alter that basic fact, but it does permit officers to include fleeing as one more element that police may consider in determining whether reasonable suspicion exists sufficient to justify a *Terry* stop.

Officers must conduct the field interview in such a manner that the courts will not consider it an unlawful arrest. It must be remembered that in the view of the courts, an arrest may occur even though the actual words “you’re under arrest” have not been uttered by the officer. Therefore, unless the stop produces probable cause to arrest the suspect, the officer should still conduct the field interview in a manner that will not convey the impression that the suspect is under arrest. For this reason, the officer should:

- Exercise reasonable courtesy and avoid intimidating or threatening behavior.
- Minimize physical contact which may induce a court to treat the encounter as an arrest.
- Avoid detaining the suspect any longer than is absolutely necessary. One of the more common bases for judicial rulings that a stop has become an arrest is detention of the suspect for an excessive period of time. In addition, any movement of the suspect from the point of initial contact, such as to an area where there is more light, should be limited to that which is reasonably necessary for officer safety and the determination of criminal involvement. However, it should be clearly understood here that notwithstanding cautions regarding the legal requirements for a field interview, officer safety should remain a paramount consideration and should be emphasized in any departmental policy.

B. Pat-Down Searches.

As noted earlier, *Terry v. Ohio*, other court decisions, and various state statutes give officers the authority to conduct a pat-down⁷ search or “frisk” of a suspect who has

been the subject of a valid investigative stop, if the officer reasonably believes that the suspect may possess a weapon.

The following points are vital to the creation of a valid pat-down search policy:

1. If the stop is invalid, the pat-down search is also invalid. Only a valid investigative stop based upon reasonable suspicion of criminal activity justifies a pat-down search.
2. The right to stop the suspect for questioning does not automatically give the officer the right to conduct the pat-down search. The erroneous belief that the right to stop automatically gives the officer the right to frisk is one of the more common errors made by police officers. In reality, even if the stop is valid, before a pat-down search may be conducted, there must be a separate basis for believing that the person who has been stopped may possess a weapon and may be a threat to the officer.
3. Factors that may justify an officer’s reaching the conclusion that a suspect who has been validly stopped may possess a weapon include the type of crime suspected;⁸ the circumstances of the stop (number of suspects, number of officers present, and time of day and location of the stop); the behavior of the suspect (belligerence); any visual indication that the suspect may be carrying a weapon (such as a bulge in the clothing)⁹; and any prior knowledge that the officer may have that this particular individual is or may be prone to violence.
4. The pat-down search is limited to a “frisk” of the suspect’s outer clothing only. It is not a full-scale search such as might be conducted following a valid arrest.¹⁰ An officer may not reach into the suspect’s clothing or pockets unless and until the presence of a weapon has been detected by the

⁸ Crimes involving violence or the use of weapons (such as murder or armed robbery) or crimes whose perpetrators often carry weapons (such as distribution of narcotics) may alone be sufficient to justify a pat-down search of any individual reasonably suspected of involvement in the crime. See, e.g., *Landsdown v. Commonwealth*, 226 Va. 204, 308 S.E. 2d 106 (1983).

⁹ Even the fact that the suspect is wearing loose or voluminous clothing such as a large, heavy overcoat or raincoat that may easily conceal the presence of a weapon may justify a pat-down.

¹⁰ A “search” is a full-scale attempt to locate evidence—that is, contraband or fruits, instrumentalities, or other evidence of a crime. It may include a complete examination of the suspect’s clothing, including interior clothing, pockets, and the like. By contrast, a pat-down is a limited “frisk” of a suspect’s outer clothing, or a brief inspection of an object, vehicle, or area for the sole purpose of detecting weapons that may be used to harm the officer.

⁷ It should be noted that the term “pat-down” does not necessarily describe the proper technique for searching a suspect for weapons. It is a legal term, not a descriptive one. It refers to the fact that the search must be confined to contact with the suspect’s outer clothing unless and until the presence of a weapon is detected. See the discussion below.

pat-down.¹¹

5. The officer's belief that the suspect may be armed and dangerous must be both reasonable and actual. In order for the frisk to be valid, the officer's fear for his or her safety must be objectively reasonable and must actually exist. A federal circuit court has pointed out that an officer "cannot have a reasonable suspicion that a person is armed and dangerous when he in fact has no such suspicion."¹² Therefore, if the officer was not actually concerned for his or her own safety, but frisked the suspect anyway, the frisk is illegal. When called upon to justify the frisk, the officer must be prepared to make it clear that he was both reasonably and actually apprehensive for his or her safety.
6. Pat-down searches should, if possible, be conducted by officers of the same gender as the suspect. The fact that a male officer pats down a female suspect does not necessarily invalidate the pat-down, but it may lead to contentions of civil rights violations and hence to civil liability.
7. Frequently, the person who has been stopped for a field interview will have in his or her possession containers such as sacks, briefcases, or bags. Although "frisks" of such containers have sometimes been upheld by the courts, the model policy directs that these items not be opened. Rather, the officer is instructed to place such items out of reach of the suspect during the field interview. This ensures the officer's safety while avoiding the risk of an unlawful search.¹³

C. State Court Decisions and Statutes

As noted earlier, the primary legal basis for field interviews and pat-down searches arises from the U.S. Supreme Court case of *Terry v. Ohio*. However, many states¹⁴ have statutes that govern these activities. These statutes may place restrictions upon officers that are more stringent than those imposed by the U.S. Supreme Court.

In addition, state constitutions, as interpreted by state appellate court decisions, may also place limits upon an officer's authority to detain and frisk suspects that are more restrictive than those announced by the U.S. Supreme

Court. Consequently, when drafting a policy for field interviews and pat-down searches, police departments should examine applicable statutes and decisions of the department's own state before adopting the model policy's provisions. Consultation with local departmental legal counsel is strongly advised.

Every effort has been made by the IACP National Law Enforcement Policy Center staff and advisory board to ensure that this document incorporates the most current information and contemporary professional judgment on this issue. However, law enforcement administrators should be cautioned that no "model" policy can meet all the needs of any given law enforcement agency. Each law enforcement agency operates in a unique environment of federal court rulings, state laws, local ordinances, regulations, judicial and administrative decisions and collective bargaining agreements that must be considered. In addition, the formulation of specific agency policies must take into account local political and community perspectives and customs, prerogatives and demands; often divergent law enforcement strategies and philosophies; and the impact of varied agency resource capabilities among other factors.

This project was supported by a grant awarded by the Bureau of Justice Assistance. The Bureau of Justice Assistance is a component of the Office of Justice Programs, which also includes the Bureau of Justice Statistics, the National Institute of Justice, the Office of Juvenile Justice and Delinquency Prevention, the Office for Victims of Crime, and the Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking. Points of view or opinions in this document are those of the author and do not necessarily represent the official position or policies of the U.S. Department of Justice or the IACP.

IACP National Law Enforcement Policy Center Staff: Philip Lynn, Manager; Sara Dziejma, Project Specialist; and Vincent Talucci, Executive Director, International Association of Chiefs of Police.

¹¹ Once the officer has detected the presence of a weapon, or what the officer reasonably believes to be a weapon, the officer may reach into the clothing to remove the object. If the object proves to be a weapon or contraband or other evidence that would justify an arrest, the officer may then place the individual under arrest and conduct a full-scale search of the person.

¹² *U.S. v. Lott*, 870 F.2d 778 (1st Cir. 1989).

¹³ Should the officer detect the presence of a weapon in the container, seizure of the weapon would be justified.

¹⁴ E.g., New York, Illinois, Virginia.

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Appendix

Evidence Detected During Frisk—The “Plain-Touch” Rule

While the subject of the plain-touch rule is not addressed in the model policy, the plain-touch rule deserves attention when considering the overall issue of stop-and-frisk. The plain-touch rule, where it is applicable, enables officers to seize contraband or other evidence discovered by sense of touch during a *Terry* “frisk” for weapons, even though the officer conducting the “pat-down” is well aware that the item detected through the suspect’s clothing is not a weapon.

The following is the typical scenario in which the plain-touch rule applies: A suspect is stopped for investigation under the rule of *Terry v. Ohio*.¹ During the course of this investigative stop, the officer “frisks” the suspect’s clothing for weapons. While conducting this “pat-down” search, the officer feels an object through the suspect’s clothing. The officer knows that this object is not a weapon, but recognizes through the sense of touch that the object is contraband or some other item of evidence. The officer then extracts the object from the suspect’s pocket, confirms its nature as evidence or contraband, and arrests the suspect.

At trial, the defendant contends that the evidence was seized in violation of the Fourth Amendment and the *Terry* rules. Is the evidence admissible? The plain-touch rule may make it so—if the requirements of the rule are satisfied. Unfortunately, the plain-touch rule, although seemingly simple in concept, is in fact fairly complex and difficult in its application. Not all courts accept the plain-touch doctrine, and those that do, including the Supreme Court of the United States, draw a very fine line between what is acceptable and what is not.

Officers must therefore receive thorough training in the plain-touch rule and the basic underlying legal concepts.

To understand the plain-touch rule, officers must understand two basic concepts of search and seizure law: the rules of stop-and-frisk and the plain-view doctrine. The validity of a plain-touch seizure depends upon compliance with these requirements. Stop-and-frisk has been reviewed in this concepts and issues paper, but to understand plain touch it is also necessary to understand plain view.

A. Plain View

Under the plain-view doctrine, an object may lawfully be seized if, at the time of the seizure, the object was in plain sight of the police. This rule is subject to the following requirements:

1. The officers must lawfully be in the place or position from which the evidence was first seen. For example, officers could not illegally gain entry to a dwelling and then successfully contend that evidence found inside the dwelling was admissible because it was lying in plain view on the kitchen table. The illegal entry would make the plain-view rule inapplicable.²
2. The officers must have probable cause to believe that the items observed are contraband or evidence of a crime. Even though police are lawfully in a position to observe the evidence, and even though the object is in plain view from that position, there must be probable cause to believe that what is observed is in fact contraband or evidence of a crime. If the officers lack probable cause to believe that the object is contraband or evidence of a crime, the object may not be seized under the plain-view doctrine.³
3. The incriminating character of the evidence must be “immediately apparent.” If the probable cause to believe that the observed object is contraband or evidence of a crime does not arise unless and until the officers have conducted some further investigation of the object, the plain-view doctrine is not applicable.

An excellent illustration of this principle is found in the case of *Arizona v. Hicks*.⁴ In that case, the Supreme Court of the United States held invalid the seizure of some stolen stereo equipment that had been discovered by police while they were searching an apartment for other evidence. Although the equipment was in plain sight in the apartment (where the police had a lawful right to be at the time), probable cause to believe that the stereo was stolen arose only after the officers moved the equipment so that they could read the serial numbers. The subsequent seizure of the equipment therefore could not be justified under the plain-view doctrine because, as the Supreme Court noted, the incriminating character of the equipment was not immediately apparent. Rather, said the Court, probable cause to believe that the equipment was stolen arose only as a result of a further search—the moving of the equipment—that was not authorized by the search warrant

² See *Horton v. California*, 496 U.S. 128 (1990); *Texas v. Brown*, 460 U.S. 730 (1983).

³ See *Horton v. California*, 496 U.S. 128 (1990); *Texas v. Brown*, 460 U.S. 730 (1983).

⁴ *Arizona v. Hicks*, 480 U.S. 321 (1987).

¹ *Terry v. Ohio*, 392 U.S. 1 (1968).

or by any exception to the warrant requirement.⁵

Thus, plain view applies only if the initial observation of the items provides, in and of itself, immediate probable cause to believe that the items are contraband or other evidence of a crime. If further investigation is necessary before the incriminating nature of the items becomes apparent, plain view does not apply.

This principle is central to understanding both the plain-view doctrine and the plain-touch rule that has developed from it. Once officers fully understand both of these concepts stop-and-frisk and plain view, the doctrine of plain touch can be more easily comprehended and applied.

B. Stop-and-Frisk Plus Plain View Equals Plain Touch

Although the “investigative detention” (“*Terry* stop”) rules and the plain-view doctrine were originally unrelated, the U.S. Supreme Court has held that the plain-view rule applies to evidence discovered during an investigative detention.

In *Michigan v. Long*,⁶ police approached a man who had driven his vehicle into a ditch. The man had gotten out of his car and appeared to be intoxicated. As they approached this individual, who was by then attempting to reenter the car, the officers observed a knife on the floor of the vehicle. The officers then stopped the man, frisked him, and inspected the interior of the vehicle for other weapons. During this inspection, the officers discovered an open pouch of marijuana.

The Supreme Court held, first of all, that if, during a roadside detention, police have a reasonable suspicion, based upon specific and articulable facts, to believe that the driver of the vehicle may be armed and dangerous, they may conduct a “protective search” (i.e., a *Terry* “frisk”) for weapons; this protective search, it was held, could extend not only to the person concerned, but also to the passenger compartment of the vehicle.⁷ The Court then further held that if, while conducting a valid “frisk” of the vehicle, the officer should discover contraband other than weapons, such contraband may be seized as evidence under the plain-view doctrine.⁸ It was this decision that paved the way for the Court’s subsequent approval of the plain-touch rule.

C. The Plain-Touch Doctrine

The plain-touch concept actually originated with *Terry v. Ohio*,⁹ although the term itself did not come into use until much later. Under *Terry*, if an officer frisks a suspect, and if, during that frisk, the officer by sense of touch detects an object in the suspect’s clothing that feels like a weapon, the officer may seize the weapon. Further, as noted above, if the object that was believed to be a weapon turns out not to be a weapon after all, but it is nevertheless something that is contraband or evidence of a crime, the seizure of that item is still lawful. This principle has been well established for many years.

The issue addressed by the modern plain-touch doctrine is illustrated by the scenario referred to earlier in this appendix: While conducting a frisk for weapons during a *Terry* stop, an officer detects an object in the suspect’s clothing. The officer knows immediately by its feel through the clothing that the object is not a weapon, but, through knowledge and experience, the officer by sense of touch alone recognizes the object as being contraband or some other item of incriminating evidence. The officer then extracts the item from the suspect’s pocket, confirms its nature as evidence or contraband, and arrests the suspect on that basis.

Typically, the object discovered and seized in this manner will be a packet of drugs in powder form, or an envelope or bag containing rocks of crack cocaine—items that are often easily recognizable as such by an experienced police officer through the sense of touch alone.

⁹ *Terry v. Ohio*, 392 U.S. 1 (1968).

⁵ *Arizona v. Hicks*, 480 U.S. 321 (1987), cited in *Minnesota v. Dickerson*, 113 S.Ct. 2130 (1993).

⁶ *Michigan v. Long*, 463 U.S. 1032 (1983).

⁷ As with any other protective search, this “frisk” of the vehicle must be “limited to those areas in which a weapon may be placed or hidden.” *Michigan v. Long*, 463 U.S. at page 1049.

⁸ *Michigan v. Long*, 463 U.S. 1032 (1983).



FIELD INTERVIEWS AND PAT-DOWN SEARCHES

Model Policy

<i>Effective Date</i> May 2000		<i>Number</i>	
<i>Subject</i> Field Interviews and Pat-Down Searches			
<i>Reference</i>		<i>Special Instructions</i>	
<i>Distribution</i>		<i>Reevaluation Date</i>	<i>No. Pages</i> 3

I. PURPOSE

The purpose of this policy is to help officers determine when field interviews and pat-down searches are warranted and to establish the proper way to conduct them.

II. POLICY

The field interview is an important point of contact for officers in preventing and investigating criminal activity. Even when conducted with respect for involved citizens and in strict compliance with the law, the field interview can be perceived by some as police harassment or intimidation conducted in a discriminatory manner against groups or individuals. In order to maintain the effectiveness and legitimacy of this practice and to protect the safety of officers who must approach suspicious individuals, law enforcement officers shall conduct field interviews and perform pat-down searches in conformance with procedures set forth in this policy.

III. DEFINITIONS

Field Interview: The brief detainment of an individual, whether on foot or in a vehicle, based on reasonable suspicion, for the purposes of determining the individual's identity and resolving the officer's suspicions concerning criminal activity.

Pat-Down Search: A "frisk" or external feeling of the outer garments of an individual for weapons only.

Reasonable Suspicion: Articulable facts that, within the totality of the circumstances, lead an officer to reasonably suspect that criminal activity has been, is being, or is about to be committed.

IV. PROCEDURES – FIELD INTERVIEWS

- A. Justification for Conducting a Field Interview
- Law enforcement officers may stop individuals for the purpose of conducting a field interview only where reasonable suspicion is present. Reasonable suspicion must be more than a hunch or feeling, but need not meet the test for probable cause sufficient to make an arrest. In justifying the stop, the officer must be able to point to specific facts that, when taken together with rational inferences, reasonably warrant the stop. Such facts include, but are not limited to, the following:
1. The appearance or demeanor of an individual suggests that he or she is part of a criminal enterprise or is engaged in a criminal act.
 2. The actions of the suspect suggest that he or she is engaged in a criminal activity.
 3. The hour of day or night is inappropriate for the suspect's presence in the area.
 4. The suspect's presence in a neighborhood or location is inappropriate.
 5. The suspect is carrying a suspicious object.
 6. The suspect's clothing bulges in a manner that suggests he or she is carrying a weapon.
 7. The suspect is located in proximate time and place to an alleged crime.
 8. The officer has knowledge of the suspect's prior criminal record or involvement in criminal activity.
 9. The individual flees at the sight of a police officer.
- B. Procedures for Initiating a Field Interview
- Based on observance of suspicious circumstances or upon information from investigation, an

officer may initiate the stop of a suspect if he has reasonable suspicion to do so. The following guidelines shall be followed when making an authorized stop to conduct a field interview.

1. When approaching the suspect, the officer shall clearly identify himself as a law enforcement officer, if not in uniform, by announcing his identity and displaying departmental identification.
2. Officers shall be courteous at all times during the contact but maintain caution and vigilance for furtive movements to retrieve weapons, conceal or discard contraband, or other suspicious actions.
3. Before approaching more than one suspect, individual officers should determine whether the circumstances warrant a request for backup assistance and whether the contact can and should be delayed until such assistance arrives.
4. Officers shall confine their questions to those concerning the suspect's identity, place of residence, and other inquiries necessary to resolve the officer's suspicions. However, in no instance shall an officer detain a suspect longer than is reasonably necessary to make these limited inquiries and resolve suspicions.
5. Officers are not required to give suspects *Miranda* warnings in order to conduct field interviews unless the person is in custody and about to be interrogated.
6. Suspects are not required, nor can they be compelled, to answer any questions posed during field interviews. Failure to respond to an officer's inquiries is not, in and of itself, sufficient grounds to make an arrest although it may provide sufficient justification for additional observation and investigation.

V. PROCEDURES—PAT-DOWN SEARCHES

A. Justification for Conducting Pat-Down Searches

A law enforcement officer has the right to perform a pat-down search of the outer garments of a suspect for weapons if (1) the suspect has been legitimately stopped with reasonable suspicion and (2) only when the officer has reason to believe that the suspect possesses weapons on his or her person and poses a threat to the officer's or another person's safety. Not every field interview poses sufficient justification for conducting a pat-down search. Following are some criteria that may form the basis for establishing justification for performing a pat-down search. Officers should note that these factors are not all-inclusive; there are other factors that could or should be considered.

The existence of more than one of these factors may be required in order to justify a pat-down search.

1. The type of crime suspected—particularly in crimes of violence where the use or threat of deadly weapons is involved.
2. Where more than one suspect must be handled by a single officer.
3. The hour of the day and the location or neighborhood where the stop takes place.
4. Prior knowledge of the suspect's use of force and/or propensity to carry deadly weapons.
5. The appearance and demeanor of the suspect.
6. Visual indications that suggest that the suspect is carrying a firearm or other deadly weapon.
7. The age and gender of the suspect. Whenever possible, pat-down searches should be performed by officers of the same sex.

B. Procedures for Performing a Pat-Down Search

When reasonable suspicion justifies a pat-down search, the search should be performed with due caution, restraint, and sensitivity. These searches may only be performed to protect the safety of officers and others and may never be used as a pretext for shaking down individuals or groups of individuals to obtain evidence or for other purposes. Pat-down searches should be conducted in the following manner.

1. Whenever possible, pat-down searches should be conducted by at least two officers, one who performs the search while the other provides protective cover.
2. Because pat-down searches are cursory in nature, they should be performed with the suspect in a standing position or with hands placed against a stationary object and feet spread apart. Should an officer visually observe a weapon, however, a more secure search position may be used, such as the prone position.
3. In a pat-down search, officers are permitted only to feel the outer clothing of the suspect. Officers may not place their hands in pockets unless they feel an object that could reasonably be a weapon, such as a firearm, knife, club, or other item.
4. If the suspect is carrying an object such as a handbag, suitcase, briefcase, sack, or other item that may conceal a weapon, the officer should not open the item but instead place it out of the suspect's reach.
5. If the external feeling of the suspect's clothing fails to disclose evidence of a weapon, no further search may be made. If evidence of a weapon is present, an officer may retrieve that

item only. If the item is a weapon, the possession of which is a crime, the officer may make an arrest of the suspect and complete a full-custody search of the suspect.

C. Reporting

If after conducting a field interview the officer has no basis for making an arrest, the officer should record the facts of the interview and forward the documentation to the appropriate reporting authority as prescribed by departmental procedure.

Every effort has been made by the IACP National Law Enforcement Policy Center staff and advisory board to ensure that this document incorporates the most current information and contemporary professional judgment on this issue. However, law enforcement administrators should be cautioned that no “model” policy can meet all the needs of any given law enforcement agency. Each law enforcement agency operates in a unique environment of federal court rulings, state laws, local ordinances, regulations, judicial and administrative decisions and collective bargaining agreements that must be considered. In addition, the formulation of specific agency policies must take into account local political and community perspectives and customs, prerogatives and demands; often divergent law enforcement strategies and philosophies; and the impact of varied agency resource capabilities among other factors.

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IACP NATIONAL LAW ENFORCEMENT POLICY CENTER

Interrogations and Confessions

Concepts and Issues Paper

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I. INTRODUCTION

A. Purpose of Document

This discussion paper is designed to accompany the *Model Policy on Interrogations and Confessions* established by the IACP National Law Enforcement Policy Center. This paper provides essential background material and supporting documentation to provide greater understanding of the developmental philosophy and implementation requirements of the model policy. This material will be of value to law enforcement executives in their efforts to tailor the model to the requirements and circumstances of their communities and their law enforcement agencies.

B. Background

Interrogations and confessions are an essential element of police work. Under the rules of evidence applicable in both state and federal courts, when an interrogation is conducted properly, any resulting statement or admission may be admissible in court against the person making the statement. Although many convictions have been obtained in criminal cases in which there was no confession, the admission into evidence of a confession is often critical to the prosecution's case, and the absence of an admissible confession may, and often does, result in an acquittal.

However, the key word here is admissible. A confession is of no value as evidence if it is inadmissible at the trial. Federal and state courts have, over the years, established very rigid guidelines as to when, and under what circumstances, an inculpatory statement may be admitted in a criminal trial. Failure to follow these

guidelines may be fatal to the prosecution's chances of obtaining a conviction.

Today's legal guidelines for confessions and interrogations derive from two sources: the Fifth Amendment to the Constitution of the United States, and the decision of the U. S. Supreme Court in the case of *Miranda v. Arizona*.¹ The *Miranda* case, as interpreted today, provides that no confession obtained during a custodial interrogation is admissible in evidence unless (1) the person who made the statement was first advised of his or her Fifth Amendment rights, and (2) the police observed those rights in the process of obtaining the statement.

The *Miranda* Warnings. The first step in observing the suspect's *Miranda* rights is to inform the person being interrogated of these rights, and this is accomplished by providing to the person being interrogated the four warnings required by *Miranda v. Arizona* and now familiar to all police personnel. These "*Miranda* warnings" must clearly inform the person being questioned of the following:

- The person has the right to remain silent.
- Anything that the person says may be used against him² in a court of law.
- The person has the right to consult with an attorney and to have an attorney present during questioning.

¹ *Miranda v. Arizona*, 384 U.S. 436 (1966). State constitutions, decisions, and statutes may also affect the procedures that can be used in a given state.

² In discussions or formulations of the *Miranda* rules, it is common to refer to persons under questioning as "he" or "him". However, these pronouns should in all cases be understood to refer to persons of either gender.

- If the person cannot afford an attorney, one will be appointed to represent him.³

The courts have held that police need not follow the precise language of the warnings as set forth in the *Miranda* case, as long as the suspect has been informed of the substance of his rights and understands them.⁴ However, it is strongly recommended that officers follow the “official” wording of the *Miranda* warnings, preferably by always reading the rights to suspects from a departmentally approved standardized form or card. See Section II.B., below.

Merely reciting these warnings to the person under interrogation, and obtaining a waiver of the *Miranda* rights from that person, is not sufficient. The rights must be meticulously observed, or any waiver of those rights given by the person being interrogated is of no effect.

The purpose of the Model Policy is to provide officers with the necessary guidance to enable them to follow the legal procedures mandated by the Fifth Amendment and the *Miranda* rule, to ensure that the rights of all persons are observed, and to protect the department and the officers concerned from charges of police coercion or intimidation.⁵

The Concept of Voluntariness. As noted in the preceding subsection, one of the purposes of the model policy is to protect the department and the officers concerned from charges of police coercion or intimidation. This point is essential, for one of the key concepts in the law of interrogations and confessions is voluntariness. To be admissible, the confession must be voluntary; that is to say, it must have been made freely, without any coercion or intimidation on the part of the police or their agents. Further, it must be clearly understood that providing the *Miranda* warnings, although an important element of voluntariness, is not in itself sufficient. For example, it is obvious that if, after reading the person the *Miranda* rights, and obtaining a waiver of those rights from that person, the police then proceeded to use physical violence on the person in order to obtain a confession, the confession would be inadmissible. The courts look at all of the circumstances surrounding the interrogation to determine whether or not—despite technical adherence to the requirements of *Miranda*—the confession was truly voluntary.

³ *Miranda v. Arizona*, 384 U.S. 436 (1966).

⁴ See, e.g., *California v. Prysock*, 453 U.S. 355 (1981) (no “talismanic incantation” required by *Miranda*).

⁵ See IACP Model Policy, Sections I and II.

II. PROCEDURES

A. When the *Miranda* Warnings are Required

Miranda warnings are required whenever any person is being subjected by the police or their agents to a custodial interrogation.⁶ If there is no custodial interrogation, there is no requirement that the *Miranda* warnings be given, and this is true regardless of the nature of the offense and regardless of whether or not the person being interrogated is suspected of having committed the crime under investigation.

Normally, the police will not interrogate someone unless the officers suspect that individual of being involved in a crime.

Consequently, it is common to refer to the person being interrogated as “the suspect,”⁷ and that term will be used hereafter in this paper. However, it is extremely important to remember that it is not the presence or absence of police suspicion of the individual being questioned, or the degree of police suspicion of that person, that governs the *Miranda* requirement.⁸ The sole issue is: Is this person being subjected to a custodial interrogation?

The concept of custodial interrogation is therefore critical, and both of the two elements of this phrase—custodial and interrogation—are operative and must be understood.

Custodial. The clearest situation in which questioning is custodial is when the suspect is under arrest. However, it is vital to keep in mind that questioning may be custodial even though the suspect is not under formal arrest. If the circumstances are the “functional equivalent” of an arrest, the questioning is custodial. The model policy states that

*A functionally equivalent situation exists when a ‘reasonable person’ in the suspect’s position would feel that his freedom of action has been restricted to the same degree as a formal arrest.*⁹

⁶ Under certain limited circumstances, a statement taken in the absence of the *Miranda* warnings may still be admissible. See *New York v. Quarles*, 467 U.S. 649 (1984) (“public safety” exception), and *Harris v. New York*, 401 U.S. 222 (1971) (voluntary statement may be used to impeach a suspect’s testimony at trial even though *Miranda* warnings not given). However, these exceptions are very narrow, and should not be relied upon by officers conducting interrogations.

⁷ See, e.g., IACP Model Policy, Sections II et seq.

⁸ Contrary to suggestions in some of the earlier cases, today the fact that the investigation has or has not “focused” on the person being questioned is not considered determinative. See *California v. Beheler*, 463 U.S. 1121 (1983); *Beckwith v. United States*, 425 U.S. 341 (1976).

⁹ IACP Model Policy Section III. The degree of restriction that will render the situation custodial may vary, depending upon the circumstances and the views of the court hearing the case. The Supreme Court said in *Miranda v. Arizona* that an interrogation is “custodial” if the person, even though not officially “taken into custody” (i.e., arrested),

The determinative factor is what the suspect reasonably feels the circumstances to be, not what the police officers conducting the questioning consider them to be. The test is an objective one: the courts will look at all of the circumstances of the questioning to determine whether a reasonable person in that situation would conclude that his or her freedom of action was restricted to the degree indicated.

Obviously, there are so many different combinations of circumstances that it is difficult for officers to determine precisely when questioning is custodial. The following situations have been found to be not custodial, so that the *Miranda* warnings are not required:

- Investigative detention—that is, a “stop and frisk.”¹⁰
- Routine traffic stops or stops for a minor violation.¹¹
- Routine questioning of individuals at the scene of an incident or crime when the questioning is for informational purposes and is not intended by the police to elicit incriminating responses.
- Questioning of a person who has appeared voluntarily at the police station or other police facility.¹²
- Statements made spontaneously, without prompting by police.¹³

Care must be taken in situations where such spontaneous statements are made. For example, persons being questioned in the non-custodial situations listed above may unexpectedly blurt out incriminating statements.

has been “deprived of his freedom ... in any significant way” *Miranda v. Arizona*, 384 U.S. 436 at 444. More recently, the courts have said that the situation is “custodial” if, under the circumstances, the person being questioned would reasonably believe that he or she was not free to leave.” See *Orozco v. Texas*, 394 U.S. 324 (1969); *United States v. Booth*, 669 F.2d 1231 (9th Cir. 1981).

¹⁰ It appears that *Miranda* warnings are not required during routine investigative stops that are “nonthreatening.” See *United States v. Berkemer*, 468 U.S. 420 (1984). However, as the Supreme Court in *Berkemer* pointed out, if the person who has been stopped “thereafter is subjected to treatment that renders him ‘in custody’ for practical purposes, he will be entitled to the ... protection prescribed by *Miranda*.” 468 U.S. at 440. Thus, if the investigative detention involves the use of restraints (e.g. handcuffs), the pointing of firearms, or other similar “threatening” actions by the police, *Miranda* warnings should be given before any questioning, even though no actual arrest of the suspect has yet been made. See, e.g., *United States v. Perdue*, 8 F.3d 1455 (10th Cir. 1993). And, of course, if the investigative detention results in arrest of the detainee, any questioning thereafter is, obviously, “custodial.”

¹¹ The IACP Model Policy states that this includes DWI stops until a custodial interrogation begins. IACP Model Policy IV.A.2.b.

¹² If, during the voluntary appearance at the police facility, the conduct of the police indicates to the suspect that he or she is no longer free to leave, this may cause the situation to become custodial, even though it was not so at the time of the suspect’s initial appearance.

¹³ See *Miranda v. Arizona*, 384 U.S. 436 at 478.

Such statements should be admissible despite the lack of *Miranda* warnings. However, once the incriminating statement is made, further questions by the police may require the *Miranda* warnings, unless the further questions are merely for clarification, i.e., to determine whether an incriminating statement has in fact been made.¹⁴

The location of the questioning is not determinative. Questioning in police stations or in police vehicles is not necessarily custodial, depending upon the circumstances. On the other hand, questioning in, for example, the suspect’s home or in a public place may be found to be custodial if the circumstances dictate it.

Although it is difficult to determine when questioning may be considered by a court to be custodial, common sense and a good-faith effort to follow the law will usually enable the police officer to decide when the *Miranda* warnings are required.

Interrogation. Even if the situation is custodial, *Miranda* is not applicable unless there is also an interrogation. Clearly, asking the suspect direct questions constitutes interrogation. However, even if no direct questions are asked of the suspect, if the police engage in any conduct that is the “functional equivalent” of questioning, that conduct is an interrogation for purposes of *Miranda*. Thus, if police engage in conduct that the officers should know may elicit an incriminating statement from the suspect, that conduct is considered to be “interrogation.”¹⁵ Examples might include statements made to another police officer or to another person that are uttered in the presence of, or within the hearing of, the suspect. Even though these statements are not made in the form of questions to the suspect, if the officers should know that the statements are reasonably likely to draw an incriminating statement from the suspect, such statements constitute interrogation.

B. Administering the *Miranda* Rights

The *Miranda* rights should be read to the suspect. Even though the officer knows the warnings by heart, and can recite them accurately from memory, the warnings should always be read, word for word, from the *Miranda* warning card or the *Miranda* warning waiver form in use by the department. Oral recitation of the rights makes it impossible for the officer to testify under oath as to the exact wording used on a particular occasion, and facilitates a claim by the defense that the correct warnings were not given.¹⁶

¹⁴ See IACP Model Policy Section IV.A.2.e.

¹⁵ *Rhode Island v. Innis*, 446 U.S. 291 (1980).

¹⁶ This is a standard tactic employed by criminal defense attorneys when the rights are given orally instead of being read from a departmentally approved standard card or waiver form.

Before questioning may proceed, the suspect must freely and voluntarily waive his or her rights. Threats, false promises, or attempts to coerce suspects into executing a waiver will render the waiver “involuntary.” This invalidates the waiver, and any subsequent statement by the suspect will be inadmissible.¹⁷

The waiver of the *Miranda* rights should be in writing, preferably on a standard form provided by the department. Although an oral waiver is sufficient legally to make the confession admissible,¹⁸ the lack of a written waiver may leave the police vulnerable to a later claim by the defense that there was in reality no such waiver.¹⁹

Even though a valid waiver has been given, the suspect may decide to change his or her mind during the questioning and invoke one or both of the *Miranda* rights. See the discussion of invocation of rights, below.

Obviously, a suspect who cannot understand what is being said to him or her by police cannot execute a waiver “freely, voluntarily, knowingly, and intelligently.” Officers conducting custodial interrogation of deaf suspects (or of others who for any reason, such as an inability to speak and understand English, are not able to understand their rights) should notify their supervisors and make arrangements to have an interpreter present during reading of the rights, the signing of the waiver, and the questioning.

The department’s policy regarding the location, employment, and use of interpreters should be followed.²⁰

C. Invocation of Rights

As noted earlier, there are two separate and distinct *Miranda* rights: the right to silence and the right to counsel. A suspect may choose to invoke either or both of those rights. The effects of a suspect’s decision to invoke

¹⁷ Any evidence that the suspect was “threatened, tricked, or cajoled into a waiver will show that the defendant did not voluntarily waive his privilege.” *Miranda v. Arizona*, 384 U.S. 436 at 475-76.

¹⁸ See, e.g., *North Carolina v. Butler*, 441 U.S. 369 (1970), where the suspect told the officers, “I will talk with you, but I am not signing any form.”

¹⁹ If the suspect waives his or her rights orally, but refuses to sign the waiver form, or if for any other reason a written waiver is not possible, there should be at least two witnesses to the oral waiver so that at trial it will not be just a matter of the suspect’s word against the word of one police officer that an oral waiver was given. In addition, the interrogating officers should prepare a written memorandum or report setting forth the circumstances of the oral waiver, the exact words used, and the witnesses present at the time.

²⁰ If the suspect is unable to understand his or her rights due to intoxication, illness, or some other such transient condition, questioning should, of course, be delayed until the temporary disability no longer exists. The issue of using sign language interpreters can be more problematic. Where this issue has or may arise, agencies are urged to establish specific policy on the use of such interpreters. A suggested policy on this has been developed by the U.S. Justice Department’s Bureau of Justice Assistance and is available through the Justice Department’s National Criminal Justice Reference Service in Rockville, Maryland.

his or her rights will depend upon which of the rights is invoked, and when. Failure of the interrogating officers to understand these basic points will almost inevitably lead to suppression of any statements obtained from the suspect as the result of that interrogation.

A suspect may invoke the *Miranda* rights at any time. This may occur even after a waiver has been obtained. The fact that a suspect has initially consented to talk to police does not prevent the suspect from withdrawing that consent at any time during the questioning.

Invocation of Right to Silence. When a suspect invokes the right to silence, questioning must terminate immediately. Once the right to silence has been clearly invoked by the suspect, the interrogating officers should not prolong the interrogation by trying to persuade the suspect to change his or her mind.

Although a suspect’s invocation of the right to silence requires immediate suspension of questioning, it does not preclude a resumption of questioning at a later time.²¹ The model policy provides that “Suspects who are not represented by an attorney may not be interrogated for at least 90 minutes following their invocation of their right to silence.” The model policy further states that if questioning is resumed after that time, the *Miranda* warnings must again be administered, and a new waiver must be obtained.²²

It is possible that, after invoking the right to silence, the suspect may initiate further communication with the officers. In that event, questioning may be resumed at any time, but again the model policy calls for re-administration of the *Miranda* rights and the execution of a new waiver.²³

Invocation of the Right to Counsel. When a suspect invokes the right to counsel, all questioning must cease immediately. However, in some instances it may be unclear as to whether the suspect is actually invoking the right to counsel. A mere reference to an attorney may not be sufficient. For example, the suspect might say something like “You guys did say that I could have a lawyer if I wanted one, didn’t you?” This does not appear

to be an unequivocal demand for an attorney, and in the event of such ambiguous comments, officers may ask further questions to clarify the suspect’s intentions and determine whether the suspect has, in fact, unequivocally

²¹ See *Michigan v. Mosley*, 423 U.S. 96 (1975) (*Miranda* does not create a “per se proscription of indefinite duration upon any further questioning” when the right to silence is invoked).

²² It is possible that questioning resumed sooner, or without the re-administering of the *Miranda* rights, may still produce admissible statements. However, courts will scrutinize very carefully any statement made after the right to silence has been revoked, and the Model Policy takes a strict approach to minimize the possibility that such a statement might be found improper. IACP Model Policy Section IV.D.2.

²³ IACP Model Policy Section IV.D.3.

invoked the right to counsel.²⁴

When a suspect invokes the right to counsel, questioning may not be resumed unless

- The suspect's attorney is present, or
- The suspect initiates new contact with the police.

This is the rule first announced by the Supreme Court of the United States in the case of *Edwards v. Arizona*,²⁵ and it has been rigidly enforced, both by the Supreme Court and by other federal and state courts. Unlike the invocation of the right to silence, which permits resumption of questioning after a period of time, the rule applicable to invocation of the right to counsel applies regardless of how much time has passed since the suspect invoked the right, and it applies to questioning about any crime, not just the crime about which the suspect was being questioned at the time of the invocation of the right. Thus, unless the suspect's attorney is present, or the suspect initiates new contact with police, there can be no further question about any crime by any officer at any time while that suspect is in custody.

It is not sufficient that the questioning be suspended while the suspect consults with an attorney. This is regarded by the courts as insufficient to protect suspects' rights. Once the right to counsel has been invoked, unless the suspect's attorney is actually present at the questioning, the questioning may not be resumed unless the suspect requests it.²⁶

This means exactly what it says—the new contact must be initiated by the suspect. Police may not themselves initiate further contact with the suspect—not even to ask if the suspect wishes to resume questioning.

If the suspect initiates new contact with the police, the *Miranda* rights should again be administered and a waiver obtained, regardless of the length of time that has passed since the termination of the previous questioning. Further, officers should, if possible, obtain written verification from the suspect that it was the suspect who requested the resumption of contact.

²⁴ This is the position generally taken by state and federal courts. However, some state courts may require cessation of questioning even though the apparent invocation of the right to counsel was ambiguous. See, e.g., *Ochoa v. State*, 573 S.W.2d 796 (Tex. Crim. App. 1978). Departments should check the case and/or statute law of their specific jurisdictions on this point.

²⁵ *Edwards v. Arizona*, 451 U.S. 477 (1981).

²⁶ Following the decision in *Edwards v. Arizona*, 451 U.S. 477 (1981), it was thought by some authorities that it was sufficient if, following the invocation of the right to counsel, the suspect was given the opportunity to consult with counsel before the police initiated further questioning. However, in *Minnick v. Mississippi*, 498 U.S. 146 (1990), the Supreme Court held that when counsel is requested, the interrogation must cease immediately, and (unless reinitiated by the suspect) may not be resumed without counsel present, regardless of whether or not the accused has, in the meantime, consulted with his or her attorney.

D. Cooperation with Counsel

The model policy provides that officers “shall cooperate in any reasonable way with efforts by counsel to contact or meet with suspects in custody.”²⁷ Many court cases have been lost because the courts found that police interfered with the efforts of the suspect's counsel to get in touch with the suspect. Tactics such as “hiding” the suspect by failing to complete the booking procedure, or moving the suspect from one police station to another, or just simply denying the attorney's request to see the suspect, will not be tolerated by today's courts, and the model policy makes it clear that departmental personnel are to be cooperative in facilitating reasonable contact between attorneys and suspects in custody.

Although there is no question that the presence of counsel greatly reduces the odds of obtaining a confession from a suspect, American courts (and American society) have long since concluded that the protection of the rights of suspects and the importance of permitting a suspect to have the benefit of the advice of counsel are more important goals. Past police practices that interfered with these rights and goals are known to, and will no longer be permitted by, today's courts, and adherence to department policy in such matters is essential if serious repercussions for the department and for the officers involved are to be avoided.

E. Documenting Statements and Confessions

In any case in which a confession has been obtained by the police, it is almost certain that the defense will attempt to have that confession excluded from evidence on the grounds that the confession was not voluntary and/or was not obtained in compliance with the requirements of *Miranda*, *Edwards*, and other applicable cases. This issue will therefore often be litigated at the trial of the suspect, and evidence will be heard from both the prosecution and the defense on the issue of the admissibility of the confession.

Unfortunately, many police officers feel that, because they are police officers, their word as to giving *Miranda* rights and the compliance with the other applicable rules will be accepted automatically by the court and/or jury. Unfortunately, this is not always so. In many instances, the matter comes down to the word of the suspect against the word of one officer, and the court or jury, operating on the principle of reasonable doubt, may decide to accept the word of the suspect over that of the officer.

To minimize this risk, the IACP model policy calls for the fullest possible documentation of the circumstances surrounding interrogations and confessions. There are many different procedures available, ranging from handwritten interrogation logs to computer records to audio

²⁷ IACP Model Policy IV.E.3.

or video recording. Each department must determine what it is capable of doing, and what its local courts will require it to do.

In whatever manner the documentation is accomplished, the model policy recommends that the documentation include such matters as the following:

1. *The location, date, time of day and duration of the interrogation.* If the interrogation is held in some location or at some time other than that normally employed for such questioning, the reasons for the deviation should be stated.
2. *The identities of the officers or other persons present.* This is especially important in the case of an oral waiver, or the occurrence of any unusual circumstance during the questioning. For example, if an issue arises over whether or not statements made by the suspect during the questioning amounted to an unequivocal invocation of the Miranda rights, the testimony of these witnesses may be critical.
3. *The warnings given, the responses of the suspect, and the waivers obtained.* Even though a written waiver form is obtained from the suspect, backup documentation may be of great value if the validity of the waiver is later challenged. Here again, the presence of witnesses who can verify the statements of the interrogating officers may be important.²⁸
4. *Breaks, food and drink, and other amenities provided to the suspect during questioning.* The lengthier the questioning, the more likely it is that the defense will contend that the police “wore down” the suspect by long, uninterrupted questioning during which the suspect was not afforded the opportunity to go to the lavatory or have a drink of water. To prevent this type of contention, all circumstances of the questioning period, including the breaks and amenities provided to the suspect, should be logged or otherwise documented.

F. Use of Video or Audio Facilities to Tape Interrogations

Videotaping and audiotaping facilities available to the interrogators should be employed in accordance with the rules of that department. The IACP model policy contains specific recommendations regarding these matters.²⁹ However, local laws, rules of court, and departmental policies on the use of such capabilities vary

greatly. Consequently, each department should evaluate its own local laws and capabilities to determine whether modifications of the model policy are necessary as to the employment, preservation, and use of video or audio capabilities in connection with interrogations by the members of that department. Legal advice and, if possible, the participation of the local courts should be sought in this evaluation and/or modification process.

The issue of whether to videotape confessions has received a great deal of attention from both police and prosecutors. As a result, the IACP National Law Enforcement Policy Center addressed this issue the center’s newsletter, *Policy Review*, Fall edition, 1998. Portions of that issue are summarized below as excerpted from William Geller, “Videotaping Interrogations and Confessions,” National Institute of Justice, *Research in Brief*, March, 1993, which provided the results of a nationwide survey of police use of videotape for interrogations and confessions.

Perceptions of Videotaped Interrogations and Confessions. Some criminal defense attorney’s in the study stated that the failure to videotape interrogations (when the equipment is available) gives defense lawyers an opening to claim police misconduct in the interrogation process. But according to some state’s attorneys, videotape recordings provide defense lawyers with the opportunity to pore over interrogations for evidence of misconduct. Under these latter circumstances, suppression hearings may be encouraged.

But the use of videotape for recording interrogations and/or confessions also has advantages according to many. In one case for example, a defendant in Beaumont, Texas took the witness stand in his trial for kidnapping and recanted his admission of guilt. He had confessed, he asserted, because during the hours of questioning police officers had “confused” him and made him “picture” that he had committed the crime. But the state provided the jury with a videotape of the defendant’s statement. “The jurors viewed the tape, quickly convicted the defendant and later lamented to reporters that they could not sentence him to death.”

The law related to interrogations and confessions emphasizes the need for voluntariness of confessions and the absence of coercion by police officers. Videotapes, say advocates, allow solid documentation that acceptable police practices have been followed. They also provide visual insight into the non-verbal cues and body language of defendants and suspects that is invaluable to the prosecution, but is lost in transcripts and audio recording of statements.

But, the foregoing observations present only part of the arguments for and against videotaped interrogations and confessions and raise more questions than they provide answers. For example, one might ask: Should

²⁸ While the existence of other witnesses to the interrogation is often desirable, there should not be so many officers present that the defense can later contend that the defendant was coerced or intimidated by the presence of overwhelming numbers of police officers.

²⁹ IACP Model Policy, Section IV.F.2.,3.

videotaping be reserved for recording confessions rather than interrogations” Should the practice be restricted for use in more serious felony investigations or used for all offenses? Do videotaped interrogations increase the likelihood of suppression hearings and charges of improper police interrogation practices? Should videotaping of interrogations or confessions be performed overtly or covertly? How does videotaping affect the outcome of cases?

Videotape Usage. The NIJ study estimated that about one-third of law enforcement agencies serving populations of 50,000 or larger videotape at least some interrogations. As one might expect, agencies are more likely to videotape in cases involving the most serious of offenses. The reasons for using videotape, according to agencies that engage in the practice include:

- Avoiding defense attorney’s challenges to the accuracy of audiotapes and the completeness of written confessions.
- Helping reduce doubts about the voluntary nature of confessions.
- Jogging detectives’ memories when testifying.
- Countering defense criticism of “nice guy” or “softening up” techniques for interrogating suspects.

But strong resistance was found among agencies that choose not to institute videotaping procedures. Many investigators express concern regarding the perceived fear of suspects to provide information during interrogations or to provide full or partial confessions when they know that they are being recorded or videotaped. Many persons, including suspects and police investigators alike have difficulty conducting themselves naturally in front of a camera.

Another fear is that a policy to videotape only in serious cases may leave police and prosecutors open to the allegation that improper interrogation techniques were employed and that specific video recordings were, for that reason, either not made or not retained as evidence. Thus, some questions that have to be addressed in any policy that involves videotaping include: At what point should videotapes be initiated in qualifying cases? Should tape recordings be made of all or part of (1) suspect interviews, (2) station house interrogations following formal arrest and/or charging or (3) only for purposes of recording confessions?

Overt Versus Covert Taping. There are a number of good arguments both for and against covert taping. For example, many proponents claim suspects are more reluctant to submit to an interrogation if they are conscious of the presence of a camera. They may be more inclined to invoke their constitutional right to silence and to the presence of an attorney. On the reverse side of this coin,

some more experienced offenders, knowing that they are being videotaped may effectively “play” to the camera and use it to their advantage. Convert use of the video recorder may limit these possibilities and the distraction that is created by the presence of a camera and camera operator in the interrogation room.

On the other hand, it is often naïve to believe that police can keep the presence of video camera entirely convert over time, particularly as word of this practice becomes known among habitual offenders and others who are acquainted with the criminal justice system. The law may bar surreptitious taping in some jurisdictions. Federal law would not normally come into play in instances in which a suspect is being interrogated following issuance of *Miranda* rights in police custody as there would be no “reasonable expectation of privacy.”

Full Interrogations Versus Recaps. Proponents of recaps, or summaries, point to the excessive amount of time that can be occupied on tape if full interrogations are recorded. Two to four hours is normally required on average to record a full interrogation session and many take even longer. Recaps, on the other hand can be take only about fifteen to forty-five minutes to record. Of course, the argument against recaps is generally that one cannot determine the tactics that have been used by interrogators to elicit the recorded statements. This leaves the door open to prosecutors to allege that police didn’t record the full interrogation because they feared that their tactics would not meet legal scrutiny or otherwise be viewed favorably by the jury. Defense attorneys may also hold recaps up as pre-rehearsed “shows” or contend that they fail to reveal any mitigating information that normally flows from interrogations and that can be important at trial.

Those who favor recaps, point to the frequent difficulty of drawing the facts of confessions together from the often rambling nature of interrogations that are often so full of tangents and false claims. Such excuses, false claims and protestations of innocence are common and may add to the confusion of jurors.

The Quality of Videotaped Confessions. Nearly half of the police agencies surveyed said that the use of videotape improved their interrogations and nearly 40 percent more noted that it helped somewhat. This is attributed by these agencies to better preparation for interrogations by investigators who recognize that others outside the police agency will view their interrogation techniques. The majority of agencies that videotape also said that they were able to get more incriminating information from suspects on tape than they were in non-taped interrogations.

Some police investigators initially feared that they would feel constricted and inhibited by the presence of cameras during interrogations and their normal interrogation techniques would have to be moderated or

compromised. While this was the case initially for some investigators, it was generally regarded as only a temporary issue.

Prosecutor's Views. Prosecutors almost unanimously agreed that videotape helped them assess the strengths and weaknesses of the state's case and helped them prepare for trial. Videotape can also be helpful in negotiating acceptable and reasonable pleas.

Videotaping Policy. The model policy does not take a position on the use of videotape for recording confessions. Its use can have distinct advantages but it can also sometimes have a negative outcome on the investigative and prosecutorial functions. Needless to say, for agencies that use videotape for such purposes, it is important to develop policies and procedures in many of the areas touched on here as well as the technical components of the videotaping process. While differing opinions exist concerning the strengths and weaknesses of videotaped interrogations and confessions, on the whole, videotape appears to be a valuable investigative resource when structured through sound policy and procedures. Videotape in these contexts tends to protect the rights of defendants while ensuring a factual and often fairer presentation of evidence. It can be a persuasive tool for prosecutors and juries alike.

Every effort has been made by the IACP National Law Enforcement Policy Center staff and advisory board to ensure that this document incorporates the most current information and contemporary professional judgment on this issue. However, law enforcement administrators should be cautioned that no "model" policy can meet all the needs of any given law enforcement agency. Each law enforcement agency operates in a unique environment of federal court rulings, state laws, local ordinances, regulations, judicial and administrative decisions and collective bargaining agreements that must be considered. In addition, the formulation of specific agency policies must take into account local political and community perspectives and customs, prerogatives and demands; often divergent law enforcement strategies and philosophies; and the impact of varied agency resource capabilities among other factors.

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INTERROGATIONS AND CONFESSIONS

Model Policy

<i>Effective Date</i> January 2004		<i>Number</i>	
<i>Subject</i> Interrogations and Confessions			
<i>Reference</i>		<i>Special Instructions</i>	
<i>Distribution</i>		<i>Reevaluation Date</i>	<i>No. Pages</i> 3

I. PURPOSE

It is the purpose of this policy to provide officers with legally sound procedures for conducting custodial interrogations.

II. POLICY

Custodial interrogations of suspects and the statements and confessions that are elicited are vitally important in the preparation of criminal cases. However, to be admissible as evidence, statements and confessions must be given freely and voluntarily and with due consideration for the suspect's right to silence and right to counsel. Therefore, it is the policy of this law enforcement agency that all officers understand and follow this agency policy in order to observe due process rights of suspects and to guard against any charges of police coercion or intimidation during interrogation.

III. DEFINITIONS

Custody: A custodial situation exists when an officer tells a suspect that he is under arrest. A functionally equivalent situation exists when a "reasonable person" in the suspect's position would feel that his freedom of action has been restricted to the same degree as a formal arrest.

Interrogation: Interrogation includes direct questioning of a suspect about a crime or suspected crime, as well as any words, statements or actions by officers that the officers should know are reasonably likely to elicit an incriminating response from the suspect.

IV. PROCEDURES

A. Custodial Statements and Confessions

1. *Miranda* warnings are required and shall be administered prior to "custodial interrogation," as defined above.
2. The following represent examples of situations that are not "custodial" and do not require issuance of *Miranda* warnings.
 - a. Investigatory stop and frisk.
 - b. Questioning during a routine traffic stop or for a minor violation; to include driving while intoxicated (DWI) stops until a custodial interrogation begins.
 - c. During routine questioning at the scene of an incident or crime when the questions are not intended to elicit incriminating responses.
 - d. During voluntary appearances at the police facility.
 - e. When information or statements are made spontaneously, voluntarily and without prompting by police. (Note: Follow-up questions that exceed simple requests for clarification of initial statements may require *Miranda* warnings.)

B. Administering *Miranda*

1. *Miranda* warnings shall be read by officers from the card containing this information to all persons subjected to custodial interrogation. Freelancing, recitation from memory or paraphrasing the warnings is prohibited as it precludes officers from testifying in court as to the precise wording used.

2. Officers shall ensure that suspects understand their right to remain silent and their right to an attorney. Suspects may be interrogated only when they have knowingly and intelligently waived their rights. Threats, false promises or coercion to induce suspect statements is prohibited
 - a. Waivers of one or both of the *Miranda* rights must be performed affirmatively.
 - b. Oral waivers are often sufficient but written waivers, particularly in felony charges, are preferred and should be obtained whenever possible on the appropriate agency form.
 3. Officers arresting deaf suspects shall notify their immediate supervisor and make arrangements to procure the assistance of an interpreter in accordance with this agency's policy and state and federal law.
- C. Invoking the Right to Silence
1. When a suspect invokes his right to remain silent, all interrogation shall terminate immediately.
 2. Suspects who are not represented by an attorney may not be interrogated for at least 90 minutes after invoking their right to silence and then, only after officers have re-administered *Miranda* warnings and obtained a waiver.
 3. Officers may interrogate a suspect who has previously invoked his right to silence, if, after the passage of time, the suspect initiates communication with officers. However, prior to questioning *Miranda* warnings shall be re-administered and a waiver obtained.
- D. Invoking the Right to Counsel
1. If a suspect waives his right to counsel, a waiver shall be obtained prior to questioning. When a suspect makes reference to counsel but his intentions are unclear, officers may question the suspect further to clarify his intentions.
 2. When a suspect invokes his right to counsel, all interrogation shall cease immediately. The suspect may not again be interrogated about the crime for which he is charged, other crimes, or by other officers (from this or other agencies) unless
 - a. the suspect's attorney is present at the questioning; or
 - b. the suspect initiates new contact with the police. In this later case, *Miranda* rights must again be administered and a waiver obtained before any questioning may take place. Officers shall also document and, if possible, obtain written verification that the suspect initiated the communication.
 3. Officers shall cooperate in any reasonable way with efforts by counsel to contact or meet with suspects in custody.
- E. Documenting Statements and Confessions
1. The circumstances surrounding the conduct of interrogations and recording of confessions shall be fully documented. This includes but is not necessarily limited to
 - a. location, date, time of day and duration of interrogation;
 - b. the identities of officers or others present;
 - c. *Miranda* warnings given, suspect responses and waivers provided, if any; and
 - d. the nature and duration of breaks in questioning provided the suspect for food, drink, use of lavatories or for other purposes.
 2. Investigative officers are encouraged to use this agency's video and audio taping capabilities for purposes of recording statements and confessions in an overt or covert manner consistent with state law.
 3. The lead investigative officer may decide in which cases audio or video tape recordings may be appropriate and whether covert or overt procedures may be used. Tape recordings designated as evidence shall be handled in the following manner.
 - a. Original tape recordings shall be duplicated and each copy stored separately.
 - b. The tab on the tape housing of both the original and duplicate copies shall be removed to preclude the possibility of erasure or tampering.
 - c. Tape recordings shall be stored in a secure location under controlled access as designated by the officer-in-charge of criminal investigations.
 - d. All tape recordings shall be inventoried on a routine basis.

Every effort has been made by the IACP National Law Enforcement Policy Center staff and advisory board to ensure that this document incorporates the most current information and contemporary professional judgment on this issue. However, law enforcement administrators should be cautioned that no “model” policy can meet all the needs of any given law enforcement agency. Each law enforcement agency operates in a unique environment of federal court rulings, state laws, local ordinances, regulations, judicial and administrative decisions and collective bargaining agreements that must be considered. In addition, the formulation of specific agency policies must take into account local political and community perspectives and customs, prerogatives and demands; often divergent law enforcement strategies and philosophies; and the impact of varied agency resource capabilities among other factors.

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IACP NATIONAL LAW ENFORCEMENT POLICY CENTER

Early Warning System

Concepts and Issues Paper

October 2002

I. INTRODUCTION

A. Purpose of the Document

This paper is designed to accompany the *Model Policy on Early Warning Systems* published by the IACP National Law Enforcement Policy Center. This paper provides essential background material and supporting documentation to provide greater understanding of the developmental philosophy and implementation requirements for the model policy. This material will be of value to law enforcement executives in their efforts to tailor the model to the requirements and circumstances of their communities and their law enforcement agencies.

B. Background

The intent of this document and the model policy on which it is based is to closely examine the development, goals, and implementation of the early warning system. This information will (1) describe and analyze the various procedural guidelines in creating an early warning system; (2) expand the knowledge of officers, supervisors, and managers alike regarding the use of an early warning system; (3) examine various early warning system software programs that are available for department use; (4) and examine the problems and concerns that are associated with EWS. It is recognized that individual departments often have widely varying procedures and styles in this area and that some of these are the product of state law, employment contracts, or state or local civil service requirements and agreements. This document attempts to provide some fundamental components of a well-administered, professional program governing the use of an early warning system.

There is substantial evidence indicating that in a majority of police departments a small percentage of police officers are accountable for a disproportionate share of citizen complaints. Investigative journalists have reported departments in which as few as 2 percent of all officers are responsible for nearly 50 percent of all citizen complaints.¹ Herman Goldstein first introduced the notion of the "problem officer" in the 1970s. He noted that problem officers are well known to their supervisors, to the top administrators, to their peers, and to the residents of the areas in which they work, but, very little is done to curb their conduct. In 1981, the U.S. Commission on Civil Rights suggested that all police departments develop an early warning system designed to identify problem officers – or those "who are frequently the subject of complaints or who demonstrate identifiable patterns of inappropriate behavior."²

An early warning system (EWS) is a data-based police management tool that is designed to identify officers whose behavior is problematic. This behavior is measured by the rates of citizen complaints, any use-of-force incidents, or any other behavior that is deemed problematic. The system is also used to provide intervention to correct the problem and to assist supervisory personnel in monitoring employee performance. A comprehensive personnel early warning system is an essential component to any well-managed law enforcement agency. Early identification of potential problem employees can increase agency accountability and offer employees a better opportunity to meet performance

¹ "Kansas City Police Go After Their 'Bad Boys,'" *New York Times*, September 10, 1991; "Waves of Abuse Laid to a Few Officers," *Boston Globe*, October 4, 1992.

² U.S. Commission on Civil Rights, *Who Is Guarding the Guardians?* (Washington, D.C.: U.S. Government Printing Office, 1981), 81.

requirements and conform with the agency's values and mission statement.

The availability of the early warning system does not alter the critical role of line supervisors to directly monitor the performance and behavior of personnel under their charge on a daily basis. According to national study of early warning systems, "An EWS is 'early' in the sense that a department acts on the basis of performance indicators that suggest that an officer may be having problems on the job but does not necessarily warrant formal disciplinary action. The system 'warns' by providing officers with counseling or training designed to address the problematic behavior. The intervention is informal in the sense that it is not itself an official disciplinary action."³

The CALEA Standard 35.1.15 on personnel early warning systems notes that a written directive should establish a personnel early warning system to identify agency employees who may require agency intervention efforts. The system should include

- Provisions to initiate a review based on current patterns of collected material;
- Agency reporting requirements of conduct and behavior;
- Annual evaluations of the system;
- The role of first-and-second level supervision;
- Remedial action; and
- Some type of employee assistance such as a formal employee assistance program peer counseling.⁴

The EWS is also known as risk management – the identification and prevention of predictable losses to an organization. Risk management is the systematic proactive approach to pre-incident reduction of adverse consequences that is associated with organizational operations and should be acknowledged by every department employee. This system is completed through the continuous identification, analysis, and evaluation of risk exposure and determining and developing the best methods of preventing or limiting loss.⁵ The need for an early warning system within law enforcement agencies is at an all-time high. Rarely in our nation's history of policing have the actions of its officers been so highly scrutinized as they are today. In 1992, one major city police department paid approximately 54 million dollars in civil claims, settlements, and judgments. Of that 54 million dollars, nearly 20 million of it was directly attributable to the police department.

According to one authority, there are six benefits to an early warning system:

- To "salvage" an officer's career;
- To force immediate supervisors to become actively involved in employee conduct
- To provide evidence of a department's efforts to help an officer should the officer not respond and ultimately need to be terminated;
- To create criteria that can be used to develop positive changes in training, equipment, tactics, and policy;
- To develop documentation that can help defend the agency against custom and practice litigation; and
- To enhance greater community confidence in the department's ability to control and manage itself.⁶

Before 1990, documentation regarding personnel was limited primarily to evaluations, commendations, and disciplinary actions. Few agencies recorded data pertaining to personnel performance or the level of force used by officers, frequency or categories of complaints received, employees responsible for causing complaints, lawsuits and claims, shooting incidents, or tactics used. In addition to this, many departments were not keeping records in a readily accessible manner. Records, if kept, did not track or indicate employee tendencies for behavioral problems.

A national survey conducted by the National Institute of Justice found that early warning systems have become a significant tool in American law enforcement. By 1999, 39 percent of all municipal and county law enforcement agencies that serve more than 50,000 persons either had an early warning system in place or were planning to implement one. Larger agencies were more likely to use an early warning system than were smaller agencies. Among agencies with 1,000 or more sworn officers, 79 percent had or planned to have an EWS, while only 56 percent of agencies with between 500 and 999 sworn officers had or planned to have such a program.⁷

The popularity of EWS as part of a solution for police misconduct raises several questions about its effectiveness. Are early warning systems effective in reducing police officer misconduct? Are some types of early warning systems more effective than others? What impact do early warning systems have on the departments in which they operate? Do early warning systems have unintended and undesirable effects? Very little research has been done on

³ U.S. Department of Justice, National Criminal Justice Reference Service, *Final Report: Responding to the Problem Police Officer: A National Study of Early Warning Systems*, by Samuel Walker, Geoffrey P. Alpert, and Dennis J. Kenney, August 2000.

⁴ Commission on Accreditation for Law Enforcement Agencies, press release, March 28, 2001.

⁵ Los Angeles Police Department, Legal Affairs Section, Risk Management Unit, "Report on Risk Management," final edition, June 1998.

⁶ Lou Reiter, "Law Enforcement Administrative Investigations," second edition (Tallahassee, Fla.: Lou Reiter and Associates, 1998), chapter 8.

⁷ U.S. Department of Justice, Office of Justice Programs, National Institute of Justice, *Early Warning System: Responding to the Problem Police Officer*, by Samuel Walker, Geoffrey P. Alpert, and Dennis J. Kenney, from the series National Institute of Justice *Research in Brief*, July 2001.

the subject, and it is the goal of this discussion paper to address many of these questions.

The IACP report on integrity and corruption control affirms that an early warning system is not a program that focuses exclusively on problem officers but rather a proactive management tool that is useful in identifying a wide range of problems including inappropriate supervisory instructions to officers and other management issues.⁸ The IACP *Model Policy on Early Warning Systems* is intended to assist police supervisors and managers in identifying officers and other department employees whose performances necessitate review and where appropriate, intervention in circumstances that may have potential negative consequences for the employee, fellow employees, the agency, and/or the general public.⁹

II. POLICY RECOMMENDATIONS

A. Procedures for Reporting Incidents

The primary goal of the early warning system is to change the behavior of the individual officers who have been identified as having potentially problematic performance records or whose record of actions suggests the need for intervention at some level. The basic intervention strategy involves a combination of deterrence and education. Early warning systems also operate on the theory that training, as a part of intervention, can help officers improve their performance. In most early warning systems, the first intervention consists of a review by the problem officer's immediate supervisor. Nearly half of agencies also include other command officers in counseling officers.

Early warning systems differ in procedures utilized. Most early warning systems are managed by the agency's internal affairs unit. This unit may also be referred to as the office of professional standards (OPS). It is a unit composed of employees whose primary responsibility is to conduct investigations of employee misconduct allegations, and may also have responsibility for risk management and overall compliance with professional standards. For smaller departments, this function may be administered by an individual officer or another department employee.

The OPS has the ability to initiate internal investigations on its own that are not generated by employee misconduct allegations if given prior approval

by the department's CEO. Other duties of the OPS include maintaining a central file of complaints received; conducting regular audits of complaints to ascertain the need for changes in training or policy; compiling statistical and related information to identify trends in complaints involving the use of excessive force or abuse of authority; tracking complaints against individual employees to assist in employee risk analysis; and providing the department's CEO with an annual summary of complaints against employees and the disposition of those complaints.¹⁰

It is important for the OPS to determine specific selection criteria for identifying problem employees. Although there are currently no standards for identifying officers for early warning programs, there is a general agreement about certain criteria that should induce the selection. One major police department created four categories of behavior to identify officers meriting intervention. These are (1) citizen complaints (list all officers with 5 or more complaints); (2) control of persons (use of force) incidents; (3) reprimands; and (4) discharge of firearms.¹¹ The IACP model policy recommends the following behavioral indicators:

- Complaints lodged by one employee against the other;
- Summary disciplinary actions taken against an employee by a supervisor with or without a formal complaint;
- Complaints lodged by citizens against agency personnel;
- Incidents of spousal abuse;
- Disciplinary actions taken against employees; and
- Administratively defined examples of improper actions and/or improper conduct

A report conducted by the IACP on police integrity and the control of corruption recommends the following for department collection of performances:

- Firearm discharge;
- Excessive force incidents;
- Motor vehicle damage;
- Loss of departmental equipment;
- Injury on duty;
- Excessive use of sick leave; and
- All complaints, including supervisory disciplinary actions¹²

⁸ U.S. Department of Justice, Bureau of Justice Assistance, *Building Integrity and Reducing Drug Corruption in Police Departments*, by the International Association of Chiefs of Police (Washington, D.C.: U.S. Government Printing Office, 1989), 80. Excerpted as "Police Ethics: Building Integrity and Reducing Drug Corruption," *Police Chief* 58, no. 1 (January 1991): 27-41.

⁹ See IACP National Law Enforcement Policy Center, *Model Policy: Early Warning System*, August 2001.

¹⁰ See IACP National Law Enforcement Policy Center, *Concepts and Issues Paper: Investigation of Employee Misconduct*, July 2001, section 3, part B.

¹¹ U.S. Department of Justice, *Final Report: Responding to the Problem Police Officer*.

¹² U.S. Department of Justice, *Building Integrity and Reducing Drug Corruption in Police Departments*, 80.

According to the previously mentioned department, once an officer is identified, the supervisor is notified and is expected to meet with the officer to determine if the charged officer is in need of assistance – such as counseling, training or other intervention. The officer is then monitored closely. The internal affairs department provides the supervisor with a report of each incident under review along with the officer's assignment when the incident occurred. If the incident involved a use of force, it is the duty of the OPS to gather all the following information: name, rank, badge number and assignment of officer; case number; date of the incident and the report; name of the subject(s); location of the incident; nature of force and weapon used by the officer and subject; injuries sustained by the officer and subject, if any; and narrative report of the incident.¹³ Also included in the OPS report are any occurrences of traffic accidents; pursuit (both within and out of policy); lawsuits and claims; assaults on the officer; officer reports of resisting arrest, and obstruction; sick leave used; and criminal arrests made.¹⁴

The model policy recommends that incident reports should collect and report on any of the aforementioned data as well as information that is comparable to any historical norms (such as traffic pursuit or use of force) of all agency personnel functioning in the same or similar assignments. It is the responsibility of the department to update regularly the specific norms for each behavioral or performance indicator. Any reports on individual officers based on deviations from those norms should be distributed to the appropriate supervisor.¹⁵

Incident reports should be completed on a routine basis for all department employees but generated whenever an officer has exceeded the threshold established by the agency.¹⁶ For example, a police department may establish for citizen complaints a threshold of five complaints over a two-year period, and for the discharge of firearms, the threshold is an officer with three or more discharges of firearms within the past five years may exceed the threshold.¹⁷

The finished report should provide a brief synopsis of filed complaints, use of force incidents, and/or performance indicators and respective dispositions where available. However, the reports are not to draw any conclusions nor make any determinations concerning employee job performance. The purpose of the document is to

help supervisory personnel to evaluate and guide their subordinates. The reports are not to form any basis for disciplinary action against the charged employee. It is intended to help the supervisor devise recommendations for action.

The supervisor should review the report with the subject officer and encourage him or her to provide insight into the itemized incident and problems identified in the report. After evaluating the report provided by the OPS, the supervisor may recommend that the officer be (1) reassigned; (2) retrained; (3) transferred; (4) referred to an employee assistance program; (5) given a fitness-for-duty evaluation; (6) dismissed pursuant to civil rules and regulations; (7) referred to an agency peer counselor; (8) referred to an agency-authorized mental health professional or; (9) allowed to return to work, because the officer's actions do not warrant immediate need for corrective action. The recommendation is then sent to the commander of the internal affairs department where each reviewing supervisor must either agree or disagree with the recommendation.¹⁸

Once the recommendation is approved by the commander of the internal affairs department, the employee is required to follow the plan to completion. The progress of the employee is to be monitored closely and reported to the agency CEO at intervals prescribed by the department. There are several variations on how employee performance can be monitored. Some systems use formal reviews, evaluations, and reporting of officers' performance by immediate supervisors for a period of several months. Other systems rely merely on informal commitment to reviewing officer's performance following intervention. Any indications of employee compliance or non-compliance are to be documented and kept for future references and/or evaluations.

B. Software Programs

Numerous police departments use early warning software programs designed specifically to keep track of force related complaint data as well as the range of information required for a complete early warning system. The design and complexity of such tracking programs depend on the needs of specific police departments, but the overall design of such systems is relatively simple.

Depending on the specific needs of the agency, the software can either be developed from within the department (generally by a systems administrator) or by an outside contractor. Larger police agencies often seek more sophisticated programs and may use contractors that specialize in creating and developing databases and tracking software. Smaller police agencies that cannot afford the costs of hiring a contractor, can create a database

¹³ See IACP National Law Enforcement Policy Center, *Model Policy: Early Warning System*, section 4, part B, no. 2.

¹⁴ Ibid., section 4, part B, no. 3.

¹⁵ Ibid., section 4, part C, no. 1.

¹⁶ Ibid., section 4, part C, no. 2.

¹⁷ U.S. Department of Justice, *Final Report: Responding to the Problem Police Officer*.

¹⁸ See *Model Policy: Early Warning System*, section 4, part C, no. 5.

using various database programs such as Microsoft Access or Excel.

It is beyond the scope of this discussion paper to examine the full array of software programs available. However, one program that may be mentioned as an example is the Internal Affairs Professional (IA Pro) developed by CI Technologies. IA Pro alerts internal affairs or other authorized personnel whenever an officer exceeds predefined thresholds established by the agency. The thresholds are customizable and can be altered to the agency's exact specifications.

An important function of internal affairs units is the generation of statistical reports. A feature of the IA Pro provides multiple statistical reports that can be designed by the user. IA Pro compiles statistical data automatically as new incidents are entered into the system. From the statistical data, the software is able to generate various charts and graphs. Examples of the report and graph categories include:

- Disciplinary History Reports;
- Abuse of authority;
- Conduct unbecoming to an officer;
- Corruption;
- Excessive use of force;
- Improper use of police equipment/vehicle;
- Officer criminal activity;
- Sexual harassment;
- Sex/Race based reports; and
- Monthly, Quarterly, and Annual reports

Another feature of IA Pro is visual case management which allows the investigator to easily view their case load, determine the status of their cases, assess allegations and findings on the computer monitor. The program is also compatible with most word processors (e.g., Microsoft Word), which allows for simple data entry and report writing. The software allows for digital imaging where scanned images or images acquired through a digital camera can be linked to officers, citizens, and incidents. Employee identification photographs can be linked to employees, as can photographs from incidents.¹⁹

Other general features found in most early warning system software include the following:

- Playback of audio and video statements, interviews, surveillance, and pursuits;
- Expansion of the program to include EWS components;
- Capture of information on employee training and certification;
- Transfer use-of-force case data between OPS;
- Capture of shooting data such as type and cali-

ber of weapons used, shots fired by officer(s) and suspect(s), distance, lighting, and last qualification date of officer(s).

As discussed earlier, the complexity of early warning system software is dependant upon the specific needs of the agency. A larger police agency with more statistical data to track may be inclined to seek outside assistance in creating and developing a more intricate program. A smaller agency with fewer tracking needs may prefer a simpler program.

C. Problems and Drawbacks

Early warning systems are not without their drawbacks and potential problems. Drawbacks associated with early warning systems include the fact that an EWS:

- May have an adverse impact on an officer's career;
- May inhibit active and desirable police work;
- May lead some supervisors to "simply go through the motions" without taking the goals of the system seriously;
- May create a legal liability for the department if it fails to use the system; and
- May capture data that could be used in court against the department.²⁰

It is important to note that although the goal of an early warning system is ultimately to deter officers from wrongful behavior, it may in fact lead officers away from conducting active police work that is both appropriate and consistent with the department's goals. The tendency for some police departments may be to install an early warning system because it is currently accepted, but make little effort to enforce the requirements that are needed to allow the system to operate efficiently and effectively. One authority argues that: "in such instances, an early warning system becomes little more than a symbolic gesture, designed to create the impression of a commitment to accountability but without the substance of real accountability."²¹

An issue that departments must overcome when installing an early warning system is maintaining the trust of their employees. All early warning systems rely heavily on employee confidence that it is for their benefit. It is difficult to help someone who isn't willing to be helped. There needs to be cooperation from the subject employee in order to attain sufficient results from the system. A thorough implementation plan is needed that includes supervisory training and officer orientation.

¹⁹ For more information on IA Professional visit www.iaprofessional.com.

²⁰ Lou Reiter, "Law Enforcement Administrative Investigations," chapter 8.

²¹ U.S. Department of Justice, *Final Report: Responding to the Problem Police Officer*.

Another problem faced by police departments is the potential legal issues that maybe involved. Many law enforcement agencies are reluctant to create an EW system for fear that it would create a database of officer misconduct that plaintiff attorneys may use against the department. However, an early warning system is more likely to protect an agency against liability in today's legal environment. It is clear that an early warning system is evidence that a department is making an effort to identify employees whose performance is deemed unsatisfactory, and that has a program is a conscientious effort to correct that behavior.²²

A major issue is implementation – whether the content of the intervention specifically meets the needs or requirements of the program. The implementation of an early warning system is comparable to that of correctional treatment in the criminal justice system. Once the recommendations have been made involving the officer, steps must be taken to fulfill those recommendations. EWS programs operate under the assumption that there is some substantive treatment, that it is in fact delivered, that it is relevant to the target problem, that it has a positive impact on its subjects, and finally that it has no unintended negative effects.²³

The main problem in the intervention process is whether or not some sort of intervention did indeed occur. This proves to be extremely important to both administrative and evaluative research. In some early warning systems, there was no way of knowing if any intervention was given, while some programs showed that the content of the intervention was consistent across all subject officers or consistent with the official goals of the program. Some of the problems involved counseling sessions that were often unrecorded and informal in nature, as such there was no way of documenting the content of the intervention. Under these conditions it is entirely possible that the content of the intervention may bear no relation to the overall goals of the early warning system and, even worse, that the content delivered may undermine the system entirely.²⁴

In order for the intervention process of an early warning system to be effective, the department must establish a set of guidelines to ensure the consistent delivery of intended intervention content. Therefore, it is necessary to develop written guidelines and train supervisory personnel on the early warning system prior to program implementation.

D. Impact and Implications

Results from research conducted at various police departments indicate that early warning systems have a dramatic effect in reducing citizen complaints and other indicators of problematic police performance. In a study conducted by Sam Walker, results illustrate that the average number of citizen complaints received by officers subject to early intervention dropped by 67 percent approximately one year after the initial intervention. Data from New Orleans also showed that officers responded positively to the early warning intervention.

Research has found early warning systems to have significant effects on supervisors as well. Existence of an intervention system communicates to supervisors their overall responsibility to monitor their officers and particularly those who have been selected by the EWS program. For example, the system used by the New Orleans Police Department requires that the supervisors monitor all identified officers under their command for six months and complete signed evaluations of the officers' performance every two weeks. Early warning systems encourage supervisors to change their overall behavior in order to affect the standards of supervision of all officers, not merely those officers who are subject to intervention.

III. CONCLUSION

The emergence of early warning systems is the result of many different factors, the first being the recognition of the existence of "problem officers" –officers who receive a high rate of citizen complaints or whose records indicate other problematic behavior. The early warning system was created by professional organizations in order to identify and help officers who are in need of improving their overall performance.

It is the job of the office of professional standards to develop and maintain a department's early warning system. All employees of the department must be aware of the policies and procedures that are associated with the early warning system. Data shows that the early warning system is effective in reducing citizen complaints and other forms of problematic police officer behavior.²⁵

Studies have shown that the early warning system is an effective management tool in investigating and responding to problem police officers. But can only be effective if it has a supportive developmental environment of commitment to accountability.

²² Ibid., 1.24.

²³ Ibid., 2.31.

²⁴ Ibid., 2.32.

²⁵ Ibid., 5.24

Every effort has been made by the IACP National Law Enforcement Policy Center staff and advisory board to ensure that this document incorporates the most current information and contemporary professional judgment on this issue. However, law enforcement administrators should be cautioned that no “model” policy can meet all the needs of any given law enforcement agency. Each law enforcement agency operates in a unique environment of federal court rulings, state laws, local ordinances, regulations, judicial and administrative decisions and collective bargaining agreements that must be considered. In addition, the formulation of specific agency policies must take into account local political and community perspectives and customs, prerogatives and demands; often divergent law enforcement strategies and philosophies; and the impact of varied agency resource capabilities among other factors.

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Model Policy

<i>Effective Date</i> March 2002		<i>Number</i>	
<i>Subject</i> Early Warning System			
<i>Reference</i>		<i>Special Instructions</i>	
<i>Distribution</i>		<i>Reevaluation Date</i>	<i>No. Pages</i> 3

I. PURPOSE

This policy is intended to assist police supervisors and managers in identifying officers and other employees whose performance warrants review and, where appropriate, intervention in circumstances that may have negative consequences for the employee, fellow employees, this agency, and/or the general public.

II. POLICY

It is the policy of this agency to establish a system for tracking and reviewing incidents of risk to this agency and the involved employees. To this end, the Early Warning System (EWS) shall be used as a means to identify and assess employee performance involved in potential-risk incidents and intervene where appropriate.

III. DEFINITIONS

Office of Professional Standards (OPS) or equivalent office, division, or bureau: Also sometimes referred to as internal affairs, this function is executed by the employees or unit with primary responsibility for conducting investigations of employee misconduct allegations. It is recognized that in smaller departments, this function may be administered by an individual officer or other department employee.

Use of Force: Efforts employed by an officer to compel compliance from an unwilling subject, to include but not limited to the use of hands-on physical force; chemical, electronic; and impact devices; firearms; and other weapons or means.

Excessive Use of Force: The application of an amount and/or duration of force greater than that required to compel compliance of a non-compliant subject.

Potential-Risk Incidents: Actions that may result in injury to employees or the public, cause civil rights violations, increase the civil liability to the department, or cause this agency to lose public support and confidence in its ability to perform its duty in a professional manner.

IV. PROCEDURES

A. General

1. It is the duty of line supervisors to directly monitor the performance and behavior of personnel under their charge on a daily basis.
2. The EWS is a tool to assist supervisory personnel in monitoring employee performance.
3. Supervisory personnel shall be familiar with alternatives and authorized actions they may take (as detailed in the Employee Mental Health Policy) in response to personnel exhibiting behavioral problems with or without information provided through the EWS.

B. Reporting Procedures

This agency's Office of Professional Standards (OPS) shall be responsible for establishing and administering the EWS and generating reports specified in this policy or as otherwise directed by the agency Chief Executive Officer (CEO). OPS shall receive copies of the following:

1. Complaints lodged against employees in accordance with provisions of this agency's policy

on investigation of employee misconduct, to include the following:

- a. Complaints lodged by one employee against another;
- b. Summary disciplinary actions taken against an employee by supervisor with or without a formal complaint;
- c. Complaints lodged by citizens against agency personnel;
- d. Incidents of spousal abuse;
- e. Disciplinary actions taken against employees;
- f. Administratively defined examples of improper actions and/or improper conduct.

2. Use-of-Force Reports

All use-of-force reports shall provide the following information:

- a. Name, rank, badge number, and assignment of the officer;
- b. Case number, date of the incident and the report;
- c. Name of subject(s);
- d. Location of the incident;
- e. Nature of force and weapon used by the officer and subject, and injuries sustained by the officer and subject, if any; and
- f. Narrative report of the incident.

3. Performance-based and related information shall also be included in the EWS, to include the following:

- a. Traffic accidents;
- b. Pursuits, both within and out of policy;
- c. Lawsuits and claims;
- d. Assaults on the officer (i.e., officer as victim);
- e. Officer reports of resisting arrest, and obstruction;
- f. Sick leave used;
- g. Criminal arrests made; and
- h. Commendations and awards.

C. Reports

1. OPS shall collect and report on the aforementioned data and information by comparing it to historical norms of all agency personnel functioning in the same or similar assignments. Norms will be updated on an on going basis for each behavioral or performance indicator. Reports on individual officers based on deviations from those norms will be distributed to respective organizational supervisors.
2. Reports shall be developed on a routine basis for all employees but shall be generated whenever an officer has exceeded the threshold established by this agency requiring supervi-

sory review and intervention. (For example, an agency threshold might be an employee who has received two or more complaints and/or has been involved in two or more use of force incidents within a twelve-month period).

3. Reports shall provide a brief summary of complaints, uses-of-force incidents, and/or performance indicators and their respective dispositions where available. Reports shall draw no conclusions nor make any determinations concerning job performance. Reports are intended to assist supervisory personnel evaluate and guide their subordinates. Reports alone shall not form the basis for disciplinary action.
4. Supervisors shall review reports with the subject officer and encourage him or her to provide insight to the itemized incident and problems identified in the report.
5. The subject officer's commander or designee and the officer's supervisor shall meet to discuss the report and other relevant information and determine if corrective actions are warranted. These actions may include but are not limited to the following:
 - a. Refer the officer to an agency peer counselor;
 - b. Refer the officer to an agency-authorized mental health professional or other mental health care provider authorized by the department;
 - c. Require that the officer participate in agency-authorized training, targeting personal or professional problems that the officer may be facing (e.g., communications, cultural awareness, coping with stress, anger management);
 - d. Initiate reassignment or transfer; or
 - e. Conclude that the officer's actions do not warrant immediate need for corrective action.
6. A report of action recommendations and justification for those recommendations shall be forwarded through OPS to the CEO or his/her designee for approval.
7. Once approved, the employee shall follow the plan to completion. The employee's progress shall be monitored and formally reported to the CEO at intervals prescribed by this agency. Indications of employee compliance or non-compliance, to include evidence on completion, of the agreed upon plan should be included in the employee's EWS jacket for future reference.

Every effort has been made by the IACP National Law Enforcement Policy Center staff and advisory board to ensure that this document incorporates the most current information and contemporary professional judgment on this issue. However, law enforcement administrators should be cautioned that no “model” policy can meet all the needs of any given law enforcement agency. Each law enforcement agency operates in a unique environment of federal court rulings, state laws, local ordinances, regulations, judicial and administrative decisions and collective bargaining agreements that must be considered. In addition, the formulation of specific agency policies must take into account local political and community perspectives and customs, prerogatives and demands; often divergent law enforcement strategies and philosophies; and the impact of varied agency resource capabilities among other factors.

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IACP NATIONAL LAW ENFORCEMENT POLICY CENTER

Investigation of Employee Misconduct

Concepts and Issues Paper

Originally Published: 1990

Revised: October 2001, January 2007

I. INTRODUCTION

A. Purpose of the Document

This document was designed to accompany the *Model Policy on Investigation of Employee Misconduct* established by the IACP National Law Enforcement Policy Center. This paper provides essential background material and supporting documentation to provide greater understanding of the developmental philosophy and implementation requirements for the model policy. This material will be of value to law enforcement executives in their efforts to tailor the model to the requirements and circumstances of their communities and their law enforcement agencies.

This discussion is divided into five parts. Part I provides background information; part II discusses discipline as an integral and potentially constructive part of any internal investigative process; part III examines the process of receiving and processing complaints from the public; part IV addresses the legal and procedural issues surrounding the investigative process; and part V reviews means of preventing employee misconduct.

B. Background

A substantial degree of attention is devoted in this concepts and issues paper to the disciplinary process, citizen complaints, and the many facets of investigating allegations of police officer misconduct. There are several reasons for addressing these interrelated issues in such detail.

First, over the past several years there has been a series of high-profile incidents of police officer misconduct.

Many individuals believe that this demonstrates in part a weakness in many police agencies—even the largest and seemingly most sophisticated agencies—to detect, effectively intervene in, or prevent instances of officer misconduct as well as a failure to effectively supervise officers and take effective action in instances of officer misconduct. The notoriety generated by the most serious of these high-profile cases has had devastating effects on the police agencies involved, undermined their reputation and effectiveness in the communities they serve, and diminished the police profession. In fact, as this document is being prepared, the federal government is considering a comprehensive nationwide study of issues surrounding law enforcement misconduct and integrity.

Second, early in their careers some police officers become suspicious of or even hostile to the internal investigation process and wary of disciplinary procedures. These procedures are often viewed as unfair and biased against accused officers, and in some instances even regarded as an unnecessary interference into an officer's ability to perform his or her duties. Some officers come to view this regulatory function as an indication that the police agency does not trust them or that management has misgivings about the integrity and honesty of their officers. As such, some police officers may only grudgingly cooperate in internal affairs investigations—an act that often perpetuates the all-too-common distance between management and line officers.

The vast majority of police officers are honest, loyal, and hardworking professionals. The broad-brush strokes of officer brutality and excessive force sometimes painted by the media are almost always the product of misconduct by a small minority of officers. But the misconduct of

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a few can often taint the reputation of many. Often this affects an entire department when, in the face of employee misconduct, management imposes a more demanding system of officer accountability and discipline. Of course, police officers, like all other professionals, can and do make mistakes. There are also some officers who take advantage of their office or who, on a recurring basis, make such serious errors of judgment or overstep their authority that they probably should not be employed in law enforcement. Therefore, a police department must monitor its officer's mistakes and misconduct to protect its interests and reputation.

To protect their own interests, reputations, and career goals, police officers must be forthcoming about their conduct and the conduct of other officers. This requires that they have knowledge of and faith in the integrity of their agency's investigative and disciplinary process. These are complex issue areas that require sound procedures based on up-to-date information. But, to be effective, internal investigation and disciplinary procedures must be understood by all members of the department.

Therefore, it is the intent of this document and the model policy upon which it is based to closely examine the internal investigation and disciplinary process. This information will (1) provide possible alternatives to present procedures; (2) expand the knowledge of officers, supervisors, and managers alike concerning their legal rights and responsibilities during internal investigations and disciplinary actions; and (3) instill the notion that a well-organized and professionally run internal investigation and disciplinary process serves the best interests of officers, law enforcement agencies, and the communities they serve.

It is recognized that individual agencies often have widely varying procedures and styles in this area and that some of these are the product of individual state law, employment contracts, state or local civil service requirements, and related matters. Obviously, this document cannot take into account all of the terms of these requirements and agreements. But it attempts to provide the essential ingredients of a well-administered, professional program governing internal investigations and disciplinary procedures.

II. GENERAL DISCIPLINARY CONCEPTS

A. "Fair Play" in Officer Investigations and Discipline

Discipline is an indispensable component of law enforcement management. There are rules and regulations that pertain to all fields of employment. But, unlike any other professionals, law enforcement officers possess unique powers and discretion to take actions that require

professional supervision, management, oversight, and control, and adherence of officers to a rigid code of conduct and professionalism.

There are few issues among law enforcement personnel that can raise more concern, debate, rancor, and sometimes outright dissention than the issue of employee discipline and the way agencies investigate specific allegations of employee misconduct. Where there are widespread perceptions that the investigation and administration of discipline is handled unfairly, capriciously, inconsistently, or unprofessionally, ramifications can be widespread and extremely damaging to department morale and operations.

A theme that runs throughout this document involves the need for police agencies to follow an investigative and disciplinary process based on the principle of "fair play." Police agencies have a duty to investigate fully and completely accusations of officer misconduct to protect the department's integrity and its credibility in the community, not to mention clearing the names of officers who have done no wrong. But in that process, it must be remembered that accused officers do not lose their due process rights or the right to be treated fairly, impartially, and respectfully. When all officers understand that the department's disciplinary process is managed in this way it goes a long way to enhance relations between management and staff and to eliminate self-protective, stonewalling behavior that is often seen among officers who view the disciplinary system as unfair.

B. Perceptions of Discipline

As noted, public complaints and the disciplinary process often have unpleasant connotations for law enforcement officers and their superiors. For some officers, disciplinary matters conjure up feelings of fear, shame, discredit, anger, and alienation from the department. The issue also raises concerns and stress for law enforcement managers. The thoughtful executive or administrator may question whether his or her current mechanism for detecting officer misconduct achieves its goal. These same persons may question whether the existing disciplinary system is too lax or too harsh, whether it is applied consistently and fairly, and whether the disciplined officer will become embittered by the process or learn to become a better officer.

By contrast, some law enforcement officers and executives view citizens' allegations of officer misconduct and the disciplinary process in a significantly different light. They may consider these functions to be a carefully created facade to satisfy political and community groups, with no real intention of effectively investigating allegations of misconduct and applying appropriate discipline when warranted. Some officers take the position that the policies, procedures, and rules of an agency

are primarily intended to assign blame when things go wrong rather than serve as a necessary means for directing, controlling, and managing employee conduct and operational practices. Such attitudes exist for a variety of reasons, not the least of which are issues of alienation between line and management personnel incorporating but not limited to a failure to engage officers in the establishment and justification of policies, procedures, and rules in the first place.

Neither of the foregoing views is healthy for the officer or law enforcement agency. Each undermines the basic goals of the internal investigative process and disciplinary system. In order to maximize the goals and purposes of these critical functions, police agencies must understand the entire process and formulate a philosophy of discipline for the department. The common adage, “Actions speak louder than words,” is appropriate here. To instill an unbiased philosophy of discipline there must be a history within the agency of dealing fairly, impartially, and consistently with officers in the disciplinary process. Unfair or unnecessarily harsh discipline, treating officers as criminals or as guilty until proven innocent during the investigative process, generally has unintended negative consequences. Rather than serve to gain cooperation and respect of officers, such treatment most often serves to estrange them. It lowers morale and can even foster a siege mentality between management and line officers that debilitates the entire organization. Aside from issues such as fairness, a large part of the problem is how police agencies and officers view discipline in general—particularly whether it is regarded as a fundamentally punitive measure (negative discipline) or whether it also serves a constructive purpose (positive discipline).

C. Positive vs. Negative Discipline

In order to develop a sound philosophy of discipline and apply it effectively, one must understand the distinction between negative discipline and positive discipline.

1. Negative discipline. The concept of negative discipline functions on one reactive and negative premise: A proven allegation of misconduct receives immediate punishment. This style is reactive because officer misconduct is addressed only after it has occurred. The disciplinary process is an end in itself and not a means of educating officers about appropriate types of behavior or a way to explain why certain standards are necessary. While negative discipline is long on punishment, it generally is short on reward.

Traditionally, the law enforcement profession has maintained a negative, reactive approach to internal investigations of allegations of officer misconduct and the disciplinary process. The paramilitary style upon which the law enforcement profession is modeled has helped to

reinforce this approach.

2. Positive discipline. The current trend among law enforcement is to formulate an internal investigation and discipline system using a more holistic and positive approach to discipline and investigating allegations of officer misconduct.¹

Positive discipline also focuses on determining why misconduct occurred, rather than focusing solely on taking measures to punish misconduct. For example, officer misconduct may be a result of poorly written policy or ineffective training. A positive disciplinary system analyzes each case to determine the cause of misconduct and develops appropriate remedial recommendations in addition to or in place of punitive actions.

Positive discipline includes reinforcement of excellent behavior by maintaining a reward system in addition to a punitive system. Actions by officers that exceed the norm deserve recognition. This may be done by special departmental commendations and medals or by recognition during performance reviews or similar means. In addition, each agency has officers who may not be outstanding but who are known for their reliability and consistent performance. These individuals also need to be recognized.

Generally, human beings respond to praise more positively than to criticism and punishment. Officers who perceive that their daily contributions are appreciated tend to feel better about themselves and want to continue doing a good job or even improve. They feel part of the agency and want to support its reputation. The use of threats of punishment alone to gain compliance with policy does not encourage excellence or promote the efficient delivery of police services.

Positive discipline implies a departmental goal of administering counseling, reprimands, suspension, or other discipline in a fair and consistent manner. Inconsistent discipline can undermine the entire disciplinary process and lead to charges of disparate treatment and civil litigation. Where officers perceive that they may receive stiffer punishment than another officer or supervisor for similar misconduct, any lessons that the department hoped to impart through discipline will be lost. This is true of every employee, irrespective of rank. Discipline must be consistent.

Finally, it should be noted that training is one of the most effective approaches to positive discipline. Some disciplinary matters are largely a product of inadequate training, a failure by officers to master what is being taught, or their inability to maintain specific skills and abilities or remember how to follow specific practices, protocols, or procedures. For them, refresher training may be more effective and appropriate than punishment.

¹ IACP, *Managing for Effective Police Discipline*, International Association of Chiefs of Police, Alexandria, Virginia (1977).

D. Developing a Departmental Philosophy of Discipline

1. Establishing Goals. Law enforcement agencies must provide a firm foundation for the disciplinary process by developing clear goals to be achieved by the department. It is not enough for the chief executive officer to inform officers that the goal of the department is to prevent and detect criminal activity. While it may be the mission, this goal is too broad and too simple. Modern agencies operate in a complicated environment that affects this mission and requires thoughtful assessment of how these many factors affect delivery of public services. For example, relevant departmental goals may be established to create an environment that encourages the community both to work with the agency and to actively use the citizen complaint process. Goals focusing on a more positive relationship with the community have helped departments achieve the larger mission of detecting criminal conduct.

Additionally, the internal investigative process must be mindful of the potential for internal police misconduct that is not registered through the citizen complaint process. Therefore, it is important that police ethics and rules of police conduct are clearly defined. The process for internal investigations should also provide for the reporting and investigation of potential misconduct that has been identified from within the agency.

2. Goals and Departmental Policy. Departmental policy is the written expression of the department's goals. Departmental policy also reflects the standards of behavior that are expected from officers in daily operations. In addition, policy is one means of communicating these goals and how they are to be implemented by the officer.

3. Communicating Goals, Policy, Procedures, and Rules.² In order to achieve a positive, focused disciplinary system, departmental goals as well as departmental policy, rules, and procedures must be effectively communicated to and understood by all employees. Effective communication is often a complex and difficult process, and it requires much more than periodic pronouncements posted on a bulletin board. One method of communicating goals and policies effectively is by incorporating officers and supervisors into the policy development process. Empowering officers and supervisors to participate in the articulation of goals and development of policies can help hone policies into more effective instruments for officer guidance and direction. Sharing the process of developing goals and policies will provide the officer with a better understanding of why a policy is necessary and why the officer must conform his or her behavior to that standard.

Officers who can internalize the basis for agency goals through assisting in developing and refining agency policy have a clearer understanding of the reasons for expected behavior. This is one way to minimize disciplinary problems. Individuals will generally conform more easily to a standard that they understand and accept as rational than to blind orders to adhere to such standards or procedures.

E. Disciplinary "Schedules"

One essential criteria for effective discipline is the degree to which departmental personnel perceive the disciplinary system as being fair. In order to achieve consistency, fairness, and objectivity in discipline, some departments use a system of graduated discipline. This typically involves the use of tables or schedules of penalties for one or more infractions or breaches of conduct, policy, procedures, or rules. There are arguments both for and against this type of uniformity.

On the one hand, it provides officers with a general idea of what they can expect for committing certain types of infractions. Major departures from the disciplinary schedule for these infractions are readily apparent—a factor that also serves as a check on decision making. This approach is more easily applied to certain types of misconduct where there are no unusual circumstances involved. However, many instances of misconduct occur that, while they may involve the same or similar charges, involve substantially different facts and circumstances. Administration of discipline strictly on a formula basis in these circumstances may not take into account the total circumstances of the event or the performance history of the individual officer(s). Therefore, disciplinary systems that rely solely on administration of discipline by formula can prove to be too inflexible and thus unfair.

However, the availability of a scale of disciplinary actions for various types of misconduct provides some general controls over inappropriate use of administrative discretion. If punishment for misconduct deviates from what is perceived to be the norm, a written explanation should be made explaining the decision-making process that supported the punitive action. Administrators and supervisors need not relinquish all discretion in this matter if they use a disciplinary scale. It can be used with the understanding that unusual circumstances may require departures from the schedule and that the reasons for such departures will be fully explained to those involved.

All things being equal, use of a scale of disciplinary penalties, or a "disciplinary matrix," can be a valuable tool for both employers and employees. The federal government uses a system that incorporates both a scale of potential penalties for various administrative infractions, as well as guidelines that supervisors must incorporate in making

² Whenever the term "policy" is used in this document it is meant to include policies, rules, and procedures. The violation of any of these can form the grounds for discipline.

final decisions that takes into account both mitigating and aggravating factors of the employee's employment record. (A discussion of this process is included in an addendum to this concept paper).

Ideally, a matrix of penalties should be developed in a collaborative undertaking between employees and management. Employees who have input into determining appropriate punitive action for misconduct automatically invest themselves in the system. Some police departments that have used this approach have found both that officers are often harsher in their perceptions of appropriate disciplinary action for specific acts of misconduct than is management, and are less likely to lodge complaints against management for being unfair in disciplinary decision making.

III. RECEIVING AND PROCESSING COMPLAINTS

A. Responsibility for Complaint Investigation and Review

A police department's mechanism for investigating allegations of officer misconduct is of great importance. Whether this responsibility falls on one individual or an entire unit, those involved should adhere to guidelines and principles of operation that in many respects go far beyond those undertaken by internal affairs units of days gone by. Significant issue areas in this regard include the following:

1. Necessity for Establishing an Internal Investigations Authority. The internal investigation function is critical to maintaining the integrity and professionalism of a police agency. Public trust and confidence in law enforcement are injured where the public perceives that officer misconduct is ignored or that punishment is not commensurate with the misconduct. In addition, the internal investigation function serves to maintain the internal discipline and control necessary to provide efficient law enforcement services. Therefore, each law enforcement agency should have a mechanism for investigating citizen complaints and other allegations of employee misconduct.

2. Nature of the Investigative Authority. The traditional approach to investigating employee misconduct has been the responsibility of what has been commonly referred to as "internal affairs." This document's use of the term "office of professional standards" (OPS) to define this function represents more than a change in terminology. It is meant to convey a different perspective on the duties and responsibilities of this function within police agencies. Where information is available, compiled and summarized, this office can identify potential problems with agency policy, training, supervision, and other functions.

The office is also well situated to combine information on individual officer misconduct with other risk factors to determine whether individual officers or even units have been engaged in behavior that is potentially problematic. Often referred to as an "early warning" or "early identification" system, these analyses can be used effectively to avoid future misconduct by identifying employees who are exhibiting various types of problematic behavior. Early warning systems are now required as an element of the accreditation process for agencies seeking or maintaining that status through the Commission on Accreditation for Law Enforcement Agencies, Inc. (CALEA).³

As suggested above, an office of professional standards should be charged with more than investigating alleged wrongdoing by officers, which is a purely reactive response to problems of misconduct. OPS can become a cornerstone for risk management within law enforcement agencies by identifying ways the agency and officers can avoid problems and correct shortcomings before they become problems. This office can also monitor evolving police practices that the agency may wish to adopt. These functions are best performed in conjunction with the inspections unit, research and planning or similar offices where available.

Many agencies have a separate unit that is solely responsible for conducting investigations of employee misconduct. Smaller agencies are typically unable to staff a separate unit. These agencies may designate an officer or officers to conduct all internal investigations on an ad hoc basis or rotate this responsibility among selected investigators as the need arises.

A growing number of law enforcement agencies have one unit to review the outcome of complaints lodged by the public and another to investigate internal allegations of employee misconduct. Some of these agencies staff the public complaint unit solely with department employees or use a mixture of citizens and officers. The latter may create more public accountability, since the citizens in the unit are meant to guard against internal department bias.

Several large urban areas have attempted to develop distinct units outside their departments in order to facilitate the public complaint review process. These units are usually staffed exclusively by members of the public such as community leaders and politicians or by a combination of police officers and the public. In a study of citizen complaint procedures conducted by the Police Executive Research Forum (PERF), it was determined that these

³ See *Model Policy on Early Warning Systems*. IACP National Law Enforcement Policy Center, Alexandria, VA.

external units have not worked as well as expected.⁴

Proponents of external complaint review units cite the value of injecting an independent and more objective voice in assessing and remedying officer misconduct. They claim that citizen involvement in this function reinforces goodwill between the department and the public. The public gains confidence that misconduct is fairly and adequately addressed where the public participates in the complaint review system.

The PERF study notes that opponents of external complaint review units feel that these units can undermine the morale of a police agency. The authority and responsibility for command staff to manage the department is interrupted and influenced by persons who are inexperienced in law enforcement and its unique workings. The PERF study suggests that some early citizen review boards may have been inherently biased against law enforcement and thus failed to achieve their goals.

3. Organizational Placement of Investigative Authority. The placement of the internal investigations authority—whether designated OPS or known by another title—within the organizational structure of the agency is an issue of critical importance. The internal investigations authority, whether a unit or employee, should be under the direct oversight of the chief executive officer of the department. The authority should have direct access to, and report directly to, this chief executive officer or another senior executive officer if so directed by the chief.

The integrity of internal investigations into allegations of officer misconduct is protected to a large degree when the internal investigations authority is required to report directly to the chief executive officer. Such investigations may unearth sensitive and confidential information that may or may not prove to be true. If treated without rigid internal controls, such information could potentially ruin the reputation and career of employees under investigation. Therefore, access to investigative information must be closely guarded and limited to those personnel with a need and right to know. This will protect the subject from the unfounded rumors or false accusations that may arise where numerous employees have access to all or some of the investigative information.

The process of conducting internal investigations must also guard against personal influence or bias. The possibility that an investigation may be stifled or unduly influenced as a result of favoritism, discrimination, or personal dislike increases as more personnel are involved in the internal investigation function. Where the internal investigation authority does not report directly to the chief executive officer there is a greater opportunity for corrupt

officers to influence the outcome of internal investigations.

The attitudes of personnel involved in the investigative process may also threaten the integrity of the investigation. For example, a supervisor may privately consider investigation of use-of-force incidents to be less important than investigation of patrol car accidents, because the supervisor believes that all uses of force are merited. The supervisor may thereby practice internal selectivity in directing internal investigations. Whether due to personal selectivity or bias, the chief executive officer may ultimately receive a distorted picture of allegations of officer misconduct where all complaints are not forwarded to the internal investigation's authority and the authority does not report directly to the Office of the Chief.

The nature of the complaint review process and the duties of the chief executive officer is another reason for placing the internal investigative function under the direct control of the chief. The chief is responsible for control of the law enforcement agency and its employees. Immediate and firsthand knowledge of employee actions is necessary so that the CEO can effectively fulfill this responsibility. Additionally, corrective actions must be taken in a timely manner where a pattern of misconduct indicates weaknesses in policy, training, or supervision. This can be delayed or interrupted if the chief receives allegations of misconduct through indirect channels.

4. Staffing of the Investigations Authority. The choice of staff to perform internal investigations is a critical factor in ensuring the integrity of this function. Officers for these assignments must be selected and assigned with the utmost care. Some law enforcement managers are uncomfortable with the prospect of administering discipline to fellow officers for misconduct. Often, they retain the perception that everything is different on the street and that any subsequent review of the facts to determine potential misconduct cannot accurately reproduce the event or duplicate the officer's feelings while involved in the incident.⁵ Where civilians are involved in the review of investigations of misconduct (as in civilian review boards) the civilian may compensate for lack of street experience by recommending inordinately harsh or light discipline. Therefore, the chief executive officer must establish a unit comprised of personnel who understand the critical necessity for accurate, unbiased, and fair investigations.

Another means of ensuring unbiased and professional internal investigations is to use only trained personnel for this function. Personnel should receive formal training in this area both within the department and through professionally recognized external sources. The law relating to internal investigations is complex and requires investigators to know its requirements. In addition, internal

⁴ Inspector Paul West, "PERF Investigation of Complaints Against the Police Survey: Summary Report of Results", Police Executive Research Forum, Washington, DC

⁵ *Gardner v. Broderick*, 392 U.S. 273 (1968); *Garrity v. New Jersey*, 385 U.S. 493 (1967).

investigators should have a firm grasp of such matters as the Peace Officers' Bill of Rights, use of the polygraph, the range of other operations and practices that influence the investigative process as well as local collective bargaining agreements, civil service requirements, and related matters.

When considering candidates for internal investigation assignments, the department CEO should evaluate a candidate's image within the department, his or her communication skills, personal disciplinary history and reputation, and breadth of law enforcement experience. The successful candidate for this assignment should have considerable patrol and supervisory experience, a positive reputation within the department, and outstanding interpersonal and investigative skills. In order for an officer to perform his or her duties, the officer must be able to conduct focused, unbiased fact-finding investigations irrespective of the officer(s) under investigation. At the same time, these no-nonsense investigations must be conducted in a manner that promotes a sense of fairness in the internal investigative process and confidence both inside and outside the police agency that charges of officer misconduct are being dealt within a professional manner. These are significant demands and underscore the demanding qualifications that must be possessed by the successful candidate.

B. Additional Duties of OPS

Although a supervisor will often initiate complaint inquiries, the primary responsibility for review and investigation of complaints and allegations against employees lies with the office of professional standards. This is the case regardless of whether the complaint or allegation is initiated by a member of the public or someone in the department or another state or local governmental agency. OPS may, for example, assume responsibility for an investigation (a) upon notification from a supervisor of the complaint or allegation, or (b) upon its own initiative once the complaint is registered with the department. However, OPS can take the initiative to conduct internal investigations of its own that are not generated by one of the foregoing sources if given prior approval by the department's CEO or the CEO's designee. This approval process is required to ensure that OPS does not become too independent and engage in "fishing expeditions" without reasonable justification to suspect misconduct.

In addition to its conduct of, or participation in, investigations of alleged employee misconduct, OPS should also do the following:

- Maintain a complaint log.
- Maintain a central file of complaints received. This file should be stored in a secured area with limited access. These records should be maintained in

accordance with any records retention requirements imposed by state law.

- Conduct a regular audit of complaints to ascertain the need for changes in training or policy.
- Compile statistical and related information to identify trends in complaints involving use of excessive force or abuse of authority.
- Track complaints against individual employees to assist in employee risk analysis (e.g., early warning systems).
- Provide the department's CEO with an annual summary of complaints against employees and the disposition of those complaints. This summary may be made available to the public or used in other ways as directed by the CEO.

Analysis of documented public complaints and their disposition may provide the department with critical information pertaining to the need for increased training and policy development or refinement on a department wide basis. This analysis may also act as an early warning system by producing one element of such a system—evidence of a pattern of misconduct by an officer or officers. It can serve as one component of a more comprehensive system for identifying problematic patterns of officer behavior and conduct that warrant attention and possible intervention. Analysis may also illuminate malfunctions in the disciplinary process itself that may be corrected, such as inconsistent discipline.

Another role of OPS is to provide certain types of information that will assist the agency in educating the public about the public complaint process. This is an essential part of efforts to facilitate a climate in which the public feels it can be heard by the police department. For this reason annual summaries of complaints investigated and the collective results of investigations should be made available to the public. These reports should not name the officers involved but should provide a summary of the nature of the complaints and dispositions. Increased education about the public complaint process and the daily operations of its law enforcement agency will help the public better understand law enforcement procedures. Often, public complaints arise due to a lack of understanding of these procedures.

C. Accepting and Filing Public Complaints

Although allegations of misconduct may come from within the department as well as from external sources, the primary focus here is upon the handling of complaints from members of the public.

1. Receipt of Complaint. Police departments should allow public complaints to be received initially by any

member of the department.⁶ However, when someone expresses to a non-supervisory employee a desire to make a complaint, where possible the matter should be referred to a supervisor, as noted below. There should be little or no restriction on the means of receiving a complaint. Complaints should be accepted directly from the complainant in person, by telephone, in writing, or by any other means.⁷ Anonymous complaints should also be accepted and reviewed.

Any supervisor within the department should be authorized to accept and record a public complaint. This is the prevalent practice among law enforcement agencies. Many departments permit any sworn officer or department employee to accept such complaints. This has the benefit of broad employee involvement while maximizing citizen access to the complaint process. This approach eliminates the need for the public to go through lengthy procedures before being able to register a complaint. In this manner, the public may also perceive that all officers and departmental personnel are genuinely open to investigation of misconduct. However, allowing a line officer to record a complaint may promote a lack of organization in the complaint acceptance and review process and permit individual officers to bypass the process by not recording or forwarding troublesome complaints. Therefore, it is preferable in efforts to safeguard the integrity of the process for members of the public to lodge complaints with a supervisory officer and be provided with whatever assistance is reasonable and necessary for them to do so by subordinate officers.

Alternatively, the department's complaint procedures should be explained to the complainant, and the complainant should be advised where and with whom the complaint may be filed. It should also be explained to the complainant that the complaint may be made in person or by any other means.

Supervisors are generally considered to have primary initial responsibility for observing officers' behavior for potential misconduct (see below); thus, responsibility for primary intake of public complaints reinforces their knowledge and ability to carry out this function.

The most appropriate manner of addressing public complaints has become a matter of concern for law enforcement. One particular issue is whether all public complaints received by the department should be subject to a thorough internal investigation. Some police personnel maintain a skeptical attitude towards public complaints. They assert that the complaint process can

be manipulated by the public to exact revenge against officers. The increasingly high monetary judgments against law enforcement agencies in actions filed under Title 42 U.S.C. Sec. 1983 have contributed to the filing of frivolous or harassing public complaints. It is argued that some individuals file misconduct complaints and legal actions in the hopes of forcing the police department or governing jurisdiction into a quick out-of-court monetary settlement. Also, many officers dislike public complaints because they fear that the department may be more willing to believe the citizen than its own employee. The possibility of abuse in the public complaint filing process has prompted some agencies to investigate only the most serious allegations of officer misconduct.

Criticisms of the public complaint review process focusing on the potential for abuse of the system have some merit. Citizen abuse of this mechanism has occurred. However, when weighed against the benefits accrued to the department and public from a strong public review process, these criticisms prove negligible. In short, all citizen allegations of employee misconduct should be recorded and reviewed by the internal investigation authority. This doesn't mean that a full-scale investigation of every public complaint should be launched. But at a minimum each should be reviewed to determine whether it merits further investigation.

The complaint should be accepted and reviewed whether or not the complainant wishes to remain anonymous. There are numerous reasons why a citizen may wish to remain anonymous or distance him or herself from the complaint review process. Elderly citizens may have witnessed misconduct, but illness or infirmity may impede their ability to participate. Fear of reprisal should not, but can, influence a complainant's decision. The citizen may believe that a complaint against an officer will make the citizen a target both of the department and the officer against whom the complaint was lodged. Visions of daily parking tickets, citations for minor or nonexistent infractions, and officer failure to respond to a genuine emergency because the citizen was responsible for punishment of another police officer may scare the citizen into requiring anonymity or not registering a complaint at all.

2. Community Relations. Acceptance and review or investigation of all public complaints is vital in efforts to further the law enforcement goal of building and maintaining a good working relationship with all members of the community. One purpose of the complaint review process is to ensure that evidence of an officer's abuse of his or her official position is revealed and corrected. However, some citizens are unaware of the fact that a departmental mechanism exists to address public complaints of officer misconduct.

⁶ References are made to the receipt of complaints by supervisory personnel, but it is clear that initially a complaint may be received by any member of the department.

⁷ Today this might include the use of such means as facsimile or e-mail.

Until recently, law enforcement agencies have not typically taken active steps to inform the public about how to file complaints or how the police department handles those complaints. Nor have agencies, until relatively recently, provided the public with an annual summary of public complaints investigated and the results of those investigations. Many agencies have begun to provide such information to establish more credibility with, and accountability to, the public. However, there have been times when, as a result of the general lack of knowledge about the complaint review process, some individuals have simply accepted certain minor forms of officer misconduct without question. Thus isolated from a full picture of officer misconduct, departments often have remained relatively unaccountable for the disposition of public complaints. In doing so, they have also missed the opportunity to dispel rumors about officer conduct within their agency—often information that can demonstrate the overall excellence of their department and fine performance of their officers.

Failure to address public complaints or involve the public in this process may have two unfortunate results. First, incomplete knowledge of officer misconduct may permit officers with hostile or overly aggressive characters to remain in their positions of authority and to continue to abuse that authority. Officers with temporary physical or emotional problems that cause misconduct may not be identified by early warning signals that could have surfaced through public complaints. Second, the public and law enforcement can break into two isolated and opposing camps. Incidents of discriminatory behavior by law enforcement personnel may increasingly alienate large segments of the population. The law enforcement agency may gain a reputation for being unaccountable for its actions. Under such a situation, the phrase “to serve the public” becomes largely meaningless as the public is seldom consulted or considered.

Therefore, review of all public complaints received by the law enforcement agency is an important means of serving the public and remaining in touch with the public’s needs. Public trust and confidence are built when the public perceives that officer misconduct is addressed and corrected by the agency. This, in turn, promotes public willingness to help the agency carry out its law enforcement mission. In a climate that fosters trust between the public and law enforcement, citizens are more likely to come forward to testify, to provide evidence of criminal acts, and to provide other needed assistance in reducing crime.

3. Complaint Forms. Public complaint packages for use in the filing of complaints are also a good idea. Such packages should contain complaint forms, information on the department’s complaint procedures, and an explanation

of the action that the complainant can expect in response to a complaint. These packages can be made available to the public directly through police personnel and at designated public locations.

Use of a customized complaint form is a good idea no matter how large or small a police department. The components of a complaint form are attached to this document. Actions forming the basis for a public complaint may also form the basis for litigation against the public entity, employing department, or officer for a violation of individual rights. Full documentation of the complaint helps the department document that the facts as reported to them were received and then acted upon to the fullest extent of the department’s abilities.

Should the complainant revise his or her story, the department will have evidence to rebut these changes. Where the complainant has fraudulently filed a public complaint, the officer or department may decide to take legal action against the complainant. The documented complaint may be used to prove these charges.

Filing of false complaints is not a widespread problem in most localities. However, to guard against this possibility, some officers advise the complainant of the penalties for filing a false complaint. This is not a good general practice as it creates a chilling effect on the entire complaint reporting and filing process and could be perceived by others as an attempt to intimidate potential complainants. Failure to fully document all complaints can additionally create a perception that the department is covering up some officer misconduct. Thus, some written documentation of all public complaints should be instituted by law enforcement agencies.

D. Role of the Supervisor

Although the office of professional standards or similar entity should be given primary responsibility for the investigation of complaints and allegations, the initial responsibility for complaint review should lie with the supervisor receiving the complaint. Following is a suggested approach from the model policy for processing public complaints. This may be used as a prototype for creating a reporting/review system or as a basis for comparing an existing system. This approach consists of the following initial steps.

- *Supervisors Conduct a Preliminary Investigation.* Under this approach, supervisors conduct, or cause to be conducted, a preliminary inquiry to determine if grounds exist for initiating a full administrative investigation.
- *Complainant Receives a Copy of the Complaint.* The complainant receives a copy of the complaint as filed and is asked to verify by signature that the complaint set forth on the complaint form is a complete and accurate account of the events involved. If the complainant elects not to

sign, this is documented by the supervisor and the inquiry proceeds. Copies of the complaint and the supervisor's findings should be forwarded to the office of professional standards and to the agency's chief executive officer (CEO).

1. Document and Forward the Complaint. All public complaints should be documented upon receipt and forwarded to the office of professional standards and the agency CEO. Even where the supervisor has seemingly resolved the matter by way of explanation of departmental policy or other actions, the complaint should still be documented and forwarded to OPS. The documentation should note any actions that were taken by the supervisor to resolve the complaint and the citizen's reaction. A copy of the complaint should go to the sheriff or chief of police if for no other reason than to keep him or her apprised of the nature of complaints on a daily basis.

2. Provide Complainant with a Copy of the Complaint. The complainant should receive a copy of the complaint. In some cases, citizens who lodge complaints receive little feedback about the final disposition, or whether the complaint was ever investigated. This shortcoming helps promote a general perception that such complaints are discouraged by the police agency, or that the agency takes little meaningful action in response to public complaints. While agencies may actually investigate public complaints in good faith, lack of public knowledge concerning how these complaints were addressed or their outcomes reinforces this misperception.

3. Explain Complaint Process to Complainant. It is desirable that the complainant be given either a verbal briefing or written description of the complaint process and be informed that he or she will be contacted in writing about the final disposition.

If the supervisor taking the complaint recognizes that the actions taken by the officer(s) were appropriate and in accordance with existing agency policy and procedures, the supervisor should explain this to the complainant. The supervisor may explain to the complainant the policies and procedures in question in the event that a simple misunderstanding has precipitated the complaint.

For example, many citizens are unfamiliar with the field interview procedure or its purpose and may view this procedure as a form of harassment. A simple explanation of the purpose of this procedure may resolve these misunderstandings and may even leave the individual with positive feelings about law enforcement investigations and protection of the community. However, this in no measure implies that the explanation should be used as a means of talking the citizen out of filing a complaint should he or she desire to do so. In fact, the complaint should always be recorded for screening irrespective of other immediate steps by the supervisor to explain the events or actions of

the officer. This is a safeguard for the supervisor should he or she be accused of dissuading or failing to record a complaint.

4. Distinguish between Service vs. Personnel Complaints. Some police departments classify complaints as either "service" or "personnel" depending on the issue(s) involved. Service complaints or concerns are those associated with the way police services are provided. A common example is a citizen complaint over police response time. Many of these types of public complaints may be handled in the internal investigative process somewhat differently from those involving personnel action or inaction directly with a citizen. But each type of complaint should receive a unique tracking number and be screened for pertinent information and potential violations of departmental policy and procedures. Even complaints involving misunderstandings may contain information of value to a police agency. This includes, for example, a need for the department to clarify procedures to individual officers or groups of officers, or to provide additional training in communication or other interpersonal skills. Examination of all public complaints allows the police agency to determine if the complaints form a pattern that should be addressed by the department in another appropriate manner.

5. Conduct Further Investigation if Necessary. If the supervisor's preliminary investigation discovers issues that may support a charge of misconduct, the supervisor should cause further investigation to be made and should notify OPS of the information uncovered and the actions that are being undertaken. If the preliminary investigation reveals evidence of criminal conduct by a departmental employee, all available information should be forwarded to both OPS and the agency CEO immediately and investigation of the complaint will be turned over to OPS.

It should be clear, however, that OPS may assume concurrent or sole authority over the investigation of any charge of misconduct at any time or at any point in a supervisor's investigation. In doing so, OPS must notify the involved supervisor of this action. Such actions of OPS without notification or justification risk the development of ill will between OPS investigators and the supervisor involved. Therefore, these actions should only be taken by OPS where unusual circumstances or facts of the incident warrant intervention. The overall purpose for allowing OPS to intervene in this manner is to provide a check against any potential charges of supervisory inaction or failure to pursue an investigation in a diligent manner.

6. Give Supervisors a Major Role in Investigation of Complaints. The office of professional standards must have the primary responsibility for investigating all complaints of employee misconduct. However, in the vast majority of cases, officer misconduct does not rise to the level of an

offense for which suspension, dismissal or similarly serious disciplinary action is an appropriate remedy. Positive discipline may include additional training or counseling for an officer as an option to more punitive measures. For example, the officer may simply need a refresher on departmental policies in order to correct relatively minor problems. The supervisor is often in the best position to ascertain where these specific measures would be most effective and to administer them in an appropriate manner given the circumstances.

Thus, in many departments the officer's immediate supervisor is, or should be, given a major role in the investigative and disciplinary process. For example, first-line supervisors may be authorized to give the offending officer a verbal or written reprimand for minor infractions or for more serious infractions that still may not merit action through the department's formal disciplinary process. These reprimands should be used also in an educational manner for the officer, not solely as punishment. Even in more serious instances, the supervisor should also be asked to make recommendations for disposition of the case.

This system permits a more efficient and rational allocation of internal investigative manpower. For example, serious allegations of misconduct, such as brutality, are normally best assigned to OPS for internal investigation, while continued tardiness might better be investigated and handled by the officer's supervisor. In this manner, supervisors have a significant role in the investigatory and disciplinary process. But, where necessary and indicated the supervisor's investigation can be joined or even preempted by the OPS. Agencies that adopt this or a similar approach should provide both supervisors and OPS personnel with general guidelines concerning the types of complaints that should normally be handled by each.

IV. THE INVESTIGATIVE PROCESS

A. General Legal Considerations: Termination or Suspension

There are legal constraints that affect the investigation of officer misconduct and the administration of disciplinary action in all jurisdictions. Certain aspects of law enforcement officer discipline may vary in accordance with state or local law, civil service decisions, or the terms of collective bargaining agreements. In addition, several states provide statutory regulation of the public complaint process. However, in the absence of these specific constraints, certain general principles apply. A broad overview of these general features of officer discipline is important for all police personnel.

The most severe forms of discipline, such as suspension and termination, are those that are most extensively governed by federal, state, and local law. Regardless of the jurisdiction in which the department operates, suspension and termination proceedings must be conducted in accordance with applicable laws if they are to withstand legal scrutiny. The exact procedures for terminating or suspending a law enforcement officer will usually depend upon how the officer's employment is characterized under the applicable law.

Other forms of discipline that could impact an officer's property interests as determined under the 14th Amendment are also subject to legal guidelines as outlined in this section.

1. Property Interest in Continued Employment. The 14th Amendment's Due Process Clause guarantees that no person shall be deprived of life, liberty, or property without due process of law. "Property" has been expanded beyond its common meaning to include the abstract concept of a vested interest or right to continue holding one's job. Where such a property interest in continued employment exists, termination or suspension from such employment must conform to certain federally determined due process procedures.⁸ A property interest in employment may be created not only by court decision but also by federal, state, or local legislation, civil service decision, or personnel handbooks. These determine the extent of the property interest.⁹

In most jurisdictions, law enforcement officers are given property interest in their employment by state statute. The wording of such legislation may differ widely from state to state. Many state statutes provide that officers shall retain their position unless dismissed for just cause. Other statutes contain a listing of behavior that may subject an officer to dismissal or discipline. Statutory wording that limits when an officer may be dismissed or suspended generally implies intent to confer a property right.

Where the law confers a property right in employment, officers cannot be terminated or suspended without just cause and a hearing by the law enforcement agency or other appropriate tribunal must precede such management decisions.

Where an officer is considered to have a property right in employment, suspension or termination must be based upon "just cause," that is, certain legally recognized grounds. There may be other grounds for discipline and other rights accorded to a department's officers in a given jurisdiction. These include the following.

- **Incompetence.** Most states permit an officer to be disciplined up to termination for incompetence. The depart-

⁸ *Goldberg v. Kelly*, 397 U.S. 254 (1970).

⁹ *Arnett v. Kennedy*, 416 U.S. 134 (1974).

ment is not required to retain an officer who is unable to perform his or her duties due to incompetence.¹⁰

- *Neglect, Nonfeasance, or Failure to Perform Official Duties.* Even where the officer is competent, if the officer does not fulfill his or her responsibilities, the officer may be disciplined. Thus, many states include neglect of duty, nonfeasance, and/or failure to perform official duties as grounds for disciplinary action up to and including termination.

- *Conduct Unbecoming an Officer.* A basis for discipline that has long been a subject of controversy is the catchall provision “conduct unbecoming an officer,” often referred to as CUBO. Conduct unbecoming an officer may include a wide range of behavior. For example, acts of moral turpitude by the officer, such as certain sexual activity or lying, may constitute CUBO.¹¹ This charge may also refer to acts that are considered to damage the department’s reputation or the welfare of the department or the general public.

Some courts that are uneasy with the seemingly vague nature of the charge have criticized suspension or dismissal based on CUBO. It is sometimes contended that, because of this vagueness, the officer is not given adequate notice of the types of acts that are prohibited. By contrast, many courts have upheld this charge as a basis for discipline. Under the latter view, the officer is considered able to determine from state case law and department policy the scope of actions constituting conduct unbecoming an officer. In addition, officers are considered to be able to discern from their own moral value systems, which of their acts could potentially bring the department into disrepute. Law enforcement personnel need to receive advice on state employment law to determine whether a trend exists locally that would support CUBO as a basis for discipline.

- *Violation of Departmental Policy, Rules, or Procedures.* “Just cause” for discipline has also been found where the officer has violated departmental policies, rules, or procedures. Officers have a duty to obey all properly promulgated and legal policies and procedures of the department. Charges of misconduct by the officer or malfeasance in office are usually premised on such departmental policy violations.

- *Failure to Obey an Order.* Dismissal may in some cases be founded upon failure to obey the lawful order of a superior officer. What constitutes a lawful order can be dis-

puted in some cases. If the officer can show that there was in fact no direct order, or that the order given was unlawful, there are no grounds for discipline.

- *Violation of Criminal Law.* In most states, an officer may be disciplined administratively in degrees up to and including dismissal for violating criminal law. Where there is a concurrent departmental policy prohibiting criminal conduct, the officer may also be disciplined for violation of departmental policy.¹²

In such cases an administrative finding of misconduct and subsequent discipline will not be dependent on a judicial conviction unless otherwise provided by law. If the commission of a crime is a violation of department policy (as it should be) it may be immaterial that the employee was not criminally charged or convicted. The administrative proceeding conducted by the police department does not have to be guided by the legal standard of proof “beyond a reasonable doubt” as does a criminal court proceeding. A fair preponderance of the evidence indicating guilt is all that is necessary for a department to take disciplinary action up to and including dismissal from service.

Some departments choose not to file formal administrative charges until there has been an ultimate resolution of the criminal charges. However, this approach has some consequences that should be considered in advance. In particular, criminal court proceedings often take extensive time for resolution, particularly where appeals are granted. If the criminal charges against the officer are serious, the police department often does not and generally should not return the officer to street duties and may transfer him or her either to an administrative assignment or to administrative leave status. If the officer is maintained on any type of duty and/or retains law enforcement powers, the department risks civil litigation should the officer subsequently use those police powers inappropriately, whether on or off duty.

If the officer is placed on administrative leave, it should be with pay. This action ensures the employment status of the officer and, as an employee, the officer is required to answer questions regarding the investigation or face dismissal for failure to comply with a legal order. However, considering that an officer can remain, and many have remained, on administrative leave with pay for years pending the outcome of criminal charges, the financial efficacy of this approach often comes into question. Agencies should also consider whether this action has negative effects on other officers in the department who continue to work for their pay. As a result, the time officers may remain on administrative duty with pay should be as short as possible.

¹⁰ This generally does not include physical inability to perform. The Americans with Disabilities Act (ADA) and state or local law may affect the department’s right to take action against an employee where physical inability is involved.

¹¹ Some states limit “moral turpitude” to acts involving stealing or lying. Others view the concept more broadly and include such matters as sexual misconduct, drug use, and so on, in the definition of moral turpitude.

¹² 16A McQuillan, Municipal Corporations, Sections 45.63 - 45.70 (3rd Ed.)

Coordination and cooperation with the prosecutor's office where criminal conduct is under investigation is essential. In some cases, where the evidence is sufficiently strong to determine that an officer has committed a crime, it may be best to dismiss the officer even if in doing so the department has to grant use immunity to the officer barring his statement from being used for criminal prosecution. This action effectively rids the department of an officer who poses additional risks to civilians and other officers if allowed to remain employed. Such decisions depend on a number of factors to include the seriousness of the offense and the strength of the case against the officer, among other matters.

2. Disciplinary Hearings. Law enforcement officers holding a property interest in their position normally must be given an administrative hearing prior to suspension or dismissal.¹³ However, the department may be permitted to suspend the officer with pay pending the administrative hearing where the officer would pose a significant hazard to the public or the department if allowed to remain on active duty while awaiting a hearing.¹⁴ Even without these exigent circumstances, an officer may be relieved from active duty or placed on administrative leave with pay pending the administrative hearing. In some rare instances it may be feasible to relieve an officer from active duty without pay with the proviso that if the administrative hearing results in a favorable ruling for the officer, he or she will be reinstated with appropriate back pay and without a break in benefits. Here again, officers and their agencies should understand that these are primarily defensive actions designed to protect the police agency, governing jurisdiction and citizens. It is not worth risking the safety of civilians or other officers when the ability of an officer to hold office is in serious doubt.

3. Terminable-at-will Employment. A more difficult legal disciplinary problem is presented in those states that do not confer a property interest upon law enforcement officers. While few in number, these states essentially treat public and private-sector employees in a similar manner. Termination of officers is considered to be at the will of the employing agency. Probationary officers are often regarded as "terminable-at-will."

Employment at-will means just that. Discharge can be imposed without good cause. However, no at-will employee can be discharged based upon race, religion, sex, or national origin. Nor should any person be discharged because of his or her sexual orientation.

In general, the federal due process pre-disciplinary requirements discussed in the previous section do not

apply to terminable-at-will employees. As the officer has no legal property interest in his or her position, there is no deprivation of property upon termination that is protected by the 14th Amendment. As a result, a terminable-at-will officer has no right to a pre-disciplinary hearing to determine the validity of the firing decision except in certain limited instances.¹⁵

The rights accorded a law enforcement officer in terminable-at-will states vary significantly from state to state.¹⁶ Adoption of exceptions by statute or case law should be researched within individual state laws.

4. Probationary Officers. It is well settled that probationary employees of public agencies can be dismissed without a hearing and without judicially cognizable good cause. [*Perry v. Sindermann*, 408 U.S. 593 (1972)] However, a general exception to this rule is recognized whenever an officers's liberty interest, as secured by the Due Process Clause of the 14th Amendment is invoked.¹⁷

5. Right to Good Reputation and "Clean Name." Any employee whose discharge impacts his or her liberty interests as provided by the 14th Amendment has a right to a name-clearing hearing. Impairment of a liberty interest occurs when a stigma or other disability results from termination of employment. In other words, the action

¹⁵ *Bishop v. Wood*, 426 U.S. 341 (1976).

¹⁶ For a fuller discussion of the exceptions to the doctrine of employment at will and the available causes of action, see Larson, and Barowsky, *Unjust Dismissal*, Mathew Bender Publication (1987).

¹⁷ [*Lubey v. City and County of San Francisco*, 98 Cal. App. 3d 340, 346 (1979)] *Lubey* defines an officer's liberty interest as "charges of misconduct which 'stigmatize' his reputation, or 'seriously impair' his opportunity to earn a living." Therefore, in matters involving the contemplated discipline of a probationary officer, only where the officer is able to allege an infringement of his or her liberty interest, will it become certain that "due process does mandate that the employee be accorded certain procedural rights before the discipline becomes effective." [*Skelly v. State Personnel Board*, 15 Cal. 3d 194, 215 (1975)] The procedural safeguards in place for public employees who allege valid deprivations of their liberty interest, require that a public employee receive, "prior to imposition of discipline," (1) notice of the action proposed, (2) the grounds for discipline, (3) the charges and materials upon which action is based, and (4) the opportunity to respond in opposition to the proposed action. [*Bollinger v. San Diego Civil Service Commission*, 84 Cal. Rptr. 2d 27, 32 (1999), quoting *Skelly* Id at 215: "To be meaningful, the right to respond must afford the employee an opportunity to present his side of the controversy before a reasonable impartial and an uninvolved reviewer who possesses the authority to recommend a final disposition of the matter."]

In determining whether or not an employee has alleged facts sufficient to constitute a violation of due process, courts look at three distinct factors: (1) the private interest that will be affected by the official action; (2) the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or sub statute procedural safeguards; and finally (3) the state's interest. In applying these factors, courts are generally concerned to see whether the probationary officer is currently, or may be, subjected to any stigmatization or impairment of his right to make a living.

¹³ *Cleveland Board of Education v. Loudermill*, 470 U.S. 532 (1985).

¹⁴ *Cleveland Board of Education v. Loudermill*, 470 U.S. 532, 544-5 (1985).

affects the terminated employee's reputation or ability to secure new employment.¹⁸ Cases involving the right to a name-clearing hearing have involved accusations of involvement in such criminal activity as rape, corruption, and theft as well as such charges as improper association with women, sexual misconduct, insubordination, and dishonesty.

In terminable-at-will employment, the 14th Amendment property provision has been construed to include an abstract right of employees to a good reputation and "clean name." Even where there is no property interest in the employment itself, the officer may have an enforceable interest in his or her good reputation. Indeed, this interest in reputation triggers the 14th Amendment due process requirements regardless of whether the employee is terminable at will or is being terminated for just cause.¹⁹ Where an officer is to be discharged on the basis of a charge that may damage his or her standing in the community or attach a stigma to his or her good name, reputation, honor, and integrity, a name-clearing hearing prior to termination is necessary.²⁰

Essentially, employers are not allowed to ruin an employee's chances of getting another job by firing him or her on the basis of scandalous or grievous charges that may be false, without giving the employee an opportunity to prove that the charges are false. For example, discharge of an employee for a positive drug test would trigger the requirement that the officer be given the opportunity to have a name-clearing hearing.

6. Defamation and Other Interests in Reputation.

Even where termination itself is lawful, departments must be cautious of any statements released to the media or to prospective employers regarding the cause for the dismissal.²¹ Regardless of whether there is a property interest in the employment, and whether correct procedures were followed in the disciplinary process, incorrect or incautious statements about an ex-officer may provide that officer with a right to bring a civil action in state court for defamation or in federal court for violation of the employee's "liberty interest" in his or her reputation.²²

¹⁸ See for example, *Lubey v. City and County of San Francisco*, 98 C.A. 3rd, 340 (1979).

¹⁹ *Board of Regents v. Roth*, 408 U.S. 564 (1972).

²⁰ *Board of Regents v. Roth*, 408 U.S. 564, 573 (1972).

²¹ Today, legislation may protect the department from liability for statements made to prospective employers about the ex-officer's performance or the cause of the ex-officer's dismissal. To ensure the lawfulness of releasing this information, departments should seek a written release signed by the former employee.

²² For a complete discussion of this complex issue, see, for example, *Policy Review*, vol. 8, no. 2, "Avoiding Liability for Employment References," IACP National Law Enforcement Policy Center, International Association of Chiefs of Police, Alexandria, Virginia.

7. "Whistle-Blowing" Statutes. An important protection afforded to all employees is found in the so-called whistle-blowing statutes. These statutes prohibit employers from discharging employees who report or threaten to report an employer's violations or intended violations of the law.

B. Investigative Procedures

Responsibility for conducting internal investigations of police conduct carries with it the important responsibility to conduct such investigations in accordance with the law and professionally accepted practices. An officer who is the subject of an internal investigation retains certain rights, and legally accepted procedures must be followed during the investigation of alleged officer misconduct. Officer rights may vary according to state and local law or the terms of a departmental collective bargaining agreement. In addition, the characterization of the investigation as administrative or criminal will determine the applicable rules.

Several state legislatures have enacted legislation addressing the various rights guaranteed to law enforcement officers during their employment. These legislative acts are generally known as Peace Officers' Bill of Rights and generally incorporate the rights of officers who are under investigation for misconduct. The states that have adopted a Peace Officers' Bill of Rights include Kentucky, West Virginia, Virginia, Rhode Island, Maryland, Illinois, California, and Florida, among others.

Where the allegation of officer misconduct may involve a violation of criminal law, different considerations apply, and more stringent officer rights are generally guaranteed. For example, an officer who is to be questioned in a criminal investigation must be read his or her *Miranda* rights before questioning is begun, and those dictates must be honored during the interview. If in a criminal investigation the officer invokes his or her *Miranda* rights, that officer may not be disciplined for invocation of those rights. By contrast, questioning an officer during a purely administrative investigation into noncriminal violations invokes what are known as "Reverse *Miranda*" rights. The officer is not entitled to remain silent and must truthfully answer questions narrowly, specifically, and directly related to the performance of his or her official duties. Failure to answer these narrowly focused questions provides the agency with grounds for invoking discipline up to and including discharge from service for failure of the officer to respond to a direct order. Prior to questioning, the officer must be advised of the Reverse *Miranda* provisions.

This type of compulsory testimony raises a potential problem for police officers. The officer knows that by answering all questions truthfully he or she may be forced to admit criminal activity and thus face criminal

charges. On the other hand, the officer knows that failure to answer as ordered may result in being discharged from employment. In order to circumvent this problem and ensure that officers are encouraged to answer all questions, the officer may be given “use immunity” in return for a waiver of his or her right against self-incrimination during the administrative investigation. “Use immunity” as previously noted, means that the department will not use any admissions of criminal activity by the officer for criminal prosecution purposes. However, if the officer is prosecuted for a federal criminal civil rights violation, such statements may be used for impeachment purposes. Also, the admissions may be used as the basis for administrative charges for any departmental policies that may have been breached.

The distinction between criminal and administrative investigations is an important one for investigators as will be noted later. But for purposes of the following discussion it should be emphasized that this document is primarily intended to address the conduct of administrative investigations.

1. Notification to Employee. Prior to a hearing on charges, the officer must be informed of the charges against him or her in accordance with the provisions of state law. The officer under investigation should have the opportunity to contact the investigating authority, whether a supervisor, OPS, or similar entity, to ascertain the status of the investigation. Some police departments neglect to inform the involved officer of the outcome of the investigation until the disciplinary hearing is imminent. This is a serious oversight by an investigating authority. It is a practice that should not be followed as it minimizes the officer’s opportunity to prepare his or her response and defense to departmental charges. In addition, where the officer is able to ascertain the progress of the investigation, the pressure and alienation generated by being the subject of an internal investigation may be minimized. The officer is not left in the dark and may feel more in control of the situation. Again, providing this information to the officer is part of dealing fairly with police officers under investigation.

2. Interviewing Employees. Irrespective of any notification of the investigation with which the officer has been provided, the employee to be interviewed should be advised of the nature of the complaint prior to any questioning.

All interviews should be conducted while the employee is on duty, unless the seriousness of the investigation is such that an interview during off-duty time is required. The atmosphere of the interview should not be coercive or demeaning. The officer should be treated in a dignified and respectful manner, and offensive or threatening language should not be used.

While more than one internal investigator may be in the room during an interview, one person shall be designated as the primary investigator who will conduct the questioning. Some departments permit questioning by more than one investigator, but this practice can degenerate into a hostile and coercive situation for the interviewee.

An officer under investigation should be able to bring a personal representative into an internal interview. The personal representative may be an attorney, union representative, supervisor, or other person chosen by the officer. But such representative(s) should not be in any manner connected with the incident under investigation. The role of the interviewee’s representative is primarily that of observer. He or she should be advised not to intervene in the interview unless requested to do so by the interviewers or the employee, or unless the interview leads to issues of criminal activity.

Some law enforcement agencies only permit an officer under investigation to be accompanied by a supervisor or union representative. It is sometimes asserted that attorneys unnecessarily impede the progress of administrative investigations without fulfilling any critical role. However, in the complex world of civil liability, logic dictates that an officer be permitted legal representation during an administrative interview. A supervisor or union representative may be unable to foresee all the ramifications of any given case or be in a position to adequately prepare the officer. A personal legal representative, although relegated to an observer’s role during an administrative interview, can still help the officer prepare a better case, while ensuring that the interview proceeds in an appropriate and legal manner.

Finally, while an administrative interview does not carry the direct threat of punitive action at the conclusion, it does target the livelihood and chosen profession of the officer under investigation. A sense of fairness suggests that an officer is entitled to protect his or her livelihood and unblemished name by having a legal representative present as an observer during an administrative interview.

All interviews should be recorded in their entirety. If breaks are taken, a notation should be made on the recording concerning the time that the break was taken, who requested it, and the time at which the interview resumed.

At the commencement of the interview, the interviewee under investigation should be given the following warning:

- You are advised that this is an internal administrative investigation only.
- You will be asked questions specifically related to the performance of your duties and your fitness for office. You are required to answer all such questions.

- If you refuse to answer these questions, you may be subject to discipline for the refusal. This discipline may include measures up to and including termination of employment.
- You will also be subject to discipline if you knowingly make false statements during the interview.
- Any answers that you give are to be used solely for internal administrative purposes. They may not be used in any subsequent criminal proceedings, if any such proceedings should occur. However, should there be a federal criminal civil rights prosecution, your statement may be admissible for impeachment purposes.

3. Examinations, Tests, Lineups, and Searches.

Where deemed pertinent, the department may require an employee under investigation to undergo any of the following examinations:

- Intoximeter test
- Blood test
- Urine test
- Psychological examination
- Polygraph examination
- Medical examination
- Any other examination not prohibited by law

In addition to the foregoing general authorization for examinations of the officer under investigation, an on-duty supervisor should be permitted to direct an employee to submit immediately to a breath, blood, or urine test when there is reasonable suspicion in the line of duty that alcohol or drug usage is directly related to a public complaint or other misconduct.

Specialized tests such as medical or psychological examinations should only be required as part of an internal investigation where it is probable that the examination will produce relevant evidence. For example, an employee might be ordered to submit to a physical examination where the employee explains that the alleged misconduct occurred due to a temporary physical illness or condition.

State law varies on the permissibility of using the polygraph. The reliability of the polygraph examination has also been increasingly challenged as a means of discerning the truth. Some states have outlawed employer use of the polygraph on employees in both the public and private sector. Law enforcement agencies in those states may not be permitted to use the polygraph as a tool to help prove or disprove employee misconduct.

The trend among the states has been to provide stringent regulations on the use of the polygraph and to require certification of the polygraph examiner where these tests are permitted. Those states with statutes regulating use of the polygraph generally prohibit its use within the private sector but permit the law enforcement profession

to use the polygraph in investigations of employee misconduct and as a recruit-screening device. Some states permit this exception based upon the heightened need for internal security by the law enforcement profession. However, in other states this has led to the argument that a statute requiring only employees of a public law enforcement agency to take a polygraph is unconstitutional. For this reason, individual law enforcement agencies should carefully check their state law on this serious issue.

Where the polygraph examination is permitted as part of an internal investigation into officer misconduct, specific limits should be placed on the scope of the questioning. The employee may only be asked questions that are narrowly related to the performance of his or her official duties. The department may not ask broad questions unrelated to the investigation in hopes of gaining other information. This standard is the same as that applicable to questioning of the officer in a verbal investigative interview.

Whether the employee or employer requests the test, the employee must be advised prior to the polygraph test that failure to answer questions truthfully could result in discipline up to and including discharge. Use immunity for admissions of a criminal nature must be explained and a waiver obtained as in normal face-to-face questioning.

Where the law permits the test, if the citizen making the complaint submits to and passes a polygraph examination, the employee should also be required to submit to a polygraph examination.

An employee can also be required to participate in a lineup, if the lineup is to be used solely for administrative purposes.²³

With regard to searches, property belonging to the department is normally subject to inspection for investigative purposes. This may include vehicles, desks, files, storage lockers, computers, e-mail messages, MDT transmissions, or other items or locations that are the property of the department. However, this right to inspect applies only to items in which the employee does not have a reasonable expectation of privacy. This is sometimes difficult to determine in cases where it has not been defined by departmental policy.

However, authorization to search should be restricted to a search for evidence of work-related misconduct. Authorization should extend only to departmental property, (that is “those areas and items that are related to work and are generally within the employer’s control”).²⁴ The employer may not search for evidence in private areas

²³ This document deals with administrative investigations. The gathering of evidence against an employee for use in connection with criminal charges is governed by federal constitutional law.

²⁴ *O’Connor v. Ortega*, 107 S.Ct. 1492 (1987).

such as in a purse or locked luggage. Even when the item or location is departmental property, a search may not be legal without first obtaining a search warrant. This is the case if the employee has established a reasonable expectation of privacy by law, by departmental regulations or operating procedures, or by custom or practice of the department where formal policy to the contrary has not been established.

C. Disposition Following Investigation

1. Review and Recommendation. After the investigation is deemed complete, the primary investigative authority should review the complaint report and the investigative findings relative to the complaint. That investigative authority should then compile a report of findings and provide a disposition recommendation for each charge.

The model policy provides four possible dispositions for consideration in making these decisions.

- *Sustained:* There is sufficient evidence to prove the allegations.
- *Not sustained:* There is insufficient evidence to either prove or disprove the allegations.
- *Exonerated:* The incident occurred but was lawful and within policy.
- *Unfounded:* The allegation was false or not factual or the accused employee was not involved in the incident.

2. Review and Forwarding of Report. A copy of the investigator's findings and recommendations should be submitted for review to OPS. Thereafter, OPS may make any additional inquiries or conduct any investigation deemed necessary to verify, authenticate, or clarify the findings and recommendations of the investigative report. The report should then be forwarded to the department CEO through the chain of command for command officers' information, review, and comment.

3. Actions of CEO. Upon receipt of the report, the CEO should review the report and supporting documents. Generally, the CEO then chooses either to accept the findings and recommendations of the report or to remand the case for additional investigation. If the complaint is sustained, the CEO should determine whether final charges should be brought. If there is an affirmative finding on this matter, the CEO or his or her designee must direct that a charging document be prepared by the employee's supervisor or commander or by the OPS as appropriate. This document must be signed and thereafter served upon the employee.

The charging document must include the following:

- The nature of the charges.
- A copy of the investigative file.
- Notification that the employee may respond to the

charges and a statement of the time frame for such response. This time frame must be reasonable, that is, long enough to give the employee a reasonable opportunity to prepare his or her response.

4. Response of Employee. The point at which the officer's response to the charges is accepted or heard is commonly referred to as the pre-disciplinary hearing (PDH). An employee who desires an opportunity to be heard regarding the proposed charges may request such a hearing. This request should be made to the CEO or the CEO's designee within the time stated in the charging document. The employee may respond either verbally or in writing to the charges within the time stated in the charging document.

The pre-disciplinary hearing need not approach the formality of a full judicial trial to satisfy the due process requirements of the 14th Amendment. The purpose of the hearing is to determine whether there are reasonable grounds to believe that departmental charges against the employee are true and that suspension, dismissal, or other form of discipline is merited. This may include a reduction in penalty.

Due process requires that the officer be given notice of and an opportunity to be heard on the charges.²⁵ Due process does not require a police department to provide a permanent employee with a full evidentiary hearing prior to taking initial punitive action. But it does require at a minimum such pre-disciplinary safeguards as a notice of the proposed action, the reasons for such actions, a copy of the charges and materials on which the action is based, and the opportunity to respond either verbally or in writing within a reasonable period.

In order for the PDH to be meaningful, it must be held at a reasonable time and place. The officer must be permitted enough time before the hearing to prepare to address the charges against him or her, and the hearing must be held at a time and location that is easily accessible to the officer.²⁶ State law generally establishes the provisions for formal and evidentiary hearings of this type.

In many departments, the CEO will delegate this hearing to a member of his or her command staff or another designee. It is absolutely essential that the individuals so designated be fair and impartial and that the individual possess the authority to recommend a final disposition without fear of any reprisal from the CEO. The CEO may still make his or her own decision concerning appropriate punishment but should provide the reasons for overriding the recommendation decision to the involved officer.

Once the pre-disciplinary hearing is concluded, if the chief executive officer feels that discipline is justified, the

²⁵ *Cleveland Board of Education v. Loudermill*, 470 U.S. 532, 546 (1985).

²⁶ *Goldberg v. Kelly*, 397 U.S. 254 (1970).

officer must have the right to a full evidentiary hearing in order to satisfy the due process clause.²⁷ It is essential that departments observe the procedural requirements imposed upon the disciplinary process and that officers understand their right to these procedural safeguards. Even where just cause for discipline exists, failure to observe the proper procedures may result in judicial invalidation of the departmental action and an award of civil damages to the officer.

5. Disposition. Following the PDH or written response of the employee, the CEO is in a position to determine the appropriate disposition of the charge(s).²⁸ The disposition should normally be returned from the CEO to the commander of the employee's unit although this will depend upon the size and organization of the police department. The commander should then direct the employee's supervisor to take whatever disciplinary action is designated. A written copy of the disposition must be provided to the employee. The supervisor must subsequently verify to the commander, to OPS, and to the department's central personnel authority that the authorized disciplinary action has been taken.

6. Time Limit on Review Process. Whenever possible, the investigation of a complaint should be completed within a reasonable period of time. A period of 45 days from the time of the initial receipt of the complaint to its disposition would be considered reasonable under most circumstances although extenuating circumstances may have bearing on this time limit. For that reason, the time designated by the agency may be altered by a waiver granted by the CEO or the CEO's designee and must be modified in accordance with any requirements established by departmental policy, applicable law, or existing labor agreement. Whatever the time allowed, it may be desirable that regular status reports be submitted regarding the progress of the investigation.

This time limit may be impractical in investigations involving criminal activity where the administrative investigation is suspended to allow the criminal investigation to begin or to proceed. However, administrative investigations should comply with some reasonable established timetable in order to ensure the freshness and continuing availability of all witnesses and relevant evidence. In addition, adherence to a time limit demonstrates, both to employees and the community, the department's serious commitment to investigation of alleged misconduct. A set time limit on internal investigations helps to moderate the atmosphere of suspense and pressure that often exists where the accused

officer must wait an interminable period for the conclusion of the investigation. Finally, a timetable for all internal investigations tends to ensure fairness in the process.

Coincidentally, serious consideration should be given to limiting the time that an officer may remain on administrative leave with pay pending the outcome of a criminal investigation. While the focus of this discussion is not on criminal investigations, it should be noted that if a criminal investigation has led to the filing of a criminal complaint, continuation of an officer on administrative leave without pay serves little or no purpose. At such point, it may be preferable to remove the officer from this status and to file administrative charges against him or her. This is particularly the case when administrative charges alone would normally form the basis for termination of employment.

7. Appeal. In addition to the foregoing opportunities for an officer to defend against charges of misconduct, most employees may appeal proposed charges and any action taken thereon as provided by statute, ordinance, collective bargaining agreement, civil service regulations, or departmental or jurisdictional appeal procedures.

8. Notification to Complainant. Following final disposition of the complaint, a letter should be sent to the complainant from the CEO or the CEO's designee explaining the final disposition.

9. Applicability of these Procedures. The procedures discussed here should be followed in any proceeding involving written admonishments, punitive transfers, punitive reduction in pay, punitive relinquishment of accumulated overtime or vacation, suspension, and discharge whether for cause or not.

In the last decade there has been a marked increase in complaints by unions and members about the way police officers are treated in personnel investigations. First is the complaint about disparity in the penalty imposed upon a police officer as opposed to a command staff officer. Second is the difference in which these classes of officers are treated while the personnel investigation is taking place. Complaints about disparity in treatment, among other matters, have become so common that morale in many departments has been negatively affected. When this occurs, there is routinely a reduction in overall efficiency of officers.

It is recognized that in many cases following the recommendations contained herein will give greater rights to employees under investigation than may exist at the state law level. However, these procedures are fundamentally fair and present no downside to either management or employees.

It is self-evident that no CEO wants to impose discipline upon a sworn officer without just cause. Following the prescribed route as outlined here is a

²⁷ *Goldberg v. Kelly*, 397 U.S. 254 (1970).

²⁸ If necessary, the CEO may remand the case for further investigation before final disposition.

safeguard against real or imagined charges by critics that the CEO has acted in a capricious manner. Even though most internal investigations are for non-firing offenses, employees closely watch the manner in which these investigations are conducted. When it becomes clear that management conducts such investigations in a fair and impartial manner, one can expect to maintain or improve employee morale and productivity as well as decrease administrative hearings and civil suits.

D. Records and Confidentiality

The office of professional standards must be informed of all final disciplinary decisions and should in turn forward a copy of the final disciplinary decision to the department's central personnel authority.

It is essential that OPS case files and other information be physically separated from other personnel records and remain under the control of OPS. These files should be retained for the period determined by the CEO or as otherwise required by law. Information in these files is considered confidential and must be retained under secure conditions. OPS files may not be released to any person or entity without prior approval of the CEO unless law otherwise authorizes release.

Each law enforcement agency should recognize the importance of maintaining these investigative case records. Maintaining step-by-step written documentation of the investigative process, from receipt of the initial complaint to final disposition, protects the integrity of internal investigations. Officers who become the subject of an internal investigation are protected from an investigation tainted by personal influence or other corrupt actions from within the department through secured retention of such documentary evidence. In addition, an administrative finding of innocence from an untainted and fully documented investigation will weigh strongly in the officer's and the department's favor in any subsequent litigation that might be filed.

Due to the confidentiality of internal investigations, complaint records must be maintained in a secured area with access limited to only those personnel with the appropriate credentials who have a need to access this information and who have a right to do so as provided by law. To protect the confidentiality of the complainant, each complaint should be assigned a number, that should be used as a reference during the investigation.

V. PREVENTION OF EMPLOYEE MISCONDUCT

A. Proactive Measures

As with any other aspect of law enforcement, the best way to solve a problem is to prevent the problem

from arising. For this reason, the topic of employee misconduct discussed here has stressed the importance of embracing a broader view of discipline—one that also incorporates proactive, preventive measures for detecting and responding to indications of potential disciplinary problems before they become realities.²⁹

The following additional recommendations for misconduct prevention are provided for consideration by police agencies:

1. Individual Responsibility and Accountability.

Line officers are key stakeholders in efforts to preserve and enhance the reputation of their department and their personal pride as police officers. Police officers can no longer subscribe to the timeworn notion that silence and secrecy will serve their individual or collective interests. Experience has clearly demonstrated that these attitudes only serve to build barriers within police agencies and alienate officers, supervisors, and managers. Line officers are on the front line with the community they serve, and their conduct reflects on the department as a whole. They are no better or worse in the eyes of the public than the officers with whom they serve. Unfortunately, the mistakes and misdeeds of a few often have serious repercussions for all who wear the same uniform.

Therefore, if an agency is to maintain a professional image, officers must ensure that their behavior complies with professional standards of conduct. Every employee of the department has a responsibility to adhere to agency standards of conduct, policies, rules, and procedures. Employees should be made fully aware of the fact that they will be held strictly accountable for such adherence. Officers should also be required to report actions or patterns of behavior of fellow officers that breach agency standards of conduct. This does not mean that every misstep, mistake, or instance of poor judgment needs to be reported to a supervisor. Such zealotry could cause more harm than good. However, it does mean that officers need to draw the line when an act or pattern of behavior by fellow officers threatens the rights of citizens and/or the well-being and reputation of police officers and their police department. Officers need to be made aware of the fact that reporting misconduct is not an act of betrayal to fellow officers, it is an act of self-defense.

Agencies should facilitate this reporting practice by providing officers with anonymous or confidential reporting protocols. They should take those measures possible to protect the identity of any officer who reports serious misconduct or behavior that could jeopardize the lives, safety, and well-being of officers or citizens,

²⁹ For additional guidance on proactive measures to prevent employee misconduct, refer to the *Model Policy on Corruption Prevention* and its accompanying Concepts and Issues Paper published by the IACP National Law Enforcement Policy Center.

or damage the department's reputation. The department should also make it known and clearly demonstrate where necessary that any officer who attempts to interfere with or retaliate against an officer or other employee who makes such reports will be dealt with through administrative regulations or criminal proceedings where indicated.

2. Training, Supervision, and Policy Guidance.

The police department is responsible for providing each employee with sufficient and proper training, supervision, and policy guidance to ensure that all employees of the department are fully aware of standards of conduct, policies, rules, and procedures. Policies, procedures, and rules must be tied closely with training and supervision. These are not distinct functions that operate independently from one another but are part of a continuum of officer education, training, and management. An agency's mission establishes the basis for its policies, procedures, and rules. These in turn must serve to establish the essential groundwork upon which training curricula are developed and administered and field supervision conducted. These functions feed into each other, and upon evaluations of officer and agency effectiveness and efficiency, they complete the ongoing process of refinement and modification.

In this respect, policy and procedure development is not static but a dynamic function subject to continued refinement as the department's environment and circumstances change along with the law enforcement profession. As modifications are made, it should be noted that merely distributing or posting policies, procedures, and rules, is not sufficient. Steps must be taken to ensure that each employee has actual notice of such matters and fully understands what is required. To this end, individual copies of each policy, directive, or similar document should be distributed to every individual, a written receipt of delivery should be obtained, and, where necessary, testing should be instituted to determine whether each employee has read and fully understands these documents.

3. Appropriateness of Assignments. Employees must be assigned only to duties and responsibilities for which they have the necessary knowledge, capabilities, skills, abilities, and training.³⁰ To assign personnel in a haphazard fashion risks performance, morale, motivation, and productivity problems and increases the risk of officer mistakes, miscalculations, and *misconduct*.

4. Responsibility of Supervisors. The primary responsibility for maintaining and reinforcing employee conformance with the department's standards of conduct and operational procedures is lodged with first-line

supervisors. Supervisors are required to familiarize themselves with the personnel in their units. They must closely monitor and evaluate their general conduct and performance. This cannot be done through the review of performance statistics alone. The issue of how officers do their job is as important as the issue of what they accomplish.

Evaluations of officers must be the product of daily observation and close working relationships. Supervisors should remain alert to any indications of behavioral, physical, or other problems that may affect an employee's job performance as well as any behaviors that may suggest conduct that is inconsistent with agency policy, procedures, and rules. Where observed, any information of this type that is deemed relevant should be documented immediately.

When problems are detected, a supervisor may recommend additional training, counseling, or other measures for the employee. The supervisor should document all instances of additional training and counseling undertaken to modify an employee's behavior.

Supervisors play a critical role in observing officer behavior that may signal isolated or aggregate personal or work problems that may lead to misconduct. Supervisors are a police department's most important asset for continually reinforcing the department's evolving policies, procedures, goals, and objectives and ensuring that they are carried out properly.

Moreover, it cannot be assumed by the department that an officer's promotion to supervisory status necessarily imparts supervisory or leadership abilities to the subject officer. These are rarely innate talents, and all supervisory personnel require training in first-line supervision skills if they are to be effective in that role and serve the interests of the department and the community.

³⁰ Law such as the Americans with Disabilities Act or similar state laws may impose limitations upon the department as to what employees may or may not be deemed to have the necessary capability to perform a particular job.

Every effort has been made by the IACP National Law Enforcement Policy Center staff and advisory board to ensure that this document incorporates the most current information and contemporary professional judgment on this issue. However, law enforcement administrators should be cautioned that no “model” policy can meet all the needs of any given law enforcement agency. Each law enforcement agency operates in a unique environment of federal court rulings, state laws, local ordinances, regulations, judicial and administrative decisions and collective bargaining agreements that must be considered. In addition, the formulation of specific agency policies must take into account local political and community perspectives and customs, prerogatives and demands; often divergent law enforcement strategies and philosophies; and the impact of varied agency resource capabilities among other factors.

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Attachment
Sample Citizen Complaint and Inquiry Form

This form should be completed in accordance with Departmental Directive

Nature of Complaint: _____

Complainant's Name: _____

Home Address: _____

Business Address: _____

If applicable, list other complainants and/or witnesses: _____

Citizen Complaint #: _____

Race and Sex: _____

Telephone: _____

Member Involved: (1) _____

Member Involved: (2) _____

Member Involved: (3) _____

Location of Incident: _____

Complaint Received By: _____

Forwarded for Investigation to: _____

Division: _____

Division: _____

Division: _____

Date: _____

Time: _____

Summary of Incident: _____

Disposition of Complaint or Inquiry: _____

Court Issue: _____

Resolved with Citizen and/or No Further Action Deemed Necessary: _____

Investigative Comments: _____

Routing: _____

Responsible Division Commanding Officer: _____

Responsible Assistant Chief of Police: _____

Internal Affairs Section: _____

Signature of Responsible Division Commanding Officer: _____

Signature of Responsible Assistant Chief of Police: _____

Appendix

Flow Chart

Investigation of Employee Misconduct

I. INTRODUCTION

The process and component steps or events involved in investigating officer misconduct can be difficult to understand and to visualize as a process. A flow chart is provided as an appendix to this concepts and issues paper to assist in this understanding. The chart presents the sequence of events and steps involved in the investigation as well as decision points in the investigative process.

It should be noted that while this chart includes nearly all the component parts of an internal investigation, not all police agencies will desire or need to adhere to them in the manner presented here or in the depth which they are discussed in the concepts and issues paper. The law, collective bargaining agreements, civil service regulations and other regulatory factors may preclude the need to include certain steps in this process or may require that additional steps or protocols be added. In addition, the size and complexity of individual agencies may dictate that certain investigative protocols or hearings be handled through less formal and more expeditious means than may otherwise be the case in larger agencies.

All police agencies need to protect the legal rights of officers during internal investigations. For example, officers charged with infractions that could affect their property interests in continued employment must be given the right to a pre-disciplinary hearing in most instances. However, in smaller agencies it may be permissible to hold this hearing in a closed door meeting with the chief of police and other authorized persons rather than in a more formal board hearing.

In effect, while the flow chart includes many component parts and at first glance may appear somewhat daunting, the majority of disciplinary actions within most police agencies can be resolved at the supervisory level as they do not rise to the level of possible suspension or termination of employment.

II. FLOW CHART COMPONENTS

As an overview, it can be seen from the flow chart that an investigation can commence at either of two junctures—through the initiation of a complaint to a police supervisor as depicted on the right side of the chart, or through public complaints lodged directly with the department's Office of Professional Standards (OPS). OPS may also investigate complaints that originate from employees within the agency, from other public agencies or from reasonable suspicion of wrongdoing established by other means or

through other sources.

The model policy provides a two-tiered investigative system that (1) draws supervisory personnel into the investigation of employee complaints, (2) allows minor infractions to be handled by supervisory personnel and their immediate commanding officer without the requirement to involve OPS officers in every complaint and (3) includes checks and balances during the process to ensure that all complaints are dealt with, fully, fairly, and impartially. Some agencies may wish to direct all complaints to OPS rather than adopt the two-pronged approach suggested here. While this would require shifts in the flow of complaints into the agency, most of the other decision points and measures cited in the flow chart would still need to be addressed in some manner.

The rationale for procedures identified in the flow chart are spelled out in the concepts and issues paper and are not reiterated here. The purpose of this discussion is to lead the reader through the sequence of steps and decision points identified in the flow chart and addressed in a more complete manner in the concepts and issues paper.

A. Complaints Lodged with Supervisors

The model policy for complaint acceptance and investigation suggested by the National Law Enforcement Policy Center allows for initiation of an investigation at one of two points—through a supervisory officer, or through the Office of Professional Standards. These two tracks are addressed here individually for sake of convenience. One can readily see the close coordination and direct linkages between supervisory and OPS initiated investigations.

That said, starting on the right side of the flow chart, a complaint that may come to the attention of a line officer must be referred to a supervisory officer for recording in accordance with procedures set forth in the model policy. From that point, the process of a supervisory investigation takes the following course:

- Once the complaint has been documented in a complaint report, a copy is provided to the complainant (unless the complainant is anonymous) and a second copy is forward to OPS.
- The OPS copy serves as a means of informing that office that a complaint has been lodged, allows OPS timely information to provide to the CEO, provides a means for ensuring that a follow-up supervisory investigation is completed in a timely manner, and allows OPS to intervene in an investigation should it be deemed necessary.

- A report of all complaints filed, whether in summary or detailed format, is provided to the CEO or his/her designee on a routine basis as defined by internal protocols.
- If the initial complaint appears to be relatively minor involving administrative or service matters, the supervisor conducts an investigation into the incident.
- If the investigation provides reasonable suspicion to uphold the complaint, the nature of the offense and potential discipline involved must be evaluated before proceeding.
- If the investigation reveals that the alleged violation is of a more serious nature than originally envisioned and/or would involve punishment that would potentially invoke the officer's "property interests" in employment, the complaint and all investigative findings must be referred to OPS for further action.
- If, on the other hand, the supervisory investigation does not unearth matters of a more serious nature and potential disciplinary action—such as verbal reprimand, counseling or retraining—would not invoke the officer's property interests, the supervisor must advise OPS of the findings of the inquiry with a recommendation for discipline.
- OPS then reviews the findings of the investigation, determines whether the investigation is complete and in order, whether recommended disciplinary action appears warranted and appropriate, and passes the recommendation and findings on to the CEO for approval or other action.
- The CEO may approve the findings and recommendations, dismiss the matter or take other action that he/she deems appropriate. If disciplinary action is approved, the approval is returned to the officer's unit commander and implemented by the subject officer's supervisor.
- A copy of the report and disposition is maintained at the local unit level for reference and use in subsequent periodic evaluations.

B. Investigations Conducted by the Office of Professional Standards

OPS can initiate investigations of alleged officer misconduct in several ways: (1) assumption of responsibility (with notice) of a supervisory investigation at any stage of the investigation, (2) supervisory referral of a public complaint due to the perceived significance/seriousness of the allegations, (3) on the basis of complaints received directly by OPS from individuals or groups of individuals in the public sector, or through public or private institutions or entities, or (4) basis on

information and/or evidence developed through internally initiated investigations that have received prior approval of the CEO.

Upon receiving an allegation of misconduct, OPS initiates a case file and reports the allegation to the CEO as previously noted. In instances of more serious complaints, particularly those that potentially involve corruption and other forms of criminal conduct, information on the allegations, evidence and subsequent investigation should normally be presented to the CEO in strict confidence outside normal reporting procedures. Steps and procedures beyond this point involve the following.

- OPS personnel conduct an investigation of the alleged misconduct.
- Should the investigation at any time uncover reasonable grounds to suspect criminal activity, OPS, with the knowledge of the CEO should refer and coordinate their investigation with the office of the prosecutor or district attorney.
- Once the administrative investigation has commenced, OPS should notify the subject officer(s) that OPS is conducting an investigation of the officer's conduct and the circumstances surrounding the specific complaint(s) in question.
- Within time limits designated by the police agency, investigation of the complaint should be concluded or an extension to that timeframe requested in order to conclude the investigation. Thereupon, OPS should complete its report of findings and submit it along with recommended dispositions for each charge to the agency CEO through the subject officer's chain of command.
- The CEO may take at least one of three measures (1) accept the findings and disposition recommendations, (2) reject some or all of the findings and disposition recommendations, or (3) remand some or all of the findings and disposition recommendations to OPS for additional inquiry or clarification.
- For charges that are finally approved by the agency CEO, a document must be prepared itemizing the charges against the officer.
- Upon receipt of the charging document, the officer has a period of time in which he or she can choose to respond to the charges, either verbally or in writing. This is the pre-disciplinary hearing.
- If a hearing is convened or a written statement submitted by the officer, this information will be provided to the CEO for consideration.
- If the officer is entitled to a full evidentiary hearing and chooses to invoke that right, the findings of that hearing will be forwarded to the CEO for consideration.

- Following any such hearings and with all findings in hand, the CEO then determines a disposition for each charge against the officer.
- The disposition is then forwarded to the subject officer's commander who in turn directs that the discipline be implemented.
- A copy of the disposition is provided to the subject officer at that time.
- In some jurisdictions, an officer may have a right to appeal a disciplinary action to a civil service or other board. He or she may also be entitled to a name clearing hearing. Should these options be authorized and available to the officer and he or she elects to be heard in these forums, the results of these hearings shall be returned to the CEO for information purposes or for purposes of making any modifications to the imposed discipline.
- Once disciplinary actions have been imposed and appeals or other hearings concluded, verification of final disciplinary action taken shall be forwarded to the commander of OPS and the agency's personnel authority.
- Finally, the complainant should be provided with a written statement of the outcome of the investigation and any disciplinary action that was taken as a result.

Addendum

Employee Disciplinary Matrix: A Search for Fairness in the Disciplinary Process

There are few issues among law enforcement personnel that can raise more concern, debate, rancor, and sometimes outright dissension than that of employee discipline—both the manner in which agencies investigate specific allegations of employee misconduct, and the way in which disciplinary penalties are determined. Where there are widespread perceptions that the investigation and administration of discipline is handled unfairly, capriciously, inconsistently, or otherwise unprofessionally, ramifications can be widespread and extremely damaging to department morale and operations.¹

Unfortunately, perceived unfairness is an all too common condition in law enforcement agencies. Employee discipline is never an easy matter to deal with in any employment environment, and law enforcement agencies are no exception. In the field of law enforcement there are additional forces that tend to complicate both the procedural and substantive aspects of employee discipline. In particular, because of the unique powers that police hold in a democratic society, there is greater demand for accountability among police departments and individual officers. Actions and behaviors of officers often have life altering consequences for the public and unauthorized behaviors or actions can have dire legal consequences for officers and their agencies. Consequently, ensuring that police officers act in accordance with law, departmental policy, rules, and training is an indispensable element of effective police management.

Traditionally, law enforcement has been long on discipline and short on remediation. In more recent times, police organizations have adopted disciplinary procedures that are designed not simply to impose negative sanctions but to provide employees with the opportunity to correct inappropriate behavior and learn from mistakes. Consistent with this more redemptive approach to personnel management has come the notion of progressive discipline—a key component, as shall be seen, in the construction and use of a disciplinary matrix. Progressive discipline holds that, when punishment is warranted, it is most effective to mete it out in increasing levels of severity based on reoccurrences. Less serious forms of misconduct and those that are first offenses do not always deserve or require severe punitive actions. They can often be dealt with effectively by verbal reprimands or counseling, among other possible alternatives. In other words, the discipline

must fit the misconduct, or be appropriate to the misdeed at hand. Progressive discipline, however, sometimes requires that employees receive different penalties for the same offense behavior because of different disciplinary histories.

In employment generally, and police work in particular, the notion of fairness in administration of discipline plays a key role. If employees believe that they are being dealt with fairly, they are more likely to be accepting of corrective actions and less likely to be alienated. In contrast, when discipline is viewed as unfair or unpredictable, employees often undermine the process and develop negative attitudes towards the organization. Unfair disciplinary processes (and those seen as unfair) support the development of a "code of silence" among employees and undermine the legitimacy of the disciplinary process.

The issue of fairness is comprised of at least two components of equal importance. The first of these is equality, which refers to consistency in the administration of discipline. Employees want to know that their punishment is no harsher than, and at least consistent with, the punishment of other employees who have committed the same type of misconduct. To be consistent, punishment for one person's act of misconduct must be the same or closely similar to the punishment given other persons who have committed the same or similar act. In other words, like penalties for like offenses in like circumstances. Equality also means that favoritism based on an employee's rank or position, race, gender, seniority or other characteristics does not play a part in determining appropriate discipline. Employee actions citing disparate treatment in disciplinary matters are often based on allegations that the police department's punishment was not in line with punishments given to other employees for the same or similar offense.

The second component of "fairness" is equity, meaning that underlying or contextual circumstances surrounding the misconduct or behavior need to be taken into account when deciding punishment. Mitigating circumstances may come into play. For example, in taking a prohibited action, the officer may have misunderstood the task or order that was given and acted inappropriately, the officer may have just learned of a death in the family and was not paying attention when engaged in the task at hand, or may have been confronted with highly unusual circumstances during the incident that warranted departure from established policy. On the other hand, determination of fair discipline must also take into account aggravating circumstances such as an officer's possible negative attitude toward the underlying incident, history of prior misconduct,

¹ *Investigation of Employee Misconduct: Concepts and Issues Paper*, IACP National Law Enforcement Policy Center, International Association of Chiefs of Police, 515 North Washington Street, Alexandria, Virginia.

prior attempts of the department to correct inappropriate behavior, or other factors.

Many if not most organizations generally, and police departments in particular, continue to find it difficult to successfully integrate the foregoing requirements into a cohesive disciplinary system. In larger departments in particular, it is difficult to achieve fairness of punishment when the authority for final disciplinary decisions is spread among a number of district, precinct, or division commanders who may not share the same views concerning appropriate punishment for the same offense. The perceived fairness of disciplinary actions may be further eroded when supervisory or command level personnel are not held to the same standards as their line counterparts. Aggravating or mitigating information important to the fair determination of discipline may not be shared between departmental assignments or units, informal discipline and remedial actions of supervisors may not be fully documented, and problem employees often may be transferred rather than effectively dealt with by their superiors.

Disciplinary Matrix

The problem of developing a fair system of disciplinary sanctions in policing is similar to the problem of ensuring a fair system of criminal sentencing in the courts. At bottom the issue revolves around the existence of discretion in the disciplinary decision. While discretion is necessary for fairness since latitude allows penalties to be fine-tuned to match behaviors and circumstances, it also allows unfairness. The same system that allows a supervisor to grant leniency in cases involving well intentioned but inexperienced officers can also allow supervisors to grant or withhold leniency based on officer sex, race, age, or other characteristics.

There are three basic ways to control discretion. One way to control discretion is to eliminate it. Mandatory sentencing laws or mandatory penalty policies that require persons found in violation to receive a pre-set punishment act to eliminate discretion. The problem here is that while mandatory penalties can work to improve equality, they almost always undercut equity in the disciplinary process. A second way to control discretion is by developing a series of "checks" so that decisions are reviewed. Appellate review of criminal sentences provides a check on judicial decisions; an appeals process in the disciplinary procedures can do the same. Checks on discretion have a number of problems including the fact that they extend the length of the disciplinary process and thus add to officer and supervisory anxiety, undermine any deterrent effects, and add layers of decision making (and cost) to the process. Disciplinary decisions in most agencies are reviewable today (in addition to any departmental appeals there are

often civil service reviews and, in the end, officers can seek court review of disciplinary decisions). Checking discretion may ultimately achieve more fairness, but given the current controversies, existing mechanisms do not seem to prevent disputes. A final way to limit discretion is through developing guidelines for decision makers. Guidelines inform the decision maker about the purpose of the decision, what factors should be considered (and how), and often, what has been the outcome in other similar cases.

In an effort to respond to charges of arbitrary and capricious disciplinary actions, police departments have sought several types of solutions, one of which is the development of a table of disciplinary actions often referred to as a disciplinary matrix. Such matrices attempt to answer the problem of fairness between individual disciplinary actions by the use of predetermined ranges of disciplinary alternatives. These disciplinary alternatives may be correlated to specific acts or various acts may be aggregated into a class of misconduct based on their perceived severity.

A disciplinary matrix provides the decision maker with a guideline for the disciplinary decision.

Disciplinary matrices are similar to matrix sentencing guidelines used in criminal courts around the country. The term "matrix" refers to a table that allows the decision maker to consider at least two things at the same time. Most criminal sentences are based on both the seriousness of the crime and the extent of the offender's prior record. Both more serious crimes and longer or more serious criminal histories lead to more severe penalties. The table plots offense seriousness against prior record and provides a suggested sentence or range of sentence for each combination of seriousness and prior record.

The matrix is like the mileage charts sometimes found on road maps that tell the reader how far it is between destinations. In these charts the same listing of destinations (usually cities) is printed across the top and down the side of the page. To find the distance between cities, the reader locates the first city on the vertical list (down the side) and then reads across the chart until reaching the second city on the horizontal list (across the top). At this point, where the two destinations intersect, the distance between the two places is printed. For discipline, the decision maker finds the seriousness of the behavior on one dimension and then reads across the chart to find a second dimension (such as prior disciplinary record). At the point where these two factors intersect, the matrix provides a range of appropriate sanctions or even a specific suggested sanction.

Progressive discipline is integral to disciplinary matrices or tables. Such tables are generally divided into several columns representing disciplinary history (a first, second, third, or even fourth repeat offense) and several rows representing seriousness of the misbehavior. Penalties

increase as either seriousness or disciplinary history increase. For disciplinary history each repeated offense category carries a harsher form of punishment.

Generally, repeated misconduct does not have to be of the same type or class in order to constitute repeated misconduct. The department establishes a period of time (typically between one and two years) wherein misconduct qualifies as a repeated offense. Generally, disciplinary matrices are used for the imposition of punitive action for acts of misconduct rather than behavioral problems. Behavioral problems are often dealt with through counseling, remedial training, mentoring, increased supervision or related approaches. However, depending on the nature of the misbehavior and the frequency of its recurrence, it may be subject to sanctions within the disciplinary matrix.

The matrix is intended to provide officers with a general idea of the upper and lower limits of punishment for acts of misconduct. The matrix also provides guidance to supervisors and managers. In so doing, proponents hold, it takes some of the guesswork out of discipline, relieving officer apprehensions about potential penalties and reducing stress during the investigatory and deliberative stages of the disciplinary process. It is also purported to reduce individual concerns and potential grievances and appeals concerning disparate treatment. Strict adherence to a disciplinary matrix can limit the discretion of deciding officials and thereby level the playing field among supervisors who may have widely divergent ideas about discipline. Some also argue that a disciplinary matrix can enhance public information and police accountability in cases where a department's disciplinary table of penalties is made public.

While a disciplinary matrix may assist in bringing consistency to disciplinary decisions, some argue that it does not go far enough in many instances in ensuring the inclusion of mitigating or aggravating factors that could enhance or diminish the decision on severity of discipline. Still others argue that it removes important management discretion to impose punishment that is consistent with both mitigating and aggravating factors.

These are both legitimate concerns. A table of penalties, once accepted by management and line officers alike, could conceivably limit disciplinary discretion of supervisors and commanders. The question then becomes, by using a disciplinary matrix, would departments sacrifice a degree of equity for the sake of meeting demands for equality? The answer to this is both yes and no. Theoretically, to be fully consistent in all cases of punishment would exclude, in some cases, equity in discipline because it would have to overlook individual differences and circumstances in reliance on the formula of penalties. Theoretically, the specific act of misconduct

would be the only issue at hand in making a disciplinary decision.

In reality, this is normally not the case for two reasons. First, equity and consistency do not have to be mutually exclusive, nor do they have to unacceptably compromise one another. Mitigating and aggravating factors can, and should, be incorporated into the disciplinary decision-making process when using a matrix. This has been done at the federal level, as we shall see, and to some degree in state and local disciplinary procedures. In fact, it would be problematic if provisions for considering extenuating circumstances were not included in a system that uses a disciplinary matrix given the fact that due process considerations allow employees to reply both orally and in writing to specific charges. Secondly, most tables of discipline do not identify discreet disciplinary penalties but rather a range of possible penalties, thus providing the deciding authority with necessary latitude in entertaining and incorporating extenuating circumstances into the disciplinary decision. An example of one page of a disciplinary matrix is included in the appendix.

The Federal Model

Many elements of the federal government, as well as the Metropolitan Washington Police Department, rely on a disciplinary matrix to guide decision making on appropriate discipline.

The Office of the Secretary of Defense (OSD) for example, provides guidance on the use of the matrix and the incorporation of mitigating and aggravating factors in disciplinary decisions.² An overview of their system may provide a useful example for those departments considering the use of a disciplinary matrix.

In this case, supervisors are provided with the primary responsibility for initiating and recommending employee discipline, albeit with significant oversight by a senior commander and a personnel specialist from the Office of Labor Relations. In referencing the table of penalties, guidance provides that a particular penalty is not mandatory simply because it is listed in the table. In addition, the system provides that appropriate penalties for unlisted offenses may be derived by comparing the nature and seriousness of an offense to those listed in the table. Then, selection of an appropriate penalty should involve the balancing of the relevant factors in the individual case, consideration of the employee's previous disciplinary record, if any, and the recent offense giving rise to the disciplinary action.

² Department of Defense, Washington Headquarters Service, Memorandum for Supervisors and Managers: Disciplinary and Adverse Actions, March 1989.

The instructions further state

In selecting the appropriate penalty from the table, a prior offense of any type for which formal disciplinary action was taken forms the basis for proposing the next higher sanction. For example, a first offense of insubordination for which an official reprimand is in the employee's official personnel folder, followed by a charge of absence without leave (AWOL), triggers the second offense identified in the table, i.e., a proposed five-day suspension if the AWOL charge was for eight hours or less or a proposed five-day suspension if the AWOL charge exceeded eight hours. Aggravating factors on which the supervisor intends to rely for imposition of a more stringent penalty, such as a history of discipline or the seriousness of the offense, should be addressed in the notice of proposed discipline, thereby giving the employee the opportunity to respond.

The federal system emphasizes that a matrix of penalties should not be employed in a mechanical fashion, but with practical realism. This approach was emphasized in the landmark case *Douglas v. Veterans Administration*,³ in which the Federal Merit System Protection Board, a federal adjudicatory agency, outlined 12 factors that must be considered by supervisors when recommending or deciding employee disciplinary action. While not all are pertinent to every case, they provide a broad-brush approach of the types of mitigating (or aggravating) factors that can and should be considered when employing an agency table of penalties. Many, if not most, of these have application in the disciplinary decision-making environment of state and local law enforcement:

- The nature and seriousness of the offense, and its relation to the employee's duties, position, and responsibilities, including whether the offense was intentional or technical or inadvertent, or was committed maliciously or for gain, or was frequently repeated
- The employee's job level and type of employment, including supervisory or fiduciary role, contacts with the public, and prominence of the position
- The employee's disciplinary record
- The employee's work record, including length of service, performance on the job, ability to get along with fellow workers, and dependability
- The effect of the offense upon the employee's ability to perform at a satisfactory level and its effect upon supervisors' confidence in the employee's work ability to perform assigned duties

- Consistency of the penalty with those imposed upon other employees for the same or similar offenses
- Consistency of the penalty with any applicable agency table of penalties
- The notoriety of the offense or its impact upon the reputation of the agency
- The clarity with which the employee was on notice of any rules that were violated in committing the offense, or had been warned about the conduct in question
- The potential for the employee's rehabilitation
- Mitigating circumstances surrounding the offense such as unusual job tensions, personality problems, mental impairment, harassment, or bad faith, malice or provocation on the part of others involved in the matter
- The adequacy and effectiveness of alternative sanctions to deter such conduct in the future by the employee or others

Importance of Documentation

It is essential for supervisors to document misconduct and both formal and informal discipline by using either a disciplinary matrix or other means to determine discipline. Without such documentation, it is not possible to ensure consistency between disciplinary decisions for the same employee or other employees who have been engaged in similar misconduct, nor is it possible to respond effectively to potential disciplinary appeals. Informal discipline such as verbal reprimands and counseling is no exception. These should be recorded in a supervisor's memorandum as a matter of record for performance review purposes and for future reference in cases of repeat misconduct. While informal discipline should not be placed in an employee's permanent personnel file and may not have an immediate impact on an officer's employment status or condition, repeated behavioral problems or an accumulation of minor infractions of policy or procedure should be taken into account when assessing an employee's performance or determining future penalties for misconduct. As such, this information must be available to other supervisors if necessary. Such information is normally retained at the unit level for a limited period of time and is expunged after a set period of time if the officer does not engage in additional misconduct.

When conducting any type of informal discipline or corrective action, supervisors should fully document the details of the circumstances of the incident(s) on which the counseling or reprimand is based. The specifics of the counseling or reprimand should also be documented together with such information as the date it took place,

³ *Douglas v. Veterans Administration*, 5 M.S.P.R. 280, 306 (1981).

persons present such as another supervisor as witness, name of the person conducting the counseling and any statements made by the subject officer that have bearing on the officer's performance or behavior. The officer should be notified that the counseling session or reprimand will be documented but will be used only for purposes of recording the incident unless misconduct or inappropriate behavior is repeated. In some cases, the supervisor and officer may decide to enter into an agreement involving informal remedial training, review of departmental policy and procedures, or related actions to help ensure that similar problems of conduct or misbehavior can be avoided. In such cases, the terms of such an agreement should be clearly defined in the memorandum.

The employee should be given the opportunity to read and discuss the contents of the memorandum once completed, asked to sign and date it to verify that the employee has read it, and given a copy if he or she requests one. Where differences of opinion concerning the contents of the memorandum exist, they should be discussed and documented in an attachment. If the employee refuses to acknowledge the memorandum by signature, this fact should be recorded on the document and witnessed by another supervisor.

The need for documentation is equally if not more important in instances of formal disciplinary actions that have direct impact on the terms and conditions of employment. These procedures and due process safeguards involving such matters as *Garrity* and *Laudermill* are generally well documented in departmental policy and need not be reexamined here.⁴

Comprehensive documentation in the realm of employee discipline may also serve the police department in other ways. When reports of misconduct are lodged in a central repository, they can provide the core data elements for an early warning system, both for individual employees and the organization as a whole. In all organizations, compilation of employee disciplinary offenses and subsequent penalties will prove invaluable for comparative purposes in determining the consistency of disciplinary actions between individuals and, in larger departments, between divisions, assignments, and varied departmental components. In addition, summary and comparative data on the overall nature of employee misconduct in the department can point to potential problems in departmental policy, training, or supervision as well as possible solutions. For example, public complaints that center on unacceptable delivery of services rather than officer conduct (such as response time) may also prove essential

in making alterations in personnel allocation or other organizational change.

When systematically organized in this manner, whether manually or by computer programming, individual officer conduct that may point to more serious problems can be flagged and addressed on a preemptive basis. Repeated complaints regarding firearms discharges, excessive force, damage to motor vehicles, loss of departmental property, and related information can suggest underlying problems with an officer that deserve proactive attention. Finally, this information is vital to monitoring and assessing the operation of the disciplinary matrix. A consistent pattern of disciplinary decisions that fall outside the range suggested in the matrix may be evidence that the matrix should be revised, or that supervisors require additional training in the use of the matrix.

What Is "Reasonable" Discipline?

Possibly most problematic in development of a disciplinary matrix is the selection of appropriate or reasonable penalties for individual acts or classes of misconduct. As noted earlier, a basic criterion for discipline is that the punishment must be in reasonable proportion to the rule or policy violation or other prohibited conduct. Obviously, a penalty that may be reasonable to one person may not be to another. There is no nationally recognized table of disciplines that can be used commonly among disciplinary schedules across states and localities. Many would argue that such a model would be impractical in light of differences in community and individual agency value systems, goals, and priorities. This is not to say that examples from similarly situated police departments cannot be effectively and usefully employed. In fact, if disciplinary actions are challenged as unreasonable, the availability of comparative information from other law enforcement agencies could be useful. But the final decision for an individual department must be made by that police department.

In order for a disciplinary system of this type to function with reasonable effectiveness, there must be some degree of buy in by employees. Where labor unions represent the employment interests of workers, this will unavoidably require union involvement. Even where collective bargaining entities are not at issue, management and line employees will need to reach a degree of agreement on acceptable disciplinary penalties and sanctions. This does not mean that management must seek concurrence on all decisions of disciplinary action but that there needs to be some reasonable accommodation of interests in arriving at a final table of disciplinary penalties.

Such a process of give-and-take can take considerable time and will undoubtedly test the patience of all involved. But if it can be accomplished, the exercise alone can be

⁴ See *Douglas v. Veterans Administration*, 5 M.S.P.R. 280, 306 (1981), Model Policy and Concepts and Issues Paper, IACP National Law Enforcement Policy Center, International Association of Chiefs of Police, Alexandria, Virginia.

valuable. For example, in some cases where departments have engaged in this undertaking, it has been reported that employees take a stricter view toward adherence to certain principles of conduct and advocate harsher penalties than management for certain employee transgressions; thus, such negotiation can assist the department in defining or refining its core values and goals. For example, on close examination, employees may determine that police work requires, among all else, reliance on the integrity and truthfulness of officers. As such, employee conduct that undermines these basic tenets must be dealt with decisively and harshly. By the same token, departmental management may endorse more stringent penalties for failure of officers to adhere to policy in critical enforcement areas. For example, failure of officers to abide strictly to vehicular pursuit policy and procedures may be regarded as deserving strict enforcement and harsh penalties due to the department's involvement in a large number of crashes and injuries in such incidents. In this and related instances, a department can utilize the table of penalties to enforce and underline its commitment to specific priorities or goals.

Development of a table of penalties can be time consuming and laborious; however, the effort can be truncated somewhat by organizing acts of misconduct into conceptually similar classes with assigned sanctions on a collective basis. This approach has merit in that it is difficult to attempt to identify every discreet act of misconduct. And, failure to identify a specific act as impermissible could render any discipline in such a case as unreasonable based on the fact that employees were not informed in advance that it was prohibited. Identification of classes of prohibited actions combined with a defined list of mitigating and extenuating factors similar to those identified in *Douglas* under the federal model may be adequate to provide sufficient particularity to discipline based on the act of misconduct.

There is quite a bit of knowledge and experience with matrix sentencing guidelines that can ease the development of disciplinary matrices. It is not necessary to reinvent the wheel. Based on the experience with sentencing guidelines, there are two basic models for matrix development: descriptive or prescriptive. A descriptive matrix suggests sanctions based on what has typically been done in similar cases in the past. If disciplinary data are available, an analysis is done to identify the factors associated with different sanctions. Almost always this analysis will reveal that the severity of punishments is linked to the seriousness of the misbehavior and the prior history of the employee. Based on this analysis, a matrix can be derived that reflects these factors. In this way, the matrix actually describes current practice. In this case, the application of the matrix does little to change how discipline is decided but does increase consistency. Alternatively, a

prescriptive matrix can be developed by first determining what factors should be important and how they should relate. Then this determination of how discipline should work forms the basis of a matrix that prescribes penalties for future violations. In this case, the matrix discipline system may bear no relation to existing practice. The choice of developmental method depends on several factors including the availability of data, the capacity to conduct the analyses, the levels of satisfaction with current discipline practices, and the like. If the primary complaint about the current disciplinary process is procedural (concerns equality) and not substantive (concerns equity), a descriptive model seems to be indicated.

If a disciplinary matrix is adopted, regardless of the developmental model it is important to institute a system of recording disciplinary actions that includes collecting information about the relevant factors (such as offense seriousness, prior history, and sanction) so that the workings of the matrix system can be documented and evaluated. Periodic reviews should be conducted to look for areas where the system might be improved.

No matter how sanctions are determined in an employee disciplinary system, it is important to realize that the penalties are only part of the process. A matrix system can improve fairness in disciplinary decisions but the integrity of the total disciplinary processes depends on fairness in detecting, reporting, investigating, and documenting infractions. A disciplinary matrix is part of a total employee discipline process.



INVESTIGATION OF EMPLOYEE MISCONDUCT

Model Policy

<i>Effective Date</i> July 2001		<i>Number</i>	
<i>Subject</i> Investigation of Employee Misconduct			
<i>Reference</i>		<i>Special Instructions</i>	
<i>Distribution</i>		<i>Reevaluation Date</i>	<i>No. Pages</i> 5

I. PURPOSE

The purpose of this policy is to inform all employees and the public of procedures for accepting, processing and investigating complaints concerning allegations of employee misconduct. This policy defines provisions applicable only to investigation and disposition of allegations of administrative misconduct.

II. POLICY

Establishment of procedures for investigating complaints and allegations of employee misconduct is crucial to demonstrate and protect this agency's integrity. This agency shall accept and investigate fairly and impartially all complaints of employee conduct to determine the validity of allegations and to impose any disciplinary actions that may be justified in a timely and consistent manner.

III. DEFINITIONS

Office of Professional Standards (OPS):

The designated employee(s) /unit with primary responsibility for conducting investigations of employee misconduct allegations.

Public Complaint Package: Information packages containing complaint forms, information on the complaint procedures used by this agency and actions the public can expect from this agency in response to their complaint.

Summary Action: Disciplinary action taken by an employee's supervisor or commander for lesser violations of agency rules, policies or procedures as defined by this agency. Summary actions are the lowest level of disciplinary action generally handled by first line supervisors.

IV. PROCEDURES

A. Basis for Discipline

1. Employees are subject to discipline for violations of law or agency policy, rules or regulations.
2. All disciplinary actions taken under this policy are subject to, and shall be consistent with, applicable state law, local ordinances, administrative rulings and collective bargaining agreements.
3. Employees who withhold information from, or fail to cooperate with, internal investigations or who fail to report misconduct of employees are subject to disciplinary action in addition to any other disciplinary action that may result from the investigation.

B. Acceptance /Filing of Complaints

1. Public complaint packages shall be made available to the public through police personnel and at designated public facilities.
2. Complaints may be received by supervisory members of this agency either in person, over the telephone or in writing, and may be lodged anonymously or by any other means.
3. Employees shall provide assistance to those who express the desire to lodge complaints against any employee(s) of this agency. This includes but is not limited to:
 - a. calling a supervisor to the scene to document the complaint,
 - b. explaining the agency's complaint procedures,
 - c. providing referrals to individuals and/or locations where such complaints can be

- made in person, or
- d. explaining alternative means for lodging complaints, such as by phone or mail.

C. Summary Action

1. Summary action may be taken by supervisory personnel for lesser violations of rules, policies or procedures, as defined by this agency, upon approval of such action by the unit commander.
2. All summary actions shall be documented and copies of the charges and disposition provided to the subject employee, retained by and forwarded to subsequent units of assignment, forwarded to OPS and incorporated in the employee's central personnel record.

D. Investigation of Public Complaints Supervisor's Role/Responsibility

1. Supervisory personnel shall cause a preliminary inquiry to be conducted to determine if grounds exist to conduct an administrative investigation.
 - a. If the inquiry finds that acceptable agency policy and procedures have been followed, the supervisor will explain to the complainant the investigative steps that were taken by the agency together with the findings and conclusions of the investigation. If appropriate, the supervisor may explain agency procedures, a misunderstanding of which may have precipitated the complaint.
 - b. The complainant shall receive a copy of the complaint as lodged with the agency and shall be asked to verify by signature if it is a complete and accurate account. If the complainant elects not to sign, this fact shall be documented and the investigation will proceed.
 - c. The allegation shall be documented and copies forwarded to OPS and the agency chief executive officer (CEO).
2. If the supervisor's preliminary investigation identifies grounds that may support disciplinary action, the supervisor shall cause further investigation of the complaint and shall notify OPS of this action.
 - a. OPS may assume concurrent or sole authority for the investigation at any point in the investigation upon notification of the subject employee's supervisor and/or commander.
 - b. Should an investigation at any time reveal evidence of criminal conduct, all available information shall be forwarded to

the agency CEO and to OPS as soon as possible.

E. Investigation of Public Complaints OPS Role/Responsibility

1. OPS has primary responsibility for review and investigation of all complaints against employees, whether initiated by the public or by a member of the department.
2. OPS may assume primary responsibility for a supervisor's complaint investigation at any stage in the investigative process upon notification of the supervisor involved. OPS may also initiate an investigation of alleged employee misconduct, with or without a formal complaint, with prior knowledge and approval of the agency CEO or his/her designee.
3. OPS shall have the following additional responsibilities:
 - a. Maintain a complaint log;
 - b. Maintain a central file for complaints in a secured area and in conformity with records retention requirements of state law;
 - c. Conduct a regular audit of complaints to ascertain the need for changes in training or policy;
 - d. Maintain statistical and related information to identify trends involving all complaints of excessive force and abuse of authority;
 - e. Track complaints against individual employees to assist in employee risk analysis; and
 - f. Provide the CEO with an annual summary of complaints against employees and final dispositions that may be made available to the public or otherwise used at the discretion of the CEO.

F. Investigative Interviews and Procedures

1. Prior to being interviewed, the subject employee shall be advised of the nature of the complaint.
2. All interviews will be conducted while the employee is on duty, unless the seriousness of the investigation is such that an immediate interview is required.
3. During interviews conducted by OPS, there will be one employee designated as the primary interviewer.
4. The complete interview shall be recorded. The recording will note the time at which breaks are taken in the interview process, who requested the break and the time at which the interview resumed.
5. The employee shall be provided with the name, rank and command of all persons present

during the questioning. The employee shall also be given the following admonitions:

- a. You are advised that this is an internal administrative investigation only.
 - b. You will be asked and are required to answer all questions specifically related to the performance of your duties and your fitness for office.
 - c. If you refuse to answer these questions, you can be subject to discipline that can be as much as discharge or removal from office. You may also be subject to discipline for knowingly giving false statements.
 - d. I want to reassure you that any answers given are to be used solely for internal administrative purposes and may not be used in any subsequent criminal prosecution should such occur.
6. Counsel at Interview
- a. Employees may have an attorney, union representative, supervisor, or personal representative with them during any internal investigative interview so long as the individual is not involved in any manner with the incident under investigation.
 - b. The employee representative's role is primarily that of observer. He/she should be advised not to intervene in the interview unless requested to do so by the subject employee or unless the interview leads to issues of potential criminal activity.
7. Examinations and Searches
- a. The agency may direct that the employee undergo an intoximeter, blood, urine, psychological, polygraph, medical examination or any other exam not prohibited by law if it is believed that such an examination pertinent to the investigation.
 - b. An on duty supervisor may direct an employee to submit to a breath, blood or urine test when there is reasonable suspicion that alcohol and/or drug usage is suspected as the factor directly related to allegations of misconduct.
 - c. An employee can be required to participate in a lineup if it is used solely for administrative purposes.
 - d. Property belonging to the law enforcement agency is subject to inspection for investigative purposes unless the employee has been granted a reasonable expectation of privacy in vehicles, desks, files, storage lockers, computers or similar items or places.

G. Disposition

1. The primary investigative authority for the investigation (i.e., subject employee's supervisor and commander or OPS) shall review the complaint report and investigative findings once deemed complete. This authority will compile a report of findings and provide a disposition recommendation for each charge as follows:
 - a. Sustained: Evidence sufficient to prove allegations.
 - b. Not sustained: Insufficient evidence to either prove or disprove allegations.
 - c. Exonerated: Incident occurred but was lawful.
 - d. Unfounded: Allegation is false or not factual or the employee was not involved.
2. A copy of the findings and recommendations shall be submitted for review by OPS prior to submission to the agency CEO if OPS is not the primary investigative authority. OPS may make any additional inquiries or investigative measures deemed necessary to verify, authenticate or clarify findings and recommendations of the investigative report and may include such findings and disposition recommendations with the report submitted to the CEO.
3. All disciplinary investigation findings and recommendations shall be forwarded to the agency CEO through the chain of command for information, review and comment.
4. The CEO will review the investigative report and supporting documents and may accept the findings and recommendations or remand the case for additional investigation in all or in part.
5. If the complaint is sustained, and the CEO determines that formal charges will be brought, the CEO, or his/her designee, will direct that a charging document be prepared by the subject employee's commander, supervisor or OPS as appropriate, signed and thereafter served upon the subject employee. The charging document will provide:
 - a. nature of the charges,
 - b. a copy of the investigative file, and
 - c. a reasonable time frame in which the employee can respond to the charges either in written or oral form.
6. Employees who desire an opportunity to be heard on these proposed charges may make a request for a hearing to the agency CEO or his/her designee within the time period permitted for this action.

7. Following a hearing or written response of the subject employee to the charges, the chief executive shall determine an appropriate disposition of the charges or may remand the case for further investigation or related actions.
8. The employee may appeal the proposed charges as provided by law, ordinance, collective bargaining agreement, or departmental or governing jurisdiction procedure.
9. The disposition shall be returned from the CEO to the commander who shall direct the employee's supervisor to take such disciplinary action as required.
10. The supervisor shall verify to the commander, OPS and the agency's central personnel authority when authorized disciplinary action has been taken. A written copy of the disposition will be provided to the employee.
11. Where the findings do not support the charges, the commander shall forward the complaint with supporting documentation to OPS for reporting and accounting purposes. A copy will also be provided to the subject employee.
12. Following final disposition of the complaint, a letter shall be sent to the complainant from the CEO or his/her designee explaining the final disposition.
13. Whenever reasonably possible, the investigation of complaints should be completed within 45 days from receipt of the complaint to its disposition unless a waiver is granted by the CEO or his/her designee or another time frame is required by departmental policy, law or labor agreement.

H. OPS Records and Confidentiality

1. OPS shall be informed of all final disciplinary decisions.
2. OPS shall forward a copy of all final disciplinary decisions to the agency's central personnel authority.
3. OPS case files and information shall be maintained separately from personnel records.
4. OPS information is considered confidential and will be retained under secure conditions within OPS.
 - a. OPS case files and personnel dispositions may not be released to any source without prior approval of the agency CEO unless otherwise provided by law.
 - b. Case investigation files shall be retained for a period of time as defined by state law or the agency CEO.

I. Prevention of Employee Misconduct

1. Every employee of this agency has a personal responsibility for, and will be held strictly accountable for, adherence to the agency standards of conduct, rules, policies and procedures.
2. This agency has the responsibility for, and will provide to each employee, sufficient and proper training, supervision and policy guidance to ensure that all employees are apprised of the demands and requirements of this agency with regard to employee conduct, duties and responsibilities.
3. This agency shall take all reasonable measures to ensure that employees are assigned only to duties and responsibilities in which they have the requisite knowledge, skills, abilities and training.
4. The primary responsibility for maintaining and reinforcing employee conformance with the standards of conduct of this department shall be with employees and first line supervisors.
5. Supervisors shall familiarize themselves with the employees in their unit and closely observe their general conduct and appearance on a daily basis.
6. Supervisors should remain alert to indications of behavioral problems or changes that may affect an employee's normal job performance and document such information where deemed relevant.
7. Where a supervisor perceives that an employee may be having or causing problems, the supervisor should assess the situation and determine the most appropriate action. Supervisors should refer to and use this agency's Employee Mental Health Policy for guidance in cases involving emergency removal of employees from the line of duty and for issues dealing with employee mental health assistance.
8. A supervisor may recommend additional training to refresh and reinforce an employee's skills, abilities or understanding of agency policy, rules and regulations.
9. Counseling may be used by the supervisor to determine the extent of any personal or job problems that may be affecting performance, and to offer assistance and guidance.
10. The supervisor shall document all instances of counseling or additional training used to modify an employee's behavior.

Every effort has been made by the IACP National Law Enforcement Policy Center staff and advisory board to ensure that this document incorporates the most current information and contemporary professional judgment on this issue. However, law enforcement administrators should be cautioned that no “model” policy can meet all the needs of any given law enforcement agency. Each law enforcement agency operates in a unique environment of federal court rulings, state laws, local ordinances, regulations, judicial and administrative decisions and collective bargaining agreements that must be considered. In addition, the formulation of specific agency policies must take into account local political and community perspectives and customs, prerogatives and demands; often divergent law enforcement strategies and philosophies; and the impact of varied agency resource capabilities among other factors.

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Building Trust Between the Police and the Citizens They Serve



An Internal Affairs Promising Practices Guide for Local Law Enforcement



Building Trust Between the Police and the Citizens They Serve:

An Internal Affairs Promising Practices Guide for Local Law Enforcement

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Executive Summary

Building and maintaining community trust is the cornerstone of successful policing and law enforcement. The building and maintenance of trust takes a great deal of continuous effort. Unfortunately, the ethical work of thousands of local law enforcement officers is easily undone by the actions of one unethical officer. Often, the indictment of one seems like an indictment of all. Once misconduct occurs, the Internal Affairs function of the law enforcement agency becomes the primary method of reassuring the community that the police can and will aggressively address and resolve unethical behavior. In short, the integrity of the police will always dictate the level of community trust.

Throughout 2008 and 2009, the International Association of Chiefs of Police (IACP), supported by a grant from the Office of Community Oriented Policing Services (the COPS Office), examined the community trust continuum, with a focus on the pivotal role of Internal Affairs in rebuilding community trust once misconduct occurs. Working with ethics and Internal Affairs experts from across the country, IACP staff studied promising practices in recruitment and hiring, policies and training, rewards and discipline, and, in particular, successful and transparent Internal Affairs investigations.

This guide attempts to place Internal Affairs in its proper context—not as a stand-alone activity, but as one component of a systemic, agency-wide, professional standards effort. After discussion of some of the other components necessary in the community trust continuum—hiring, training, rewarding excellent performance—the guide focuses on building an effective Internal Affairs approach for any size or type of agency. The guidelines for the Internal Affairs function address every aspect, from complaint processing to decision-making, discipline, notification, and community transparency.

Looking at the Internal Affairs process from a citizen's viewpoint, this guide presents information on how local law enforcement agencies can be accountable to their citizens by engaging them in any number of trust-building initiatives, including citizen input for Internal Affairs determinations and discipline. Citizen involvement models range from very informal mechanisms to formalized (sometimes mandated) citizen Internal Affairs review boards. Departments are urged to create connections with their citizens in a proactive fashion to prevent the development of tenuous relationships following high-profile misconduct.

The final section of the guide addresses the critical relationship of the law enforcement leader and the governing body of the jurisdiction in trust-building and effective Internal Affairs practices. The guide suggests that the traditional hands-off approach to police ethics and Internal Affairs by governing body leaders is antithetical to addressing community trust issues successfully. The IACP and the COPS Office recommend that law enforcement leaders engage their governing bodies in the entire trust-building process—seeking their financial and programmatic support in recruitment, training, Internal Affairs, and other trust-building initiatives.

These guidelines for developing a strong Internal Affairs capacity come from experts in the field and represent national promising practices. Most important, law enforcement leaders must view Internal Affairs as part of a continuum of trust-building and not an isolated component of their agency. Once this is accomplished, the potential for community trust-building increases exponentially.

Introduction

Law enforcement executives are constantly striving to preserve a positive, ethical image of their departments to the public they are sworn to serve and protect. A community's perception of its local police department, however, is influenced by many variables.

Every day, tens of thousands of law enforcement personnel throughout the United States perform honorable and conscientious police work, but irreparable damage may be done to the entire profession from even one remote story of police misconduct or corruption. How each community perceives law enforcement depends on each police department. How the department interacts with its citizens, how accessible it is to the community, and how it manages Internal Affairs issues are integral to the profession overall. It is for these reasons that building and maintaining community trust is the hallmark of effective policing.

Law enforcement officers have accepted a position of visible authority within their communities and are held to a tremendously high standard of honesty, integrity, equity, and professionalism. Public trust in law enforcement may be fleeting if police executives do not continually reinforce sound, ethical policies and procedures to agency personnel and to the public. Law enforcement executives, therefore, bear the responsibility for demonstrating proper behavior, informing the community about their department's role in maintaining honor and integrity within the organization, and building and sustaining a trusting working relationship between the public and the police.

Establishing Internal Affairs policies and procedures within an agency is not just important, but essential. If misconduct occurs, the agency should already have measures in place to investigate and address such behavior. Internal Affairs investigations, however, should be but one component of a systemic approach to ethical conduct. If law enforcement executives hire the appropriate staff, deliver ethics training, establish an early intervention system, and properly supervise staff, all of which build trust within their communities, the Internal Affairs process may be necessary only in rare instances.

Building and Sustaining Trust Can Be Difficult

Two patrol officers from a neighboring jurisdiction are alleged to have received free groceries from a local supermarket chain for the past 2 years. The local news stations and the front page of the regional newspaper focused on the story for 3 days. Two weeks later, a lieutenant in a big city police department 2,000 miles away is accused of receiving tens of thousands of dollars in exchange for his assistance in a major drug enterprise. Both the local and national media report the story, adding that police departments across the country are undergoing similar types of corruption. As the police chief that has not had such ethical and behavioral challenges in the past, how should you address these issues of misconduct?

This guide is for law enforcement executives who strive to do the following:

- ▶ Prevent misconduct within their departments
- ▶ Properly address misconduct, should it occur
- ▶ Build and maintain community trust and confidence
- ▶ Create and maintain an ethical work environment
- ▶ Develop and sustain trust between their organizations and the communities that they serve.

While many existing publications address the Internal Affairs process, law enforcement integrity, and police/community relations, a hands-on guide to building community trust and ethical policing has not been available. The Office of Community Oriented Policing Services (the COPS Office), U.S. Department of Justice and the International Association of Chiefs of Police (IACP) partnered to create *Building Trust Between the Police and the Citizens They Serve: An Internal Affairs Promising Practices Guide for Local Law Enforcement*. This guide standardizes the practices and procedures for how law enforcement executives address ethical or misconduct problems within their departments. Several tools and resources, including a glossary of relevant terms, are included to help make the information as accessible as possible. The guide is the result of a thorough and detailed assessment of strategies that will best serve law enforcement in its quest for ethical and honest policing.

Whether you are the chief of an agency of 2, 200, or 2,000, this guide should act as an outline of how to organize and operate the Internal Affairs function in your department and build and maintain community trust.

Community Trust and Police Integrity

Community trust is an established and highly honored relationship between an agency and the citizens it has been entrusted to serve. It is the key to effective policing, and law enforcement executives bear the primary responsibility for their departments' honesty, integrity, legitimacy, and competence (*Police Integrity*, 1997). To build community trust, it is incumbent on the chiefs of police and managing supervisors to foster an environment within their departments in which ethical behavior is expected and each individual is responsible for meeting those expectations (*Police Accountability and Citizen Review*, 2002). Police chiefs who are transparent (i.e., clear, concise, and open about their department's Internal Affairs process) with their constituencies, acknowledge misconduct, appropriately deal with misconduct when it occurs, and include the public in the response to misconduct will not only obtain, but also sustain, the respect and confidence of the citizens in their jurisdictions.

Police departments must adhere to the principles of integrity and professionalism as cornerstones of community trust-building. Because officers occupy a position of trust and confidence in their communities and are afforded awesome authority to carry out their duties, any excessive use of that authority, abuse of power, or failure to fulfill their duties can erode public trust and reduce or destroy their credibility within the communities they serve. Every member of a police department must understand that he or she represents the entire agency, that personal conduct is his or her own responsibility, and that he or she will be held accountable for all conduct, whether positive or negative.

Transparent Internal Affairs processes, although critically important to any agency, are only one building block in maintaining community trust. A department's Internal Affairs practices should always be part of a larger culture of integrity and ethical conduct. If command staff properly supervise officers, the necessity to use the Internal Affairs function should be rare. Culture-changing policies, programs, and training are meaningful and effective not only in preventing misconduct and corruption in the department but also in demonstrating the agency's values and principles. Moreover, the police executive must ensure that the agency's core "values and principles are expressed, communicated, and reinforced throughout all aspects of the department's operations, administration, and service" (*Police Integrity*, 1997, 47). This can be achieved by adopting a clear, precise mission statement that directs the actions of the department. Departmental policies and procedures must support the agency's mission, and must be written, clearly defined, and enforced. These ethical standards and guiding principles should be set forth in a manual for all personnel and should not only define acceptable standards of conduct, but identify conduct that is unacceptable. These values and principles must be understood and embraced by all executives, supervisors, officers, and civilian employees within the department (*Police Integrity*, 1997).

Figure 1: Internal Affairs in the Context of Community Trust-Building



Creating a culture of integrity within a department is crucial to building and sustaining community trust, effective policing, and safe communities. A clearly defined standard that guides all actions of every member of a department lays the groundwork for a trusting relationship with the community. The chief must model the values and behaviors inherent in a culture of integrity, both internally (through hiring, training, and evaluation) and externally (through community outreach and dialog), as demonstrated in Figure 1.

Internal Strategies for Building Community Trust

Community trust must be built on the foundation of a strong police culture that values integrity and holds individuals accountable for their behavior and actions. This culture must be modeled by the administration and reinforced by supervisors to be effective. Several components must work together to establish and reinforce that organizational culture. When all elements are in place for a culture of integrity, a department can be more transparent with its community, and this will help to build a trusting relationship between the two.

Office of Professional Standards

To establish and maintain an ethical, accountable culture within a police department that reflects the core values and guiding principles of the organization, it is critical for the Internal Affairs function to be distinct, yet aligned with, and supported by, the agency's chief executive. In smaller agencies, this may mean that the police chief alone reviews misconduct allegations and complaints. Regardless of staffing resources, the Internal Affairs function should be established in every agency as an Office of Professional Standards (OPS). It can be managed by one person or several, depending on agency personnel resources, but must be distinct because it is an essential unit ensuring behavior accountability to the agency leadership and the community. Midsize and large agencies may be able to establish and maintain an OPS with dedicated and trained staff who are responsible for building and maintaining a culture of integrity at all levels of the organization through coordination of training and mentoring and through managing Internal Affairs matters. To creatively address personnel allocation and budgetary challenges, smaller agencies should explore the possibility of partnering with other agencies to create a regional OPS that reviews and maintains multiagency ethical standards through an Internal Affairs function. This practice could enhance the professional development of involved staff while sustaining a robust and consistent expectation of professional behavior and ethical conduct within all participating agencies.

Recruiting and Hiring

It is imperative to recruit and hire individuals who have a service orientation and the character necessary to uphold high standards of integrity, as well as the ability to withstand the temptation to deviate from these standards (*Police Integrity*, 1997). The selection process first must screen out candidates who are not right for the profession, and then it must screen in those who exhibit the most favorable characteristics for the profession and who fit the needs and culture of the local department (*Police Integrity*, 1997). It is important for agency leadership to determine the core competencies that they want their officers to possess, such as compassion and service orientation.

Identifying people who will likely excel in a law enforcement career can be accomplished through a combination of medical and psychiatric testing, personal interviews, and background investigations (Delattre, 2006). Researchers have identified five personality characteristics that enable a police officer to perform well: extrovert, emotional stability, agreeable, conscientious, and open to experience. Other variables, such as fitting into an agency's organizational culture and situational factors such as willingness to work in a high-crime area, are equally important when selecting and hiring potential officers (Hughes and Andre, 2007). If a candidate possesses all five personality traits but will not be able to handle the stress of the job, he or she is not a good fit for this type of position.

It is important to have a comprehensive recruiting plan in place, not only to enable an agency to recruit from traditional sources, such as the military, but from other sources such as local colleges and universities. The recruiting plan should also include nontraditional methods of reaching recruits through local news and print media; having officers attend and speak at church activities, school career days, and athletic events; and involving officers in youth programs at the local YMCA/YWCA, police athletic leagues, and the Boy/Girl Scouts¹ (Delattre, 2006). An example of a comprehensive recruitment plan, courtesy of the Pennsylvania State Police, is in Appendix A.

One way to recruit competent, ethical, and service-oriented police personnel is through the Discover Policing web site. The Discover Policing web site is the cornerstone of a broad recruitment initiative sponsored by the IACP and the Bureau of Justice Assistance and aimed at enhancing the image of policing. Discover Policing markets the benefits of careers in law enforcement to a broad and diverse audience, from new applicants to those seeking a career change. This resource allows job seekers to look up contact information for nearby agencies and access links to state-specific resources and also provides hiring agencies and prospective applicants with a platform to connect online. Also, hiring agencies can advertise their vacancies at no cost, and candidates are able to post their resumes. For more information, visit www.discoverpolicing.org.

Some new hires will come to an agency from another law enforcement department. While it may seem advantageous to hire an officer with field experience, agencies should obtain a thorough reference from the officer's previous employer. An experienced officer seeking to move to a new department may have left his or her previous agency prior to being disciplined or terminated because of misconduct. Unfortunately, departments will often provide a neutral reference for officers with whom they experienced behavioral problems or would have disciplined or terminated had he or she not agreed to resign. This enables problem officers to move from one agency to another without facing the consequences of their inappropriate or poor behavior. The situation could be avoided if police departments required all new officers to sign an agreement stating that the agency has permission to obtain a copy of the prospective employee's complete employment files from all prior jobs.

Training and Education

The chief of police must establish, model, and support a culture that “promotes openness, ensures internal and external fairness, promotes and rewards ethical behavior, and establishes a foundation that calls for mandating the highest quality service to the public” (*Police Integrity*, 1997, 48). By doing so, the chief will reinforce desirable behavior throughout the department, consistent with core values and guiding principles. This effort by the chief is sustained through initial and ongoing training and education at all levels of the organization. Police leaders across the United States have indicated that, in addition to police skills training, it is important to include moral and ethical decision making throughout an officer's career (*Police Integrity*, 1997).

1. For additional ways to recruit and hire officers, see *Protecting Civil Rights: A Leadership Guide for State, Local, and Tribal Law Enforcement* or visit www.discoverpolicing.org.

Training in ethics, integrity, and discretion should begin in the police academy and continue on a regular basis until the officer retires. Continued ethics training should include “exercises for the formation and maintenance of good habits and character, as well as exercises in value choices, ethical dilemmas, and discretion in police work” (Delattre, 2006, 52). Moreover, ethical considerations should be woven into every aspect of training, policies and procedures, and the department’s mission. From the most junior recruit to the chief of police, all employees should receive such education and strive to uphold these high ethical standards. The IACP’s Code of Ethics can be used in every law enforcement agency to reinforce this standard (*Standards of Conduct*, 1997). Administrative and supervisory training is essential, particularly for new supervisors who are responsible for personnel evaluations.

As an adjunct to academy training, the IACP and other police associations provide in-service officer and supervisory training. Local police departments should commit to ongoing training on ethics, supervision, and other related topics from regional police chiefs organizations, state associations of chiefs of police, the National Internal Affairs Investigators Association, and other related organizations. Admittedly, follow-through on such a commitment is based on the agency’s training budget, so it is incumbent on police leaders to educate city officials regarding the essential nature of ongoing police training. The COPS Office and other Department of Justice agencies provide free training videos, CDs, and other resources that can augment any training effort. Local colleges and universities are excellent resources for police training because many now offer criminal justice programs. Larger police agencies are often willing to provide seats in their training sessions at little or no cost to help augment a smaller agency’s personnel training. All avenues should be considered as chief executives commit to ongoing training for themselves and their officers.

Evaluations and Early Intervention Systems

Consistent, periodic employee reviews and follow-up will address problem behavior and reduce the need for a law enforcement agency to investigate misconduct or corruption through Internal Affairs. Evaluations enable supervisors to meet with an employee, discuss his or her performance, and formally record strengths, weaknesses, and expectations. Evaluations provide supervisors with an opportunity to encourage and praise desired behavior and to notify employees when unacceptable behavior has been reported. Early in the process of recognizing inappropriate attitude or behavior, the supervisor must communicate his or her concern with the officer, offer assistance, and explain that the agency will expect positive change from the officer (Kelly, 2003). The emphasis is to identify a problematic behavior or attitude and help the officer correct it as soon as possible. It also is important to let the officer know that positive contributions to the organization and community are valued and that such behavior can be acknowledged and that negative behavior can be addressed. In the case of

poor performance, the supervisor can develop a Performance Improvement Plan,² identify the specific areas of concern, and use the plan to address and overcome the noted deficiencies (Noble and Alpert, 2009). The plan should be used as positive reinforcement, helping the employee rectify and prevent unacceptable behavior. Supervisors must conduct follow-up between evaluation meetings to ensure that the officer's performance and accountability continue to improve.

Most often used within the context of Internal Affairs, Early Intervention Systems (EIS)³ and Risk Management Systems are effective in identifying, addressing, and preventing problem behavior before it escalates to a matter for Internal Affairs. EIS, which come in many forms, are a series of interrelated personnel management processes that help supervisors identify, assess, and evaluate employees' performance for the purpose of addressing potential concerns in a timely manner. Part of a larger effort to raise the level of accountability in a police department, an EIS is a valuable way to collect and analyze data on an officer's performance, ensuring integrity at all levels of the agency (Hughes and Andre, 2007). An EIS, however, not only reveals unacceptable performance, it should also identify exemplary performance. While an EIS helps an officer in a nonpunitive way (e.g., referral to counseling or training), it also should reward outstanding behavior through awards or promotions.

Most EIS use computer systems or databases to track employee records and are housed as a separate entity from the disciplinary system, usually within Internal Affairs units (Walker, Milligan, et al., 2006). The EIS records are intended to track employee behaviors and interventions by supervisors, should that become necessary. As data-driven mechanisms of accountability, these programs rely on a broad array of performance indicators, including use-of-force incidents, citizen complaints, department and community commendations and awards, court appearances, and arrest reports. Supervisors must be adequately prepared to review the data and, as with traditional performance evaluations, conduct appropriate interventions and follow-up with the employee (Walker, 2003). Through an EIS, many behavior problems could be reduced significantly, resulting in a decrease in the caseload of the Internal Affairs unit.

2. A sample Performance Improvement Plan, as well as a sample policy and procedure for a Performance Improvement Program, is in Appendix B.

3. Many agencies use the term Early Warning System (EWS) interchangeably with EIS. While this is accurate, EIS connotes a positive, nondisciplinary approach to assisting an officer, rather than a negative warning to an officer that his or her behavior is being monitored. EIS treat officers with problems, not problem officers (Walker, Milligan, et al., 2006).

External Strategies for Building Community Trust

Ongoing community partnerships and dialog help department leaders gauge the communities' perception of the police department and help foster trust between the community and the police. When a chief maintains a continuous dialog with the members of his or her community regarding their perception of how the agency is adhering to established standards, both the police and community leaders gain a better understanding of the community perception and can act to have a positive impact on that perception. Many strategies exist for engaging in effective community outreach with the goal of enhanced community trust, for example, circulating community safety surveys that accurately measure community perception and needs. Such an effort requires a commitment by the police leader to engage the community and respond to its needs.

Community Oriented Policing

A valuable and effective way for a department to engage its community is by practicing community oriented policing. Organizational transformation, problem-solving, and community partnerships comprise the concept known as community oriented policing (Fisher-Stewart, 2007). In existence for more than 30 years, community oriented policing is a policing philosophy that promotes and supports organizational strategies to address the causes, and reduce the fear of, crime and social disorder through problem-solving tactics and community/police partnerships. There is no single set of rules or a specific checklist for what constitutes a community oriented policing program; rather, the philosophy requires citizens and police to collaborate to proactively increase public safety within the community (Fisher-Stewart, 2007). Each community policing program is as unique as the community in which it is practiced; however, law enforcement agencies have cited five consistent key elements of an effective community oriented policing program (*Protecting Civil Rights*, 2006):

1. Adopting community service as the overarching philosophy of the organization.
2. Making an institutional commitment to community policing that is internalized throughout the command structure.
3. Emphasizing geographically decentralized models of policing that stress services tailored to the needs of individual communities rather than a one-size-fits-all approach for the entire jurisdiction.
4. Empowering citizens to act in partnership with the police on issues of crime and more broadly defined social problems, for example, quality-of-life issues.
5. Using problem-oriented or problem-solving approaches involving police personnel working with community members.

In addition to the five key elements, it is imperative that the chief of police demonstrates his or her commitment to the philosophy and incorporates it into the department's overall mission and way of doing business. Research shows that community oriented policing has greatly improved the public's perception of police. Community oriented policing strategies can establish frequent contact and build more meaningful relationships with the community by fostering dialog between the police and residents and enhancing community trust. Some examples of successful strategies include the following:

- ▶ Convene monthly meetings with community members
- ▶ Increase bicycle and foot patrols on community streets
- ▶ Engage specific sectors of the community, such as schools, minority communities (particularly those who previously have felt disenfranchised), and faith-based organizations
- ▶ Establish programs that solicit involvement from residents, such as Neighborhood Watch and Night Out Programs.

Citizen Police Academies

Another way for law enforcement to foster community trust is through citizen police academies. Citizen police academies enable residents to learn about their local law enforcement agency's culture and core values and the overall operations of a department. Citizen police academies provide citizens with a first-hand look at the mission, policies, and regulations to which officers must adhere, and allow them to better understand the job of being a police officer, including the stresses of the occupation (see National Citizens Police Academy Association, www.nationalcpaa.org). Graduates of citizen police academies often become advocates and ambassadors of police policy and practices to fellow citizens. This is an effective way to enhance the relationship between the public and law enforcement.

The Media

Proactively engaging the local media can be an effective way to influence community perception of a police department. Whether a department has a specifically designated public information officer, the agency always has a spokesperson who should use his or her media contacts to conduct a broad, proactive outreach strategy, disseminating information about successful programs within the department. Building rapport with the media will also provide the department with more opportunities to highlight positive stories in the future. By publicizing a community oriented policing or citizen police academy program through the news and print media, a police department can further convey its mission and core values to the public (Chermak and Weiss, 2003).

Implementing Community Trust-Building Activities

Internal Strategies

- Institute culture-changing policies, programs, and training to solidify the department's core values and ethical principles. Consider developing an Office of Professional Standards to manage these activities.
- Develop a comprehensive recruiting plan; recruit and hire people with a service orientation.
- Provide continuous training in ethics, integrity, and discretion to every officer from the time he or she enters the police academy through the time of retirement.
- Conduct consistent evaluations and review of all employees, and immediately address negative behavior and reward positive behavior.
- Use some form of Early Intervention System, not only in Internal Affairs, but to prevent behavior that may lead to an Internal Affairs complaint and investigation.

External Strategies

- Institute some form of community oriented policing program to better engage the community.
- Develop a citizen's police academy.
- Use the media to publicize positive programs and stories about the department.
- Hold workshops on subjects of interest to the community.
- Conduct a community survey to gauge and enhance public perception.
- Proactively involve the public.

Seminars, Publications, and Surveys

Many law enforcement agencies across the country have used innovative ways to reach out to their communities. Some agencies have held 1-day workshops and seminars on subjects such as community oriented policing and proper use of force. Some agencies have canvassed neighborhoods, handing out pamphlets and brochures about the department's programs or local crime statistics. Others have posted billboards with hot line and other important numbers at the police department, while others have posted pertinent information on their web sites or in their annual reports (Chermak and Weiss, 2003). Additionally, many agencies conduct community surveys every few years. A community survey can serve two purposes: 1) it can gather information about the public perception of the agency and 2) it promotes the understanding that the police department is interested in the community, seeks out and listens to community opinions and needs, and is responsive to the community. Sample community surveys are in Appendix C.

Citizen Involvement

Often implemented as a result of a local crisis, such as police misconduct, and usually associated exclusively with the Internal Affairs process in the form of a citizen review board, citizen involvement can be used as a tool that fosters continuous dialog between residents and the police department. By formally engaging community leaders in appropriate internal decision-making (e.g., where to implement Neighborhood Watch programs or whether it is necessary to start a Senior Citizen Alert program), residents will feel that they have a stake in programs that the police may implement, that the police are transparent in their motivations, and that they are assisting the police in improving public safety. If citizen involvement is used only in response to misconduct or corruption, citizens are likely to feel isolated and wary of law enforcement. If they feel included through collaboration, though, they will gain a broader appreciation of police work and gain insight into, and consequently trust of, law enforcement (Delattre, 2006).

Trust is built when citizens feel that the police department listens and appropriately responds to their valid concerns and opinions. Confidential information should not be shared with citizens; however, involving them in even the smallest facet of the organization goes a long way toward instilling a sense of community trust.

Internal Affairs as an Effective Tool for Building Trust

Community outreach and collaboration, as detailed in the previous section, are valuable tools in developing community trust. Internal Affairs, however, also plays an important role in the relationship between the public and the police. Internal Affairs is a function within a law enforcement agency that investigates allegations of misconduct, corruption, inappropriate adherence to policies and procedures and to behavior, and matters so assigned by superior officers to ensure the professional integrity of the department and its members. Internal Affairs should be part of the OPS in mid-sized and larger agencies and should have an integral role in smaller agencies.

“The vast majority of law enforcement officers are honest, loyal, and hardworking professionals” (*Investigation of Employee Misconduct*, 2007, 1); nevertheless, a small number of officers become susceptible to misconduct, and when this occurs, community trust in police is eroded. Whether the misconduct is administrative or criminal in nature, the police department must be “able to effectively identify, investigate, discipline, and control their officers to uphold the high standards of integrity central to the policing mission” (Noble and Alpert, 2009, 2). That is when the Internal Affairs process is a necessary tool, not only to address an officer’s misconduct, but to regain and maintain the trust of the public.

Effective Internal Affairs processes ensure that complaints about an officer are heard and dealt with effectively within the department, and that an officer is protected against false or malicious accusations through fair, thorough, accurate, and impartial investigations (Noble and Alpert, 2009). A strong Internal Affairs function should both improve morale within an agency and increase trust within the community.

The chief of police and all supervisory staff must be steadfast in their commitment to the Internal Affairs process. The procedures for accepting and investigating both internal and external complaints against an officer must be fair, consistent, and timely (*Investigation of Employee Misconduct*, 2001). The department should have written policies and procedures in place about the administration and investigation of Internal Affairs issues and the chief of police must ensure that all Internal Affairs rules and procedures are strictly enforced. A standard for Internal Affairs is in Chapter 52 of *Standards for Law Enforcement Agencies: A Management Improvement Model through Accreditation* (2006), a publication of the Commission on Accreditation for Law Enforcement Agencies (CALEA). The guidance from that chapter ranges from to whom the Internal Affairs position or division reports to reporting findings at the conclusion of an investigation. Additional information about Chapter 52 is in Appendix E.

There is no one-size-fits-all approach to Internal Affairs. The key is to ensure accountability in the agency. The methods for achieving this vary by the size of the department, the existing risk management tools in use, the type of misconduct, and the unique characteristics of the community (Noble and Alpert, 2009). Whether a department has a stand-alone Internal Affairs division, a designated supervisory officer, an external oversight agency, or any combination of the three, there are several guiding principles that any department should follow.

The Structure of Internal Affairs

If internal investigations are conducted in house, the physical location of the Internal Affairs function and related documents is of critical importance. It should always be housed in a private, secure area. “The best location for Internal Affairs would be a facility completely separate from the police facility. Complainants, witnesses, and subject officers could appear for interviews and interrogations without their appearances known by the entire department” (Noble and Alpert, 2009, 13). In reality, however, this is feasible only in larger agencies. Many law enforcement executives demonstrate the importance and seriousness of the Internal Affairs function by symbolically placing the unit or person near the executive staff offices (Noble and Alpert, 2009). Similarly, the chief of police (or his or her designee) should directly oversee Internal Affairs matters, further ensuring confidentiality of records and the integrity of the process (*Investigation of Employee Misconduct*, 2007).

Selecting the right person or persons to serve as Internal Affairs staff is crucial. The chief of police must select officers who want to be a part of the Internal Affairs function; an officer should never be forced into this position. The investigator must be well-respected in the department, by union officials (if applicable), and in the community; have good interpersonal skills; have significant patrol and supervisory experience; and be fair, objective, and honest. Whoever is selected to serve in Internal Affairs must possess highly advanced investigation skills similar to those used in conducting criminal investigations. Even the most skilled investigator should receive additional and continuous training, not only on the subject of investigations but also in the areas of state employment law, the applicable collective bargaining agreement, and related topics (*Investigation of Employee Misconduct*, 2007). The chief of police must send a clear message about the importance of Internal Affairs by having those personnel report directly to the chief. Moreover, the top executive should reward fair and thorough internal investigators with promotions, commendations, conference attendance, and public recognition of the good work of the officer(s).

By sheer necessity, the chief of police in a smaller agency may be responsible for conducting all Internal Affairs investigations and determining the appropriate dispositions. The executive must determine whether he or she can continue to administer the agency while fairly and thoroughly investigating individual cases. Chiefs should be cautious of creating the perception of impropriety because he or she will be forced to both investigate the allegation and rule on its outcome.

An alternative way for an agency to handle complaint allegations is for the chief of police to ask the subject officer's immediate supervisor to investigate the issue and recommend an outcome to the executive, who will ultimately make the final determination. Usually, the employee's supervisor will conduct investigations into complaints of rudeness, minor neglect of duty, failure to appear in court, failure to follow proper procedure, and other less-serious accusations (Noble and Alpert, 2009). For this method to be effective, however, extensive training for supervisors is required.

Last, when a complaint allegation involves the chief executive or a member of his or her executive staff or when there are not enough resources to conduct an internal investigation, an agency can use an external investigator or investigative agency to handle the complaint. The external investigator can be another law enforcement agency, like the state police or the prosecutor's office, or a contract investigator. Some smaller agencies have formed regional Internal Affairs consortiums, while others have established state investigatory associations. Both models allow law enforcement organizations to conduct another agency's Internal Affairs investigations, providing more support and structure throughout the process. These models also reassure the community of fairness and impartiality.

If a department chooses to use an outside investigator or agency to conduct the investigation, that person or agency must be independent, unbiased, and knowledgeable in the areas of law enforcement and employment law. Additionally, the department and the external investigator should enter into a memorandum of understanding (MOU) that sets forth the parameters of the investigation (e.g., timeline, to whom the investigator reports, and the limits on his or her authority with respect to agency staff/witnesses). The MOU should make it clear that the investigator maintain the utmost confidentiality in the matter and adhere to all applicable laws and collective bargaining agreements. The law enforcement executive should always retain his or her right to release information to the public and should never assign that authority to anyone else. Finally, the external agency should provide frequent progress reports to the chief of police. These reports should not reveal details of the investigation but rather details about the progress of the investigation; for example, which witness the investigator interviewed or when the investigator reviewed a security tape of the alleged incident (Noble and Alpert, 2009). For more information about what to include in an MOU, review the sample MOU in Appendix D.

Regardless of which investigatory method is used, a high level of quality control is essential to any fair and thorough investigation. Some basic steps to ensure quality control are set forth in the following section.

The Complaint Process

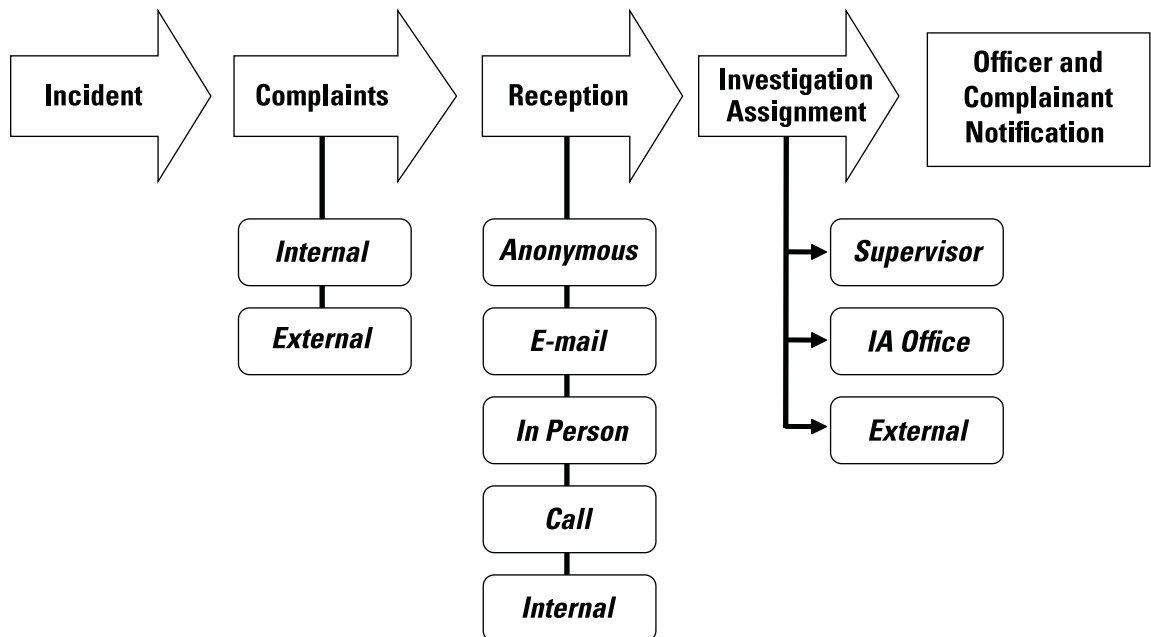
“The complaint process should not discourage, dishearten, or intimidate complainants, or give them cause for fear”

(Internal Affairs Guidelines, 2008, 10)

A complaint is an expression of displeasure with the actions or services of an agency and/or its employer, or an allegation of wrongdoing. Receipt of a complaint will initiate the Internal Affairs process, so a procedure for complaints must be established. A general model of the complaint process is detailed in Figure 2 and in the text that follows.

It is imperative to not only have procedures in place for fairly and impartially accepting, processing, and investigating complaints concerning allegations of employee misconduct but also to inform all police employees and the public of that process *(Investigation of Employee Misconduct, 2007)*. “An accessible, fair, and transparent complaint process is the hallmark of police responsiveness to the community” *(Protecting Civil Rights, 2006, 81)*. It is incumbent on the police department to make its citizens aware that a complaint process exists, how to file a complaint, and how the agency processes and investigates complaints.

Figure 2: The Complaint Process



Principles of an Effective Complaint Process

An effective complaint process contains the following four underlying principles (*Protecting Civil Rights*, 2006):

Comprehensive

A department must investigate all misconduct complaints, regardless of the source (*Investigation of Employee Misconduct*, 2007). CALEA Accreditation Standard No. 52.1.1 states that a written directive must require that “all complaints against the agency or its employees be investigated, including anonymous complaints.” A standard practice of accepting any and all complaints is the best way to ensure that any method of complaint is accepted (Thurnauer, 2002). Complaints should be accepted in all forms, including in person, in writing, by e-mail and web pages, or by telephone. Some agencies have even established 24-hour complaint hot lines (Noble and Alpert, 2009).

Accessible

Employees and civilians alike should be made aware, through proactive outreach programs, of their right to file a complaint. CALEA Accreditation Standard No. 52.1.4 states that information on registering complaints must be made available through the media and community outreach. Many agencies use brochures (in multiple languages, where applicable), their web sites, and community meetings to let the public know that the process exists.

Fair and Thorough

Departments should afford each complaint “a thorough, rigorous, unbiased, and timely investigation” (*Protecting Civil Rights*, 2006, 89). There should be a standard of fundamental fairness in the investigation of a complaint. All subject officers should be treated equally and be afforded comprehensive investigations into any claims of misconduct.

Transparent

There should be a formal process for all employees to be able to accept complaints at any of the police department’s facilities, including substations, satellite offices, and oversight agencies (Noble and Alpert, 2009). All department staff must fully understand the Internal Affairs process and the department should make every effort to inform their constituents about the process. All employees should be trained on what to do when a complainant files a complaint, and the department should have a formal way to keep the complainant apprised of the progress of the complaint (*Protecting Civil Rights*, 2006).

Both the IACP and CALEA have adopted standards for written policies and procedures for internal and citizen complaints.⁴ In addition to the IACP and CALEA standards, many agencies follow similar state certification standards. Whatever standards a department follows, it is important to note that before any type of complaint process is implemented, state and local laws and any collective bargaining agreements that may be in effect must be examined to ensure proper adherence to legal and contract rights.

Once a complaint is received, it should be forwarded to the appropriate personnel (i.e., the Internal Affairs unit, staff member who is in charge of Internal Affairs, or immediate supervisor); recorded, preferably electronically; and kept in a separate, secure storage area, apart from other personnel records (CALEA, 2006, 52.1.2). As the complaint progresses through the process, it should be tracked, electronically when possible (Noble and Alpert, 2009). Unless a criminal investigation would prohibit it, the subject officer should be notified in writing of the complaint immediately.⁵ The notification must contain the rights and responsibilities of the employee with respect to the investigation (CALEA, 2006, 52.2.5). If the state has a codified Officer's Bill of Rights, it should also be included with the notification. Additionally, the notification should include the nature of the allegations; a copy of the complaint, if available; and the name and rank of the officer or the name of the agency that will investigate the claim (Thurnauer, 2002). The entire process should embrace the notion of fundamental fairness. All employees who receive a complaint against them, regardless of rank or tenure, should be treated fairly and equitably.

It is essential to have a written directive that delineates which types of complaints will be investigated by the subject officer's supervisor and which will be referred to Internal Affairs (CALEA, 2006, 52.2.1). Usually, less-serious complaints are handled by the chain of command, while more serious allegations are reviewed by the Internal Affairs function. Even if Internal Affairs is involved, the employee's supervisor should be notified.

Examples of Complaint Categories

- ▶ Verbal abuse
- ▶ Physical abuse
- ▶ On-duty
- ▶ Off-duty
- ▶ Drug and alcohol
- ▶ Informal complaints
- ▶ Traffic citation complaints
- ▶ Shooting incidents
- ▶ Violation of policy/procedure
- ▶ Profiling
- ▶ Violation of policy/procedure.

4. CALEA *Standards for Internal Affairs* is in Appendix E and the IACP *Model Policy* is in Appendix F.

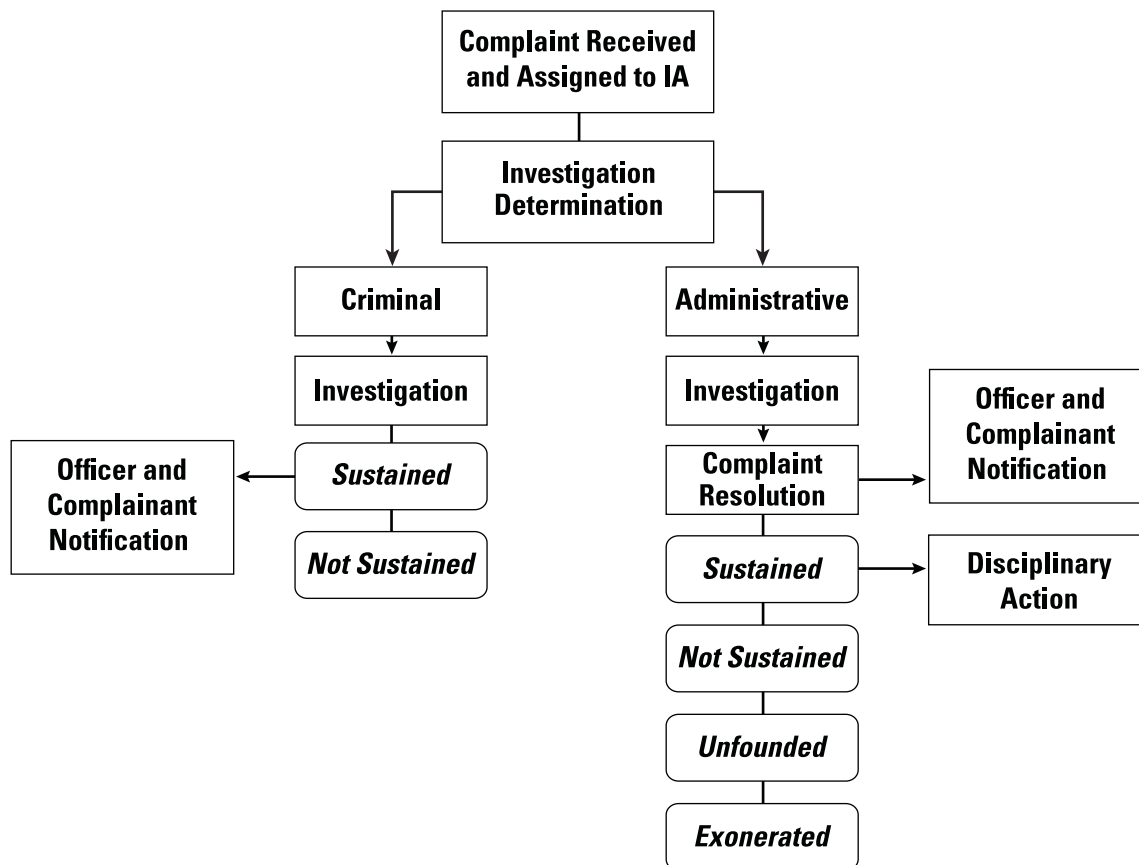
5. A sample officer notification form is in Appendix G.

Once the investigator is assigned, the department sends a letter to the complainant acknowledging receipt of the complaint.⁶ The letter should contain the name and contact information of the investigator and explain that the complainant will receive periodic status reports about the investigation and notice of the ultimate disposition within a reasonable time frame (CALEA,2006, 52.2.4). CALEA Accreditation Standard No. 52.2.3 dictates that a police department must have a written time frame for completing all Internal Affairs investigations. Having a time frame established enhances accountability for a timely response to both the complainant and the officer.

The Investigation

Once a complaint has been received and assigned to an investigator, the investigation process can commence. A general model of the investigation process is detailed in Figure 3 and in the text that follows.

Figure 3: The Investigation Process



6. This does not apply to complaints received anonymously.

Understanding Garrity

Every Internal Affairs investigator should understand the seminal United States Supreme Court case of *Garrity v. New Jersey*, 385 U.S. 493 (1967). *Garrity* held that in administrative proceedings, an employer may compel a statement from a public employee by threatening him or her with dismissal from the job, but the statement may not be used in subsequent criminal prosecutions. It is advisable, therefore, to provide *Garrity* warnings during an investigation. Similar to Miranda warnings, a *Garrity* warning advises the employee that failure to fully disclose information that is related to the office held may result in disciplinary action up to and including dismissal. This enables an administrative investigator to obtain complete information without being obligated to share it with the criminal investigator. To avoid any complications associated with *Garrity*, it is advisable that the criminal investigator's interview of the subject officer be conducted prior to that of the administrative investigator. Some agencies avoid this confusion by waiting until the criminal investigation is completed before beginning the administrative investigation (Noble and Alpert, 2009). Because of the various complications that may arise, it is advisable that every department create a protocol delineating how to proceed with an administrative complaint while waiting for a potential criminal case to arise (*Internal Affairs Guidelines*, 2008). If the chief feels that the complaint allegation or the situation is dire (e.g., lethal use of force), he or she must make a decision immediately about what action is warranted for the subject employee (e.g., unpaid leave or removal of his or her firearm), rather than waiting for the outcome of the criminal investigation. The chief must always remember that protecting the public is his or her first priority and that waiting for prosecutorial determinations is not practical in many situations.

At the beginning of the investigation, the investigator must determine if the complaint is valid and, if so, he or she must classify the complaint as either administrative or criminal in nature. If the investigating officer determines that the complaint is frivolous or specifies an action that is made in accordance with agency policy and procedure, the complaint should be dismissed (Noble and Alpert, 2009). If the investigating officer has reason to believe that the allegations are reasonable, he or she should classify the complaint as administrative or criminal and begin the investigation (Noble and Alpert, 2009).

If the complaint reveals both administrative and criminal behavior, the matter should be separated into two investigations, one administrative and one criminal, with a separate investigator assigned to each investigation (Thurnauer, 2002). Each type of investigation must follow the letter of the law as well as agency policy and procedure, while being careful not to compel statements from the subject officer that may be used against him or her in the criminal investigation (Noble and Alpert, 2009).

After the complaint has been categorized as either criminal or administrative and the subject officer has been notified, the investigator can begin a thorough, unbiased, and timely investigation into the allegation.⁷ Information obtained from all sources, including mobile data terminals, witness interviews, photographs, and canvassing of the scene should be explored. Interviews should not take place in a group setting and should be conducted as close to the incident in question as possible (Noble and Alpert, 2009, 44). Absent restrictions dictated by law or union contract, the department should give the subject officer advance warning before an administration interview, allowing the officer to obtain legal (or union) representation, if he or she wishes (*Internal Affairs Guidelines*, 2008). The investigator must adhere to the investigatory timeline used by the agency. Many agencies have a policy that sets a 30-day time frame of completion from the date the complaint is received.⁸ Particularly for smaller agencies, such a timeline may put undue strain on an internal investigator. All departments, therefore, should have a policy that allows an investigator to request additional time to complete the investigation. If the investigation cannot be completed within 30 days, the chief of police should grant an extension and immediately notify the subject officer and complainant of the extension.

The entire investigation process should be transparent to the subject officer and the complainant, and they should be updated regularly on the progress of the investigation. If a collective bargaining agreement is in place, the investigator must adhere strictly to the procedures set forth in the agreement and a designated union representative should also receive periodic updates. It is crucial to note that an investigator should never be a witness in a case that he or she is investigating.

Sample Report Outline for Internal Investigations

1. Predication.
2. General information, including evidence.
3. Complainant interview.
4. Victim interview, if not the complainant.
5. Witness interview(s).
6. Accused interview.
7. Polygraph results.
8. Findings.
9. Attachments (*Garrity*, copies of policies, diagrams, photos, etc.).

7. Even if the subject officer resigns prior to, or during, an investigation into his or her conduct, the law enforcement executive should consider investigating the complaint as if the officer was still employed, resources permitting (*Internal Affairs Guidelines*, 2008).

8. Information gathered from an IACP member survey indicates that the majority of respondents use a 30-day time frame. Additional information about the survey results and overall methodology is in Appendix I.

Once the investigation is complete, the investigator should analyze the issues, evidence, testimony, and materials; logically organize the presentation of facts; and write a comprehensive report. The report should include a summary of the complaint, identification of the subject officer, identification of all witnesses, the details of the allegations, the policies and procedures that were allegedly violated, and an extensive narrative about the substance and process of the investigation (Noble and Alpert, 2009). It is advisable to use a uniform report outline in a consistent manner, as shown in the sidebar, “Sample Report Outline for Internal Regulations”⁹ on page 25.

The Disposition

The investigator must forward his or her report first to the subject officer’s supervisor and then to the chief of police. Usually, the chief is responsible for determining the final disposition in the matter, but he or she can delegate this authority.¹⁰ Findings should consist of at least the following four determinations:

1. Unfounded: the allegation was false or devoid of fact.
2. Exonerated: the act occurred but was lawful and within policy.
3. Not Sustained: the evidence was insufficient to either prove or disprove the allegation.
4. Sustained: the evidence was sufficient to prove the allegation. (*Investigation of Employee Misconduct*, 2001)

Once a finding is reached, the chief of police must notify the subject officer and the complainant (CALEA, 2006, 52.2.8). The employee should be advised of the findings and, if sustained, notified that he or she will be disciplined. In all cases, the subject officer should receive a complete copy of the investigative report (*Investigation of Employee Misconduct*, 2001). Similarly, the complainant should receive written notification of the final disposition of the complaint and, at a minimum, the name and contact information of the commanding officer who can answer any questions (Noble and Alpert, 2009).

9. Sample report outline for internal investigations is provided by the Douglasville (Georgia) Police Department.

10. The chief of police may delegate authority to four sources that can make a determination of finding on a complaint. They are: the head of, or a group within, the Internal Affairs unit; the subject officer’s supervisor; an internal panel of police managers; or an oversight agency (*Managing Accountability Systems for Police Conduct: Internal Affairs and External Oversight*, 2009).

Addressing Problem Behavior

If a complaint against the subject employee is sustained, the chief of police must approve some form of corrective action to modify the employee's behavior and, in some cases, discipline the officer. Action taken against the employee should be consistent but flexible, recognizing that each situation has unique factors (Noble and Alpert, 2009). Before determining how to address the issue with the employee, both state and local laws and collective bargaining agreements that may be in effect should be examined to ensure compliance with legal and contract rights.

Police agencies around the United States address the issue of discipline from a variety of perspectives. In all cases, the goal of discipline is to assist employees who are not performing at established standards or who may not be in compliance with a rule or policy to make better future judgments. The disciplinary action should also help them internalize the policies and procedures of the agency that support its guiding principals and core values. All disciplinary action should be fair and consistent.

Some agencies use a traditional form of discipline in which discipline is a punitive system that increases in severity depending on the severity of the infraction, up to and including termination. Termination, though, should be used as a last resort when the officer fails to conform to departmental standards after various opportunities to correct the behavior or when the employee has been found to have committed serious misconduct or criminal acts (Noble and Alpert, 2009). CALEA Accreditation Standard No. 52.2.7 requires an agency to have a written directive establishing the circumstances in which an employee may be terminated. The underlying assumption of this progressive discipline model is that the more severe the punishment, the greater the deterrent.

In other models, discipline is addressed through training intended to help the employee develop greater self-control so that future judgment is more compliant with agency values and guiding principles. The emphasis in this disciplinary system (Discipline without Punishment), is on the employees taking personal responsibility for their actions by internalizing the agency policies and aligning themselves with its core values and guiding principles. It is the employees' responsibility to choose to make the right decision, or take the right action that is supported by their peers and agency leadership. It is not solely the responsibility of the leadership, in this case, to determine when an employee's behavior is inappropriate and administer punishment. When an employee willingly follows agency policy, meets or exceeds expectations, and practices good judgment, it is indicative of effective discipline and self-monitoring. There may be many ways to accomplish this goal and maintain positive relationships between the employee and supervisors through coaching, mentoring, and discipline.

Working with Unions

In jurisdictions where there are collective bargaining agreements with police unions, police chiefs must be fair but firm in their position on issues pertaining to ethical accountability, the Internal Affairs process, and discipline. The chief of police can concede in some areas, such as benefits or work schedules, but should not negotiate executive oversight in these important areas. If the premise of any negotiation begins with both sides wanting an ethical, fair, and unbiased work environment, the discussions should not be antagonistic.

Some agencies use a disciplinary matrix that provides the chief with a guide for determining disciplinary action. Other agencies use disciplinary guidelines to obtain flexibility in the disciplinary response for specific actions, while ensuring that the response remains consistent and not arbitrary (*Internal Affairs Guidelines*, 2008). Whatever type of guidance the department uses, the decision-maker should be allowed some disciplinary discretion (*Investigation of Employee Misconduct*, 2007).

Before the employee's supervisor imposes any recommended disciplinary action, the written document that notifies the employee of the investigation's outcome must also notify the officer of his or her right to formally respond to the finding (*Investigation of Employee Misconduct*, 2007). If the officer wants to respond, he or she may do so within the period set forth in the formal notification. Depending on the agency's policies, the officer may 1) request, either in writing or verbally, the chief or his or her designee for a predisciplinary hearing, or 2) merely respond, in writing, to the finding. In either case, the employee should be allowed to address the charges against him or her and request a reduction in any proposed disciplinary action (*Investigation of Employee Misconduct*, 2007). Once the top executive reviews the employee's response and makes a final ruling on the proposed discipline, the chief may order the supervisory officer to implement the disciplinary action. It is important to note that some union contracts require that, before any corrective action or termination takes place, the agency must demonstrate just cause in determining whether management acted reasonably in its decision to implement discipline or termination (Noble and Alpert, 2009).

Implementing an Effective and Transparent Internal Affairs Process

Structure

- Establish and maintain an Internal Affairs function in the agency.
- Draft written policies and procedures with respect to Internal Affairs, ensuring fair, unbiased, and timely investigations of officers.
- Select a private and secure location for the Internal Affairs function.
- Select the appropriate person or persons to perform the Internal Affairs function, and provide training for the position.
- Determine whether Internal Affairs investigations will be handled internally, externally, or a combination thereof.
- If an external investigator is used, enter into an MOU before turning over any authority to investigate.

Complaints

- Establish written policies and procedures for accepting, processing, and investigating complaints, ensuring fairness to the subject officers.
- Ensure that the public is aware of the complaint process.
- Determine whether the complaint is administrative or criminal in nature, and if both, separate it into two investigations.

Investigations

- Adhere to written timelines for investigations, which should be between 30 to 60 days from the date the complaint was filed.
- Upon completion of the investigation, the investigator must write a comprehensive report on the matter.
- Findings should consist of at least four, clear determinations (unfounded, exonerated, not sustained, and sustained).
- Notify the subject officer and complainant, in writing, of the outcome.
- Approve of corrective action, which should always be fair, consistent, and positive, if a complaint has been sustained.
- Allow the subject officer to respond to the finding before imposing corrective action.

Confidentiality

- Ensure that all documents and files are kept separately and securely, apart from other personnel files.
- Review state public records laws.

Internal Affairs Files and Confidentiality

Once an investigation is complete, all documents and files must be forwarded to the department's Internal Affairs unit, if applicable, or to the law enforcement executive who oversees Internal Affairs. These files should be kept completely separate from all other personnel files, and should always remain locked, accessible only to appropriately credentialed personnel and preferably, in the office of the chief of police. All files must remain confidential and should be retained for a period of time required by law or, if no law exists, for an appropriate length of time determined by the chief of police (*Investigation of Employee Misconduct*, 2007).

Finally, executives and investigators should operate on the assumption that all written interviews, statements, and reports may be reviewed by the public. All 50 states and the District of Columbia have public records laws. Some states have enacted multiple statutes, but generally, these laws enable members of the public to obtain documents and other public records from state and local governments. Although these laws are similar to the federal Freedom of Information Act (FOIA), there are important differences between and among the laws. At the very least, every chief must familiarize him or herself with the FOIAs within his or her state, thereby knowing what information is vulnerable to public inspection.

Accountability Through Internal Affairs

The Internal Affairs function must focus on a broad range of concerns, rather than merely adjudicating an individual case. Internal Affairs “must demonstrate a commitment to enhance public trust and assess whether deficiencies in departmental policies, procedures, or training may have contributed to the problematic behavior” (*Protecting Civil Rights*, 2006, 103). There are a variety of ways to establish individual and departmental accountability.

Citizen Review

Citizen involvement is one possible measure that would serve to reassure the community of the accountability of the department. Among the various forms of citizen review of police misconduct, the most common include the following:¹¹

- ▲ **Citizen review board:** a panel of citizens handles every aspect of the citizen complaint continuum.
- ▲ **Police review/citizen oversight:** the police department handles every aspect of the complaint continuum, but citizens review those actions/determinations.
- ▲ **Police review/citizen-police appeal board:** the police department handles every aspect of the complaint continuum, but the complainant may appeal the outcome to a board comprised of officers and citizens.
- ▲ **Independent citizen auditor:** the police department handles every aspect of the complaint continuum, but a citizen serves as an auditor to review the process for effectiveness and accuracy, making recommendations to improve the process as necessary.

While some agencies may view citizen review as a sign of mistrust or interference from the community, generally “citizen review proposals are not negative in character but an outreach from the community to help departments respond objectively to different internal situations” (*Police Accountability*, 2000, 2). If an allegation of police misconduct occurs, the community may begin to lack faith in the Internal Affairs process. The public, then, often becomes uncomfortable with law enforcement policing itself and may want more involvement in the process (*Police Accountability*, 2000).

Citizen involvement may not be feasible, warranted, or necessary in all communities. It is important for a chief of police, in collaboration with government and community representatives, to take a position on citizen review after careful and detailed analysis of existing problems, costs, and political consequences and weigh alternative methods of reviewing internal matters in a way the fosters community trust.

11. See *Police Accountability and Citizen Review* for a detailed account of citizen review.

Complaint Tracking

A highly effective way to establish both individual and departmental accountability is by collecting, maintaining, and analyzing all complaint data (*Internal Affairs Guidelines*, 2008). CALEA Accreditation Standard No. 52.1.5 requires that agencies make annual statistical summaries of all records of law enforcement investigations available to the public and all departmental employees.

By tracking complaints, management can evaluate the types of offenses that are the most frequent subject of complaints and also identify patterns of behavior related to specific officers.¹² This form of tracking will help inform agency-wide training priorities as well

as opportunities for individual intervention.

Employee evaluations should use the EIS to identify an officer who may have repeated complaints lodged against him or her, and after analyzing the data, management can assist the employee in rectifying the problem behavior. This kind of tracking contributes to the internal structure that can increase citizen trust in the agency, and decreases the department's (and the city's) legal liability as a risk-management tool.

Additionally, by tracking the complaint process and analyzing the data from it, agencies can produce comprehensive, clear, and informative summary reports to disseminate to the public.

Implementing Accountability Measures

- Consider implementation of a citizen advisory function.
- Use data management systems to track complaints and assess the overall agency climate.
- Disseminate summary complaint and investigation outcomes to the public on a regular, consistent basis.

In accordance with CALEA Accreditation Standard No. 52.1.5, these summary reports should be widely disseminated, “sending a message of transparency and accountability to the public” (*Protecting Civil Rights*, 2006, 104). Many agencies make this information available in their annual reports, in brochures, on their agency's web sites, and through public service announcements. The information from these reports should be used in conjunction with other indicators of citizen satisfaction to ensure the continued integrity of the police department. Routine assessments of the agency are a way to proactively ensure that the high standards of the organization are being implemented and that those standards reflect the needs and desires of the community.

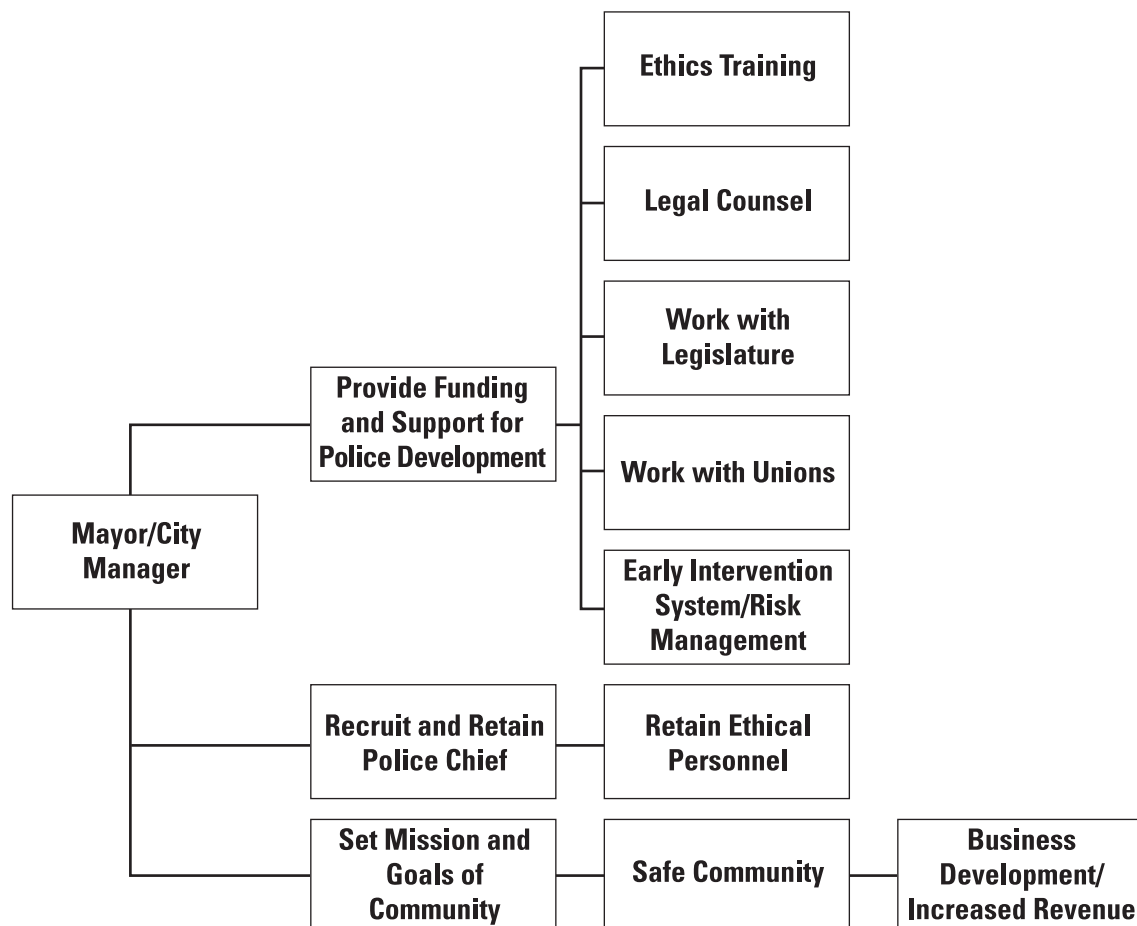
12. Various types of computer programs track this kind of information, such as IA Pro, CompStat, and PoliceStat.

The Local Government's Role in Building Community Trust

The police department is often one of the most visible public representations of a municipal government because of its frequent interaction with citizens in the community. The local government, therefore, also has a stake in building trust between the police department and the public. The vested interest of the mayor/city manager in promoting public safety and community trust is detailed in Figure 4.

The chief of police should not only see himself or herself as the leader of the law enforcement agency in the community, but as a part of the management team of the city government. All city leaders are beholden to the citizens they serve, and meeting the needs and expectations of those citizens should be the mission of any city. If the city operates successfully, business development will occur, bringing money into the community. These funds can be spent on structural improvements; services; and recruiting, retaining, and training city employees. Those investments lead to a cohesive and ethical workforce, a safe community, and enhance public trust in the community leadership.

Figure 4: The Mayor/City Manager's Relationship to the Process



Strategies for Engaging Municipal Government

- Develop and maintain a positive working relationship with city leaders.
- Meet regularly with the mayor or city manager to keep him or her involved in, and knowledgeable about, the department's ethics commitment and Internal Affairs process.
- Consult with a qualified attorney, preferably one supplied by the municipal government, throughout the complaint investigation process.

It is critical that the chief of police and city leaders develop and maintain a positive, effective working relationship. The mayor/city manager, city council, and chief of police must collaborate to ensure ethical standards and accountability in the police department. Presumably, the city government selected the police chief because of the officer's high ethical and moral standards and hopes the chief will enforce and maintain those standards throughout the department. The mayor/city manager should immediately show an interest

in police accountability measures and support the chief in his or her ethics policies and procedures, including the development or enhancement of Internal Affairs procedures within the agency. The mayor/city manager should issue a press release notifying the public of the police department's Internal Affairs function and that he or she and the chief of police are committed to upholding a fair, unbiased, and transparent police department. Immediately, this communicates to the community that city management and the chief of police have the same core values and that accountability measures are important and in place.

To sustain a positive working relationship, it is imperative that the chief of police and mayor/city manager meet regularly to discuss ethical behavior and accountability practices, including Internal Affairs matters, in the department. The chief of police needs to tell city management that if an allegation of misconduct occurs, no one should make a statement about the incident until a full investigation has been completed. Presenting this unified front confirms to the public that the mayor/city manager has the utmost confidence in the Internal Affairs process and in the ability of the police department to handle the complaint fairly, thoroughly, and in a timely manner.

City executives often can be passive concerning the enforcement and maintenance of ethical policies and procedures until an incident of misconduct or corruption occurs. The mayor/city manager should feel equally as accountable as the chief of police for ensuring an ethical law enforcement agency. Municipal executives should demonstrate to the public their support of the law enforcement management by: adequately funding the agency; voicing support for the agency's mission, policies, and procedures; not intervening with agency operations; endorsing laws that assist the department in increasing public safety; and speaking with police union representatives to ensure honest and fair negotiations. Funding for the agency should include money for continuing officer training and education, hiring legal staff, and purchasing data management systems, thereby further ensuring accountability in the department.

The municipal government can also support its police department by providing legal counsel for matters related to Internal Affairs. It is critically important for every police agency to be able to consult with legal counsel immediately upon learning of an allegation of misconduct and again prior to any disciplinary action. Ideally, this lawyer would be on the staff of the police agency, but that is likely to be cost-prohibitive for most departments. Nonetheless, it is imperative that an attorney is available (perhaps on retainer with the city) who keeps abreast of all new laws in the area of law enforcement and employment law.

By funding the police department in its efforts to ensure ethical and effective policing, the city will foster an overall sense of trust between the community, law enforcement, and the municipal government. When cities are safe and there is a high level of community trust, businesses are more likely to locate there, bringing services to citizens and funds to the city.

Conclusion

The unique position of power and authority that members of law enforcement hold means that there is an added need to uphold high ethical standards and accountability to the community that a department is sworn to serve and protect. One officer who engages in misconduct or abuse of power can sully the reputation of the entire profession. It is imperative for executives to consistently maintain a culture of integrity and community trust throughout their departments every day. Addressing negative issues and behaviors only when they arise is not an effective operating model. Continued community trust-building and maintenance is the key to effective policing.

Through various forms of community outreach, standardized practices of hiring new recruits, continued education and training, and consistent evaluations and early intervention, a chief can sustain his or her department's integrity, while garnering public trust. Internal Affairs policies and procedures are critical to every agency, but it is important to remember that Internal Affairs is one component of a thoughtful, systemic approach to ethical conduct.

When Internal Affairs processes are necessary, the department must handle the issue at hand with confidence. Through a comprehensive, accessible, fair, and transparent complaint, investigation, and disposition process, the law enforcement executive will be able to address any problem while continuing to maintain the trust of his or her staff and that of the community.

With standards and practices of integrity in place in every police department across America, law enforcement will be able to maintain its place as a most honorable profession. Everyone, from recruits to captains and from citizens to municipal government officials, will benefit.

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Glossary

The IACP compiled these terms and acronyms from the law enforcement perspective. Realizing that not all stakeholders use or interpret the same terminology in the same ways, this glossary is not intended to be comprehensive or exhaustive.

42. U.S.C.: 1983 modern administrative regulation that allows federal civil complaints to be brought against persons who violate the legally or constitutional guaranteed rights of any person under color of law.

Adjudicating Officer: An individual responsible for the adjudication of an internal investigation.

Administrative Conflict of Interest: In the law enforcement fitness for duty methodology a circumstance in which subordinate status of an internal provider gives the appearance that the professional's opinion may be improperly influenced by superiors and is not objective.

Administrative Action: Corrective action taken by command/supervisory personnel.

Administrative Investigation: Inquiries into alleged misconduct by personnel or any inquiry into the actions of department personnel required by directives where no misconduct is alleged.

Bureau Register: A compilation of data indexing the initiation and processing of administrative investigations by Internal Affairs Division control number.

Caveats, Warnings, or Notices: Filed in court by an interested party requesting the postponement of a proceeding until there is an evidentiary hearing.

Civil Service Merit-Based System: Meant to provide the hiring of qualified persons in law enforcement. A part of the modernization of the American law enforcement system.

Civilian Review Boards: Composed of nonlaw enforcement personnel in government service, who examine or review conduct, complaint processing, policy changes, and operation of mediation centers.

***Cleveland Board of Education v. Loudermill*:** Provides all but probationary officers with the right to be notified of the charges against them and to respond either verbally or in writing to those charges. This applies to all charges against an employee except a reprimand. The employee can give a statement and clarify any information or present any facts that could be exculpatory during an Internal Affairs investigation or could result in a reduced punishment to include dismissal of charges, but the employee cannot cross-examine witnesses as in a court setting. This mandates that the department prepare a charging document and give the employee ample time to respond with a union representative or attorney. There is no requirement to respond, however. This is a right because public nonprobationary public employees are deemed to have a property right in their employment.

Code of Ethics: A statement of the organization's values on behavioral, moral, and conduct issues.

Community: A social group consisting of individuals sharing the same environment with essentially the same interests, goals, and objectives.

Community Policing: A policing philosophy that promotes and supports organizational strategies to address the causes and reduce the fear of crime and social disorder through problem-solving tactics and community-police partnership.

Community Trust: An established and highly honored relationship between a police agency and the citizens it has been entrusted to serve.

Complaint: An allegation identifying conduct which, if substantiated, would constitute a violation of law or agency policy and procedure.

Complainant: A person with knowledge of an alleged incident of misconduct, or violation of a statute or department directive, who brings the information to the attention of the department.

Complaint Process: A series of steps by which law enforcement agencies accept, investigate, and adjudicate allegations of misconduct malfeasance, misfeasance, and nonfeasance on the part of police personnel.

Conduct Unbecoming: A term of administration regarding misconduct by law enforcement officers that usually applies to distasteful and undesirable conduct that is not clearly criminal or corrupt.

Deliberate Indifference: The conscious or reckless disregard of the consequences of one's acts or omissions.

Discipline: The action(s) of an agency, punitive and/or corrective in nature, with the specific intent to ensure obedience of its members to rules, regulations, policies, and procedures, and which is designed to promote order and deter acts of disobedience as established and enacted by supervisory personnel.

Disciplinary System: A mechanism by which employees are held accountable for their actions based on violation of established rules, regulations, policies, and procedures, and is based on the sound principles of fairness and objectivity.

Early Intervention System (Early Warning System/Performance Management): A series of interrelated personnel management processes that help supervisors identify, assess, and evaluate employees' performance for the purposes of addressing potential concerns in a timely manner.

Employee Assistance Program: A counseling service for employees and their eligible dependents who may be experiencing personal or work place problems

Ethics: The duty of all law enforcement personnel to conduct themselves at all times in a manner that reflects the ethical standards consistent with the rules of their agency; to effectively and efficiently protect the public, maintain peace and order, and conduct other essential business. The choice between right and wrong.

Exonerated (Proper Conduct): The allegation is true; the action of the agency or the employee was consistent with agency policy.

Eye Witness: A person who was present and saw or heard the incident/complaint.

Garrrity: *Garrrity v. New Jersey* is a constitutional protection that holds that public employee statements that are induced (compelled) by threat of dismissal or other discipline may not be used in a subsequent criminal prosecution.

Fitness for Duty Examination (FFDE): A physical or mental examination to determine if an officer is able to perform his or her duties.

Full Investigation: An in-depth investigation in which all pertinent facts are gathered and are impartially and thoroughly reported on the appropriate agency investigative document.

Internal Affairs: A specific division within a law enforcement agency that investigates allegations of misconduct, corruption, inappropriate behavior, adherence to policy and procedure, and matters so assigned by superior officers to ensure the professional integrity of the department and its members.

Internal Affairs Control Number: A sequential number assigned by the internal affairs department to index all complaints and administrative investigations.

Internal Affairs History: A member's record of internal affairs department investigations which includes internal affairs department control numbers, complaint dates, types of complaints, and administrative actions.

Internal Affairs Investigator: A member of the Internal Affairs unit.

Internal Affairs Process: A series of steps used to conduct a review for possible misconduct by an agency's employee.

Internal Affairs Policy: Agency guidelines promulgated to receive, track, evaluate, and investigate complaints of police misconduct that violate department policies and procedures.

Lautenberg Amendment: Federal law that restricts the ability of a person to own or possess a firearm.

Limited Investigation: The alleged misconduct failed to constitute a violation of department rules and regulations.

- The complainant was mistaken and the misconduct alleged was not attributed to personnel.
- The complainant was the subject of a criminal or administrative investigation conducted by the department; the complaint alleged bias or misconduct during the criminal, investigative, or disciplinary process by investigators or personnel involved; and the complainant was afforded a full and fair opportunity to litigate the matters complained of before a court or administrative tribunal.
- The complainant(s) refused to verify the complaint by signing a completed complaint verification form and the nature of the complaint does not include allegations of criminal conduct or conduct that could reasonably be construed to result in a recommendation of court-martial by the department's disciplinary officer.

Lybarger Admonishment: If information is given to physiological examiners in a FFED, that examinee is told that information from the examination may not be used against him or her because it is mandatory, not voluntary.

Misconduct not Based on Original Complaint: Misconduct discovered during an internal investigation not associated with original complaint.

Negligent Retention: Allowing an officer to remain working when doing so the department knew that he or she was a risk to the public.

Noncomplaint Investigation: An investigation into the actions of department personnel required by directive or requested by the office of chief counsel, with no misconduct alleged.

Not Sustained: Investigation failed to conclusively prove or disprove the allegation.

Office of Professional Standards: The designated employee(s)/unit with primary responsibility for conducting investigations of employee misconduct allegations.

OISB: Officer involved shooting board that investigates instances of the use of deadly force.

Performance Inadequacies: Minor infractions of omission/commission by a member that violate a department policy or regulation. Infractions of this type do not include conduct that involves compliance to lawful orders, the veracity of a member, criminal or civil liability, or publicity which may adversely affect the department or its personnel.

Policy Void: Indicates that the action of the department or the involved member(s) was not inconsistent with existing department policy, but the complainant still suffered harm.

Professional Ethics: Those ethics to use when acting in a professional capacity that center on sound judgment and the judicious disbursement of information based on the principles of integrity, honesty, and commitment to duty.

Public Complaint Package: Packages containing complaint forms, information on the complaint procedure used by the agency and actions the public can expect from this agency in response to a complaint.

Substantiated or Sustained (Improper Conduct): The allegation is true. The action of the agency or the member was inconsistent with agency policy.

— Investigation indicates that misconduct did actually occur.

Supervisory Review: A preliminary review undertaken immediately upon receipt of a complaint. Conducted for the thorough gathering and securing of evidence and facts to discover truth and reach conclusions as to the possibility a department member has violated any rules, regulations, policies and/or procedures. The investigating supervisor will make contact with the complainant in order to discuss the incident, and will notify the complainant of the final outcome of the preliminary review. Based on this review, the chief of police will determine the need for further investigation.

— The individual responsible for reviewing an administrative investigation and concurring with the adjudication rendered by the adjudicating officer.

Transparency: A clear and concise understanding of an agency's Internal Affairs process, and function, by the general citizenry.

Unfounded: Indicates that the incident did not occur or could not have occurred as alleged.

Unsubstantiated or Not Sustained (Insufficient Evidence): The investigation failed to conclusively prove or disprove the allegation.

Weingarten Rule: In certain employment conditions, the right for a union representative to be present during an interview.

Withdrawn: Indicates that the complainant refused to sign a complaint verification and the investigation was terminated or an investigation was otherwise concluded on advice of the appropriate command staff.

Appendixes

Appendix A: Sample Recruitment Plan

Appendix B: Sample Performance Improvement Policy, Procedure, and Plan

Appendix C: Sample Community Surveys

Appendix D: Sample Memorandum of Understanding

Appendix E: CALEA Standards for Law Enforcement Agencies—Chapter 52 on Internal Affairs

Appendix F: IACP Concepts and Issues Paper and Model Policy—Investigation of Employee Misconduct

Appendix G: Sample Officer Notification Form

Appendix H: Funding Sources for Training and Software on Ethics and Internal Affairs

Appendix I: Methodology

Appendix A: Sample Recruitment Plan

This sample recruitment plan is provided courtesy of the Pennsylvania State Police.

Pennsylvania State Police Recruitment Plan

RECRUITMENT AND SPECIAL SERVICES OFFICE, RECRUITMENT SECTION

A. Recruitment Vision and Mission Statements

VISION: *To be a proficient and professional recruitment section acting with enthusiasm and integrity. To assist the Department in its commitment to maintain an organization which promotes public confidence in the integrity, efficiency, and professional excellence expected of the Pennsylvania State Police. To actively seek and encourage the most qualified individuals to apply for positions within this Department who reflect this commitment, in addition to the diverse cultural, gender, and ethnic backgrounds of all citizens of this Commonwealth.*

MISSION: *To develop and implement strategies and procedures which enable us to continue to attract the best caliber of individuals for the Department.*

GENERAL RECRUITMENT ACTIVITIES

Recruitment activities shall include, but are not limited to:

- A. Contacting and cultivating working relationships with career/guidance counselors at colleges (colleges listed on appendages IV thru VIII) and high schools.
- B. Conducting career presentations.
- C. Contacting career planning officers at institutions of higher learning on a biannual basis to promote law enforcement:
 - 1. As a professional career choice.
 - 2. Opportunities for assignment to a variety of specialized positions.
 - 3. Opportunities for advancement.
- D. Cultivating liaisons with prospective applicants and establishing an applicant support system.
- E. Participating in or initiating career programs.
- F. Scheduling and conducting interview sessions with potential applicants.

- G. Scheduling the Mobile Recruitment Office (MRO) to travel to community locations, colleges and universities.

CADET RECRUITMENT ACTIVITIES

- A. Recruiters shall:
 - 1. Provide realistic overview and accurate information of law enforcement as a career, so applicants can make an informed decision regarding a future in law enforcement.
 - 2. Identify and address specific questions, issues, and concerns of potential applicants.
 - 3. Present information regarding:
 - a. Opportunities to serve the Commonwealth.
 - b. Salary and benefits.
 - c. Promotional opportunities.
 - d. Job security.
 - e. Mobility within the Commonwealth.
 - f. Academy training and Department expectations.
 - 4. Contact local reserve centers, armed forces recruiters, veterans' organizations, and various military installations located within a reasonable distance of the Pennsylvania borders.
 - 5. Maintain contact with:
 - a. Community leaders.
 - b. Civic organizations.
 - c. Department personnel.
 - d. Community centers.
 - e. Religious leaders.
 - f. Other high visibility locations.
 - 6. Attend community events within the wide variety of ethnic and cultural settings representative of the Commonwealth's population.

- . Annually update human resource lists.
 - . Notify human resource contacts of job opportunities within the Department. This will facilitate the dispersal of information to members of their communities and organizations.
 - . Post job announcements, in both English and Spanish, at designated locations.
- 1 . Initiate contact with referred persons to provide information concerning job requirements, responsibilities, benefits, and the selection process.
 11. Keep applicants updated regarding the application and selection processes.
 12. Periodically meet with recruiters from other law enforcement agencies to exchange ideas and information.
 13. Utilize tools and materials, such as the Mobile Recruitment Office, PowerPoint Presentations, wireless aircards, videos, photographs, and posters when canvassing for prospective applicants at:
 - a. Career and job fairs.
 - b. Job centers.
 - c. Historical, annual or ethnic events.
 - d. Police activity exhibits at parks, institutions of higher education, malls, etc.
 14. Provide updated recruiting literature.

Appendix B: Sample Performance Improvement Policy, Procedure, and Plan

This sample Performance Improvement Policy, Procedure, and Plan is provided courtesy of the Arroyo Grande (California) Police Department.

I. POLICY

- A. The policy of the Arroyo Grande Police Department is that all employees are expected to perform in a competent manner in furtherance of the mission and objectives of the Department and in accordance with the law and the policies and procedures of the City of Arroyo Grande and the Police Department.
- B. In furtherance of this policy, the Police Department does establish this procedure whereby substandard/unacceptable performance can be identified and an appropriate program of corrective action can be established.

II. PURPOSE

- A. The objective of this procedure is to correct the substandard/unacceptable performance, thereby restoring the employee to a level of acceptable and competent productivity. In order to accomplish this objective, this procedure is developed upon the following key criteria:
 - 1. Identification of the substandard/unacceptable performance/behavior,
 - 2. Communication of the deficiencies to the employee,
 - 3. Formal documentation of the deficiency and the expected change(s), and
 - 4. Development of the document which specifies an action plan.
- B. Performance Improvement Programs are not intended to be disciplinary in nature and therefore will not be made a part of an employee's personnel file if the employee successfully completes the program.
 - 1. Failure to successfully complete the program, resulting in reduction in pay, demotion, or termination, will result in the inclusion of the program documentation in the employee's personnel file.
 - 2. Program documentation for cases involving successful completion of the program will be maintained in a separate file by the Office of the Chief of Police until such time as it may be disposed of per current City Council Resolution for records destruction.

III. PROCEDURE

- A. Initial Supervisory Corrections

1. When minor policy infractions and/or performance deficiencies are noted for the first time, verbal counseling is the preferred method for corrective action.
2. When repeated policy infractions and/or performance deficiencies are noted, formal counseling sessions should be initiated. Such counseling sessions should be documented on either a Supervisor's Report or counseling memo.
 - a. The counseling session should address each policy infraction and/or performance deficiency which has been identified and the expected corrective action by the employee for each one.
 - b. The documentation of the counseling session should list each policy infraction and/or performance deficiency along with the expected corrective action.
3. Should formal counseling fail to correct the performance deficiency and/or ensure compliance with policy, a Performance Improvement Program shall be implemented.

B. Performance Improvement Program

1. The Performance Improvement Plan Process
 - a. The supervisor prepares a draft Performance Improvement Plan (P.I.P.).
 - b. The supervisor forwards the draft P.I.P. to his/her supervisor for approval.
 - (1) The draft P.I.P. will be forwarded through the chain of command to the Chief of Police for approval.
 - c. The supervisor discusses the draft P.I.P. with the employee and prepares the final version of the P.I.P.
 - d. The supervisor implements the Supervisory Assistance Sections and conducts follow up counseling.
 - e. The supervisor completes the final progress report and forwards the completed file to the Operations Commander for review and approval.
 - (1) Should punitive action be necessary, such action will be implemented in accordance with General Order 2 4 Personnel Complaints.

2. Performance Improvement Plan

- a. Heading

Standard memo headings shall be used:

- (1) TO: (Name of the affected employee)

(2) FRO : (ame of the employee's supervisor)

(3) Subject: FAILURE TO EET PERFOR A CE STA DARDS

b. Performance Standards and ow You Failed to eet Them

(1) List each performance standard in which the employee is deficient.

(a) Example: An employee shall be punctual in reporting for duty at the time and place specified by his superior (General Order 2 1 Rules of Conduct).

(2) List specifically and with detail each occasion where the employee failed to meet the listed standard.

(3) Repeat this process for each standard.

c. ow to Improve Your Performance

(1) This section is a summary of the positive behavior the supervisor expects the employee to exhibit in order to be regarded as an acceptable employee.

d. Supervisory Assistance and Guidance

(1) The supervisor sets a review schedule where the supervisor will review the progress of the employee with him/her. Such reviews will be done either weekly or bi weekly.

(2) The supervisor may direct the employee to obtain training and/or counseling when appropriate.

e. Time Frame and Conse uences

(1) The supervisor will set the duration of the Performance Improvement Program.

(a) ormally, a Performance Improvement Program will be days in length. The minimum specified time for such a program is days and the maximum time is 12 days.

(b) Should the employee progress at an accelerated rate, the Performance Improvement Program may be shortened from the specified time.

(2) The conse uences of failing to satisfactorily complete the Performance Improvement Program must be clearly stated. In most situations, the conse uence will be termination for failure to meet the specified performance standards within the allotted time. hen appropriate, demotion and reduction in pay may be administered.

3. The Initial Interview

- a. The supervisor will address each performance deficiency identified in the Performance Improvement Plan along with the expected corrective behavior.
 - (1) The supervisor should emphasize the objectives of the Performance Improvement Process as stated in Section I.C. of this General Order.
 - (a) The supervisor should advise the employee of the intent of the supervisor to assist the employee in his/her improvement.
 - (b) The supervisor should encourage employee input and take appropriate notes concerning the employee's viewpoints. This information may be incorporated into the Performance Improvement Plan.
- b. The supervisor will advise the employee of the review process and the schedule for the review sessions.
- c. The supervisor will inform the employee of any outside training and/or counseling that is required as part of the Performance Improvement Program.
- d. The supervisor will inform the employee of the consequences that may result in the event the employee fails to satisfactorily complete the Performance Improvement Program.

4. Follow Up Counseling

- a. During the duration of the Performance Improvement Program, the supervisor will meet in formal counseling sessions with the employee as specified in the Performance Improvement Plan.
- b. The supervisor will review the employee's progress as it relates to each identified performance deficiency.
 - (1) Appropriate reinforcement should be given to the employee depending on whether the employee is improving or not.
- c. The counseling session will be documented in a Progress Report.

5. Final Report

- a. At the end of the Performance Improvement Program, the supervisor shall prepare a final report regarding the employee's progress in the Performance Improvement Program.

- (1) When the employee successfully completes the program, the final report should reinforce the employee's improved performance and encourage continued acceptable performance.
 - (2) In the event the employee does not successfully complete the program, the report should:
 - (a) Specify those standards the employee failed to achieve and how he/she failed to do so,
 - (b) State that the supervisor is recommending that the penalty contained in the Performance Improvement Plan as a consequence for non improvement, be implemented, and
 - (c) Contain a detailed account of the employee's comments regarding the final report.
- b. The Final Report along with all follow up reports and other appropriate documentation will be forwarded via the chain of command, to the Chief of Police for review and appropriate action.

I . ATTACHMENTS

A. Sample of Performance Improvement Plan

<i>Name of Department</i> Performance Improvement Plan			
<p>To: <i>(Name of the affected employee)</i></p> <p>From: <i>(Name of the employee's supervisor)</i></p> <p>Date:</p> <p>Subject: Failure to Meet Performance Standards</p>			
<p>Performance Standards and how you failed to meet them:</p> <p><i>List each performance standard to which the employee has failed to meet, list specific occasions.</i></p>			
<p>How to improve your performance:</p> <p><i>List positive behaviors</i></p>			
<p>Supervisory Assistance and Guidance:</p> <p>Over the next 90 days your supervisor/s will meet with you and follow up with your performance improvement progress every:</p> <p> <input type="checkbox"/> Monday <input type="checkbox"/> Tuesday <input type="checkbox"/> Wednesday <input type="checkbox"/> Thursday <input type="checkbox"/> Friday <input type="checkbox"/> Weekly <input type="checkbox"/> Bi-Weekly Time: _____ Location: _____ </p> <p>Your supervisor directs you to obtain training and/or counseling in the following areas:</p>			
<p>If your performance fails to improve or you fail to complete the requirements indicated above, you are subject to termination, or if deemed appropriate, demotion and a reduction in pay.</p> <div style="text-align: right; margin-top: 20px;"> <div style="border-top: 1px solid black; width: 250px; margin: 0 auto;"></div> <div style="text-align: center; font-size: small;">Signature of Supervisor</div> </div>			
<div style="border-top: 1px solid black; width: 100%;"></div> <div style="text-align: center; font-size: x-small;">Signature</div>	<div style="border-top: 1px solid black; width: 100%;"></div> <div style="text-align: center; font-size: x-small;">Badge No.</div>	<div style="border-top: 1px solid black; width: 100%;"></div> <div style="text-align: center; font-size: x-small;">Date</div>	<div style="border-top: 1px solid black; width: 100%;"></div> <div style="text-align: center; font-size: x-small;">Time</div>

Appendix C: Sample Community Surveys

The following sample community surveys are courtesy of the Geddes (New York) Police Department and the Lexington (Massachusetts) Police Department. Additional information about community surveys is available through the IACP.

2007 Community Satisfaction Survey Town of Geddes Police Department

1. How satisfied are you with the visibility of the Town of Geddes Police Department?
Very Dissatisfied Dissatisfied Neutral Satisfied Very Satisfied DK

2. How satisfied are you with how professional the officers act?
Very Dissatisfied Dissatisfied Neutral Satisfied Very Satisfied DK

3. How satisfied are you with the competency of the officers?
Very Dissatisfied Dissatisfied Neutral Satisfied Very Satisfied DK

4. How satisfied are you with the courtesy of the officers?
Very Dissatisfied Dissatisfied Neutral Satisfied Very Satisfied DK

5. How satisfied are you with the appearance of the officers?
Very Dissatisfied Dissatisfied Neutral Satisfied Very Satisfied DK

6. How safe do you feel walking alone in your neighborhood at night?
Very Unsafe Unsafe Neutral Safe Very Safe DK

7. How safe do you feel in your home?
Very Unsafe Unsafe Neutral Safe Very Safe DK

8. Is the police presence adequate in your neighborhood?
Yes No DK

9. Is the traffic enforcement adequate in the Town of Geddes?
Yes No DK

10. Have you ever been a victim of a crime in the Town of Geddes?
Yes No DK

11. What do you like best about the Police Department?

NA

12. How would you improve the Police Department?

NA

13. How do you feel the Geddes Police Department has changed over the past four years?
Much Worse Worse Same Improved Much Improved Didn't live here DK

Sex: Male or Female (Circle One)

Age: 18-24 25-34 35-44 45-54 55-64 65+ (Circle One)

Lexington Police Department Public Safety Survey

Directions: Please answer the following questions to the best of your knowledge. All of your responses will be absolutely confidential.

Section I: Your Community

1. Please rate the seriousness of the following crimes and quality of life issues in Lexington for the past 5 years. (Check only one box for each item)

	Very Serious	Moderately Serious	Slightly Serious	Not a Problem	Don't Know
Burglary/House break ins					
Assaults					
Domestic Violence					
Unlawful drug use					
Unsupervised house parties					
Animal control problems					
Drinking groups in woods/parks					
Graffiti					
Litter					
Unlawful weapon use					
Loitering					
Property theft					
Organized gangs					
Speeding motor vehicles					
Poor driving attitudes					
Drunk driving					
Credit card/check fraud					
Computer/Internet problems					
Skateboarding/Rollerblading in business districts					
Vehicle theft					
Harassing/Annoying phone calls					
Vandalism					
Parking problems					
Solicitors					
Bicycles on sidewalks					
Pedestrian safety					
Public drinking					
Unnecessary noise					
Other:					

2. Have you ever been the victim of a crime **in** Lexington? ☐ No ☐ Yes
3. Have you ever been the victim of a crime **outside** Lexington? ☐ No ☐ Yes

4. In Lexington, have you ever: *(Check all that apply)*

- ☐ Stopped to ask an officer advice or directions
- ☐ Stopped to talk to a police officer about a community issue
- ☐ Called the police station to discuss a community issue
- ☐ Been involved in a traffic accident which required police intervention
- ☐ Been involved in a police/community outreach program (ex. DARE, Bicycle Safety)
- ☐ Been stopped for a traffic offense
- ☐ Been questioned by the police and released (other than for a traffic offense)
- ☐ Reported a crime
- ☐ Been arrested
- ☐ Filed a formal complaint against a Lexington Police Officer/Department

5. In your opinion how much have the following factors contributed to the crime rate in Lexington over the past 5 years? *(Check only one box for each subject)*

	Large Influence	Moderate Influence	Slight Influence	No Influence	Don't Know
Courts are too lenient					
Drug/alcohol abuse					
Lack of alternative activities for youth					
Lack of education					
Lack of jobs/employment					
Limited police presence					
Poor parenting					
Poverty/low income					
Intolerance of differences based on race, religion, sexual orientation, etc.					
Social programs/welfare					
Over population					
Availability of weapons					
Lack of respect					
Affluence					
Other:					

6. Does your neighborhood have a citizen crime watch group? ☐ No ☐ Yes
 If no, would you participate in a crime watch group? ☐ No ☐ Yes

7. What kind of security do you use at home? *(Check all that apply--this survey is anonymous)*

- ☐ alarm system ☐ sensor lights ☐ standard door & window locks
- ☐ window grills ☐ dead bolt locks ☐ anti-open devices in windows
- ☐ dog ☐ exterior/interior burglar bars ☐ do not secure home

8. In your opinion, how likely is it that you will be the victim of a **property** crime in Lexington over the next 5 years?

- ☐ highly likely ☐ moderately likely ☐ slightly likely ☐ Not at all likely

9. In your opinion, how likely is it that you will be the victim of a **violent** crime in Lexington over the next 5 years?

- ☐ highly likely ☐ moderately likely ☐ slightly likely ☐ Not at all likely

10. How much time do you spend actively participating in the community (community-based programs, committees, boards, etc.) each month?
☐ 1-7 hrs ☐ 8-12 hrs ☐ 13-20 hrs ☐ 21+ hrs ☐ don't participate
11. In your opinion, compared to other communities in the Boston area, how safe is Lexington overall?
☐ much safer ☐ slightly safer ☐ about the same
☐ less safe ☐ much less safe
12. What do you believe about the prevalence of crime in Lexington?
(Please check only one category)
☐ Crime has increased in Lexington over the last five years.
☐ Crime has remained the same in Lexington over the last five years.
☐ Crime has decreased in Lexington over the last five years.
☐ Don't know.
13. Please check one response for each statement:

	Strongly Agree	Agree	Disagree	Strongly Disagree	Don't Know
I feel safe at home					
I feel safe walking alone in my neighborhood after dark					
I feel safe walking with others after dark in my neighborhood					
I feel that my personal property is safe when I leave home					
When returning home at night, I feel safe					
I feel safe leaving my home/car unlocked during the day in Lexington					
I feel safe <i>with others</i> on the Minuteman Bikeway					
I feel safe <i>alone</i> on the Minuteman Bikeway					
I feel safe walking <i>alone</i> in Lexington's shopping districts <i>at night</i>					
I feel safe walking <i>with others</i> in Lexington's shopping districts <i>at night</i>					
I feel safe <i>alone</i> in parks and recreation areas in Lexington					
I feel safe <i>with others</i> in parks and recreation areas in Lexington					

14. How serious is the illegal drug problem in the following areas in Lexington?
(Please check one box for each item)

	Very Serious	Somewhat Serious	Slightly Serious	Not Serious	Don't Know
High Schools					
Middle Schools					
Elementary Schools					
Playgrounds & recreation areas					
Within the adult community					

Section II: The Department

15. Please respond whether you agree or disagree with the following statements:

(Please check one box for each item)

	Strongly Agree	Agree	No Opinion	Disagree	Strongly Disagree
The police presence in my neighborhood is appropriate for the need					
Traffic enforcement in Lexington meets the needs of the community					
The Police Department gives proper attention to minor crimes (i.e. vandalism, disturbances, etc.)					
The Police Department is providing appropriate community education and outreach programs					
Efforts of the Police Department to enforce the law are compatible with community needs					
Lexington police officers perform an appropriate amount of patrolling on foot in Lexington Center					
There is an appropriate representation of female officers in the Lexington Police Department					
The Police Department responds to emergency calls in a timely manner					
Lexington police officers treat people with respect					
Lexington police officers respect the rights of individuals and treat people fairly					
Telephone calls to the Lexington police station are handled professionally and courteously					
A formal complaint brought against a Lexington police officer will receive a fair, objective and timely response					
The Lexington Police Department solicits and welcomes community input					
Lexington police officers are respected by the community					
The Lexington Police Department has a good public image					
The Lexington Police Department does its job well					
Lexington police officers look professional in appearance					
Police information provided in local newspaper is useful					
Lexington police officers provide timely and useful information to persons reporting crimes					
The Lexington Police Department publicizes its services and programs adequately (see question 16 on next page)					

16. How effective do you believe the following Lexington Police & Community programs are or the crime problem and quality of life issues? *(Please check only one box for each)*

	Very Effective	Somewhat Effective	Slightly Effective	Not At All	Don't Know
D.A.R.E. program					
Bike Patrol					
Police resource officer assigned full-time at the high school					
Domestic violence response advocate					
Family services program					
Full-time center officer					
Web Page					
Traffic Enforcement					
Dedicated Parking Enforcement Officer					
E911 Combined Dispatch Center					
LPD Facility Access					
Peer leadership program in schools					
Citizen police academy					
Alzheimer registration					
Youth-at-risk intervention program					
Alcohol/tobacco sale compliance checks					
Juvenile diversion program for first time criminal offenders					
Greater Boston drug task force					
Police accreditation program					
Police Cadet program					
"Directed patrol" to high incident areas					
False burglar alarm bylaw enforcement					
All-night winter parking enforcement					
Trading card program					
Long Term assignments of Patrol Officers to a single area of town rather than random assignments					
Future Programs:					
Skateboard/rollerblade park					
Youth drop-in center					

Section III: Demographic Information

17. How long have you lived in Lexington?
☐ less than one year ☐ 1-3 years ☐ 4-10 years ☐ 11-20 years ☐ 21+ years
18. How old are you?
☐ 18-24 ☐ 25-34 ☐ 35-44
☐ 45-54 ☐ 55-64 ☐ 65 or older
19. How many people are in your household?
☐ 1 person ☐ 2-3 people ☐ 4-5 people ☐ 6+ people

20. Do you have any children under the age of 21 living in your household? ☐ No ☐ Yes
If yes, please list their ages here: _____
21. Do you own or rent your home? ☐ Own ☐ Rent ☐ Other _____
22. Average household yearly income before taxes?
☐ under \$30,000 ☐ \$30,000-59,000 ☐ \$60,000-89,999 ☐ \$90,000-119,999 ☐ \$120,000+
23. What is your current employment status? *(Please check only one box)*
☐ Employed ☐ Unemployed ☐ Student
☐ Self-employed ☐ Disabled ☐ House wife/husband
☐ Retired ☐ Other
24. What is your race?
☐ Caucasian ☐ African-American ☐ Asian ☐ Hispanic
☐ Other _____
25. Do you or anyone in the household own any firearms for sport or protection against crime?
☐ Yes, Sport ☐ Yes, Both ☐ Choose not to answer
☐ Yes, Protection against crime ☐ No, Neither

Section IV: Your Comments

Please feel free to use as much space or additional pages as necessary.

The thing I like best about the Lexington Police Department is:

The thing I would most like to see improved at the Lexington Police Department is:

Please list the most significant values or characteristics that a Lexington Police Officer should possess.

Other comments or expansion of previous answers *(use reverse side of page if more space is needed):*

If you have any questions/comments regarding this survey, please contact Chief Casey's Office at (781) 862-1212 or e-mail at ccasey@ci.lexington.ma.us

Appendix D: Sample Memorandum of Understanding

The following memorandum of understanding (MOU) is only a sample. MOUs are legally binding documents and should be reviewed by legal counsel prior to finalization and signature.

(Explain why your department is entering into a memorandum of understanding)

List the primary reasons:

- To assist the _____ Police Department in providing proper and unbiased Internal Affairs investigations of the staff and sworn law enforcement of the _____ Police Department.

Once the _____ Police Department has received a complaint and the chief executive officer has been briefed on the content of the complaint, the chief executive officer, having determined that the investigation should be carried out externally, will engage the _____ Police Department to conduct the Internal Affairs investigation.

R

Responsibilities of the investigation team will be to assist the _____ Police Department Internal Affairs investigation. It is understood that the investigation team is in support of the _____ Police Department and must abide by all laws and procedures enforced by the _____ Police Department as outlined in this Memorandum of Understanding.

- The investigation team reports to the lead investigator and the lead investigator reports to the chief executive officer of the _____ Police Department.
- Confidentiality of all matters involved in the investigation will be maintained.
- The chief executive officer of the _____ Police Department will be the only one allowed to disclose any information to the media, complainant, and to the officer/s involved in the complaint once the investigation is concluded.
- The lead investigator will be determined on a case-by-case basis by the parties involved.
- The lead investigator will have the responsibility and authority to resolve any procedural or investigative conflicts resulting during the course of the investigation. The lead investigator will have the responsibility and authority to discuss the progress and outcome of the investigation with the _____ Police Department's executive officer.

Responsibilities of the contracting Police Department:

- will not inhibit the investigation process by sharing information, evidence, interview/s, or in any way jeopardizing the investigation by releasing confidential information to the public.
- The police department will ensure that the investigation adheres to applicable law and the department's policy and procedure manual.
- The police department will, when possible, support the investigative efforts with assets such as laboratory costs (including DNA) associated with the investigation.

E I

Information shared between the contracting agencies will be done so in a confidential manner so as not to compromise the investigation process.

Investigation Process

Role of each Police Department

Conclusion and Recommendations

In the case of a chief executive officer being under investigation, the investigation team will be reporting to and under the supervision of the chief executive's supervisor (mayor, city council, etc. as per legal guidance).

The chief executive officer of _____ Police Department will be the only person to notify the mayor or supervising authority, the public, or media concerning the investigation.

Oversight of the investigative team will be the responsibility of the lead investigator who will report to their executive officer.

R

If needed, progress reports may be written every _____ days by the lead investigator. These reports will be made available to his/her executive officer who will update the contracting executive officer or appropriate authority of the contracting department.

R

A final report will be completed by the lead investigator. This report will include the outcomes and findings of the investigation for the chief executive officer of the contracting agency. All evidence as to the process and methodology used by the investigative party will be summarized and included in the final report.

R

The _____ Police Department's executive officer will have the final authority to investigate and/or recommend any resolution after the completion of the Internal Affairs investigation.

T C I A I

If possible, the investigation will be completed within _____ days of reception, depending upon the complexity of the case.

A

This agreement may be amended by deleting or modifying any of its provisions, or adding new provisions, upon the written agreement of both parties.

E D

This agreement goes into effect when signed by both parties.

T

This agreement shall remain in full force until terminated by either party upon _____ days of written notice.

Chief Executive Officer

Date

Police Department

Chief Executive Officer

Date

Police Department

Appendix E: CALEA Standards for Law Enforcement Agencies—Chapter 52 on Internal Affairs

Standards Manual Text

C I A
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. . . A written directive requires all complaints against the agency or its employees be investigated, to include anonymous complaints.

Commentary To ensure the integrity of its operations and personnel, agencies should investigate all allegations of misconduct, regardless of their source. Anonymous complaints can be difficult to investigate; however, the agency should carefully review each complaint for validation before disregarding it for lack of a credible complainant. ()

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Standards Manual Text

C I A
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. . . A written directive requires the agency to maintain a record of all complaints against the agency or employees and to protect the confidentiality of these records by maintaining them in a secure area.

Commentary The confidentiality of internal affairs records is important, and proper security precautions should be taken. This records activity is a task of the internal affairs function and is an exception to the personnel records or centralized records systems. The schedule for retaining internal affairs records should be consistent with legal requirements. ()

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Standards Manual Text

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52.1.3 *A written directive specifies that the position responsible for the internal affairs function has the authority to report directly to the agency's chief executive officer.*

Commentary: The sensitivity and impact of internal affairs matters on the direction and control of an agency require that the agency's chief executive officer receive all pertinent information directly. (M M M M)

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Standards Manual Text

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52.1. *he agency makes available information to the public on procedures to be followed in registering complaints against the agency or its employees.*

Commentary: Procedures for registering complaints should be made available to the community through the media or the agency's community relations programs. This information should also be disseminated to all agency employees. ()

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Standards Manual Text

Chapter 52 - Internal Affairs

Section 1 - Administration and Operations

Standard 5 - Annual Summaries-Public Availability

Number 52.1.5

. . . *he agency compiles annual statistical summaries based upon records of internal affairs investigations which are made available to the public and agency employees.*

ommentary **one.** ()

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Standards Manual Text

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T

. . A written directive specifies

- a. the type of complaints to be investigated by line supervisors and
- b. the type of complaints that require investigation by the internal affairs function.

ommentary The intent of this standard is to provide guidelines regarding which categories of complaints are to be handled by the internal affairs function and which are part of routine discipline. The criteria for determining the categories of complaints to be referred to the internal affairs function may include allegations of corruption, brutality, misuse of force, breach of civil rights, and criminal misconduct. Criteria for assignment of the investigation of the complaint to line supervisors may include, for example, alleged rudeness on the part of the officer, tardiness, or insubordination. ()

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Standards Manual Text

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. . . A written directive specifies the procedures for notifying the agency's chief executive officer of complaints against the agency or its employees.

Commentary The directive should specify the nature of those complaints that should be brought immediately to the attention of the agency's chief executive officer and those that can be postponed to a later time. ()

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Standards Manual Text

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. . A written directive specifies a time limit for completing an internal affairs investigation with provisions for extensions.

ommentary one. ()

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Standards Manual Text

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. . . he agency eeps the complainant informed concerning the status of a complaint to include at a minimum

- a. verification of receipt that the complaint has been received for processing
- b. periodic status reports and
- c. notification of the results of the investigation upon conclusion.

ommentary The verification, usually in the form of a receipt, furnished to persons initiating complaints alleging misconduct on the part of the agency or an agency employe may contain a description of the investigative process. The status of investigations should be communicated to the complainant, although the degree of specificity of the notice is left to the discretion of the agency. This standard does not apply to anonymous complaints. ()

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Standards Manual Text

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. . . When employees are notified that they have become the subject of an internal affairs investigation, the agency issues the employee a written statement of the allegations and the employee's rights and responsibilities relative to the investigation.

Commentary one. ()

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Standards Manual Text

C I A
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. . A written directive specifies the conditions if any during an internal affairs investigation when

- a. medical or laboratory examinations are administered
- b. photographs are taken of employees
- c. an employee may be directed to participate in a line up
- d. an employee may be required to submit financial disclosure statements and
- e. instruments for the detection of deception are used.

Commentary The written directive should be based on the legal requirements in the jurisdiction, case law, and precedent and should be consistent with other administrative decisions. An employee may be required to submit to a medical or laboratory examination, at the agency's expense, when the examination is specifically directed and narrowly related to a particular internal affairs investigation being conducted by the agency. An example is the use of this process in determining drug use by employees. An employee may also be required to be photographed, to participate in a line-up, and/or submit to a financial disclosure statement when the actions are material to a particular internal affairs investigation being conducted by the agency. ()

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Standards Manual Text

C I A
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. . . A written directive specifies the circumstances in which an employee may be relieved from duty.

Commentary The written directive should be supported by other documents establishing the powers and authority of the office of the chief executive. The relief from duty may be a temporary administrative action pertaining to an employee's physical or psychological fitness for duty or an action pending disposition of an internal affairs investigation. The authority to relieve an employee from duty should extend to supervisory levels. ()

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Standards Manual Text

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. . A written directive requires a conclusion of fact for each investigation into allegation of misconduct.

ommentary The conclusion of the disciplinary process should be structured and should provide information to all participants in the process. The agency needs to be aware of changes in policies, procedures, rules, and regulations that may prevent future allegations of misconduct, as well as the need to modify or expand training. ()

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Appendix F: IACP Concepts and Issues Paper and Model Policy—Investigation of Employee Misconduct

IACP National Law Enforcement Policy Center

Investigation of Employee Misconduct

Concepts and Issues Paper

Originally Published:

Revised: October 2011, January 2012

I. Introduction

A. Purpose of the Document

This document was designed to accompany the Model Policy on Investigation of Employee Misconduct established by the IACP National Law Enforcement Policy Center. This paper provides essential background material and supporting documentation to provide greater understanding of the developmental philosophy and implementation requirements for the model policy. This material will be of value to law enforcement executives in their efforts to tailor the model to the requirements and circumstances of their communities and their law enforcement agencies.

This discussion is divided into five parts. Part I provides background information; part II discusses discipline as an integral and potentially constructive part of any internal investigative process; part III examines the process of receiving and processing complaints from the public; part IV addresses the legal and procedural issues surrounding the investigative process; and part V reviews means of preventing employee misconduct.

B. Background

A substantial degree of attention is devoted in this concepts and issues paper to the disciplinary process, citizen complaints, and the many facets of investigating allegations of police officer misconduct. There are several reasons for addressing these interrelated issues in such detail.

First, over the past several years there has been a series of high-profile incidents of police officer misconduct. Many individuals believe that this demonstrates in part a weakness in many police agencies—even the largest and seemingly most sophisticated agencies—to detect, effectively intervene in, or prevent instances of officer misconduct as well as a failure to effectively supervise officers and take effective action in instances of officer misconduct. The notoriety generated by the most serious of these high-profile cases has had devastating effects on

the police agencies involved, undermined their reputation and effectiveness in the communities they serve, and diminished the police profession. In fact, as this document is being prepared, the federal government is considering a comprehensive nationwide study of issues surrounding law enforcement misconduct and integrity.

Second, early in their careers some police officers become suspicious of or even hostile to the internal investigation process and wary of disciplinary procedures. These procedures are often viewed as unfair and biased against accused officers, and in some instances even regarded as an unnecessary interference into an officer's ability to perform his or her duties.

Some officers come to view this regulatory function as an indication that the police agency does not trust them or that management has misgivings about the integrity and honesty of their officers. As such, some police officers may only grudgingly cooperate in internal affairs investigations—an act that often perpetuates the all-too-common distance between management and line officers.

The vast majority of police officers are honest, loyal, and hardworking professionals. The broad-brush strokes of officer brutality and excessive force sometimes painted by the media are almost always the product of misconduct by a small minority of officers. But the misconduct of a few can often taint the reputation of many. Often this affects an entire department when, in the face of employee misconduct, management imposes a more demanding system of officer accountability and discipline. Of course, police officers, like all other professionals, can and do make mistakes. There are also some officers who take advantage of their office or who, on a recurring basis, make such serious errors of judgment or overstep their authority that they probably should not be employed in law enforcement. Therefore, a police department must monitor its officer's mistakes and misconduct to protect its interests and reputation.

A publication of the IACP National Law Enforcement Policy Center

Washington, D.C., Alexandria, VA

This document is the result of work performed by the IACP National Law Enforcement Policy Center. The views and opinions expressed in this document are sanctioned by the center's advisory board and do not necessarily represent the official position or policies of the International Association of Chiefs of Police.

To protect their own interests, reputations, and career goals, police officers must be forthcoming about their conduct and the conduct of other officers. This requires that they have knowledge of and faith in the integrity of their agency's investigative and disciplinary process. These are complex issue areas that require sound procedures based on up-to-date information. But, to be effective, internal investigation and disciplinary procedures must be understood by all members of the department.

Therefore, it is the intent of this document and the model policy upon which it is based to closely examine the internal investigation and disciplinary process. This information will () provide possible alternatives to present procedures () expand the knowledge of officers, supervisors, and managers alike concerning their legal rights and responsibilities during internal investigations and disciplinary actions and () instill the notion that a well-organized and professionally run internal investigation and disciplinary process serves the best interests of officers, law enforcement agencies, and the communities they serve.

It is recognized that individual agencies often have widely varying procedures and styles in this area and that some of these are the product of individual state law, employment contracts, state or local civil service requirements, and related matters. Obviously, this document cannot take into account all of the terms of these requirements and agreements. But it attempts to provide the essential ingredients of a well-administered, professional program governing internal investigations and disciplinary procedures.

II. I I I

1. Fair Play in Officer Investigations and Discipline

Discipline is an indispensable component of law enforcement management. There are rules and regulations that pertain to all fields of employment. But, unlike any other professionals, law enforcement officers possess unique powers and discretion to take actions that require professional supervision, management, oversight, and control, and adherence of officers to a rigid code of conduct and professionalism.

There are few issues among law enforcement personnel that can raise more concern, debate, rancor, and sometimes outright dissension than the issue of employee discipline and the way agencies investigate specific allegations of employee misconduct. Here there are widespread perceptions that the investigation and administration of discipline is handled unfairly, capriciously, inconsistently, or unprofessionally, ramifications can be widespread and extremely damaging to department morale and operations.

A theme that runs throughout this document involves the need for police agencies to follow an investigative and disciplinary process based on the principle of fair play. Police agencies have a duty to investigate fully and completely accusations of officer misconduct to protect the department's integrity and its credibility in the community, not to mention clearing the names of officers

who have done no wrong. But in that process, it must be remembered that accused officers do not lose their due process rights or the right to be treated fairly, impartially, and respectfully. When all officers understand that the department's disciplinary process is managed in this way it goes a long way to enhance relations between management and staff and to eliminate self-protective, stonewalling behavior that is often seen among officers who view the disciplinary system as unfair.

2. Perceptions of Discipline

As noted, public complaints and the disciplinary process often have unpleasant connotations for law enforcement officers and their superiors. For some officers, disciplinary matters conjure up feelings of fear, shame, discredit, anger, and alienation from the department. The issue also raises concerns and stress for law enforcement managers. The thoughtful executive or administrator may question whether his or her current mechanism for detecting officer misconduct achieves its goal. These same persons may question whether the existing disciplinary system is too lax or too harsh, whether it is applied consistently and fairly, and whether the disciplined officer will become embittered by the process or learn to become a better officer.

In contrast, some law enforcement officers and executives view citizens' allegations of officer misconduct and the disciplinary process in a significantly different light. They may consider these functions to be a carefully created facade to satisfy political and community groups, with no real intention of effectively investigating allegations of misconduct and applying appropriate discipline when warranted.

Some officers take the position that the policies, procedures, and rules of an agency are primarily intended to assign blame when things go wrong rather than serve as a necessary means for directing, controlling, and managing employee conduct and operational practices. Such attitudes exist for a variety of reasons, not the least of which are issues of alienation between line and management personnel incorporating but not limited to a failure to engage officers in the establishment and justification of policies, procedures, and rules in the first place.

Neither of the foregoing views is healthy for the officer or law enforcement agency. Each undermines the basic goals of the internal investigative process and disciplinary system. In order to maximize the goals and purposes of these critical functions, police agencies must understand the entire process and formulate a philosophy of discipline for the department. The common adage, Actions speak louder than words, is appropriate here. To instill an unbiased philosophy of discipline there must be a history within the agency of dealing fairly, impartially, and consistently with officers in the disciplinary process. Unfair or unnecessarily harsh discipline, treating officers as criminals or as guilty until proven innocent during the investigative process, generally has unintended negative consequences. Rather than serve to gain cooperation and respect of officers,

such treatment most often serves to estrange them. It lowers morale and can even foster a siege mentality between management and line officers that debilitates the entire organization. Aside from issues such as fairness, a large part of the problem is how police agencies and officers view discipline in general—particularly whether it is regarded as a fundamentally punitive measure (negative discipline) or whether it also serves a constructive purpose (positive discipline).

C. Positive and Negative Discipline

In order to develop a sound philosophy of discipline and apply it effectively, one must understand the distinction between negative discipline and positive discipline.

1. *Negative discipline.* The concept of negative discipline functions on one reactive and negative premise: A proven allegation of misconduct receives immediate punishment. This style is reactive because officer misconduct is addressed only after it has occurred. The disciplinary process is an end in itself and not a means of educating officers about appropriate types of behavior or a way to explain why certain standards are necessary.

While negative discipline is long on punishment, it generally is short on reward.

Traditionally, the law enforcement profession has maintained a negative, reactive approach to internal investigations of allegations of officer misconduct and the disciplinary process. The paramilitary style upon which the law enforcement profession is modeled has helped to reinforce this approach.

2. *Positive discipline.* The current trend among law enforcement is to formulate an internal investigation and discipline system using a more holistic and positive approach to discipline and investigating allegations of officer misconduct.¹

Positive discipline also focuses on determining why misconduct occurred, rather than focusing solely on taking measures to punish misconduct. For example, officer misconduct may be a result of poorly written policy or ineffective training. A positive disciplinary system analyzes each case to determine the cause of misconduct and develops appropriate remedial recommendations in addition to or in place of punitive actions.

Positive discipline includes reinforcement of excellent behavior by maintaining a reward system in addition to a punitive system. Actions by officers that exceed the norm deserve recognition. This may be done by special departmental commendations and medals or by recognition during performance reviews or similar means. In addition, each agency has officers who may not be outstanding but who are known for their reliability and consistent performance. These individuals also need to be recognized.

Generally, human beings respond to praise more positively than to criticism and punishment. Officers who perceive that their daily contributions are appreciated tend to feel better about themselves and want to continue doing a good job or even improve. They feel part of the agency and want to support its reputation. The use of threats of punishment alone to gain compliance with

policy does not encourage excellence or promote the efficient delivery of police services.

Positive discipline implies a departmental goal of administering counseling, reprimands, suspension, or other discipline in a fair and consistent manner. Inconsistent discipline can undermine the entire disciplinary process and lead to charges of disparate treatment and civil litigation. Here officers perceive that they may receive stiffer punishment than another officer or supervisor for similar misconduct, any lessons that the department hoped to impart through discipline will be lost. This is true of every employee, irrespective of rank. Discipline must be consistent.

Finally, it should be noted that training is one of the most effective approaches to positive discipline. Some disciplinary matters are largely a product of inadequate training, a failure by officers to master what is being taught, or their inability to maintain specific skills and abilities or remember how to follow specific practices, protocols, or procedures. For them, refresher training may be more effective and appropriate than punishment.

D. Developing a Departmental Philosophy of Discipline

1. *Establishing Goals.* Law enforcement agencies must provide a firm foundation for the disciplinary process by developing clear goals to be achieved by the department. It is not enough for the chief executive officer to inform officers that the goal of the department is to prevent and detect criminal activity. While it may be the mission, this goal is too broad and too simple.

Modern agencies operate in a complicated environment that affects this mission and requires thoughtful assessment of how these many factors affect delivery of public services. For example, relevant departmental goals may be established to create an environment that encourages the community both to work with the agency and to actively use the citizen complaint process. Goals focusing on a more positive relationship with the community have helped departments achieve the larger mission of detecting criminal conduct.

Additionally, the internal investigative process must be mindful of the potential for internal police misconduct that is not registered through the citizen complaint process. Therefore, it is important that police ethics and rules of police conduct are clearly defined. The process for internal investigations should also provide for the reporting and investigation of potential misconduct that has been identified from within the agency.

2. *Goals and Departmental Policy.* Departmental policy is the written expression of the department's goals. Departmental policy also reflects the standards of behavior that are expected from officers in daily operations. In addition, policy is one means of communicating these goals and how they are to be implemented by the officer.

3. *Communicating Goals, Policy, Procedures, and Rules.*² In order to achieve a positive, focused disciplinary system, departmental goals as well as departmental policy, rules, and procedures must be effectively communicated to and understood by all

employees. Effective communication is often a complex and difficult process, and it requires much more than periodic pronouncements posted on a bulletin board. One method of communicating goals and policies effectively is by incorporating officers and supervisors into the policy development process. Empowering officers and supervisors to participate in the articulation of goals and development of policies can help hone policies into more effective instruments for officer guidance and direction. Sharing the process of developing goals and policies will provide the officer with a better understanding of why a policy is necessary and why the officer must conform his or her behavior to that standard.

Officers who can internalize the basis for agency goals through assisting in developing and refining agency policy have a clearer understanding of the reasons for expected behavior. This is one way to minimize disciplinary problems. Individuals will generally conform more easily to a standard that they understand and accept as rational than to blind orders to adhere to such standards or procedures.

E. Disciplinary Schedules

One essential criteria for effective discipline is the degree to which departmental personnel perceive the disciplinary system as being fair. In order to achieve consistency, fairness, and objectivity in discipline, some departments use a system of graduated discipline. This typically involves the use of tables or schedules of penalties for one or more infractions or breaches of conduct, policy, procedures, or rules. There are arguments both for and against this type of uniformity.

On the one hand, it provides officers with a general idea of what they can expect for committing certain types of infractions. Major departures from the disciplinary schedule for these infractions are readily apparent a factor that also serves as a check on decision making. This approach is more easily applied to certain types of misconduct where there are no unusual circumstances involved. However, many instances of misconduct occur that, while they may involve the same or similar charges, involve substantially different facts and circumstances. Administration of discipline strictly on a formula basis in these circumstances may not take into account the total circumstances of the event or the performance history of the individual officer(s). Therefore, disciplinary systems that rely solely on administration of discipline by formula can prove to be too inflexible and thus unfair.

However, the availability of a scale of disciplinary actions for various types of misconduct provides some general controls over inappropriate use of administrative discretion. If punishment for misconduct deviates from what is perceived to be the norm, a written explanation should be made explaining the decision making process that supported the punitive action. Administrators and supervisors need not relinquish all discretion in this matter if they use a disciplinary scale. It can be used with the understanding that unusual circumstances may require departures from the schedule and that the reasons for such departures will be fully explained to those involved.

All things being equal, use of a scale of disciplinary penalties, or a disciplinary matrix, can be a valuable

tool for both employers and employees. The federal government uses a system that incorporates both a scale of potential penalties for various administrative infractions, as well as guidelines that supervisors must incorporate in making final decisions that takes into account both mitigating and aggravating factors of the employee's employment record. (A discussion of this process is included in an addendum to this concept paper).

Ideally, a matrix of penalties should be developed in a collaborative undertaking between employees and management. Employees who have input into determining appropriate punitive action for misconduct automatically invest themselves in the system. Some police departments that have used this approach have found both that officers are often harsher in their perceptions of appropriate disciplinary action for specific acts of misconduct than is management, and are less likely to lodge complaints against management for being unfair in disciplinary decision making.

III. RECEIVING AND PROCESSING COMPLAINTS

A. Responsibility for Complaint Investigation and Review

A police department's mechanism for investigating allegations of officer misconduct is of great importance.

Whether this responsibility falls on one individual or an entire unit, those involved should adhere to guidelines and principles of operation that in many respects go far beyond those undertaken by internal affairs units of days gone by. Significant issue areas in this regard include the following:

1. *Necessity or Establishing an Internal Investigation Authority.* The internal investigation function is critical to maintaining the integrity and professionalism of a police agency. Public trust and confidence in law enforcement are injured where the public perceives that officer misconduct is ignored or that punishment is not commensurate with the misconduct. In addition, the internal investigation function serves to maintain the internal discipline and control necessary to provide efficient law enforcement services. Therefore, each law enforcement agency should have a mechanism for investigating citizen complaints and other allegations of employee misconduct.

2. *Nature of the Investigative Authority.* The traditional approach to investigating employee misconduct has been the responsibility of what has been commonly referred to as internal affairs. This document's use of the term office of professional standards (OPS) to define this function represents more than a change in terminology. It is meant to convey a different perspective on the duties and responsibilities of this function within police agencies. Where information is available, compiled and summarized, this office can identify potential problems with agency policy, training, supervision, and other functions.

The office is also well situated to combine information on individual officer misconduct with other

risk factors to determine whether individual officers or even units have been engaged in behavior that is potentially problematic. Often referred to as an early warning or early identification system, these analyses can be used effectively to avoid future misconduct by identifying employees who are exhibiting various types of problematic behavior. Early warning systems are now required as an element of the accreditation process for agencies seeking or maintaining that status through the Commission on Accreditation for Law Enforcement Agencies, Inc. (CALEA).³

As suggested above, an office of professional standards should be charged with more than investigating alleged wrongdoing by officers, which is a purely reactive response to problems of misconduct. OPS can become a cornerstone for risk management within law enforcement agencies by identifying ways the agency and officers can avoid problems and correct shortcomings before they become problems. This office can also monitor evolving police practices that the agency may wish to adopt. These functions are best performed in conjunction with the inspections unit, research and planning or similar offices where available.

Many agencies have a separate unit that is solely responsible for conducting investigations of employee misconduct. Smaller agencies are typically unable to staff a separate unit. These agencies may designate an officer or officers to conduct all internal investigations on an ad hoc basis or rotate this responsibility among selected investigators as the need arises.

A growing number of law enforcement agencies have one unit to review the outcome of complaints lodged by the public and another to investigate internal allegations of employee misconduct. Some of these agencies staff the public complaint unit solely with department employees or use a mixture of citizens and officers. The latter may create more public accountability, since the citizens in the unit are meant to guard against internal department bias.

Several large urban areas have attempted to develop distinct units outside their departments in order to facilitate the public complaint review process. These units are usually staffed exclusively by members of the public such as community leaders and politicians or by a combination of police officers and the public. In a study of citizen complaint procedures conducted by the Police Executive Research Forum (PERF), it was determined that these external units have not worked as well as expected.⁴

Proponents of external complaint review units cite the value of injecting an independent and more objective voice in assessing and remedying officer misconduct. They claim that citizen involvement in this function reinforces goodwill between the department and the public. The public gains confidence that misconduct is fairly and adequately addressed where the public participates in the complaint review system.

The PERF study notes that opponents of external complaint review units feel that these units can undermine the morale of a police agency. The authority and responsibility for command staff to manage the department is interrupted and influenced by persons who are inexperienced in law enforcement and its unique

workings. The PERF study suggests that some early citizen review boards may have been inherently biased against law enforcement and thus failed to achieve their goals.

Organizational Placement of Investigative Authority. The placement of the internal investigations authority, whether designated OPS or known by another title within the organizational structure of the agency is an issue of critical importance. The internal investigations authority, whether a unit or employee, should be under the direct oversight of the chief executive officer of the department. The authority should have direct access to, and report directly to, this chief executive officer or another senior executive officer if so directed by the chief.

The integrity of internal investigations into allegations of officer misconduct is protected to a large degree when the internal investigations authority is required to report directly to the chief executive officer. Such investigations may unearth sensitive and confidential information that may or may not prove to be true. If treated without rigid internal controls, such information could potentially ruin the reputation and career of employees under investigation. Therefore, access to investigative information must be closely guarded and limited to those personnel with a need and right to know. This will protect the subject from the unfounded rumors or false accusations that may arise where numerous employees have access to all or some of the investigative information.

The process of conducting internal investigations must also guard against personal influence or bias. The possibility that an investigation may be stifled or unduly influenced as a result of favoritism, discrimination, or personal dislike increases as more personnel are involved in the internal investigation function. Where the internal investigation authority does not report directly to the chief executive officer there is a greater opportunity for corrupt officers to influence the outcome of internal investigations.

The attitudes of personnel involved in the investigative process may also threaten the integrity of the investigation. For example, a supervisor may privately consider investigation of use of force incidents to be less important than investigation of patrol car accidents, because the supervisor believes that all uses of force are merited. The supervisor may thereby practice internal selectivity in directing internal investigations. Whether due to personal selectivity or bias, the chief executive officer may ultimately receive a distorted picture of allegations of officer misconduct where all complaints are not forwarded to the internal investigations authority and the authority does not report directly to the Office of the Chief.

The nature of the complaint review process and the duties of the chief executive officer is another reason for placing the internal investigative function under the direct control of the chief. The chief is responsible for control of the law enforcement agency and its employees. Immediate and firsthand knowledge of employee actions is necessary so that the CEO can effectively fulfill this responsibility. Additionally,

corrective actions must be taken in a timely manner where a pattern of misconduct indicates weaknesses in policy, training, or supervision. This can be delayed or interrupted if the chief receives allegations of misconduct through indirect channels.

4. *Assignment of the investigation authority.* The choice of staff to perform internal investigations is a critical factor in ensuring the integrity of this function. Officers for these assignments must be selected and assigned with the utmost care. Some law enforcement managers are uncomfortable with the prospect of administering discipline to fellow officers for misconduct. Often, they retain the perception that everything is different on the street and that any subsequent review of the facts to determine potential misconduct cannot accurately reproduce the event or duplicate the officer's feelings while involved in the incident. Where civilians are involved in the review of investigations of misconduct (as in civilian review boards) the civilian may compensate for lack of street experience by recommending inordinately harsh or light discipline. Therefore, the chief executive officer must establish a unit comprised of personnel who understand the critical necessity for accurate, unbiased, and fair investigations.

Another means of ensuring unbiased and professional internal investigations is to use only trained personnel for this function. Personnel should receive formal training in this area both within the department and through professionally recognized external sources. The law relating to internal investigations is complex and requires investigators to know its requirements. In addition, internal investigators should have a firm grasp of such matters as the Peace Officers' Bill of Rights, use of the polygraph, the range of other operations and practices that influence the investigative process as well as local collective bargaining agreements, civil service requirements, and related matters.

When considering candidates for internal investigation assignments, the department CEO should evaluate a candidate's image within the department, his or her communication skills, personal disciplinary history and reputation, and breadth of law enforcement experience. The successful candidate for this assignment should have considerable patrol and supervisory experience, a positive reputation within the department, and outstanding interpersonal and investigative skills. In order for an officer to perform his or her duties, the officer must be able to conduct focused, unbiased fact-finding investigations irrespective of the officer(s) under investigation. At the same time, these so-called nonsense investigations must be conducted in a manner that promotes a sense of fairness in the internal investigative process and confidence both inside and outside the police agency that charges of officer misconduct are being dealt within a professional manner. These are significant demands and underscore the demanding qualifications that must be possessed by the successful candidate.

Additional Duties of OPS

Although a supervisor will often initiate complaint inquiries, the primary responsibility for review and investigation of complaints and allegations against

employees lies with the office of professional standards. This is the case regardless of whether the complaint or allegation is initiated by a member of the public or someone in the department or another state or local governmental agency. OPS may, for example, assume responsibility for an investigation (a) upon notification from a supervisor of the complaint or allegation, or (b) upon its own initiative once the complaint is registered with the department. However, OPS can take the initiative to conduct internal investigations of its own that are not generated by one of the foregoing sources if given prior approval by the department's CEO or the CEO's designee. This approval process is required to ensure that OPS does not become too independent and engage in fishing expeditions without reasonable justification to suspect misconduct.

In addition to its conduct of, or participation in, investigations of alleged employee misconduct, OPS should also do the following:

- Maintain a complaint log.
- Maintain a central file of complaints received. This file should be stored in a secured area with limited access. These records should be maintained in accordance with any records retention requirements imposed by state law.
- Conduct a regular audit of complaints to ascertain the need for changes in training or policy.
- Compile statistical and related information to identify trends in complaints involving use of excessive force or abuse of authority.
- Track complaints against individual employees to assist in employee risk analysis (e.g., early warning systems).
- Provide the department's CEO with an annual summary of complaints against employees and the disposition of those complaints. This summary may be made available to the public or used in other ways as directed by the CEO.

Analysis of documented public complaints and their disposition may provide the department with critical information pertaining to the need for increased training and policy development or refinement on a department-wide basis. This analysis may also act as an early warning system by producing one element of such a system: evidence of a pattern of misconduct by an officer or officers. It can serve as one component of a more comprehensive system for identifying problematic patterns of officer behavior and conduct that warrant attention and possible intervention. Analysis may also illuminate malfunctions in the disciplinary process itself that may be corrected, such as inconsistent discipline.

Another role of OPS is to provide certain types of information that will assist the agency in educating the public about the public complaint process. This is an essential part of efforts to facilitate a climate in which the public feels it can be heard by the police department. For this reason annual summaries of complaints investigated and the collective results of investigations should be made available to the public. These reports should not name the officers involved but should provide a summary of the nature of the complaints and dispositions. Increased education about the public

complaint process and the daily operations of its law enforcement agency will help the public better understand law enforcement procedures. Often, public complaints arise due to a lack of understanding of these procedures.

C. Accepting and Handling Public Complaints

Although allegations of misconduct may come from within the department as well as from external sources, the primary focus here is upon the handling of complaints from members of the public.

Receipt of Complaint. Police departments should allow public complaints to be received initially by any member of the department. However, when someone expresses to a non supervisory employee a desire to make a complaint, where possible the matter should be referred to a supervisor, as noted below. There should be little or no restriction on the means of receiving a complaint. Complaints should be accepted directly from the complainant in person, by telephone, in writing, or by any other means. Anonymous complaints should also be accepted and reviewed.

Any supervisor within the department should be authorized to accept and record a public complaint. This is the prevalent practice among law enforcement agencies. Many departments permit any sworn officer or department employee to accept such complaints. This has the benefit of broad employee involvement while maximizing citizen access to the complaint process. This approach eliminates the need for the public to go through lengthy procedures before being able to register a complaint. In this manner, the public may also perceive that all officers and departmental personnel are genuinely open to investigation of misconduct. However, allowing a line officer to record a complaint may promote a lack of organization in the complaint acceptance and review process and permit individual officers to bypass the process by not recording or forwarding troublesome complaints. Therefore, it is preferable in efforts to safeguard the integrity of the process for members of the public to lodge complaints with a supervisory officer and be provided with whatever assistance is reasonable and necessary for them to do so by subordinate officers.

Alternatively, the department's complaint procedures should be explained to the complainant, and the complainant should be advised where and with whom the complaint may be filed. It should also be explained to the complainant that the complaint may be made in person or by any other means.

Supervisors are generally considered to have primary initial responsibility for observing officers' behavior for potential misconduct (see below) thus, responsibility for primary intake of public complaints reinforces their knowledge and ability to carry out this function.

The most appropriate manner of addressing public complaints has become a matter of concern for law enforcement. One particular issue is whether all public complaints received by the department should be subject to a thorough internal investigation. Some police personnel maintain a skeptical attitude towards public complaints. They assert that the complaint process can be manipulated by the public to exact revenge against officers. The increasingly high monetary judgments

against law enforcement agencies in actions filed under Title 42 U.S.C. Sec. 1983 have contributed to the filing of frivolous or harassing public complaints. It is argued that some individuals file misconduct complaints and legal actions in the hopes of forcing the police department or governing jurisdiction into a quick out of court monetary settlement. Also, many officers dislike public complaints because they fear that the department may be more willing to believe the citizen than its own employee. The possibility of abuse in the public complaint filing process has prompted some agencies to investigate only the most serious allegations of officer misconduct.

Criticisms of the public complaint review process focusing on the potential for abuse of the system have some merit. Citizen abuse of this mechanism has occurred. However, when weighed against the benefits accrued to the department and public from a strong public review process, these criticisms prove negligible. In short, all citizen allegations of employee misconduct should be recorded and reviewed by the internal investigation authority. This doesn't mean that a full scale investigation of every public complaint should be launched. But at a minimum each should be reviewed to determine whether it merits further investigation.

The complaint should be accepted and reviewed whether or not the complainant wishes to remain anonymous. There are numerous reasons why a citizen may wish to remain anonymous or distance him or herself from the complaint review process. Elderly citizens may have witnessed misconduct, but illness or infirmity may impede their ability to participate. Fear of reprisal should not, but can, influence a complainant's decision. The citizen may believe that a complaint against an officer will make the citizen a target both of the department and the officer against whom the complaint was lodged. Issuances of daily parking tickets, citations for minor or nonexistent infractions, and officer failure to respond to a genuine emergency because the citizen was responsible for punishment of another police officer may scare the citizen into requesting anonymity or not registering a complaint at all.

Community Relations. Acceptance and review or investigation of all public complaints is vital in efforts to further the law enforcement goal of building and maintaining a good working relationship with all members of the community. One purpose of the complaint review process is to ensure that evidence of an officer's abuse of his or her official position is revealed and corrected. However, some citizens are unaware of the fact that a departmental mechanism exists to address public complaints of officer misconduct.

Until recently, law enforcement agencies have not typically taken active steps to inform the public about how to file complaints or how the police department handles those complaints. Some have agencies, until relatively recently, provided the public with an annual summary of public complaints investigated and the results of those investigations. Many agencies have begun to provide such information to establish more credibility with, and accountability to, the public.

However, there have been times when, as a result of the general lack of knowledge about the complaint review process, some individuals have simply accepted certain minor forms of officer misconduct without question. Thus isolated from a full picture of officer misconduct, departments often have remained relatively unaccountable for the disposition of public complaints. In doing so, they have also missed the opportunity to dispel rumors about officer conduct within their agency often information that can demonstrate the overall excellence of their department and fine performance of their officers.

Failure to address public complaints or involve the public in this process may have two unfortunate results. First, incomplete knowledge of officer misconduct may permit officers with hostile or overly aggressive characters to remain in their positions of authority and to continue to abuse that authority. Officers with temporary physical or emotional problems that cause misconduct may not be identified by early warning signals that could have surfaced through public complaints. Second, the public and law enforcement can break into two isolated and opposing camps. Incidents of discriminatory behavior by law enforcement personnel may increasingly alienate large segments of the population. The law enforcement agency may gain a reputation for being unaccountable for its actions. Under such a situation, the phrase to serve the public becomes largely meaningless as the public is seldom consulted or considered.

Therefore, review of all public complaints received by the law enforcement agency is an important means of serving the public and remaining in touch with the public's needs. Public trust and confidence are built when the public perceives that officer misconduct is addressed and corrected by the agency. This, in turn, promotes public willingness to help the agency carry out its law enforcement mission. In a climate that fosters trust between the public and law enforcement, citizens are more likely to come forward to testify, to provide evidence of criminal acts, and to provide other needed assistance in reducing crime.

Complaint Forms. Public complaint packages for use in the filing of complaints are also a good idea. Such packages should contain complaint forms, information on the department's complaint procedures, and an explanation of the action that the complainant can expect in response to a complaint. These packages can be made available to the public directly through police personnel and at designated public locations. Use of a customized complaint form is a good idea no matter how large or small a police department. The components of a complaint form are attached to this document. Actions forming the basis for a public complaint may also form the basis for litigation against the public entity, employing department, or officer for a violation of individual rights. Full documentation of the complaint helps the department document that the facts as reported to them were received and then acted upon to the fullest extent of the department's abilities.

Should the complainant revise his or her story, the department will have evidence to rebut these changes.

Where the complainant has fraudulently filed a public complaint, the officer or department may decide to take

legal action against the complainant. The documented complaint may be used to prove these charges.

Filing of false complaints is not a widespread problem in most localities. However, to guard against this possibility, some officers advise the complainant of the penalties for filing a false complaint. This is not a good general practice as it creates a chilling effect on the entire complaint reporting and filing process and could be perceived by others as an attempt to intimidate potential complainants. Failure to fully document all complaints can additionally create a perception that the department is covering up some officer misconduct. Thus, some written documentation of all public complaints should be instituted by law enforcement agencies.

D. Role of the Supervisor

Although the office of professional standards or similar entity should be given primary responsibility for the investigation of complaints and allegations, the initial responsibility for complaint review should lie with the supervisor receiving the complaint. Following is a suggested approach from the model policy for processing public complaints. This may be used as a prototype for creating a reporting/review system or as a basis for comparing an existing system. This approach consists of the following initial steps.

- *Supervisors Conduct a Preliminary Investigation.* Under this approach, supervisors conduct, or cause to be conducted, a preliminary inquiry to determine if grounds exist for initiating a full administrative investigation.

- *Complainant Receives a Copy of the Complaint.* The complainant receives a copy of the complaint as filed and is asked to verify by signature that the complaint set forth on the complaint form is a complete and accurate account of the events involved. If the complainant elects not to sign, this is documented by the supervisor and the inquiry proceeds. Copies of the complaint and the supervisor's findings should be forwarded to the office of professional standards and to the agency's chief executive officer (CEO).

- *Document and Forward the Complaint.* All public complaints should be documented upon receipt and forwarded to the office of professional standards and the agency CEO. Even where the supervisor has seemingly resolved the matter by way of explanation of departmental policy or other actions, the complaint should still be documented and forwarded to OPS. The documentation should note any actions that were taken by the supervisor to resolve the complaint and the citizen's reaction. A copy of the complaint should go to the sheriff or chief of police if for no other reason than to keep him or her apprised of the nature of complaints on a daily basis.

- *Provide Complainant with a Copy of the Complaint.* The complainant should receive a copy of the complaint. In some cases, citizens who lodge complaints receive little feedback about the final disposition, or whether the complaint was ever investigated. This shortcoming helps promote a general perception that such complaints are discouraged by the police agency, or that the agency takes little meaningful

action in response to public complaints. While agencies may actually investigate public complaints in good faith, lack of public knowledge concerning how these complaints were addressed or their outcomes reinforces this misperception.

• Explain Complaint Process to Complainant. It is desirable that the complainant be given either a verbal briefing or written description of the complaint process and be informed that he or she will be contacted in writing about the final disposition.

If the supervisor taking the complaint recognizes that the actions taken by the officer(s) were appropriate and in accordance with existing agency policy and procedures, the supervisor should explain this to the complainant. The supervisor may explain to the complainant the policies and procedures in question in the event that a simple misunderstanding has precipitated the complaint.

For example, many citizens are unfamiliar with the field interview procedure or its purpose and may view this procedure as a form of harassment. A simple explanation of the purpose of this procedure may resolve these misunderstandings and may even leave the individual with positive feelings about law enforcement investigations and protection of the community.

However, this in no measure implies that the explanation should be used as a means of talking the citizen out of filing a complaint should he or she desire to do so. In fact, the complaint should always be recorded for screening irrespective of other immediate steps by the supervisor to explain the events or actions of the officer. This is a safeguard for the supervisor should he or she be accused of dissuading or failing to record a complaint.

• Distinguish between Service vs. Personnel Complaints. Some police departments classify complaints as either service or personnel depending on the issue(s) involved. Service complaints or concerns are those associated with the way police services are provided. A common example is a citizen complaint over police response time. Any of these types of public complaints may be handled in the internal investigative process somewhat differently from those involving personnel action or inaction directly with a citizen. But each type of complaint should receive a unique tracking number and be screened for pertinent information and potential violations of departmental policy and procedures. Even complaints involving misunderstandings may contain information of value to a police agency. This includes, for example, a need for the department to clarify procedures to individual officers or groups of officers, or to provide additional training in communication or other interpersonal skills. Examination of all public complaints allows the police agency to determine if the complaints form a pattern that should be addressed by the department in another appropriate manner.

• Conduct Further Investigation if Necessary. If the supervisor's preliminary investigation discovers issues that may support a charge of misconduct, the supervisor should cause further investigation to be made and should notify OPS of the information uncovered and the actions that are being undertaken. If the preliminary investigation reveals evidence of criminal conduct by a departmental

employee, all available information should be forwarded to both OPS and the agency CEO immediately and investigation of the complaint will be turned over to OPS.

It should be clear, however, that OPS may assume concurrent or sole authority over the investigation of any charge of misconduct at any time or at any point in a supervisor's investigation. In doing so, OPS must notify the involved supervisor of this action. Such actions of OPS without notification or justification risk the development of ill will between OPS investigators and the supervisor involved. Therefore, these actions should only be taken by OPS where unusual circumstances or facts of the incident warrant intervention. The overall purpose for allowing OPS to intervene in this manner is to provide a check against any potential charges of supervisory inaction or failure to pursue an investigation in a diligent manner.

• Give Supervisors a Major Role in Investigation of Complaints. The office of professional standards must have the primary responsibility for investigating all complaints of employee misconduct. However, in the vast majority of cases, officer misconduct does not rise to the level of an offense for which suspension, dismissal or similarly serious disciplinary action is an appropriate remedy. Positive discipline may include additional training or counseling for an officer as an option to more punitive measures. For example, the officer may simply need a refresher on departmental policies in order to correct relatively minor problems. The supervisor is often in the best position to ascertain where these specific measures would be most effective and to administer them in an appropriate manner given the circumstances.

Thus, in many departments the officer's immediate supervisor is, or should be, given a major role in the investigative and disciplinary process. For example, first line supervisors may be authorized to give the offending officer a verbal or written reprimand for minor infractions or for more serious infractions that still may not merit action through the department's formal disciplinary process. These reprimands should be used also in an educational manner for the officer, not solely as punishment. Even in more serious instances, the supervisor should also be asked to make recommendations for disposition of the case.

This system permits a more efficient and rational allocation of internal investigative manpower. For example, serious allegations of misconduct, such as brutality, are normally best assigned to OPS for internal investigation, while continued tardiness might better be investigated and handled by the officer's supervisor. In this manner, supervisors have a significant role in the investigatory and disciplinary process. But, where necessary and indicated the supervisor's investigation can be joined or even preempted by the OPS. Agencies that adopt this or a similar approach should provide both supervisors and OPS personnel with general guidelines concerning the types of complaints that should normally be handled by each.

IV. THE INVESTIGATIVE PROCESS

A. General Legal Considerations: Termination or Suspension

There are legal constraints that affect the investigation of officer misconduct and the administration of disciplinary action in all jurisdictions. Certain aspects of law enforcement officer discipline may vary in accordance with state or local law, civil service decisions, or the terms of collective bargaining agreements. In addition, several states provide statutory regulation of the public complaint process. However, in the absence of these specific constraints, certain general principles apply. A broad overview of these general features of officer discipline is important for all police personnel.

The most severe forms of discipline, such as suspension and termination, are those that are most extensively governed by federal, state, and local law. Regardless of the jurisdiction in which the department operates, suspension and termination proceedings must be conducted in accordance with applicable laws if they are to withstand legal scrutiny. The exact procedures for terminating or suspending a law enforcement officer will usually depend upon how the officer's employment is characterized under the applicable law.

Other forms of discipline that could impact an officer's property interests as determined under the 14th Amendment are also subject to legal guidelines as outlined in this section.

Property Interest in Continued Employment. The 14th Amendment's Due Process Clause guarantees that no person shall be deprived of life, liberty, or property without due process of law. Property has been expanded beyond its common meaning to include the abstract concept of a vested interest or right to continue holding one's job. Where such a property interest in continued employment exists, termination or suspension from such employment must conform to certain federally determined due process procedures. A property interest in employment may be created not only by court decision but also by federal, state, or local legislation, civil service decision, or personnel handbooks. These determine the extent of the property interest.

In most jurisdictions, law enforcement officers are given property interest in their employment by state statute. The wording of such legislation may differ widely from state to state. Many state statutes provide that officers shall retain their position unless dismissed for just cause. Other statutes contain a listing of behavior that may subject an officer to dismissal or discipline. Statutory wording that limits when an officer may be dismissed or suspended generally implies intent to confer a property right.

Where the law confers a property right in employment, officers cannot be terminated or suspended without just cause and a hearing by the law enforcement agency or other appropriate tribunal must precede such management decisions.

Where an officer is considered to have a property right in employment, suspension or termination must be based upon just cause, that is, certain legally recognized grounds. There may be other grounds for discipline and

other rights accorded to a department's officers in a given jurisdiction. These include the following.

- *Incompetence.* Most states permit an officer to be disciplined up to termination for incompetence. The department is not required to retain an officer who is unable to perform his or her duties due to incompetence.¹

- *Neglect, Nonfeasance, or Failure to Perform Official Duties.* Even where the officer is competent, if the officer does not fulfill his or her responsibilities, the officer may be disciplined. Thus, many states include neglect of duty, nonfeasance, and/or failure to perform official duties as grounds for disciplinary action up to and including termination.

- *Conduct Unbecoming an Officer.* A basis for discipline that has long been a subject of controversy is the catchall provision—conduct unbecoming an officer, often referred to as CUBO. Conduct unbecoming an officer may include a wide range of behavior. For example, acts of moral turpitude by the officer, such as certain sexual activity or lying, may constitute CUBO.¹¹ This charge may also refer to acts that are considered to damage the department's reputation or the welfare of the department or the general public.

Some courts that are uneasy with the seemingly vague nature of the charge have criticized suspension or dismissal based on CUBO. It is sometimes contended that, because of this vagueness, the officer is not given adequate notice of the types of acts that are prohibited. By contrast, many courts have upheld this charge as a basis for discipline. Under the latter view, the officer is considered able to determine from state case law and department policy the scope of actions constituting conduct unbecoming an officer. In addition, officers are considered to be able to discern from their own moral value systems, which of their acts could potentially bring the department into disrepute. Law enforcement personnel need to receive advice on state employment law to determine whether a trend exists locally that would support CUBO as a basis for discipline.

- *Violation of Departmental Policy, Rules, or Procedures.* Just cause for discipline has also been found where the officer has violated departmental policies, rules, or procedures. Officers have a duty to obey all properly promulgated and legal policies and procedures of the department. Charges of misconduct by the officer or malfeasance in office are usually premised on such departmental policy violations.

- *Failure to Obey an Order.* Dismissal may in some cases be founded upon failure to obey the lawful order of a superior officer. What constitutes a lawful order can be disputed in some cases. If the officer can show that there was in fact no direct order, or that the order given was unlawful, there are no grounds for discipline.

- *Violation of Criminal Law.* In most states, an officer may be disciplined administratively in degrees up to and including dismissal for violating criminal law. Where there is a concurrent departmental policy prohibiting criminal conduct, the officer may also be disciplined for violation of departmental policy.¹²

In such cases an administrative finding of misconduct and subsequent discipline will not be dependent on a

judicial conviction unless otherwise provided by law. If the commission of a crime is a violation of department policy (as it should be) it may be immaterial that the employee was not criminally charged or convicted. The administrative proceeding conducted by the police department does not have to be guided by the legal standard of proof beyond a reasonable doubt as does a criminal court proceeding. A fair preponderance of the evidence indicating guilt is all that is necessary for a department to take disciplinary action up to and including dismissal from service.

Some departments choose not to file formal administrative charges until there has been an ultimate resolution of the criminal charges. However, this approach has some consequences that should be considered in advance. In particular, criminal court proceedings often take extensive time for resolution, particularly where appeals are granted. If the criminal charges against the officer are serious, the police department often does not and generally should not return the officer to street duties and may transfer him or her either to an administrative assignment or to administrative leave status. If the officer is maintained on any type of duty and/or retains law enforcement powers, the department risks civil litigation should the officer subsequently use those police powers inappropriately, whether on or off duty.

If the officer is placed on administrative leave, it should be with pay. This action ensures the employment status of the officer and, as an employee, the officer is required to answer questions regarding the investigation or face dismissal for failure to comply with a legal order.

However, considering that an officer can remain, and many have remained, on administrative leave with pay for years pending the outcome of criminal charges, the financial efficacy of this approach often comes into question. Agencies should also consider whether this action has negative effects on other officers in the department who continue to work for their pay. As a result, the time officers may remain on administrative duty with pay should be as short as possible.

Coordination and cooperation with the prosecutor's office where criminal conduct is under investigation is essential. In some cases, where the evidence is sufficiently strong to determine that an officer has committed a crime, it may be best to dismiss the officer even if in doing so the department has to grant use immunity to the officer barring his statement from being used for criminal prosecution. This action effectively rids the department of an officer who poses additional risks to civilians and other officers if allowed to remain employed. Such decisions depend on a number of factors to include the seriousness of the offense and the strength of the case against the officer, among other matters.

Disciplinary Hearings. Law enforcement officers holding a property interest in their position normally must be given an administrative hearing prior to suspension or dismissal.¹³ However, the department may be permitted to suspend the officer with pay pending the administrative hearing where the officer would pose a significant hazard to the public or the department if allowed to remain on active duty while awaiting a

hearing.¹⁴ Even without these exigent circumstances, an officer may be relieved from active duty or placed on administrative leave with pay pending the administrative hearing. In some rare instances it may be feasible to relieve an officer from active duty without pay with the proviso that if the administrative hearing results in a favorable ruling for the officer, he or she will be reinstated with appropriate back pay and without a break in benefits. Here again, officers and their agencies should understand that these are primarily defensive actions designed to protect the police agency, governing jurisdiction and citizens. It is not worth risking the safety of civilians or other officers when the ability of an officer to hold office is in serious doubt.

Terminable at Will Employment. A more difficult legal disciplinary problem is presented in those states that do not confer a property interest upon law enforcement officers. While few in number, these states essentially treat public and private sector employees in a similar manner. Termination of officers is considered to be at the will of the employing agency. Probationary officers are often regarded as terminable at will.

Employment at will means just that. Discharge can be imposed without good cause. However, no at will employee can be discharged based upon race, religion, sex, or national origin. Nor should any person be discharged because of his or her sexual orientation.

In general, the federal due process pre-disciplinary requirements discussed in the previous section do not apply to terminable at will employees. As the officer has no legal property interest in his or her position, there is no deprivation of property upon termination that is protected by the 14th Amendment. As a result, a terminable at will officer has no right to a pre-disciplinary hearing to determine the validity of the firing decision except in certain limited instances.¹

The rights accorded a law enforcement officer in terminable at will states vary significantly from state to state.¹ Adoption of exceptions by statute or case law should be researched within individual state laws.

Probationary Officers. It is well settled that probationary employees of public agencies can be dismissed without a hearing and without judicially cognizable good cause. *Perry v. Sindermann*, 4 U.S.

3 (1972). However, a general exception to this rule is recognized whenever an officer's liberty interest, as secured by the Due Process Clause of the 14th Amendment is invoked.¹

Right to Good Reputation and Clean Name. Any employee whose discharge impacts his or her liberty interests as provided by the 14th Amendment has a right to a name clearing hearing. Impairment of a liberty interest occurs when a stigma or other disability results from termination of employment. In other words, the action affects the terminated employee's reputation or ability to secure new employment.¹ Cases involving the right to a name clearing hearing have involved accusations of involvement in such criminal activity as rape, corruption, and theft as well as such charges as improper association with women, sexual misconduct, insubordination, and dishonesty.

In terminable at will employment, the 14th Amendment property provision has been construed to include an abstract right of employees to a good reputation and clean name. Even where there is no property interest in the employment itself, the officer may have an enforceable interest in his or her good reputation. Indeed, this interest in reputation triggers the 14th Amendment due process requirements regardless of whether the employee is terminable at will or is being terminated for just cause.¹ Where an officer is to be discharged on the basis of a charge that may damage his or her standing in the community or attach a stigma to his or her good name, reputation, honor, and integrity, a name clearing hearing prior to termination is necessary.²

Essentially, employers are not allowed to ruin an employee's chances of getting another job by firing him or her on the basis of scandalous or grievous charges that may be false, without giving the employee an opportunity to prove that the charges are false. For example, discharge of an employee for a positive drug test would trigger the requirement that the officer be given the opportunity to have a name clearing hearing.

Deamination and Other Interests in Reputation. Even where termination itself is lawful, departments must be cautious of any statements released to the media or to prospective employers regarding the cause for the dismissal.²¹ Regardless of whether there is a property interest in the employment, and whether correct procedures were followed in the disciplinary process, incorrect or incautious statements about an ex officer may provide that officer with a right to bring a civil action in state court for defamation or in federal court for violation of the employee's liberty interest in his or her reputation.²²

Whistleblowing Statutes. An important protection afforded to all employees is found in the so-called whistleblower statutes. These statutes prohibit employers from discharging employees who report or threaten to report an employer's violations or intended violations of the law.

Investigative Procedures

Responsibility for conducting internal investigations of police conduct carries with it the important responsibility to conduct such investigations in accordance with the law and professionally accepted practices. An officer who is the subject of an internal investigation retains certain rights, and legally accepted procedures must be followed during the investigation of alleged officer misconduct. Officer rights may vary according to state and local law or the terms of a departmental collective bargaining agreement. In addition, the characterization of the investigation as administrative or criminal will determine the applicable rules.

Several state legislatures have enacted legislation addressing the various rights guaranteed to law enforcement officers during their employment. These legislative acts are generally known as Peace Officers Bill of Rights and generally incorporate the rights of officers who are under investigation for misconduct. The states that have adopted a Peace Officers Bill of Rights

include Kentucky, West Virginia, Virginia, Rhode Island, Maryland, Illinois, California, and Florida, among others.

Where the allegation of officer misconduct may involve a violation of criminal law, different considerations apply, and more stringent officer rights are generally guaranteed. For example, an officer who is to be questioned in a criminal investigation must be read his or her Miranda rights before questioning is begun, and those dictates must be honored during the interview. If in a criminal investigation the officer invokes his or her Miranda rights, that officer may not be disciplined for invocation of those rights. By contrast, questioning an officer during a purely administrative investigation into noncriminal violations invokes what are known as Reverse Miranda rights. The officer is not entitled to remain silent and must truthfully answer questions narrowly, specifically, and directly related to the performance of his or her official duties. Failure to answer these narrowly focused questions provides the agency with grounds for invoking discipline up to and including discharge from service for failure of the officer to respond to a direct order. Prior to questioning, the officer must be advised of the Reverse Miranda provisions.

This type of compulsory testimony raises a potential problem for police officers. The officer knows that by answering all questions truthfully he or she may be forced to admit criminal activity and thus face criminal charges. On the other hand, the officer knows that failure to answer as ordered may result in being discharged from employment. In order to circumvent this problem and ensure that officers are encouraged to answer all questions, the officer may be given use immunity in return for a waiver of his or her right against self incrimination during the administrative investigation. Use immunity as previously noted, means that the department will not use any admissions of criminal activity by the officer for criminal prosecution purposes. However, if the officer is prosecuted for a federal criminal civil rights violation, such statements may be used for impeachment purposes. Also, the admissions may be used as the basis for administrative charges for any departmental policies that may have been breached.

The distinction between criminal and administrative investigations is an important one for investigators as will be noted later. But for purposes of the following discussion it should be emphasized that this document is primarily intended to address the conduct of administrative investigations.

Notification to Employee. Prior to a hearing on charges, the officer must be informed of the charges against him or her in accordance with the provisions of state law. The officer under investigation should have the opportunity to contact the investigating authority, whether a supervisor, OPS, or similar entity, to ascertain the status of the investigation. Some police departments neglect to inform the involved officer of the outcome of the investigation until the disciplinary hearing is imminent. This is a serious oversight by an investigating authority. It is a practice that should not be followed as it

minimizes the officer's opportunity to prepare his or her response and defense to departmental charges. In addition, where the officer is able to ascertain the progress of the investigation, the pressure and alienation generated by being the subject of an internal investigation may be minimized. The officer is not left in the dark and may feel more in control of the situation. Again, providing this information to the officer is part of dealing fairly with police officers under investigation.

Interviewing Employees. Irrespective of any notification of the investigation with which the officer has been provided, the employee to be interviewed should be advised of the nature of the complaint prior to any questioning.

All interviews should be conducted while the employee is on duty, unless the seriousness of the investigation is such that an interview during off duty time is required. The atmosphere of the interview should not be coercive or demeaning. The officer should be treated in a dignified and respectful manner, and offensive or threatening language should not be used.

While more than one internal investigator may be in the room during an interview, one person shall be designated as the primary investigator who will conduct the questioning. Some departments permit questioning by more than one investigator, but this practice can degenerate into a hostile and coercive situation for the interviewee.

An officer under investigation should be able to bring a personal representative into an internal interview. The personal representative may be an attorney, union representative, supervisor, or other person chosen by the officer. But such representative(s) should not be in any manner connected with the incident under investigation. The role of the interviewee's representative is primarily that of observer. He or she should be advised not to intervene in the interview unless requested to do so by the interviewers or the employee, or unless the interview leads to issues of criminal activity.

Some law enforcement agencies only permit an officer under investigation to be accompanied by a supervisor or union representative. It is sometimes asserted that attorneys unnecessarily impede the progress of administrative investigations without fulfilling any critical role. However, in the complex world of civil liability, logic dictates that an officer be permitted legal representation during an administrative interview. A supervisor or union representative may be unable to foresee all the ramifications of any given case or be in a position to adequately prepare the officer. A personal legal representative, although relegated to an observer's role during an administrative interview, can still help the officer prepare a better case, while ensuring that the interview proceeds in an appropriate and legal manner.

Finally, while an administrative interview does not carry the direct threat of punitive action at the conclusion, it does target the livelihood and chosen profession of the officer under investigation. A sense of fairness suggests that an officer is entitled to protect his or her livelihood and unblemished name by having a legal representative present as an observer during an administrative interview.

All interviews should be recorded in their entirety. If breaks are taken, a notation should be made on the recording concerning the time that the break was taken, who requested it, and the time at which the interview resumed.

At the commencement of the interview, the interviewee under investigation should be given the following warning:

- *You are advised that this is an internal administrative investigation only.*
- *You will be asked questions specifically related to the performance of your duties and your fitness for office. You are required to answer all such questions.*
- *If you refuse to answer these questions, you may be subject to discipline for the refusal. This discipline may include measures up to and including termination of employment.*
- *You will also be subject to discipline if you knowingly make false statements during the interview.*
- *Any answers that you give are to be used solely for internal administrative purposes. They may not be used in any subsequent criminal proceedings, if any such proceedings should occur. However, should there be a federal criminal civil rights prosecution, your statement may be admissible for impeachment purposes.*

3. Examinations, Tests, Lineups, and Searches. Where deemed pertinent, the department may require an employee under investigation to undergo any of the following examinations:

- Intoximeter test
- Blood test
- Urine test
- Psychological examination
- Polygraph examination
- Medical examination
- Any other examination not prohibited by law

In addition to the foregoing general authorization for examinations of the officer under investigation, an on duty supervisor should be permitted to direct an employee to submit immediately to a breath, blood, or urine test when there is reasonable suspicion in the line of duty that alcohol or drug usage is directly related to a public complaint or other misconduct.

Specialized tests such as medical or psychological examinations should only be required as part of an internal investigation where it is probable that the examination will produce relevant evidence. For example, an employee might be ordered to submit to a physical examination where the employee explains that the alleged misconduct occurred due to a temporary physical illness or condition.

State law varies on the permissibility of using the polygraph. The reliability of the polygraph examination has also been increasingly challenged as a means of discerning the truth. Some states have outlawed employer use of the polygraph on employees in both the public and private sector. Law enforcement agencies in those states may not be permitted to use the polygraph as a tool to help prove or disprove employee misconduct.

The trend among the states has been to provide stringent regulations on the use of the polygraph and to require certification of the polygraph examiner where

these tests are permitted. Those states with statutes regulating use of the polygraph generally prohibit its use within the private sector but permit the law enforcement profession to use the polygraph in investigations of employee misconduct and as a recruit screening device. Some states permit this exception based upon the heightened need for internal security by the law enforcement profession. However, in other states this has led to the argument that a statute requiring only employees of a public law enforcement agency to take a polygraph is unconstitutional. For this reason, individual law enforcement agencies should carefully check their state law on this serious issue.

Where the polygraph examination is permitted as part of an internal investigation into officer misconduct, specific limits should be placed on the scope of the questioning. The employee may only be asked questions that are narrowly related to the performance of his or her official duties. The department may not ask broad questions unrelated to the investigation in hopes of gaining other information. This standard is the same as that applicable to questioning of the officer in a verbal investigative interview.

Whether the employee or employer requests the test, the employee must be advised prior to the polygraph test that failure to answer questions truthfully could result in discipline up to and including discharge. Use immunity for admissions of a criminal nature must be explained and a waiver obtained as in normal face to face questioning.

Where the law permits the test, if the citizen making the complaint submits to and passes a polygraph examination, the employee should also be required to submit to a polygraph examination.

An employee can also be required to participate in a lineup, if the lineup is to be used solely for administrative purposes.²³

With regard to searches, property belonging to the department is normally subject to inspection for investigative purposes. This may include vehicles, desks, files, storage lockers, computers, e-mail messages, DT transmissions, or other items or locations that are the property of the department. However, this right to inspect applies only to items in which the employee does not have a reasonable expectation of privacy. This is sometimes difficult to determine in cases where it has not been defined by departmental policy.

However, authorization to search should be restricted to a search for evidence of work related misconduct. Authorization should extend only to departmental property, (that is those areas and items that are related to work and are generally within the employer's control).²⁴ The employer may not search for evidence in private areas such as in a purse or locked luggage. Even when the item or location is departmental property, a search may not be legal without first obtaining a search warrant. This is the case if the employee has established a reasonable expectation of privacy by law, by departmental regulations or operating procedures, or by custom or practice of the department where formal policy to the contrary has not been established.

C. Disposition Following Investigation

Review and Recommendation. After the investigation is deemed complete, the primary investigative authority should review the complaint report and the investigative findings relative to the complaint. That investigative authority should then compile a report of findings and provide a disposition recommendation for each charge.

The model policy provides four possible dispositions for consideration in making these decisions.

- *Sustained* There is sufficient evidence to prove the allegations.
- *Not sustained* There is insufficient evidence to either prove or disprove the allegations.
- *Exonerated* The incident occurred but was lawful and within policy.
- *Unfounded* The allegation was false or not factual or the accused employee was not involved in the incident.

Review and Forwarding of Report. A copy of the investigator's findings and recommendations should be submitted for review to OPS. Thereafter, OPS may make any additional inquiries or conduct any investigation deemed necessary to verify, authenticate, or clarify the findings and recommendations of the investigative report. The report should then be forwarded to the department CEO through the chain of command for command officers' information, review, and comment.

Actions of CEO. Upon receipt of the report, the CEO should review the report and supporting documents. Generally, the CEO then chooses either to accept the findings and recommendations of the report or to remand the case for additional investigation. If the complaint is sustained, the CEO should determine whether final charges should be brought. If there is an affirmative finding on this matter, the CEO or his or her designee must direct that a charging document be prepared by the employee's supervisor or commander or by the OPS as appropriate. This document must be signed and thereafter served upon the employee.

The charging document must include the following:

- The nature of the charges.
- A copy of the investigative file.
- Notification that the employee may respond to the charges and a statement of the time frame for such response. This time frame must be reasonable, that is, long enough to give the employee a reasonable opportunity to prepare his or her response.

Response of Employee. The point at which the officer's response to the charges is accepted or heard is commonly referred to as the pre disciplinary hearing (PDH). An employee who desires an opportunity to be heard regarding the proposed charges may request such a hearing. This request should be made to the CEO or the CEO's designee within the time stated in the charging document. The employee may respond either verbally or in writing to the charges within the time stated in the charging document.

The pre disciplinary hearing need not approach the formality of a full judicial trial to satisfy the due process requirements of the 14th Amendment. The purpose of the hearing is to determine whether there are reasonable

grounds to believe that departmental charges against the employee are true and that suspension, dismissal, or other form of discipline is merited. This may include a reduction in penalty.

Due process requires that the officer be given notice of and an opportunity to be heard on the charges.² Due process does not require a police department to provide a permanent employee with a full evidentiary hearing prior to taking initial punitive action. But it does require at a minimum such pre disciplinary safeguards as a notice of the proposed action, the reasons for such actions, a copy of the charges and materials on which the action is based, and the opportunity to respond either verbally or in writing within a reasonable period.

In order for the PD to be meaningful, it must be held at a reasonable time and place. The officer must be permitted enough time before the hearing to prepare to address the charges against him or her, and the hearing must be held at a time and location that is easily accessible to the officer.² State law generally establishes the provisions for formal and evidentiary hearings of this type.

In many departments, the CEO will delegate this hearing to a member of his or her command staff or another designee. It is absolutely essential that the individuals so designated be fair and impartial and that the individual possess the authority to recommend a final disposition without fear of any reprisal from the CEO. The CEO may still make his or her own decision concerning appropriate punishment but should provide the reasons for overriding the recommendation decision to the involved officer.

Once the pre disciplinary hearing is concluded, if the chief executive officer feels that discipline is justified, the officer must have the right to a full evidentiary hearing in order to satisfy the due process clause.² It is essential that departments observe the procedural requirements imposed upon the disciplinary process and that officers understand their right to these procedural safeguards. Even where just cause for discipline exists, failure to observe the proper procedures may result in judicial invalidation of the departmental action and an award of civil damages to the officer.

Disposition. Following the PD or written response of the employee, the CEO is in a position to determine the appropriate disposition of the charge(s).² The disposition should normally be returned from the CEO to the commander of the employee's unit although this will depend upon the size and organization of the police department. The commander should then direct the employee's supervisor to take whatever disciplinary action is designated. A written copy of the disposition must be provided to the employee. The supervisor must subsequently verify to the commander, to OPS, and to the department's central personnel authority that the authorized disciplinary action has been taken.

Time Limit on Review Process. Whenever possible, the investigation of a complaint should be completed within a reasonable period of time. A period of 4 days from the time of the initial receipt of the complaint to its disposition would be considered reasonable under most circumstances although extenuating circumstances may

have bearing on this time limit. For that reason, the time designated by the agency may be altered by a waiver granted by the CEO or the CEO's designee and must be modified in accordance with any requirements established by departmental policy, applicable law, or existing labor agreement. Whatever the time allowed, it may be desirable that regular status reports be submitted regarding the progress of the investigation.

This time limit may be impractical in investigations involving criminal activity where the administrative investigation is suspended to allow the criminal investigation to begin or to proceed. However, administrative investigations should comply with some reasonable established timetable in order to ensure the freshness and continuing availability of all witnesses and relevant evidence. In addition, adherence to a time limit demonstrates, both to employees and the community, the department's serious commitment to investigation of alleged misconduct. A set time limit on internal investigations helps to moderate the atmosphere of suspense and pressure that often exists where the accused officer must wait an interminable period for the conclusion of the investigation. Finally, a timetable for all internal investigations tends to ensure fairness in the process.

Coincidentally, serious consideration should be given to limiting the time that an officer may remain on administrative leave with pay pending the outcome of a criminal investigation. While the focus of this discussion is not on criminal investigations, it should be noted that if a criminal investigation has led to the filing of a criminal complaint, continuation of an officer on administrative leave without pay serves little or no purpose. At such point, it may be preferable to remove the officer from this status and to file administrative charges against him or her. This is particularly the case when administrative charges alone would normally form the basis for termination of employment.

Appeal. In addition to the foregoing opportunities for an officer to defend against charges of misconduct, most employees may appeal proposed charges and any action taken thereon as provided by statute, ordinance, collective bargaining agreement, civil service regulations, or departmental or jurisdictional appeal procedures.

Notification to Complainant. Following final disposition of the complaint, a letter should be sent to the complainant from the CEO or the CEO's designee explaining the final disposition.

Applicability of these Procedures. The procedures discussed here should be followed in any proceeding involving written admonishments, punitive transfers, punitive reduction in pay, punitive reassignment of accumulated overtime or vacation, suspension, and discharge whether for cause or not.

In the last decade there has been a marked increase in complaints by unions and members about the way police officers are treated in personnel investigations. First is the complaint about disparity in the penalty imposed upon a police officer as opposed to a command staff officer. Second is the difference in which these classes of officers are treated while the personnel investigation

is taking place. Complaints about disparity in treatment, among other matters, have become so common that morale in many departments has been negatively affected. When this occurs, there is routinely a reduction in overall efficiency of officers.

It is recognized that in many cases following the recommendations contained herein will give greater rights to employees under investigation than may exist at the state law level. However, these procedures are fundamentally fair and present no downside to either management or employees.

It is self evident that no CEO wants to impose discipline upon a sworn officer without just cause. Following the prescribed route as outlined here is a safeguard against real or imagined charges by critics that the CEO has acted in a capricious manner. Even though most internal investigations are for non firing offenses, employees closely watch the manner in which these investigations are conducted. When it becomes clear that management conducts such investigations in a fair and impartial manner, one can expect to maintain or improve employee morale and productivity as well as decrease administrative hearings and civil suits.

D. Records and Confidentiality

The office of professional standards must be informed of all final disciplinary decisions and should in turn forward a copy of the final disciplinary decision to the department's central personnel authority.

It is essential that OPS case files and other information be physically separated from other personnel records and remain under the control of OPS. These files should be retained for the period determined by the CEO or as otherwise required by law. Information in these files is considered confidential and must be retained under secure conditions. OPS files may not be released to any person or entity without prior approval of the CEO unless law otherwise authorizes release.

Each law enforcement agency should recognize the importance of maintaining these investigative case records. Maintaining step by step written documentation of the investigative process, from receipt of the initial complaint to final disposition, protects the integrity of internal investigations. Officers who become the subject of an internal investigation are protected from an investigation tainted by personal influence or other corrupt actions from within the department through secured retention of such documentary evidence. In addition, an administrative finding of innocence from an untainted and fully documented investigation will weigh strongly in the officer's and the department's favor in any subsequent litigation that might be filed.

Due to the confidentiality of internal investigations, complaint records must be maintained in a secured area with access limited to only those personnel with the appropriate credentials who have a need to access this information and who have a right to do so as provided by law. To protect the confidentiality of the complainant, each complaint should be assigned a number, that should be used as a reference during the investigation.

V. REVE TING THE REALITY OF THE MISCONDUCT

A. Reactive Measures

As with any other aspect of law enforcement, the best way to solve a problem is to prevent the problem from arising. For this reason, the topic of employee misconduct discussed here has stressed the importance of embracing a broader view of discipline one that also incorporates proactive, preventive measures for detecting and responding to indications of potential disciplinary problems before they become realities.²

The following additional recommendations for misconduct prevention are provided for consideration by police agencies:

Individual Responsibility and Accountability. Line officers are key stakeholders in efforts to preserve and enhance the reputation of their department and their personal pride as police officers. Police officers can no longer subscribe to the timeworn notion that silence and secrecy will serve their individual or collective interests. Experience has clearly demonstrated that these attitudes only serve to build barriers within police agencies and alienate officers, supervisors, and managers. Line officers are on the front line with the community they serve, and their conduct reflects on the department as a whole. They are no better or worse in the eyes of the public than the officers with whom they serve. Unfortunately, the mistakes and misdeeds of a few often have serious repercussions for all who wear the same uniform.

Therefore, if an agency is to maintain a professional image, officers must ensure that their behavior complies with professional standards of conduct. Every employee of the department has a responsibility to adhere to agency standards of conduct, policies, rules, and procedures. Employees should be made fully aware of the fact that they will be held strictly accountable for such adherence. Officers should also be required to report actions or patterns of behavior of fellow officers that breach agency standards of conduct. This does not mean that every misstep, mistake, or instance of poor judgment needs to be reported to a supervisor. Such jealousy could cause more harm than good.

However, it does mean that officers need to draw the line when an act or pattern of behavior by fellow officers threatens the rights of citizens and/or the well being and reputation of police officers and their police department. Officers need to be made aware of the fact that reporting misconduct is not an act of betrayal to fellow officers, it is an act of self defense.

Agencies should facilitate this reporting practice by providing officers with anonymous or confidential reporting protocols. They should take those measures possible to protect the identity of any officer who reports serious misconduct or behavior that could jeopardize the lives, safety, and well being of officers or citizens, or damage the department's reputation. The department should also make it known and clearly demonstrate where necessary that any officer who attempts to interfere with or retaliate against an officer or other employee who makes such reports will be dealt with

through administrative regulations or criminal proceedings where indicated.

Training, Supervision, and Policy Guidance. The police department is responsible for providing each employee with sufficient and proper training, supervision, and policy guidance to ensure that all employees of the department are fully aware of standards of conduct, policies, rules, and procedures. Policies, procedures, and rules must be tied closely with training and supervision. These are not distinct functions that operate independently from one another but are part of a continuum of officer education, training, and management. An agency's mission establishes the basis for its policies, procedures, and rules. These in turn must serve to establish the essential groundwork upon which training curricula are developed and administered and field supervision conducted. These functions feed into each other, and upon evaluations of officer and agency effectiveness and efficiency, they complete the ongoing process of refinement and modification.

In this respect, policy and procedure development is not static but a dynamic function subject to continued refinement as the department's environment and circumstances change along with the law enforcement profession. As modifications are made, it should be noted that merely distributing or posting policies, procedures, and rules, is not sufficient. Steps must be taken to ensure that each employee has actual notice of such matters and fully understands what is required. To this end, individual copies of each policy, directive, or similar document should be distributed to every individual, a written receipt of delivery should be obtained, and, where necessary, testing should be instituted to determine whether each employee has read and fully understands these documents.

Appropriateness of Assignments. Employees must be assigned only to duties and responsibilities for which they have the necessary knowledge, capabilities, skills, abilities, and training.³ To assign personnel in a haphazard fashion risks performance, morale, motivation, and productivity problems and increases the risk of officer mistakes, miscalculations, and misconduct.

Responsibility of Supervisors. The primary responsibility for maintaining and reinforcing employee conformance with the department's standards of conduct and operational procedures is lodged with first line supervisors. Supervisors are required to familiarize themselves with the personnel in their units. They must closely monitor and evaluate their general conduct and performance. This cannot be done through the review of performance statistics alone. The issue of how officers do their job is as important as the issue of what they accomplish.

Evaluations of officers must be the product of daily observation and close working relationships. Supervisors should remain alert to any indications of behavioral, physical, or other problems that may affect an employee's job performance as well as any behaviors that may suggest conduct that is inconsistent with agency policy, procedures, and rules. Where observed, any information of this type that is deemed relevant should be documented immediately. When problems are detected, a supervisor

may recommend additional training, counseling, or other measures for the employee. The supervisor should document all instances of additional training and counseling undertaken to modify an employee's behavior.

Supervisors play a critical role in observing officer behavior that may signal isolated or aggregate personal or work problems that may lead to misconduct. Supervisors are a police department's most important asset for continually reinforcing the department's evolving policies, procedures, goals, and objectives and ensuring that they are carried out properly.

Moreover, it cannot be assumed by the department that an officer's promotion to supervisory status necessarily imparts supervisory or leadership abilities to the subject officer. These are rarely innate talents, and all supervisory personnel require training in first line supervision skills if they are to be effective in that role and serve the interests of the department and the community.

Endnotes

1. IACP, *Managing for Effective Police Discipline*, International Association of Chiefs of Police, Alexandria, Virginia (1991).

2. Whenever the term "policy" is used in this document it is meant to include policies, rules, and procedures. The violation of any of these can form the grounds for discipline.

3. The policy center, at this writing, has completed a final draft of a Model Policy on Early Warning Systems. Publication of this document is slated for late summer, 2001.

4. Inspector Paul West, PERF Investigation of Complaints Against the Police Survey: Summary Report of Results, Police Executive Research Forum, Washington, DC.

5. *Gardner v. Broderick*, 322 U.S. 23 (1944); *Garrity v. New Jersey*, 339 U.S. 473 (1950).

6. References are made to the receipt of complaints by supervisory personnel, but it is clear that initially a complaint may be received by any member of the department.

7. Today this might include the use of such means as facsimile or e-mail.

8. *Goldberg v. Kelly*, 397 U.S. 244 (1970).

9. *Arnett v. Kennedy*, 41 U.S. 134 (1979).

10. This generally does not include physical inability to perform. The Americans with Disabilities Act (ADA) and state or local law may affect the department's right to take action against an employee where physical inability is involved.

11. Some states limit moral turpitude to acts involving stealing or lying. Others view the concept more broadly and include such matters as sexual misconduct, drug use, and so on, in the definition of moral turpitude.

12. 1 A.C.U. Municipal Corporations, Sections 4-34 (3rd Ed.).

13. *Cleveland Board of Education v. Loudermill*, 430 U.S. 321 (1977).

14. *Cleveland Board of Education v. Loudermill*, 430 U.S. 321, 44 (1977).

15. *Bishop v. Wood*, 42 U.S. 341 (1979).

16. For a fuller discussion of the exceptions to the doctrine of employment at will and the available causes of action, see Larson, and Barowsky, *Unjust Dismissal*, Athew Bender Publication (1991).

17. *Lubey v. City and County of San Francisco*, Cal. App. 3d 34, 34 (1979). Lubey defines an officer's liberty interest as charges of misconduct which stigmatize his reputation, or seriously impair his opportunity to earn a living. Therefore, in matters involving the contemplated discipline of a

probationary officer, only where the officer is able to allege an infringement of his or her liberty interest, will it become certain that due process does mandate that the employee be accorded certain procedural rights before the discipline becomes effective. *Skelly v. State Personnel Board*, 1 Cal. 3d 14, 21 (1976).

The procedural safeguards in place for public employees who allege valid deprivations of their liberty interest, require that a public employee receive, prior to imposition of discipline, (1) notice of the action proposed, (2) the grounds for discipline, (3) the charges and materials upon which action is based, and (4) the opportunity to respond in opposition to the proposed action. *Bollinger v. San Diego Civil Service Commission*, 4 Cal. Rptr. 2d 2, 32 (1968), quoting *Skelly* Id at 21: To be meaningful, the right to respond must afford the employee an opportunity to present his side of the controversy before a reasonable impartial and an uninvolved reviewer who possesses the authority to recommend a final disposition of the matter.

In determining whether or not an employee has alleged facts sufficient to constitute a violation of due process, courts look at three distinct factors: (1) the private interest that will be affected by the official action (2) the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or sub statute procedural safeguards and finally (3) the state's interest. In applying these factors, courts are generally concerned to see whether the probationary officer is currently, or may be, subjected to any stigmatization or impairment of his right to make a living.

1. See for example, *Lubey v. City and County of San Francisco*, C.A. 3rd, 34 (1976).

1. *Board of Regents v. Roth*, 4 U.S. 4 (1972).

2. *Board of Regents v. Roth*, 4 U.S. 4, 3 (1972).

21. Today, legislation may protect the department from liability for statements made to prospective employers about the ex officer's performance or the cause of the ex officer's dismissal. To ensure the lawfulness of releasing this information, departments should seek a written release signed by the former employee.

22. For a complete discussion of this complex issue, see, for example, *Policy Review*, vol. 1, no. 2, *Avoiding Liability for Employment References*, IACP National Law Enforcement Policy Center, International Association of Chiefs of Police, Alexandria, Virginia.

23. This document deals with administrative investigations. The gathering of evidence against an employee for use in connection with criminal charges is governed by federal constitutional law.

24. *O'Connor v. Ortega*, 1 S.Ct. 142 (1982).

2. *Cleveland Board of Education v. Loudermill*, 4 U.S. 32, 4 (1976).

2. *Goldberg v. Kelly*, 3 U.S. 24 (1960).

2. *Goldberg v. Kelly*, 3 U.S. 24 (1960).

2. If necessary, the CEO may remand the case for further investigation before final disposition.

2. For additional guidance on proactive measures to prevent employee misconduct, refer to the Model Policy on Corruption Prevention and its accompanying Concepts and Issues Paper published by the IACP National Law Enforcement Policy Center.

3. Law such as the Americans with Disabilities Act or similar state laws may impose limitations upon the department as to what employees may or may not be deemed to have the necessary capability to perform a particular job.

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Every effort has been made by the IACP National Law Enforcement Policy Center staff and advisory board to ensure that this model policy incorporates the most current information and contemporary professional judgment on this issue. However, law enforcement administrators should be cautioned that no model policy can meet all the needs of any given law enforcement agency. Each law enforcement agency operates in a unique environment of federal court rulings, state laws, local ordinances, regulations, judicial and administrative decisions and collective bargaining agreements that must be considered. In addition, the formulation of specific agency policies must take into account local political and community perspectives and customs, prerogatives and demands often divergent law enforcement strategies and philosophies and the impact of varied agency resource capabilities among other factors.

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Attachment
Sample Citizen Complaint and Inquiry Form

This form should be completed in accordance with Departmental Directive

Nature of Complaint:

Complainant's Name:

Home Address:

Business Address:

If applicable, list other complainants and/or witnesses:

Citizen Complaint #:

Race and Sex:

Telephone:

Member Involved: (1)

Member Involved: (2)

Member Involved: (3)

Location of Incident:

Complaint Received By:

Forwarded for Investigation to:

Division:

Division:

Division:

Date:

Time:

Summary of Incident:

Disposition of Complaint or Inquiry:

Court Issue:

Resolved with Citizen and/or no Further Action Deemed necessary:

Investigative Comments:

Routing:

Responsible Division Commanding Officer:

Responsible Assistant Chief of Police:

Internal Affairs Section:

Signature of Responsible Division Commanding Officer:

Signature of Responsible Assistant Chief of Police:

Appendix Flow Chart

Investigation of Employee Misconduct

I. INTRODUCTION

The process and component steps or events involved in investigating officer misconduct can be difficult to understand and to visualize as a process. A flow chart is provided as an appendix to this concepts and issues paper to assist in this understanding. The chart presents the sequence of events and steps involved in the investigation as well as decision points in the investigative process.

It should be noted that while this chart includes nearly all the component parts of an internal investigation, not all police agencies will desire or need to adhere to them in the manner presented here or in the depth which they are discussed in the concepts and issues paper. The law, collective bargaining agreements, civil service regulations and other regulatory factors may preclude the need to include certain steps in this process or may require that additional steps or protocols be added. In addition, the size and complexity of individual agencies may dictate that certain investigative protocols or hearings be handled through less formal and more expeditious means than may otherwise be the case in larger agencies.

All police agencies need to protect the legal rights of officers during internal investigations. For example, officers charged with infractions that could affect their property interests in continued employment must be given the right to a pre disciplinary hearing in most instances.

However, in smaller agencies it may be permissible to hold this hearing in a closed door meeting with the chief of police and other authorized persons rather than in a more formal board hearing.

In effect, while the flow chart includes many component parts and at first glance may appear somewhat daunting, the majority of disciplinary actions within most police agencies can be resolved at the supervisory level as they do not rise to the level of possible suspension or termination of employment.

II. FLOW CHART COMMENTS

As an overview, it can be seen from the flow chart that an investigation can commence at either of two junctures through the initiation of a complaint to a police supervisor as depicted on the right side of the chart, or through public complaints lodged directly with the department's Office of Professional Standards (OPS). OPS may also investigate complaints that originate from employees within the agency, from other public agencies or from reasonable suspicion of wrongdoing established by other means or through other sources.

The model policy provides a two tiered investigative system that (1) draws supervisory personnel into the investigation of employee complaints, (2) allows minor infractions to be handled by supervisory personnel and their immediate commanding officer without the requirement to involve OPS officers in every complaint and (3) includes checks and balances during the process to ensure that all complaints are dealt with, fully, fairly, and impartially.

Some agencies may wish to direct all complaints to OPS rather than adopt the two pronged approach suggested here. While this would require shifts in the flow of complaints into the agency, most of the other decision points and measures cited in the flow chart would still need to be addressed in some manner.

The rationale for procedures identified in the flow chart are spelled out in the concepts and issues paper and are not reiterated here. The purpose of this discussion is to lead the reader through the sequence of steps and decision points identified in the flow chart and addressed in a more complete manner in the concepts and issues paper.

A. Complaints Lodged with Supervisors

The model policy for complaint acceptance and investigation suggested by the National Law Enforcement Policy Center allows for initiation of an investigation at one of two points through a supervisory officer, or through the Office of Professional Standards. These two tracks are addressed here individually for sake of convenience. One can readily see the close coordination and direct linkages between supervisory and OPS initiated investigations.

That said, starting on the right side of the flow chart, a complaint that may come to the attention of a line officer must be referred to a supervisory officer for recording in accordance with procedures set forth in the model policy. From that point, the process of a supervisory investigation takes the following course:

- Once the complaint has been documented in a complaint report, a copy is provided to the complainant (unless the complainant is anonymous) and a second copy is forward to OPS.
- The OPS copy serves as a means of informing that office that a complaint has been lodged, allows OPS timely information to provide to the CEO, provides a means for ensuring that a follow up supervisory investigation is completed in a timely manner, and allows

OPS to intervene in an investigation should it be deemed necessary.

- A report of all complaints filed, whether in summary or detailed format, is provided to the CEO or his/her designee on a routine basis as defined by internal protocols.

- If the initial complaint appears to be relatively minor involving administrative or service matters, the supervisor conducts an investigation into the incident.

- If the investigation provides reasonable suspicion to uphold the complaint, the nature of the offense and potential discipline involved must be evaluated before proceeding.

- If the investigation reveals that the alleged violation is of a more serious nature than originally envisioned and/or would involve punishment that would potentially invoke the officers "property interests" in employment, the complaint and all investigative findings must be referred to OPS for further action.

- If, on the other hand, the supervisory investigation does not unearth matters of a more serious nature and potential disciplinary action—such as verbal reprimand, counseling or retraining—would not invoke the officer's property interests, the supervisor must advise OPS of the findings of the inquiry with a recommendation for discipline.

- OPS then reviews the findings of the investigation, determines whether the investigation is complete and in order, whether recommended disciplinary action appears warranted and appropriate, and passes the recommendation and findings on to the CEO for approval or other action.

- The CEO may approve the findings and recommendations, dismiss the matter or take other action that he/she deems appropriate. If disciplinary action is approved, the approval is returned to the officer's unit commander and implemented by the subject officer's supervisor.

- A copy of the report and disposition is maintained at the local unit level for reference and use in subsequent periodic evaluations.

. Investigations Conducted by the Office of Professional Standards

OPS can initiate investigations of alleged officer misconduct in several ways: (1) assumption of responsibility (with notice) of a supervisory investigation at any stage of the investigation, (2) supervisory referral of a public complaint due to the perceived significance/seriousness of the allegations, (3) on the basis of complaints received directly by OPS from individuals or groups of individuals in the public sector, or through public or private institutions or entities, or (4) basis on information and/or evidence developed through internally

initiated investigations that have received prior approval of the CEO.

Upon receiving an allegation of misconduct, OPS initiates a case file and reports the allegation to the CEO as previously noted. In instances of more serious complaints, particularly those that potentially involve corruption and other forms of criminal conduct, information on the allegations, evidence and subsequent investigation should normally be presented to the CEO in strict confidence outside normal reporting procedures. Steps and procedures beyond this point involve the following.

- OPS personnel conduct an investigation of the alleged misconduct.

- Should the investigation at any time uncover reasonable grounds to suspect criminal activity, OPS, with the knowledge of the CEO should refer and coordinate their investigation with the office of the prosecutor or district attorney.

- Once the administrative investigation has commenced, OPS should notify the subject officer(s) that OPS is conducting an investigation of the officer's conduct and the circumstances surrounding the specific complaint(s) in question.

- Within time limits designated by the police agency, investigation of the complaint should be concluded or an extension to that timeframe requested in order to conclude the investigation. Thereupon, OPS should complete its report of findings and submit it along with recommended dispositions for each charge to the agency CEO through the subject officer's chain of command.

- The CEO may take at least one of three measures (1) accept the findings and disposition recommendations, (2) reject some or all of the findings and disposition recommendations, or (3) remand some or all of the findings and disposition recommendations to OPS for additional inquiry or clarification.

- For charges that are finally approved by the agency CEO, a document must be prepared itemizing the charges against the officer.

- Upon receipt of the charging document, the officer has a period of time in which he or she can choose to respond to the charges, either verbally or in writing. This is the pre-disciplinary hearing.

- If a hearing is convened or a written statement submitted by the officer, this information will be provided to the CEO for consideration.

- If the officer is entitled to a full evidentiary hearing and chooses to invoke that right, the findings of that hearing will be forwarded to the CEO for consideration.

- Following any such hearings and with all findings in hand, the CEO then determines a disposition for each charge against the officer.

- The disposition is then forwarded to the subject officer's commander who in turn directs that the discipline be implemented.

- A copy of the disposition is provided to the subject officer at that time.

- In some jurisdictions, an officer may have a right to appeal a disciplinary action to a civil service or other board. He or she may also be entitled to a name clearing hearing. Should these options be authorized and available to the officer and he or she elects to be heard in these forums, the results of these hearings shall be returned to the CEO for information purposes or for purposes of making any modifications to the imposed discipline.

- Once disciplinary actions have been imposed and appeals or other hearings concluded, verification of final disciplinary action taken shall be forwarded to the commander of OPS and the agency's personnel authority.

- Finally, the complainant should be provided with a written statement of the outcome of the investigation and any disciplinary action that was taken as a result.

Addendum

Employee Disciplinary Matrix : A Search for Fairness in the Disciplinary Process

There are few issues among law enforcement personnel that can raise more concern, debate, rancor, and sometimes outright dissension than that of employee discipline both the manner in which agencies investigate specific allegations of employee misconduct, and the way in which disciplinary penalties are determined. Here there are widespread perceptions that the investigation and administration of discipline is handled unfairly, capriciously, inconsistently, or otherwise unprofessionally, ramifications can be widespread and extremely damaging to department morale and operations.¹

Unfortunately, perceived unfairness is an all too common condition in law enforcement agencies. Employee discipline is never an easy matter to deal with in any employment environment, and law enforcement agencies are no exception. In the field of law enforcement there are additional forces that tend to complicate both the procedural and substantive aspects of employee discipline. In particular, because of the unique powers that police hold in a democratic society, there is greater demand for accountability among police departments and individual officers. Actions and behaviors of officers often have life altering consequences for the public and unauthorized behaviors or actions can have dire legal consequences for officers and their agencies. Consequently, ensuring that police officers act in accordance with law, departmental policy, rules, and training is an indispensable element of effective police management.

Traditionally, law enforcement has been long on discipline and short on remediation. In more recent times, police organizations have adopted disciplinary procedures that are designed not simply to impose negative sanctions but to provide employees with the opportunity to correct inappropriate behavior and learn from mistakes. Consistent with this more redemptive approach to personnel management has come the notion of progressive discipline a key component, as shall be seen, in the construction and use of a disciplinary matrix. Progressive discipline holds that, when punishment is warranted, it is most effective to mete it out in increasing levels of severity based on reoccurrences. Less serious forms of misconduct and those that are first offenses do not always deserve or require severe punitive actions. They can often be dealt with effectively by verbal reprimands or counseling, among other possible alternatives. In other words, the discipline must fit the misconduct, or be appropriate to the misdeed at hand. Progressive discipline, however, sometimes requires that employees receive different penalties for the same offense behavior because of different disciplinary histories.

In employment generally, and police work in particular, the notion of fairness in administration of discipline plays a

key role. If employees believe that they are being dealt with fairly, they are more likely to be accepting of corrective actions and less likely to be alienated. In contrast, when discipline is viewed as unfair or unpredictable, employees often undermine the process and develop negative attitudes towards the organization. Unfair disciplinary processes (and those seen as unfair) support the development of a code of silence among employees and undermine the legitimacy of the disciplinary process.

The issue of fairness is comprised of at least two components of equal importance. The first of these is equality, which refers to consistency in the administration of discipline. Employees want to know that their punishment is no harsher than, and at least consistent with, the punishment of other employees who have committed the same type of misconduct. To be consistent, punishment for one person's act of misconduct must be the same or closely similar to the punishment given other persons who have committed the same or similar act. In other words, like penalties for like offenses in like circumstances. Equality also means that favoritism based on an employee's rank or position, race, gender, seniority or other characteristics does not play a part in determining appropriate discipline. Employee actions citing disparate treatment in disciplinary matters are often based on allegations that the police department's punishment was not in line with punishments given to other employees for the same or similar offense.

The second component of fairness is equity, meaning that underlying or contextual circumstances surrounding the misconduct or behavior need to be taken into account when deciding punishment. Mitigating circumstances may come into play. For example, in taking a prohibited action, the officer may have misunderstood the task or order that was given and acted inappropriately, the officer may have just learned of a death in the family and was not paying attention when engaged in the task at hand, or may have been confronted with highly unusual circumstances during the incident that warranted departure from established policy. On the other hand, determination of fair discipline must also take into account aggravating circumstances such as an officer's possible negative attitude toward the underlying incident, history of prior misconduct, prior attempts of the department to correct inappropriate behavior, or other factors.

Any if not most organizations generally, and police departments in particular, continue to find it difficult to successfully integrate the foregoing requirements into a cohesive disciplinary system. In larger departments in particular, it is difficult to achieve fairness of punishment when the authority for final disciplinary decisions is spread among a number of district, precinct, or division commanders

who may not share the same views concerning appropriate punishment for the same offense. The perceived fairness of disciplinary actions may be further eroded when supervisory or command level personnel are not held to the same standards as their line counterparts. Aggravating or mitigating information important to the fair determination of discipline may not be shared between departmental assignments or units, informal discipline and remedial actions of supervisors may not be fully documented, and problem employees often may be transferred rather than effectively dealt with by their superiors.

Disciplinary Matrix

The problem of developing a fair system of disciplinary sanctions in policing is similar to the problem of ensuring a fair system of criminal sentencing in the courts. At bottom the issue revolves around the existence of discretion in the disciplinary decision. While discretion is necessary for fairness since latitude allows penalties to be fine tuned to match behaviors and circumstances, it also allows unfairness. The same system that allows a supervisor to grant leniency in cases involving well intentioned but inexperienced officers can also allow supervisors to grant or withhold leniency based on officer sex, race, age, or other characteristics.

There are three basic ways to control discretion. One way to control discretion is to eliminate it. Mandatory sentencing laws or mandatory penalty policies that require persons found in violation to receive a pre set punishment act to eliminate discretion. The problem here is that while mandatory penalties can work to improve equality, they almost always undercut equality in the disciplinary process. A second way to control discretion is by developing a series of checks so that decisions are reviewed. Appellate review of criminal sentences provides a check on judicial decisions an appeals process in the disciplinary procedures can do the same. Checks on discretion have a number of problems including the fact that they extend the length of the disciplinary process and thus add to officer and supervisory anxiety, undermine any deterrent effects, and add layers of decision making (and cost) to the process. Disciplinary decisions in most agencies are reviewable today (in addition to any departmental appeals there are often civil service reviews and, in the end, officers can seek court review of disciplinary decisions). Checking discretion may ultimately achieve more fairness, but given the current controversies, existing mechanisms do not seem to prevent disputes. A final way to limit discretion is through developing guidelines for decision makers. Guidelines inform the decision maker about the purpose of the decision, what factors should be considered (and how), and often, what has been the outcome in other similar cases.

In an effort to respond to charges of arbitrary and capricious disciplinary actions, police departments have sought several types of solutions, one of which is the development of a table of disciplinary actions often referred

to as a disciplinary matrix. Such matrices attempt to answer the problem of fairness between individual disciplinary actions by the use of predetermined ranges of disciplinary alternatives. These disciplinary alternatives may be correlated to specific acts or various acts may be aggregated into a class of misconduct based on their perceived severity.

A disciplinary matrix provides the decision maker with a guideline for the disciplinary decision.

Disciplinary matrices are similar to matrix sentencing guidelines used in criminal courts around the country. The term matrix refers to a table that allows the decision maker to consider at least two things at the same time. Most criminal sentences are based on both the seriousness of the crime and the extent of the offender's prior record. Both more serious crimes and longer or more serious criminal histories lead to more severe penalties. The table plots offense seriousness against prior record and provides a suggested sentence or range of sentence for each combination of seriousness and prior record.

The matrix is like the mileage charts sometimes found on road maps that tell the reader how far it is between destinations. In these charts the same listing of destinations (usually cities) is printed across the top and down the side of the page. To find the distance between cities, the reader locates the first city on the vertical list (down the side) and then reads across the chart until reaching the second city on the horizontal list (across the top). At this point, where the two destinations intersect, the distance between the two places is printed. For discipline, the decision maker finds the seriousness of the behavior on one dimension and then reads across the chart to find a second dimension (such as prior disciplinary record). At the point where these two factors intersect, the matrix provides a range of appropriate sanctions or even a specific suggested sanction.

Progressive discipline is integral to disciplinary matrices or tables. Such tables are generally divided into several columns representing disciplinary history (a first, second, third, or even fourth repeat offense) and several rows representing seriousness of the misbehavior. Penalties increase as either seriousness or disciplinary history increase. For disciplinary history each repeated offense category carries a harsher form of punishment. Generally, repeated misconduct does not have to be of the same type or class in order to constitute repeated misconduct. The department establishes a period of time (typically between one and two years) wherein misconduct qualifies as a repeated offense.

Generally, disciplinary matrices are used for the imposition of punitive action for acts of misconduct rather than behavioral problems. Behavioral problems are often dealt with through counseling, remedial training, mentoring, increased supervision or related approaches. However, depending on the nature of the misbehavior and the frequency of its recurrence, it may be subject to sanctions within the disciplinary matrix.

The matrix is intended to provide officers with a general idea of the upper and lower limits of punishment for acts of misconduct. The matrix also provides guidance to supervisors and managers. In so doing, proponents hold, it takes some of the guesswork out of discipline, relieving officer apprehensions about potential penalties and reducing stress during the investigatory and deliberative stages of the disciplinary process. It is also purported to reduce individual concerns and potential grievances and appeals concerning disparate treatment. Strict adherence to a disciplinary matrix can limit the discretion of deciding officials and thereby level the playing field among supervisors who may have widely divergent ideas about discipline. Some also argue that a disciplinary matrix can enhance public information and police accountability in cases where a department's disciplinary table of penalties is made public.

While a disciplinary matrix may assist in bringing consistency to disciplinary decisions, some argue that it does not go far enough in many instances in ensuring the inclusion of mitigating or aggravating factors that could enhance or diminish the decision on severity of discipline. Still others argue that it removes important management discretion to impose punishment that is consistent with both mitigating and aggravating factors.

These are both legitimate concerns. A table of penalties, once accepted by management and line officers alike, could conceivably limit disciplinary discretion of supervisors and commanders. The question then becomes, by using a disciplinary matrix, would departments sacrifice a degree of equity for the sake of meeting demands for equality? The answer to this is both yes and no. Theoretically, to be fully consistent in all cases of punishment would exclude, in some cases, equity in discipline because it would have to overlook individual differences and circumstances in reliance on the formula of penalties. Theoretically, the specific act of misconduct would be the only issue at hand in making a disciplinary decision.

In reality, this is normally not the case for two reasons. First, equity and consistency do not have to be mutually exclusive, nor do they have to unacceptably compromise one another. Mitigating and aggravating factors can, and should, be incorporated into the disciplinary decision making process when using a matrix. This has been done at the federal level, as we shall see, and to some degree in state and local disciplinary procedures. In fact, it would be problematic if provisions for considering extenuating circumstances were not included in a system that uses a disciplinary matrix given the fact that due process considerations allow employees to reply both orally and in writing to specific charges. Secondly, most tables of discipline do not identify discreet disciplinary penalties but rather a range of possible penalties, thus providing the deciding authority with necessary latitude in entertaining and incorporating extenuating circumstances

into the disciplinary decision. An example of one page of a disciplinary matrix is included in the appendix.

The Federal Mode

Many elements of the federal government, as well as the Metropolitan Washington Police Department, rely on a disciplinary matrix to guide decision making on appropriate discipline.

The Office of the Secretary of Defense (OSD) for example, provides guidance on the use of the matrix and the incorporation of mitigating and aggravating factors in disciplinary decisions.² An overview of their system may provide a useful example for those departments considering the use of a disciplinary matrix.

In this case, supervisors are provided with the primary responsibility for initiating and recommending employee discipline, albeit with significant oversight by a senior commander and a personnel specialist from the Office of Labor Relations. In referencing the table of penalties, guidance provides that a particular penalty is not mandatory simply because it is listed in the table. In addition, the system provides that appropriate penalties for unlisted offenses may be derived by comparing the nature and seriousness of an offense to those listed in the table. Then, selection of an appropriate penalty should involve the balancing of the relevant factors in the individual case, consideration of the employee's previous disciplinary record, if any, and the recent offense giving rise to the disciplinary action.

The instructions further state

in selecting the appropriate penalty from the table, a prior offense of any type or which normal disciplinary action has taken forms the basis for proposing the next higher sanction. For example, a first offense of insubordination or which an official reprimand is in the employee's official personnel folder, followed by a charge of absence without leave, triggers the second offense identified in the table, i.e., a proposed five day suspension in the charge as for eight hours or less or a proposed five day suspension in the charge exceeded eight hours. Aggravating factors on which the supervisor intends to rely or imposition of a more stringent penalty, such as a history of discipline or the seriousness of the offense, should be addressed in the notice of proposed discipline, thereby giving the employee the opportunity to respond.

The federal system emphasizes that a matrix of penalties should not be employed in a mechanical fashion, but with practical realism. This approach was emphasized in the landmark case *Douglas v. Veterans Administration*,³ in which the Federal Merit System Protection Board, a federal adjudicatory agency, outlined 12 factors that must be considered by supervisors when recommending or deciding

employee disciplinary action. While not all are pertinent to every case, they provide a broad brush approach of the types of mitigating (or aggravating) factors that can and should be considered when employing an agency table of penalties.

any, if not most, of these have application in the disciplinary decision making environment of state and local law enforcement:

- The nature and seriousness of the offense, and its relation to the employee's duties, position, and responsibilities, including whether the offense was intentional or technical or inadvertent, or was committed maliciously or for gain, or was frequently repeated

- The employee's job level and type of employment, including supervisory or fiduciary role, contacts with the public, and prominence of the position

- The employee's disciplinary record

- The employee's work record, including length of service, performance on the job, ability to get along with fellow workers, and dependability

- The effect of the offense upon the employee's ability to perform at a satisfactory level and its effect upon supervisors' confidence in the employee's work ability to perform assigned duties

- Consistency of the penalty with those imposed upon other employees for the same or similar offenses

- Consistency of the penalty with any applicable agency table of penalties

- The notoriety of the offense or its impact upon the reputation of the agency

- The clarity with which the employee was on notice of any rules that were violated in committing the offense, or had been warned about the conduct in question

- The potential for the employee's rehabilitation

- Mitigating circumstances surrounding the offense such as unusual job tensions, personality problems, mental impairment, harassment, or bad faith, malice or provocation on the part of others involved in the matter

- The adequacy and effectiveness of alternative sanctions to deter such conduct in the future by the employee or others

Importance of Documentation

It is essential for supervisors to document misconduct and both formal and informal discipline by using either a disciplinary matrix or other means to determine discipline.

Without such documentation, it is not possible to ensure consistency between disciplinary decisions for the same employee or other employees who have been engaged in similar misconduct, nor is it possible to respond effectively to potential disciplinary appeals. Informal discipline such as verbal reprimands and counseling is no exception. These should be recorded in a supervisor's memorandum as a matter of record for performance review purposes and for future reference in cases of repeat misconduct. While informal discipline should not be placed in an employee's permanent

personnel file and may not have an immediate impact on an officer's employment status or condition, repeated behavioral problems or an accumulation of minor infractions of policy or procedure should be taken into account when assessing an employee's performance or determining future penalties for misconduct. As such, this information must be available to other supervisors if necessary. Such information is normally retained at the unit level for a limited period of time and is expunged after a set period of time if the officer does not engage in additional misconduct.

When conducting any type of informal discipline or corrective action, supervisors should fully document the details of the circumstances of the incident(s) on which the counseling or reprimand is based. The specifics of the counseling or reprimand should also be documented together with such information as the date it took place, persons present such as another supervisor as witness, name of the person conducting the counseling and any statements made by the subject officer that have bearing on the officer's performance or behavior. The officer should be notified that the counseling session or reprimand will be documented but will be used only for purposes of recording the incident unless misconduct or inappropriate behavior is repeated. In some cases, the supervisor and officer may decide to enter into an agreement involving informal remedial training, review of departmental policy and procedures, or related actions to help ensure that similar problems of conduct or misbehavior can be avoided. In such cases, the terms of such an agreement should be clearly defined in the memorandum.

The employee should be given the opportunity to read and discuss the contents of the memorandum once completed, asked to sign and date it to verify that the employee has read it, and given a copy if he or she requests one. Where differences of opinion concerning the contents of the memorandum exist, they should be discussed and documented in an attachment. If the employee refuses to acknowledge the memorandum by signature, this fact should be recorded on the document and witnessed by another supervisor.

The need for documentation is equally if not more important in instances of formal disciplinary actions that have direct impact on the terms and conditions of employment. These procedures and due process safeguards involving such matters as *Garrity* and *Audermill* are generally well documented in departmental policy and need not be reexamined here.⁴

Comprehensive documentation in the realm of employee discipline may also serve the police department in other ways.

When reports of misconduct are lodged in a central repository, they can provide the core data elements for an early warning system, both for individual employees and the organization as a whole. In all organizations, compilation of employee disciplinary offenses and subsequent penalties will prove invaluable for comparative purposes in determining the consistency of disciplinary actions between individuals and, in

larger departments, between divisions, assignments, and varied departmental components. In addition, summary and comparative data on the overall nature of employee misconduct in the department can point to potential problems in departmental policy, training, or supervision as well as possible solutions. For example, public complaints that center on unacceptable delivery of services rather than officer conduct (such as response time) may also prove essential in making alterations in personnel allocation or other organizational change.

When systematically organized in this manner, whether manually or by computer programming, individual officer conduct that may point to more serious problems can be flagged and addressed on a preemptive basis. Repeated complaints regarding firearms discharges, excessive force, damage to motor vehicles, loss of departmental property, and related information can suggest underlying problems with an officer that deserve proactive attention. Finally, this information is vital to monitoring and assessing the operation of the disciplinary matrix. A consistent pattern of disciplinary decisions that fall outside the range suggested in the matrix may be evidence that the matrix should be revised, or that supervisors require additional training in the use of the matrix.

What Is Reasonable Discipline

Possibly most problematic in development of a disciplinary matrix is the selection of appropriate or reasonable penalties for individual acts or classes of misconduct. As noted earlier, a basic criterion for discipline is that the punishment must be in reasonable proportion to the rule or policy violation or other prohibited conduct. Obviously, a penalty that may be reasonable to one person may not be to another. There is no nationally recognized table of disciplines that can be used commonly among disciplinary schedules across states and localities. Any would argue that such a model would be impractical in light of differences in community and individual agency value systems, goals, and priorities. This is not to say that examples from similarly situated police departments cannot be effectively and usefully employed. In fact, if disciplinary actions are challenged as unreasonable, the availability of comparative information from other law enforcement agencies could be useful. But the final decision for an individual department must be made by that police department.

In order for a disciplinary system of this type to function with reasonable effectiveness, there must be some degree of buy in by employees. Where labor unions represent the employment interests of workers, this will unavoidably require union involvement. Even where collective bargaining entities are not at issue, management and line employees will need to reach a degree of agreement on acceptable disciplinary penalties and sanctions. This does not mean that

management must seek concurrence on all decisions of disciplinary action but that there needs to be some reasonable accommodation of interests in arriving at a final table of disciplinary penalties.

Such a process of give and take can take considerable time and will undoubtedly test the patience of all involved. But if it can be accomplished, the exercise alone can be valuable. For example, in some cases where departments have engaged in this undertaking, it has been reported that employees take a stricter view toward adherence to certain principles of conduct and advocate harsher penalties than management for certain employee transgressions. Thus, such negotiation can assist the department in defining or refining its core values and goals. For example, on close examination, employees may determine that police work requires, among all else, reliance on the integrity and truthfulness of officers. As such, employee conduct that undermines these basic tenets must be dealt with decisively and harshly. By the same token, departmental management may endorse more stringent penalties for failure of officers to adhere to policy in critical enforcement areas. For example, failure of officers to abide strictly to vehicular pursuit policy and procedures may be regarded as deserving strict enforcement and harsh penalties due to the department's involvement in a large number of crashes and injuries in such incidents. In this and related instances, a department can utilize the table of penalties to enforce and underline its commitment to specific priorities or goals.

Development of a table of penalties can be time consuming and laborious; however, the effort can be truncated somewhat by organizing acts of misconduct into conceptually similar classes with assigned sanctions on a collective basis. This approach has merit in that it is difficult to attempt to identify every discreet act of misconduct. And, failure to identify a specific act as impermissible could render any discipline in such a case as unreasonable based on the fact that employees were not informed in advance that it was prohibited. Identification of classes of prohibited actions combined with a defined list of mitigating and extenuating factors similar to those identified in Douglas under the federal model may be adequate to provide sufficient particularity to discipline based on the act of misconduct.

There is quite a bit of knowledge and experience with matrix sentencing guidelines that can ease the development of disciplinary matrices. It is not necessary to reinvent the wheel. Based on the experience with sentencing guidelines, there are two basic models for matrix development: descriptive or prescriptive. A descriptive matrix suggests sanctions based on what has typically been done in similar cases in the past. If disciplinary data are available, an analysis is done to identify the factors associated with different sanctions. Almost always this analysis will reveal that the severity of punishments is linked to the seriousness of the misbehavior and the prior history of the employee. Based on this analysis, a matrix can be derived that reflects these factors. In this way, the matrix

actually describes current practice. In this case, the application of the matrix does little to change how discipline is decided but does increase consistency. Alternatively, a prescriptive matrix can be developed by first determining what factors should be important and how they should relate. Then this determination of how discipline should work forms the basis of a matrix that prescribes penalties for future violations. In this case, the matrix discipline system may bear no relation to existing practice. The choice of developmental method depends on several factors including the availability of data, the capacity to conduct the analyses, the levels of satisfaction with current discipline practices, and the like. If the primary complaint about the current disciplinary process is procedural (concerns equality) and not substantive (concerns equity), a descriptive model seems to be indicated.

If a disciplinary matrix is adopted, regardless of the developmental model it is important to institute a system of recording disciplinary actions that includes collecting information about the relevant factors (such as offense seriousness, prior history, and sanction) so that the workings of the matrix system can be documented and evaluated. Periodic reviews should be conducted to look for areas where the system might be improved.

No matter how sanctions are determined in an employee disciplinary system, it is important to realize that the penalties are only part of the process. A matrix system can improve fairness in disciplinary decisions but the integrity of the total disciplinary processes depends on fairness in detecting, reporting, investigating, and documenting infractions. A disciplinary matrix is part of a total employee discipline process.

Endnotes

1. Investigation of Employee Misconduct: Concepts and Issues Paper, IACP National Law Enforcement Policy Center, International Association of Chiefs of Police, 1100 North Washington Street, Alexandria, Virginia.
2. Department of Defense, Washington Headquarters Service, Memorandum for Supervisors and Managers: Disciplinary and Adverse Actions, March 1990.
3. Douglas v. Veterans Administration, 493 U.S. 157, 3 (1989).
4. See Investigation of Employee Misconduct, Model Policy and Concepts and Issues Paper, IACP National Law Enforcement Policy Center, International Association of Chiefs of Police, Alexandria, Virginia.

Model Policy

	Effective Date July, 2001	Number
Subject Investigation of Employee Misconduct		
Reference		Special Instructions
Distribution	Reevaluation Date July, 2002	No. Pages 4

I. PURPOSE

The purpose of this policy is to inform all employees and the public of procedures for accepting, processing and investigating complaints concerning allegations of employee misconduct. This policy defines provisions applicable only to investigation and disposition of allegations of administrative misconduct.

II. SCOPE

Establishment of procedures for investigating complaints and allegations of employee misconduct is crucial to demonstrate and protect this agency's integrity. This agency shall accept and investigate fairly and impartially all complaints of employee conduct to determine the validity of allegations and to impose any disciplinary actions that may be justified in a timely and consistent manner.

III. DEFINITIONS

Designated Employee(s) The designated employee(s)/unit with primary responsibility for conducting investigations of employee misconduct allegations.

Public Complaint Package Information packages containing complaint forms, information on the complaint procedures used by this agency and actions the public can expect from this agency in response to their complaint.

Summary Action Disciplinary action taken by an employee's supervisor or commander for lesser violations of agency rules, policies or procedures as defined by this agency. Summary actions are the lowest level of disciplinary action generally handled by first line supervisors.

IV. PROCEDURES

A. Basis for Discipline

1. Employees are subject to discipline for violations of law or agency policy, rules or regulations.
2. All disciplinary actions taken under this policy are subject to, and shall be consistent with, applicable state law, local ordinances, administrative rulings and collective bargaining agreements.
3. Employees who withhold information from, or fail to cooperate with, internal investigations or who fail to report misconduct of employees are subject to disciplinary action in addition to any other disciplinary action that may result from the investigation.

B. Acceptance/Filing of Complaints

1. Public complaint packages shall be made available to the public through police personnel and at designated public facilities.
2. Complaints may be received by supervisory members of this agency either in person, over the telephone or in writing, and may be lodged anonymously or by any other means.
3. Employees shall provide assistance to those who express the desire to lodge complaints against any employee(s) of this agency. This includes but is not limited to:
 - a. calling a supervisor to the scene to document the complaint,
 - b. explaining the agency's complaint procedures,
 - c. providing referrals to individuals and/or locations where such complaints can be made in person, or
 - d. explaining alternative means for lodging complaints, such as by phone or mail.

C. Summary Action

1. Summary action may be taken by supervisory personnel for lesser violations of rules, policies, or procedures, as defined by this agency, upon approval of such action by the unit commander.

2. All summary actions shall be documented and copies of the charges and disposition provided to the subject employee, retained by and forwarded to subordinate units of assignment, forwarded to OPS and incorporated in the employee's central personnel record.

D. Investigation of Public Complaints – Supervisor's Role/Responsibility

1. Supervisory personnel shall cause a preliminary inquiry to be conducted to determine if grounds exist to conduct an administrative investigation.
 - a. If the inquiry finds that acceptable agency policy and procedures have been followed, the supervisor will explain to the complainant the investigative steps that were taken by the agency together with the findings and conclusions of the investigation. If appropriate, the supervisor may explain agency procedures, a misunderstanding of which may have precipitated the complaint.
 - b. The complainant shall receive a copy of the complaint as lodged with the agency and shall be asked to verify by signature if it is a complete and accurate account. If the complainant elects not to sign, this fact shall be documented and the investigation will proceed.
 - c. The allegation shall be documented and copies forwarded to OPS and the agency chief executive officer (CEO).
2. If the supervisor's preliminary investigation identifies grounds that may support disciplinary action, the supervisor shall cause further investigation of the complaint and shall notify OPS of this action.
 - a. OPS may assume concurrent or sole authority for the investigation at any point in the investigation upon notification of the subject employee's supervisor and/or commander.
 - b. Should an investigation at any time reveal evidence of criminal conduct, all available information shall be forwarded to the agency CEO and to OPS as soon as possible.

E. Investigation of Public Complaints – OPS Role/Responsibility

1. OPS has primary responsibility for review and investigation of all complaints against employees, whether initiated by the public or by a member of the department.
2. OPS may assume primary responsibility for a supervisor's complaint investigation at any stage in the investigative process upon notification of the supervisor involved. OPS may also initiate an investigation of alleged employee misconduct, with or without a formal complaint, with prior

knowledge and approval of the agency CEO or his/her designee.

3. OPS shall have the following additional responsibilities:

- a. Maintain a complaint log
- b. Maintain a central file for complaints in a secured area and in conformity with records retention requirements of state law
- c. Conduct a regular audit of complaints to ascertain the need for changes in training or policy
- d. Maintain statistical and related information to identify trends involving all complaints of excessive force and abuse of authority
- e. Track complaints against individual employees to assist in employee risk analysis and
- f. Provide the CEO with an annual summary of complaints against employees and final dispositions that may be made available to the public or otherwise used at the discretion of the CEO.

F. Investigative Interviews and Procedures

1. Prior to being interviewed, the subject employee shall be advised of the nature of the complaint.
2. All interviews will be conducted while the employee is on duty, unless the seriousness of the investigation is such that an immediate interview is required.
3. During interviews conducted by OPS, there will be one employee designated as the primary interviewer.
4. The complete interview shall be recorded. The recording will note the time at which breaks are taken in the interview process, who requested the break and the time at which the interview resumed.
 - a. The employee shall be provided with the name, rank and command of all persons present during the questioning. The employee shall also be given the following admonitions:
 - a. *You are advised that this is an internal administrative investigation only.*
 - b. *You will be asked and are required to answer all questions specifically related to the performance of your duties and your fitness or office.*
 - c. *You are to answer these questions, you can be subject to discipline that can be as much as discharge or removal from office. You may also be subject to discipline or nothing giving false statements.*
 - d. *Want to reassure you that any answers given are to be used solely for internal administrative purposes and may not be used in any subordinate criminal prosecution should such occur.*

G. Counsel at Interview

- a. Employees may have an attorney, union representative, supervisor, or personal representative

with them during any internal investigative interview so long as the individual is not involved in any manner with the incident under investigation.

- b. The employee representative's role is primarily that of observer. e/she should be advised not to intervene in the interview unless requested to do so by the subject employee or unless the interview leads to issues of potential criminal activity.

. Examinations and Searches

- a. The agency may direct that the employee undergo an intoximeter, blood, urine, psychological, polygraph, medical examination or any other exam not prohibited by law if it is believed that such an examination pertinent to the investigation.
- b. An on duty supervisor may direct an employee to submit to a breath, blood or urine test when there is a reasonable suspicion that alcohol and/or drug usage is suspected as the factor directly related to allegations of misconduct.
- c. An employee can be required to participate in a lineup if it is used solely for administrative purposes.
- d. Property belonging to the law enforcement agency is subject to inspection for investigative purposes unless the employee has been granted a reasonable expectation of privacy in vehicles, desks, files, storage lockers, computers or similar items or places.

G. Disposition

1. The primary investigative authority for the investigation (i.e., subject employee's supervisor and commander or OPS) shall review the complaint report and investigative findings once deemed complete. This authority will compile a report of findings and provide a disposition recommendation for each charge as follows:
 - a. *sustained* Evidence sufficient to prove allegations.
 - b. *Not sustained* Insufficient evidence to either prove or disprove allegations.
 - c. *Exonerated* Incident occurred but was lawful.
 - d. *Unfounded* Allegation is false or not factual or the employee was not involved.
2. A copy of the findings and recommendations shall be submitted for review by OPS prior to submission to the agency CEO if OPS is not the primary investigative authority. OPS may make any additional inquiries or investigative measures deemed necessary to verify, authenticate or clarify findings and recommendations of the investigative report and may include such findings and

disposition recommendations with the report submitted to the CEO.

3. All disciplinary investigation findings and recommendations shall be forwarded to the agency CEO through the chain of command for information, review and comment.
4. The CEO will review the investigative report and supporting documents and may accept the findings and recommendations or remand the case for additional investigation in all or in part.
 - . If the complaint is sustained, and the CEO determines that formal charges will be brought, the CEO, or his/her designee, will direct that a charging document be prepared by the subject employee's commander, supervisor or OPS as appropriate, signed and thereafter served upon the subject employee. The charging document will provide:
 - a. nature of the charges,
 - b. a copy of the investigative file, and
 - c. a reasonable time frame in which the employee can respond to the charges either in written or oral form.
 - . Employees who desire an opportunity to be heard on these proposed charges may make a request for a hearing to the agency CEO or his/her designee within the time period permitted for this action.
 - . Following a hearing or written response of the subject employee to the charges, the chief executive shall determine an appropriate disposition of the charges or may remand the case for further investigation or related actions.
 - . The employee may appeal the proposed charges as provided by law, ordinance, collective bargaining agreement, or departmental or governing jurisdiction procedure.
 - . The disposition shall be returned from the CEO to the commander who shall direct the employee's supervisor to take such disciplinary action as required.
- 1 . The supervisor shall verify to the commander, OPS and the agency's central personnel authority when authorized disciplinary action has been taken. A written copy of the disposition will be provided to the employee.
11. Where the findings do not support the charges, the commander shall forward the complaint with supporting documentation to OPS for reporting and accounting purposes. A copy will also be provided to the subject employee.
12. Following final disposition of the complaint, a letter shall be sent to the complainant from the CEO or his/her designee explaining the final disposition.
13. Whenever reasonably possible, the investigation of complaints should be completed within 4 days

from receipt of the complaint to its disposition unless a waiver is granted by the CEO or his/her designee or another time frame is required by departmental policy, law or labor agreement.

. OPS Records and Confidentiality

1. OPS shall be informed of all final disciplinary decisions.
2. OPS shall forward a copy of all final disciplinary decisions to the agency's central personnel authority.
3. OPS case files and information shall be maintained separately from personnel records.
4. OPS information is considered confidential and will be retained under secure conditions within OPS.
 - a. OPS case files and personnel dispositions may not be released to any source without prior approval of the agency CEO unless otherwise provided by law.
 - b. Case investigation files shall be retained for a period of time as defined by state law or the agency CEO.

I. Prevention of Employee Misconduct

1. Every employee of this agency has a personal responsibility for, and will be held strictly accountable for, adherence to the agency standards of conduct, rules, policies and procedures.
2. This agency has the responsibility for, and will provide to each employee, sufficient and proper training, supervision and policy guidance to ensure that all employees are apprised of the demands and requirements of this agency with regard to employee conduct, duties and responsibilities.
3. This agency shall take all reasonable measures to ensure that employees are assigned only to duties and responsibilities in which they have all the requisite knowledge, skills, abilities and training.
4. The primary responsibility for maintaining and reinforcing employee conformance with the standards of conduct of this department shall be with employees and first line supervisors.
 - . Supervisors shall familiarize themselves with the employees in their unit and closely observe their general conduct and appearance on a daily basis.
 - . Supervisors should remain alert to indications of behavioral problems or changes that may affect an employee's normal job performance and document such information where deemed relevant.
 - . Where a supervisor perceives that an employee may be having or causing problems, the supervisor should assess the situation and determine the most appropriate action. Supervisors should refer to and use this agency's *Employee Mental Health Policy* for guidance in cases involving emergency removal

of employees from the line of duty and for issues dealing with employee mental health assistance.

- . A supervisor may recommend additional training to refresh and reinforce an employee's skills, abilities or understanding of agency policy, rules and regulations.
- . Counseling may be used by the supervisor to determine the extent of any personal or job problems that may be affecting performance, and to offer assistance and guidance.
- 1 . The supervisor shall document all instances of counseling or additional training used to modify and employee's behavior.

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Every Effort has been made by the IACP National Law Enforcement Policy Center staff and advisory board to ensure that this model policy incorporates the most current information and contemporary professional judgment on this issue. However, law enforcement administrators should be cautioned that no model policy can meet all the needs of any given law enforcement agency. Each law enforcement agency operates in a unique environment of federal court rulings, state laws, local ordinances, regulations, judicial and administrative decisions and collective bargaining agreements that must be considered. In addition, the formulation of specific agency policies must take into account local political and community perspectives and customs, prerogatives and demands often divergent law enforcement strategies and philosophies and the impact of varied agency resource capabilities, among other factors.

This sample officer notification form was provided courtesy of the Pennsylvania State Police.

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Appendix H: Funding Sources for Training and Software on Ethics and Internal Affairs

Training:

- ▶ National Internal Affairs Investigators Association: www.niaia.us
- ▶ Legal and Liability Risk Management Institute, A Division of the Public Agency Training Council: www.llrmi.com/Training/le-internalaffairs.cfm

Software:

- ▶ Ci Technologies Inc.: www.ci-technologies.com
- ▶ L.E.A. Data Technologies: www.leadatatech.com
- ▶ Larimore Associates Inc.: www.larimore.net
- ▶ On Target Performance Systems: www.otp.com
- ▶ Pilat HR Solutions: www.pilat-nai.com
- ▶ Police Foundation: www.policefoundation.org

Appendix I: Methodology

While some books, articles and other publications address the Internal Affairs process, law enforcement integrity and police/community relations, nothing exists that is a hands-on guide to ethical policing and community trust-building. Therefore, the Office of Community Oriented Policing Services (the COPS Office), U.S. Department of Justice, and the International Association of Chiefs of Police (IACP) joined forces to create, *Building Trust Between the Police and the Citizens They Serve: An Internal Affairs Promising Practices Guide for Local Law Enforcement* in an attempt to standardize the practices and procedures of how law enforcement executives address ethical or misconduct problems within their departments. The guide's advisory committee, composed of representatives from the COPS Office, IACP, and numerous police agencies, particularly those involved in Internal Affairs operations, convened to direct the project and determine how to obtain specific information on complaint management, Internal Affairs, and community trust building.

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New Orleans Police Department
New Orleans, Louisiana

Charles Campisi

Chief of Internal Affairs

New York Police Department
New York, New York

David Aldridge

Associate Deputy Chief Inspector

Drug Enforcement Administration
Arlington, Virginia

Lisa Christian

Chief Deputy

Sullivan County Sheriff Office
Blountville, Tennessee

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Director

Police Assessment Resource Center
Los Angeles, California

Wendy Clark-Colmore

Commander

House and Senate Chambers Sections
Capitol Police Department
Washington, D.C.

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Deputy Commissioner

Administration and Professional
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John King

Chief of Police

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Lacey, Washington

Tom Potter*Mayor*

Office of Mayor Tom Potter
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Takoma Park Police Department
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Douglasville Police Department
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Maria Rubio*Senior Policy Director*

Public Safety and Security/Police Liaison
Office of Mayor Tom Potter
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Chicago, Illinois

Leslie Stevens*Director*

Office of Professional Standards
Portland Police Bureau
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City of White Plains Department of Public
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Stafford County Sheriff's Office
Stafford, Virginia

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Village Administrator
Itasca, Illinois

Based on these experts' recommendations, IACP project staff conducted an extensive review of the existing literature on the issues of police ethics, community trust, and the Internal Affairs process and attitudes toward it. Staff gathered information from sources including books, reports, monographs, articles, newsletters, newspapers, and web sites. The literature review revealed three areas that need to be focused on by law enforcement agencies in the Internal Affairs process: standardization, training, and education. The complete literature review is available through the IACP.

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Walker, S., S.O. Milligan, and A. Berke. *Strategies for Intervening with Officers through Early Intervention Systems: A Guide for Front-line Supervisors.* Washington, D.C.: U.S. Department of Justice Office of Community Oriented Policing Services, Police Executive Research Forum, February 2006. www.cops.usdoj.gov/files/RIC/Publications/e01060004.pdf

Second, project staff reviewed 17 IACP management studies¹³ conducted between 1991 and 2007 by the IACP's Programs and Research Division. A copy of complete review of the management studies is available through the IACP. The review identified Internal Affairs practices that would benefit any sized law enforcement agency in the United States. The review showed that the following major elements were missing from all of the 17 agencies studied:

- ▶ Consistent officer training, which is needed to increase and maintain an understanding of the departments' duties, values, principles, and policies
- ▶ Tracking of citizen complaints and the police departments' Internal Affairs processes
- ▶ Public awareness of the police departments' complaint processes, values, and structure.

13. *IACP Management Studies*, conducted by the Programs and Research Division, are comprehensive studies that review a police department's strengths and weaknesses, with the intent of improving the agency's overall functioning.

Next, the IACP developed and disseminated a survey intended to identify trends and community practices currently in use by all-sized agencies during an Internal Affairs investigation. The survey was sent via the Internet to 9,000 active IACP members. The IACP received 1,705 responses from state and local law enforcement executives, with an overall response rate of almost 19 percent. A copy of the survey and its results are available from the IACP. Project staff analyzed the data and found that although 91 percent of the survey respondents had an Internal Affairs policy, there was little uniformity in several areas, including the following:

- ▶ Who is responsible for investigating complaints
- ▶ The types of complaints investigated
- ▶ The way complaints are received
- ▶ Tracking complaints
- ▶ The types of dispositions for complaints
- ▶ Whether or not there is an early intervention system (EIS) or risk management system
- ▶ The type and amount of input that the governing bodies have in a police agency's Internal Affairs process
- ▶ How agencies inform their communities of police ethics and Internal Affairs practices.

The review and synthesis of the survey results further elucidated the need for a practices and procedures guide for law enforcement to effectively maintain a culture of integrity and the public trust.

Last, the IACP hosted four regional roundtable discussions that focused on building trust between the police and the citizens they serve. The groups included police executives, Internal Affairs managers, mayors and city managers, and subject matter experts in the area of police integrity, Internal Affairs, and community trust-building. The participants identified a number of issues that were important to police ethics and integrity and suggested that uniformity among policies and procedures in individual departments was critical. The following were the attendees at the four roundtable meetings.

Roundtable #1, held in Seattle, Washington

Robert Berg

Chief of Police

Centralia Police Department
Centralia, Washington

Jeffrey Chen

Chief of Police

Medina Police Department
Medina, Washington

Bob Collins

Sergeant

Des Moines Police Department
Des Moines, Washington

Don Forman

Operations Captain

Lake Oswego Police Department
Lake Oswego, Oregon

John L. Gray

Chief of Police

City of Arlington Police Department
Arlington, Washington

Doug Greisen

Chief of Police

Scappoose Police Department
Scappoose, Oregon

Robert Huebler

Lieutenant

Enumclaw Police Department
Enumclaw, Washington

Scott Jones

Sergeant

Quincy Police Department
Quincy, Washington

R. Gil Kerlikowske

Chief of Police

Seattle Police Department
Seattle, Washington

Mike Lasnier

Chief of Police

Suquamish Tribe of Washington
Port Madison Indian Reservation
Poulsbo, Washington

Nancy McAllister

Lieutenant

Port of Seattle Police Department
Seattle, Washington

Steve Nelson

Commander

City of Olympia Police Department
Olympia, Washington

Chris Odlin

Captain

Missoula Police Department
Missoula, Montana

Steven W. Orr

Chief of Police

Lewiston Police Department
Lewiston, Idaho

Ronald C. Ruecker

IACP President – 2008

Director of Public Safety
Sherwood, Oregon

Cameron Webster

Captain

King County Sheriff's Office
Seattle, Washington

Kristi Wilson

Commander

Redmond Police Department
Redmond, Washington

Roundtable #2, held in Chicago, Illinois

Peter Brust

Deputy Superintendent
Bureau of Professional Standards
Chicago Police Department
Chicago, Illinois

Anita Flagg

Captain
Operations and Internal Investigations
Murfreesboro Police Department
Murfreesboro, Tennessee

Jack Garcia

Colonel
Division of Internal Investigation
Illinois State Police
Springfield, Illinois

Patrick F. Gransberry

Deputy Chief
East Chicago Police Department
East Chicago, Indiana

Terry D. Milam

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St. John Police Department
St. John, Missouri

Jeanne Miller

Chief of Police
Davidson Police Department
Davidson, North Carolina

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Emory A. Plitt, Jr.

Circuit Judge
Circuit Court for Harford County
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Lynn S. Rowe

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Dale Sievert

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Services Division
Davenport Police Department
Davenport, Iowa

Tina Skahill

Chief of Internal Affairs
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Chicago, Illinois

Wayne W. Schmidt

Executive Director
Americans for Effective Law Enforcement
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Gary G. Smith

Chief of Police
Emporia Police Department
Emporia, Kansas

David Tiefenbrunn

Lieutenant
St. Charles Sheriff Department
O'Fallon, Missouri

J. Michael Ward II

Chief of Police
Alexandria Police Department
Alexandria, Kentucky

Roundtable #3, held in Hershey, Pennsylvania

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Captain

Impact Unit, Internal Affairs
Philadelphia Police Department
Philadelphia, Pennsylvania

John R. Brown

Deputy Commissioner

Professional Standards and Administration
Pennsylvania State Police
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Patrick Caughey

Major

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Director, Internal Affairs Division
Montgomery County Police Department
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James Hyde

Captain

Miami Beach Police Department
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Matthew Klein

Inspector

Director, Internal Affairs Division
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Monitoring
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Keith Nemeth

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Skaneateles Police Department
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Attorney

Law Firm of Robert L. Smith, Jr., LLC
Havre de Grace, Maryland

Walter Tuffy

Colonel

Chief of the Internal Investigations
Baltimore City Police Department
Baltimore, Maryland

Roundtable #4, held in Alexandria, Virginia

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Professor

University of South Carolina
Columbia, South Carolina

Cameron D. Benson

City Manager

Hollywood, Florida

John R. Brown

Deputy Commissioner

Administration and Professional
Responsibility
Pennsylvania State Police
Harrisburg, Pennsylvania

Darnell Earley

City Manager

Saginaw, Michigan

Riccardo Ginex

Village Manager

Brookfield, Illinois

Robert S. Hoffmann

Borough Administrator

Westwood, New Jersey

Curtis L. Holt

City Manager

Wyoming, Michigan

Richard Kaffenberger

City Manager

Lake Havasu City, Arizona

Sam A. Listi

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Keith Tiedemann

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Jose Torres

Mayor

Patterson, New Jersey

James M. Twombly

City Manager

Broken Arrow, Oklahoma

David C. Williams

Colonel-Retired

Village Administrator

Itasca, Illinois

Based on the information obtained through the literature review, management studies, survey, and roundtable discussions, IACP determined what publications already exist on the subject of Internal Affairs and community trust-building; in which areas the most guidance is needed; and what successful practices are in place in various agencies throughout the country. This guide is the result of a thorough and detailed assessment of what will best serve law enforcement in its quest for ethical and honest policing.

Individual detailed reports for the literature review, IACP Management Study review, and the survey of IACP members are available by calling 800.THE.IACP.



OATH OF HONOR

ON MY HONOR,
I WILL NEVER BETRAY MY BADGE,
MY INTEGRITY, MY CHARACTER,
OR THE PUBLIC TRUST.

I WILL ALWAYS HAVE
THE COURAGE TO HOLD MYSELF
AND OTHERS ACCOUNTABLE
FOR OUR ACTIONS.

I WILL ALWAYS UPHOLD
THE CONSTITUTION,
MY COMMUNITY,
AND THE AGENCY
I SERVE

Building Trust Between the Police and the Citizens They Serve focuses on the pivotal role of the Internal Affairs function as one component of an agency-wide professional standards effort in building trust between law enforcement agencies, their staff, and the communities they are sworn to protect and serve. The guide addresses the Internal Affairs function from complaint processing to decision-making, discipline, notification, and community transparency, as well as building an effective Internal Affairs approach for any size agency. It also looks at the Internal Affairs process from the citizen's viewpoint, presenting information how local agencies can be accountable to their citizens through trust-building initiatives and other activities.



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Visit COPS Online at www.cops.usdoj.gov



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U.S. DEPARTMENT OF JUSTICE
OFFICE OF COMMUNITY ORIENTED POLICING SERVICES
CRITICAL RESPONSE INITIATIVE

MAINTAINING FIRST AMENDMENT RIGHTS AND PUBLIC SAFETY IN NORTH MINNEAPOLIS

An After-Action Assessment of the Police Response to Protests, Demonstrations, and Occupation of the Minneapolis Police Department's Fourth Precinct

Frank Straub | Hassan Aden | Jeffrey Brown | Ben Gorban | Rodney Monroe | Jennifer...



COPS
Community Oriented Policing Services
U.S. Department of Justice

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The Internet references cited in this publication were valid as of the date of publication. Given that URLs and websites are in constant flux, neither the COPS Office nor the authors can vouch for their current validity.

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LETTER FROM THE DIRECTOR

Dear colleagues,

Maintaining the delicate balance between First Amendment rights to freedom of speech and the need to maintain public and officer safety in the best of times. But the unique circumstances surrounding the demonstration at the Minneapolis Police Department (MPD)'s fourth precinct in 2015 made this balancing act unusually challenging.

In reaction to the fatal shooting of a member of their community, protestors occupied the area around the precinct's headquarters for 18 hours, its lobby by staging a sit-in for a short time. As the following report demonstrates, the department and its individual officers displayed courage and resilience in these extremely difficult circumstances. Yet there are always lessons learned from these experiences, and, to identify them, Mayor Hodges requested this after action review.

I applaud their leadership in doing so, for the findings and recommendations will not only benefit the MPD, but also provide a road map for other departments with similar challenging situations. I also commend the assessment team from the Police Foundation and the authors of this report for their contribution to the body of knowledge that law enforcement, public safety agencies, and local government can draw upon to prepare for and respond to such events and similar events. Critical incidents can arise anytime, anywhere—and while the occupation of the fourth precinct was unusual, many of the lessons learned can help other police departments and municipalities respond successfully.

Sincerely,

A handwritten signature in black ink, appearing to read "Russ Washington". The signature is stylized, with a large "R" and "W" and the name "Russ" in the middle.

Russ Washington
Acting Director
Office of Community Oriented Policing Services

EXECUTIVE SUMMARY

Summary of events

On the morning of November 15, 2015, two Minneapolis Police Department (MPD) officers were dispatched to an assault call in a North Minneapolis neighborhood just blocks from the police department's Fourth Precinct station. Soon after arriving on scene, the officers fatally shot Jamar Clark. Following the shooting, community members marched to and organized outside the Fourth Precinct police station.

Over the course of the next 18 days—from November 15 through December 3, 2015—demonstrators occupied the lawn and street in front of the Fourth Precinct. For the first three days, a group of demonstrators also occupied the front vestibule of the Fourth Precinct station. The street and the surrounding neighborhood were the site of demonstrations, open fires, noisy gatherings, and encampments. The demonstrators called for police reform, and specifically for the release of video footage from the officer-involved shooting.

In the early morning hours of December 3, the occupation was successfully and peacefully resolved. After 18 days, the community response was mixed: while the large majority applauded the professionalism and restraint of the Fourth Precinct line officers, some perceived the response as overly-aggressive and unnecessarily forceful, and others questioned why the occupation was allowed to continue for 18 days. Ultimately, the total cost to the city was approximately \$1.15 million. The majority of the expenses were for MPD overtime; however, there were also expenses for replacing and repairing barriers and fencing, squad repairs, and hardware replacements. Approximately \$50,000 of costs to the city were in property damage.¹ There were five injuries caused by a group of alleged White supremacists who shot into the crowd of demonstrators; however, no serious injuries were attributed to interactions between MPD officers and demonstrators.

Implications and challenges

Like every significant incident, the occupation posed challenges for the city and MPD leaders—circumstances that were unprecedented. Significant challenges were associated with managing the occupation and the impacts of the occupation on the surrounding community and their families. These issues were compounded by the complexity of the command and control structure and fully integrated Incident Management System (NIMS) and Incident Command System (ICS) for communication, and training and equipment deficiencies.

City leaders and MPD officials worked to maintain the safety of the demonstrators while ensuring their safety, the safety of the community as a whole. They were determined to manage the occupation in a difficult national environment marred by officer-involved incidents in Ferguson, Baltimore, New York City, and elsewhere. For city and law enforcement leaders, this environment required them to exercise extreme caution throughout the response. The police department brought the occupation to a peaceful conclusion, but the disturbances that occurred in other cities.

Public safety response

Officers throughout the MPD demonstrated extraordinary courage and professionalism in their response to the occupation. Many officers were exposed to verbal, and in some cases physical, assault. At various times, Molotov cocktails, bottles of gasoline, and other things were thrown at officers threatening officers and damaging police vehicles and property. During the occupation, Fourth Precinct officers were instructed to stay on their shifts except to provide perimeter security. Mea-

chaplains and other volunteers. The commitment of the city, the police department, and individual officers to a peaceful, measured response played a large role in keeping the occupation from escalating into violent riots.

Key themes of the review

This COPS Office Critical Incident Review (CIR) of the 18-day occupation of the front lawn and the street in front of the MPD Fourth Precinct, completed by the Police Foundation, provides a comprehensive overview of the occupation from the perspectives of the MPD, elected leaders, demonstrators, and community members. The CIR identifies findings and recommendations as they relate to the response in Minneapolis, but apply more generally to civil disturbances across the nation. While the authors understand the unique set of circumstances that surround the protests and occupation of the Fourth Precinct, they also understand that the decision-making framework for the police response to this incident can and should be reviewed within the context of other significant incidents to identify important lessons that can be applied if a similar event occurs in another city, as well as to critical incidents more generally.

The findings and recommendations in this report center on leadership; command and control; response to civil disorder; accountability and transparency; internal communications; public information and media; use of force; intelligence gathering; training; equipment and tools for managing demonstrations; officer safety, wellness, and resilience; and community engagement and relationships. Some of the key lessons learned include the following:

- **Clearly define leadership roles and responsibilities among elected officials, law enforcement, and other agencies to ensure a coordinated and collaborative response to civil disturbance and other critical incidents.** Strained relationships, lack of clearly defined roles and responsibilities, public disagreements, and lack of consistent internal communication contributed to the dynamic and varied response to this protracted incident. Unified leadership from elected officials, police executive and command staffs, and precinct personnel provides the foundation upon which a cohesive tactical and operational response is built and executed.
 - » Findings related to establishing a unified leadership response include Findings 4.1 through 4.4.

- **Plan and exercise the unified command system for routine public safety response and operations.** Familiarization with NIMS and ICS is necessary for all agencies and individuals. Consistent implementation of these principles in response to routine events and pre-planned demonstrations builds confidence in the systems and facilitates their implementation during demonstrations and critical incidents.
 - » Findings related to developing an effective plan, training on that plan, and training on that plan to implement that plan, and training on that plan.
- **Clear, concise, and consistent communication, both internally and externally, is key to establishing trust and credibility.** Communication between the Mayor's Office and the MPD, and within the MPD regarding the overall strategy and coordinated and collaborative response to the occupation, and operational and tactical decisions that were made, and positively impacted morale.
 - » Findings related to communication and messaging.
- **Prioritize officer safety, wellness, morale, and mental health.** Leaders should have addressed and more fully acknowledged the physical and emotional well-being of officers assigned to manage demonstrations and occupation.
 - » Findings related to officer safety, wellness, morale, and mental health include Findings 7.2 through 7.5.

- **Build on positive police-community relationships to help mitigate potential future critical incident responses.** The MPD 2.0 model, the training and engagement being done as part of the National Initiative for Building Community Trust and Justice, and the emphasis on positive interactions and fostering trusting partnerships should continue. Understanding and acknowledging the deep-seated racial and other issues, particularly in North Minneapolis, and building and fostering relationships with traditional and emerging community leaders will be instrumental in learning from the occupation and building opportunities to address areas of community tension and discord.
 - » Findings related to community policing include 5.7 and 8.1 through 8.3.

Conclusion

Many of the findings and recommendations that result from this report, and the MPD's response build on an existing body of knowledge for law enforcement agencies in their mission to protect, serve, and work with their communities. Given the unprecedented nature of the events, that the lessons in this report will provide guidance to other agencies in similar events in the future and add to the growing body of knowledge that agencies can use to enhance their preparation for, and response to, their communities.

PART I. OVERVIEW

INTRODUCTION

In the early morning hours of November 15, 2015, two Minneapolis Police Department (MPD) officers were dispatched to an assault call in the North Minneapolis neighborhood. That call ended with alleged suspect Jamar Clark being fatally wounded in an officer-involved shooting. Immediately following the shooting, eyewitnesses and other community members organized outside the Fourth Precinct building of the MPD, just blocks away from the site of the shooting. Some witnesses claimed that Clark was compliant and handcuffed when he was shot, while others provided statements indicating Clark was not handcuffed and had reached for one of the officers' guns during a scuffle.²

Demonstrations, marches, and protests followed, lasting 18 days. Over the course of the 18 days, demonstrators called for police reforms and the release of video footage and shut down a major thoroughfare in North Minneapolis, turning it into an encampment with tents, food, music, and open fires. Some demonstrators breached the perimeter of the Fourth Precinct station and occupied the vestibule of the precinct building.

Meanwhile, City of Minneapolis and Minneapolis Police Department leaders worked to balance providing the demonstrators an opportunity to exercise their First Amendment rights with ensuring their own safety and the well-being of the community through an ever-evolving situation. Additionally, MPD personnel worked to bring a peaceful end to the occupation, which ultimately occurred in the early morning hours of December 3, 2015. The fact that the MPD did not arrest any of the demonstrators who physically occupied the vestibule, did not arrest or cite anyone peacefully demonstrating over the course of the 18 days (despite the fire codes and ordinances violated), and peacefully ended the occupation was noted by government and MPD officials during interviews with the assessment team as a successful outcome.

In March of 2016, Mayor Betsy Hodges and Chief Jarrod Anderson's Office conduct a thorough critical incident review of the MPD's response to the protests, demonstrations and occupation following the officer-involved shooting.

Figure 1. Map of Minneapolis



Source: All maps in this report created by the authors via the ESRI data originally from USDA FSA, DigitalGlobe, GeoEye,

COPS Office Critical Response Technical Assistance

The Office of Community Oriented Policing Services (COPS Office) established the Critical Response Initiative – Technical Assistance (CRI-TA) program in 2013 to provide targeted technical assistance to law enforcement agencies dealing with high-profile events, major incidents, or sensitive issues of varying need.

The purpose of this COPS Office CRI-TA Critical Incident Review is to critically, objectively, and thoroughly examine the entirety of the response to the community protests, demonstrations, and 18-day occupation of the lawn and street in front of the MPD Fourth Precinct station following the officer-involved shooting, examining the tactics and strategies of the demonstrators, elected officials, and police. This review

- provides a detailed overview of the demonstrations and occupation of the MPD Fourth Precinct station from the perspectives of law enforcement; community members, groups, and leaders; the City of Minneapolis; and other stakeholders;
- identifies focus areas and observations from the law enforcement response to the demonstrations that provide learning opportunities for law enforcement, public safety departments, government officials, and community members nationwide;
- informs law enforcement and public safety as they prepare to respond to civil disturbances in their own communities.

Scope and goals of the review

This report will focus on the entirety of the response to the demonstrations and precinct occupation—including the roles of the MPD and local, state, and federal officials during the event—and address some of the residual effects from both the law enforcement and community perspectives. The assessment starts with the beginning of the community organization and demonstration on November 15, 2015, and extends over the course of the 18 days through the decampment on December 3, 2015. Reviewing every aspect of the occupation and response allows for a robust discussion of how decisions made and actions taken affected subsequent events, and provides opportunities to identify lessons learned that may inform responses to civil disturbances of all types.

This report will also examine the roles that law enforcement officials played in shaping the response to the protests. The Minneapolis City Charter gives the civic government authority over law enforcement activity, and the mayor is consequently highly involved in the law enforcement response.

The goal of this report is to critically assess the decision-making process, not as criticism, but as part of careful study. We hope that the findings will ultimately assist agencies in the difficult job of balancing citizens' rights to peacefully voice their opinions and the needs of the wider community, and police officers. This report examines policies and procedures; police-community relationships and community disturbances; use of force; use of equipment; officer safety; information and media; accountability and transparency; and acknowledging the history of race relations as part of community-police relationships. Findings and recommendations will inform the field with regard to responses to future events.

National and international implications

The occupation in Minneapolis was, at the time, the largest civil disturbance, particularly in response to officer-involved shootings, across the United States. The events that are the focus of this report, by demonstrations in Baltimore, Chicago, Ferguson, and the conclusion of the Fourth Precinct occupation in Minneapolis, as well as the events that occurred in Tulsa, Oklahoma; El Cajon, California; and the 2014 demonstration and subsequent response provides a unique opportunity to examine practices. This critical analysis of the Minneapolis response, and law enforcement response, is intended to add to a growing body of knowledge that national and international public safety agencies can use to prepare for future events.

Report organization

The introduction to this report provides an overview of the COPS Office CRI-TA process and the scope, goals, and implications of this review. Chapter 1 discusses the methodology used to complete this review. Chapter 2 includes contextual background on the history of the North Minneapolis community where the incidents occurred, the governance structure established by the Minneapolis City Charter and the roles of elected officials as they pertain to the police department, and an overview of the Minneapolis Police Department's organization. Chapter 3 provides a timeline of the 18

days, highlighting important moments and decisions. Chapter 4 provides an overview of the enforcement agencies involved, government officials, and community organizations. Chapters 5 through 8 focus on issues that impacted the response: command and response to civil disorder; accountability; community relations; communications; public information and media; use of force; training; equipment and tools for managing demonstrations; community resilience; and community engagement and relations. Chapter 9 provides information on the identified topics as well as important findings and recommendations in those categories. The conclusion of this report, Chapter 10, provides a summary of the findings and recommendations.

CHAPTER I. METHODOLOGY

In March 2016, at the request of the mayor of the City of Minneapolis and the chief of the Minneapolis Police Department (MPD), the Police Foundation created a Critical Incident Review team (assessment team) under the direction of the U.S. Department of Justice, Office of Community Oriented Policing Services (COPS Office).³ The assessment team, comprising subject matter experts in law enforcement, police-community relations, and public safety, developed a comprehensive methodology to thoroughly review and assess the public safety response to the occupation of the MPD Fourth Precinct building that began on November 15, 2015, following the fatal officer-involved shooting of Jamar Clark. The assessment approach involved three means of information-gathering and collection: (1) on-site data collection, (2) resource materials review, and (3) off-site data collection and research. Each method is described in more detail below.

On-site data collection

The assessment team conducted four site visits in the spring and summer of 2016: April 11–15, May 2–6, June 13–17, and August 8–11. During these visits, the assessment team conducted semi-structured individual interviews and meetings with state, county, and city government officials; MPD command staff and officers; and community activists and community members. More than 50 individuals were interviewed during these site visits and the subsequent phone interviews, including the following:

- Hennepin County sheriff and chief deputy
- Minnesota House of Representatives member
- Minnesota Department of Human Rights staff
- Minneapolis mayor and members of the mayor's staff
- Minneapolis city councilmembers
- Minneapolis chief of police
- MPD executive staff

- MPD command personnel
- MPD officers
- Minneapolis community activists, including those from the National Association for the Advancement of Colored People and other community organizing groups
- Minneapolis community members, including residents and unaffiliated community members
- Minneapolis religious leaders
- National Black Police Association – Minnesota Chapter
- Police Officers Federation of Minneapolis executives

While on site, the assessment team also held a series of meetings with Fourth Precinct officers and participated in ride-alongs to observe day-to-day interactions with community members.

Resource review

The assessment team reviewed MPD policies, procedures, after-action reports, and other documents and resources provided by the Fourth Precinct line officers and command staff. The review included documents provided by the Mayor's Office and by the City of Minneapolis. This review was conducted in an effort to better understand the department's response to control and civil disturbances, use of traditional and community engagement, and approach to police-community relations. The following:

- MPD after-action summaries from the demonstration
- After-action reports from previous critical incidents

- Citywide and precinct-specific weekly crime and arrest statistics
- Cost details and summaries
- Daily Incident Action Plans
- Daily staffing rosters
- *MPD 2.0: A New Policing Model*⁴
- MPD Chief's Citizens Advisory Council meeting minutes
- MPD Policy and Procedure Manual
- Press conferences and public statements made by the mayor, MPD command staff, Fourth Precinct leadership, and the president of the Police Officers Federation of Minneapolis
- Police radio traffic recordings from important days of the occupation
- Slides from an MPD PowerPoint presentation to law enforcement leaders
- Social media content and statistics
- Timelines detailing the response from the MPD's and Mayor's Office's perspectives
- Training outlines

Off-site data collection

In addition to the information collected from Minneapolis, and in an effort to ground the incident review in national standards, model policies, and best practices, the assessment team researched and reviewed scholarship on crowd control and civil disturbances, the National Incident Management System (NIMS) and Incident Command System (ICS), community policing, and other relevant topics, published by researchers from academia and from organizations including the following:

- U.S. Department of Homeland Security
- U.S. Department of Justice
- Federal Emergency Management Agency

- International Association of Chiefs of Police
- Police Executive Research Forum
- Police Foundation

The protests, marches, and occupation were also extended to the Internet and live-streamed on social media as the assessment team collected hours of open-source video footage and social media posts, watched news clips, and listened to relevant audio regarding the

Analysis and application of lessons

The assessment team used all of the information collected from Minneapolis, which focused on identifying key areas to develop a model for the City of Minneapolis and the MPD. The team reviewed MPD procedures, protocols, and training for civil disturbances in Minneapolis. Having these documents as the foundation, the team identified practices and challenges in the response to the occupation and data collection methodologies. They then analyzed the information with the community before, during, and after the incident, as well as best practices, model policies, and lessons learned. The team produced a series of findings and recommendations for critical incidents—primarily civil disturbances—in Minneapolis. These recommendations are also applicable to law enforcement agencies across the nation faced with responding to civil disturbances. The findings and recommendations in this document are specific to the MPD Fourth Precinct station, but also have implications for elected officials, community leaders, and other stakeholders who played a role in the 18-day occupation of the MPD Fourth Precinct station.

PART II. CONTEXTUAL BACKGROUND

CHAPTER 2. MINNEAPOLIS: THE SETTING FOR THE OCCUPATION OF THE FOURTH PRECINCT

The Minneapolis Police Department

The Minneapolis Police Department (MPD) provides public safety services to the largest city in the state of Minnesota. In 2016, the police department employed approximately 870 sworn officers and approximately 160 civilians under a decentralized command structure led by the chief of police, an assistant chief, three deputy chiefs, and five precinct commanders.⁵ Its authorized strength for 2017 is 877 sworn officers.⁶ Precincts operate with significant latitude to employ neighborhood-specific crime prevention and community engagement practices, and commanders manage the day-to-day operations of their precincts as they see fit. Currently, the MPD is divided into five geographically-arranged precincts and four administrative/operational sections—the Patrol Bureau, Investigations Bureau, Office of Professional Standards, and a Leadership and Organizational Development Division.⁷ Figure 2 shows the location of the five MPD precincts and the neighborhoods they include.

Governance of the City of Minneapolis and the MPD

The governance of the police department is a unique aspect of Minneapolis city government, and factored into the City/MPD response to the occupation. The Minneapolis City Charter divides the majority of the roles and responsibilities for providing for and overseeing the operations of the police department between the city council and the mayor (figure 3). The mayor has five general duties:

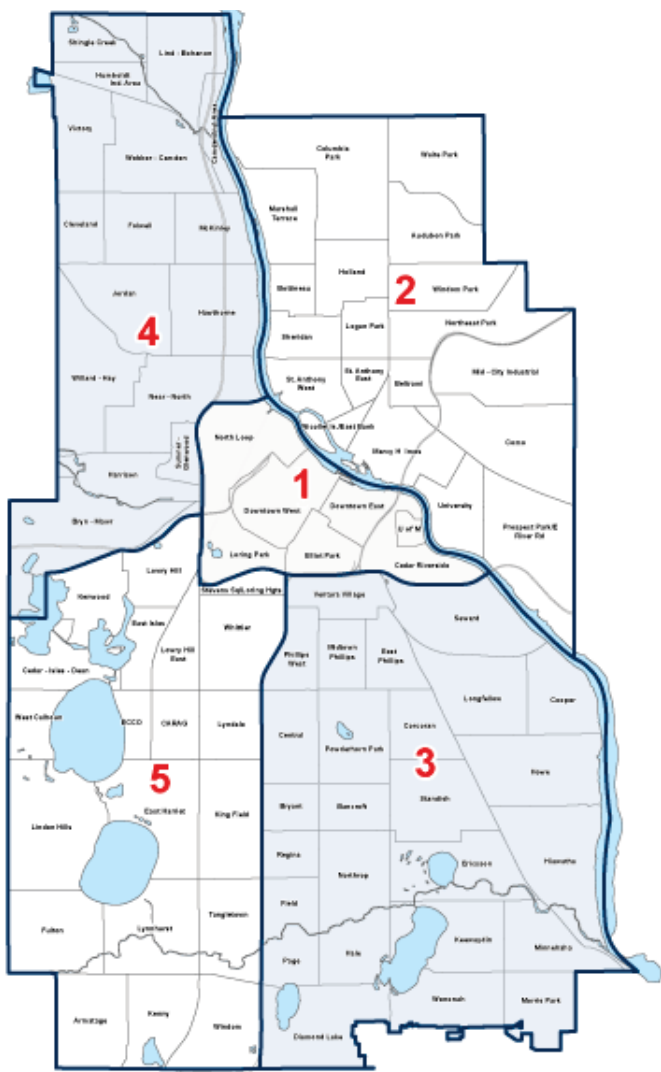
“(1) take care that all laws and ordinances are made and enforced within the City; (2) take care that the mayor discharges his or her duties, for which purpose he or she may issue a writ of mandamus or other appropriate action against any officer; (3) recommend action in the City’s internal government; (4) address the City Council annually on the state of the City, and recommend appropriate measures for public safety and economic development; and (5) notify the City Council of any other interested board, commission, committee, or litigation against the City.”⁸

The mayor also exercises power over the police department under Section 7.3(a) of the City Charter,

“The Mayor has complete power over the establishment, maintenance, and command of the police department. The Mayor may make and regulations and may promulgate and enforce orders necessary to operating the police department. The law vests an appointment in the department in the Mayor and may discipline or discharge any employee.”

All other authorities lie with the city council. As described in the City Charter, “The governing body is the City Council, in which the policymaking authority resides.” In addition, the city

Figure 2: Police precincts and neighborhoods

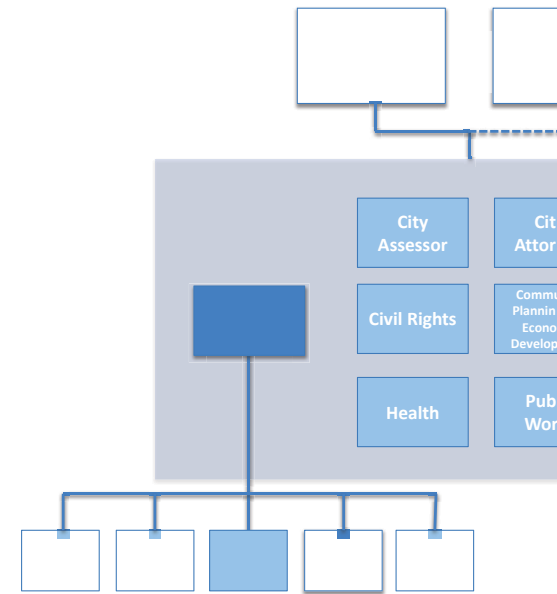


Source: "Police Precincts & Neighborhoods," City of Minneapolis, last modified March 28, 2014, <http://www.minneapolismn.gov/police/precincts/index.htm>.

board and acting body for any action on behalf of the city in the charter, and must also "establish, organize, and maintain" city departments and positions—including a police department. The city charter also includes allocating funding of at least 1% of the city's budget to the police department and providing for the compensation of its employees. The charter also provides for confirming the police chief, who has been nominating orders relating to the preservation of health that the

At the outset of the occupation, the mayor exercised authority under Article VII, § 7.3(a), and members of the city council exercised authority to exert power over the MPD response. As a result of the occupation, the mayor provided approval when MPD took some actions to refrain from taking others. She participated in meetings

Figure 3. Minneapolis governance



Source: Peter Callaghan, "So What Does the Minneapolis City Coordinator Do?" MinnPost, September 18, 2014, <https://www.minnpost.com/story/so-what-does-minneapolis-city-coordinator-do-q-spencer-cronk>.

was invited to with demonstration organizers without including MPD leadership. City councilmembers also involved themselves with the occupation—by participating in the protests as demonstrators themselves, by attempting to negotiate a peaceful end to the occupation, and in other ways. The mayor’s role as tactical and strategic commander of MPD and the city councilmembers’ roles as negotiators—not their political affiliations or positions—are profiled and reviewed in this report.

North Minneapolis community

The community’s initial reaction, response, and continued involvement in the occupation of the Fourth Precinct station were complex. In order to understand the perspective and actions of the demonstrators after the officer-involved shooting and throughout the subsequent occupation, it is important to consider the history of North Minneapolis.

North Minneapolis: historical perspective

Minneapolis is a city long known for its robust economy, affordability, and liberal politics. In the last half of the 19th Century, Swedish, Norwegian, and Danish immigrants flocked to Minneapolis, building churches, schools, and a fraternal insurance organization downtown. City Hall was built as the anchor from which the business district would expand.¹¹

But while the White population of Minneapolis was taking advantage of the city’s opportunities, they stymied the relatively small African-American population’s attempts to gain access to the city’s prosperity. Not only were multiple Ku Klux Klan chapters active, but in the downtown neighborhoods, White residents organized corporations to buy Black owners out, mobilized associations to block them from moving in, or intimidated

Figure 4. North Minneapolis



Source: ESRI; see note on figure 1.

them out of even making the attempt. North Minneapolis was a city where minority residents were accepted.¹² In effect, it prevented African Americans from being hired for many of the city’s largest industries—leaving many unemployed.

Even today, according to New York Times reporter Jonathan Eligon, “confronting an open secret as discomfiting as the b... measures, its Black population, which has grown to 1... has been left behind.”¹³ Eligon goes on to quote Mayor Jacob Frey that there are “deep divisions and divides and gaps b... color in the city of Minneapolis.” For more than five decades, deep divisions has been Minneapolis’s north side.

Civil unrest in North Minneapolis in the 1960s

Frustrated by decades of continued marginalization, the lack of employment opportunities and quality education, and the refusal of local politicians to acknowledge or correct institutionalized racism, Minneapolis's African American community erupted into civil unrest in 1966 when a group of approximately 50 youth vandalized and looted stores in North Minneapolis.¹⁴ Almost a year later, another group of youth set fire to a handful of buildings on Plymouth Avenue in an event that became known as the "Plymouth Riot."¹⁵ Unlike the previous year's incident, the participants did not disperse when authorities arrived. More than 30 fires burned over three days and at least three people were wounded by gunfire. The riot continued until approximately 150 National Guard troops were deployed to the area.¹⁶ While the riots in North Minneapolis were less devastating than contemporary uprisings in Detroit, Newark, and other cities, the Plymouth Riot had a lasting impact on the North Minneapolis community. Of the dozen stores that once lined Plymouth Avenue, none remain. There were charges of police brutality before the 1967 riots, and those charges continued long after the riots and continue to fuel tensions between the community and the police department today.

Following the unrest of the 1960s, the city worked with community leaders to rebuild the Plymouth Avenue corridor. The city donated an abandoned building to a group of community leaders who opened The Way Opportunities Unlimited, Inc. (The Way)—a community center and organization dedicated to improving the quality of life for youth in North Minneapolis by providing cultural, social, and political education and opportunities, as well as a recreation center. The Way's goal was to foster Black empowerment and self-determination, to seek power and legitimacy for the typically ignored, and to fill the traditional role of community leader.¹⁷ Named by the community, the center had dual functions—representing "the way of life" for those it served, and "the way out" of being isolated in North Minneapolis.¹⁸ The Way was a vibrant place of community life, and artists like Prince and record producers Jimmy Jam and Terry Lewis grew up within its walls.

In 1989, the City of Minneapolis took possession of The Way. The organization lost its funding and converted it into the Fourth Precinct police station. Many of the community members who acknowledged that the city was well-intentioned when replacing The Way with a police station became a source of contention. In a 2015 magazine article interview, a Black Lives Matter Minneapolis activist described the symbolism of the Fourth Precinct building's history:

"The occupation is really interesting to me, I've always seen it as a form of revenge of the ancestors. If you know the history of the Fourth Precinct used to be a community center, and they took this space of black revolutionary love, they were trying to erase it. We're trying to do right now, trying to build a better future."

"The City of Minneapolis responded by saying, 'We're going to make it safe, let's put in this fortress,' and that is now a symbol of oppression. I honestly feel like the ancestors were kind of angry about it, a little bit, because the occupation made it a co-opted space."

North Minneapolis today

Today, residents of the 'north side' (North Minneapolis) face the same challenges that drove the riots of the 1960s. In 2014 (the most detailed neighborhood-level statistics were available), the unemployment rate was 9.5 percent, but in North Minneapolis that number was 21.1 percent. Similarly, the unemployment rate by race was 22.9 percent citywide, compared with 22.9 percent for African Americans. In North Minneapolis, the unemployment rate was even higher in North Minneapolis, with 22.9 percent of African Americans were unemployed, while 10.5 percent of white residents were unemployed. Combined with the fact that the median household income in North Minneapolis is almost \$9,000 less than that, it is no surprise

in North Minneapolis is much higher than in the rest of the city. The overall percent of persons living below the poverty line in the city as a whole was 22.5 percent in 2014, but 36.6 percent of the population in North Minneapolis. African Americans were almost three times more likely to be below the poverty line than Whites—42.0 percent to 15.1 percent—in North Minneapolis.²⁰

In 2015, more than 40 percent of the reported homicides and 42 percent of the aggravated assaults committed in Minneapolis occurred in the Fourth Precinct (which covers North Minneapolis). Additionally, more than 70 percent of the weapons offenses and almost one third of the simple assaults occurred in the Fourth Precinct (see table 1).²¹ A commonly expressed sentiment in the Minnesota media is that North Minneapolis is a dangerous place where youth and gang violence runs wild.²²

The fractured relationship and history of mistrust among Black residents in North Minneapolis, city government, and the MPD, which have made the goal of community safety hard to reach, provide the backdrop against which the protests and occupation played out following the Jamar Clark shooting.²³

Table 1. Fourth precinct and citywide crime data

Reported Offenses 2015	Fourth precinct
Population * †	62,621
Homicide	21
Rape	123
Robbery	543
Aggravated Assault	882
Burglary	870
Larceny	1,779
Motor Vehicle Theft	533
Arson	57
Total Part I	4,808
Simple Assault	1,460
Vandalism	1,425
Weapons	989
Prostitution	17
Sex Offenses	89
Narcotics	685
Driving While Intoxicated	108
Other Part II	3,186
Total Part II	7,959
Grand Total	12,767

Source: MPD Crime Analysis Team, Minneapolis Police Department Summary (Minneapolis, MN: MPD, 2015), <http://www.minneapolis.gov/mpd/documents/webcontent/wcmsp-172138.pdf>.

* Fourth precinct population is an approximation gathered from Minneapolis.

† Citywide total population was obtained from “QuickFacts” Census Bureau, U.S. Department of Commerce, accessed <http://www.census.gov/quickfacts/table/PST045215/2743000>.

PART III. INCIDENT DESCRIPTION

CHAPTER 3. 18 DAYS: PROTESTS AND OCCUPATION OF THE PRECINCT OF THE MINNEAPOLIS POLICE DEPARTMENT

Given that the assessment team interviewed Minneapolis Police Department (MPD) officers, city and government officials, and demonstrators who were all there at various points over the 18 days, it is to be expected that their perspectives and accounts may seem contradictory. For example, during some interviews demonstrators reported uses of force and harassment that the assessment team could not independently verify from reviewing video footage and talking to others at the scene who reported Fourth Precinct officers acted with restraint and professionalism. Even within a particular group, accounts varied; for instance, MPD command staff and line officers at the Fourth Precinct disagreed on when—or whether—orders and information were received. In an effort to provide all perspectives equal voice, and recognizing that all parties were reflecting on high-intensity events, we have organized the following timeline first by day and then by whether the information was obtained from law enforcement, government, or community members.

The timeline was developed through a review of the timeline of events prepared by the Minneapolis Mayor's Office, the Minneapolis Police Department's Incident Action Plans and *After Action Report*, on-site interviews, and media reports.

Figure 5. Fourth precinct police station



Source: ESRI; see note on figure

Incident description

Sunday, November 15, 2015

Law Enforcement

MPD: At 12:45 a.m., two Minneapolis Police Department (MPD) officers from the Fourth Precinct were dispatched to an assault call in the area of 1500 Plymouth Avenue. Before the officers arrived, the call was changed to a request for police assistance, as the suspect involved in the assault allegedly confronted paramedics. When the two officers arrived on scene, a confrontation and brief struggle ensued with the alleged assailant, Jamar Clark. During this confrontation, one of the officers discharged his service weapon, fatally wounding Clark.²⁴

Following accusations that the officers had shot Clark while he was handcuffed, the MPD issued an initial press release at approximately 3:00 a.m. stating that Jamar Clark was not handcuffed during the confrontation.²⁵ At approximately 4:00 a.m., MPD Deputy Chief Folkens briefed the media regarding the shooting. During the briefing, Deputy Chief Folkens confirmed that Clark and the two officers were involved in a physical altercation and that Clark was not handcuffed at the time of the shooting.²⁶

After speaking with the mayor, Chief Harteau contacted the superintendent of the Minnesota Bureau of Criminal Apprehension (BCA) to ask for an independent investigation. The superintendent agreed to conduct the investigation. ▼

Government

According to an interview with the assessment team, Mayor Hodges received a text from Chief Harteau about the shooting in the early morning, and the two spoke about it at approximately 7:30 a.m.³⁰

At 9:00 a.m., Mayor Hodges and her staff and Chief Harteau and MPD leadership met to discuss the next steps. Following this meeting, Mayor Hodges made phone calls to notify other elected officials.

At a 2:00 p.m. press conference, the mayor announced that the Minnesota Bureau of Criminal Apprehension (BCA) would conduct an independent criminal investigation into the shooting of Jamar Clark.³¹ The mayor indicated it was the first time in recent memory that the MPD would not be investigating its own critical incident.³²

The mayor also hosted a 5:00 p.m. community meeting and public listening session at the Urban League in North Minneapolis near the locations of the shooting and the Fourth Precinct station. Prior to the meeting, the mayor addressed a group of protestors outside the Urban League and invited them inside. At the community meeting and public listening session, the mayor openly addressed the attendees regarding the independent investigation and encouraged any witnesses to speak with investigators.³³ At the end of the meeting she ▼

Community

Immediately after the shooting, a group of community members gathered outside the Fourth Precinct station. Due to conflicting accounts from witnesses, it is unclear if or not Clark was handcuffed. Some witnesses, who were angry and combative, they believed that the officers were responsible for the shooting. According to the Hennepin County Sheriff's Office, 20 civilian witnesses were interviewed. Of those, they saw: two said that Clark was not handcuffed, 12 were convinced he was, and 6 hands were cuffed, and 12 were not.

Frustrated by the public's reaction to the shooting, a group of approximately 20 people gathered in two blocks to the Fourth Precinct station. They expressed frustration that another person had been shot and killed by police. They also perceived an increase in police brutality against demonstrators that began after the shooting also called for a protest.

At 3:00 p.m., another demonstration was held. It was covered by media by community leaders. The demonstration was held in Minneapolis and the Mpls. Area Association for the Advancement of Black People. This group of demonstrators gathered for the shooting and followed the police to the Fourth Precinct station. From

Law Enforcement

The first night the protestors gathered outside the precinct, the precinct station continued to be surrounded by demonstrators and vehicle exits at the back and side were blocked, leaving all MPD vehicles trapped in the precinct station parking lot.²⁷ The tires of an unmarked squad car parked on the street were slashed; windows of cruisers and the precinct station were smashed out; and bottles, rocks, and bricks were thrown over the fence at officers.²⁸ MPD officers were also subjected to verbal harassment. After a few hours, officers were finally able to bring their squad cars into the back parking lot and close the gate.²⁹ ■

Government

spoke privately to many members of the Clark family, as well as to as many others that wanted to speak with her.³⁴ ■

Community

sidewalks from Penn Ave and across Plymouth Ave (one mile), linked arms to create a human shield. “No justice, no peace!”

During the demonstration, community members entered the precinct station and staged a sit-in, indicating five demands—including an independent investigation, an independent review of eyewitness testimony, and full disciplinary power over MPD officers—were required to attend the community meeting at the Urban League, and the chief of police meet the community. The proposed meeting

While this occupation was ongoing, 150 community leaders attended the listening session one block from the Fourth Precinct. Described the meeting as a “listening session,” personal accounts of community members, officers, questioned the police regarding their ability to conduct an investigation, and echoed the concerns expressed by the demonstrators.

Following the meeting, community members gathered outside of the precinct station, with approximately 300–400

Incident description

Monday, November 16, 2015

Law Enforcement

MPD: Over the course of the day, officers at the Fourth Precinct station guarded the side and back fences from being breached. According to officers' radio traffic, for the most part, the demonstrators remained peaceful, though some officers continued to be subjected to verbal harassment.⁴¹

During a meeting between MPD command staff and the Fourth Precinct inspector, a first attempt to remove the individuals in the vestibule was planned. However, prior to the time designated to remove the protestors, administration made the decision to delay clearing out the vestibule for 24 hours. It was also suggested that protestors be offered the Fourth Precinct visitor parking lot (which is directly across the street from the precinct station) to continue their demonstration, that the weapons in the building be moved to secured storage in the firearms range, and that the safest route to the station for officers was through the back gate.⁴²

Later that evening, as demonstrators began to march from the Fourth Precinct station to downtown Minneapolis, the MPD Bicycle Rapid Response Team (BRRT) was deployed to monitor their progress and ensure their safety. They were instructed to divert demonstrators away from Interstate 94 West (I-94 W); form a line to prevent them ▼

Government

During a press briefing the mayor announced that she had contacted the Civil Rights Division of the U.S. Department of Justice (USDOJ) and the U.S. Attorney for Minnesota, asking for concurrent independent investigations, including a civil rights investigation, into the shooting.⁴⁹

The Hennepin County Chief Medical Examiner announced that Jamar Clark was removed from life support at 9:32 p.m.⁵⁰ ■

Community

Throughout the day, a remained outside the demonstrators—from Chapter, the Black Lib community members of the video of the she of the officers involve U.S. flag outside the p the front windows.

Later that evening, at approximately 300 de a “No Cop Zone” and Precinct station towa downtown, demonstr to I-94 W, formed a li the five-lane highway the Minnesota State F were arrested after rel

Following the demon the protestors returne to continue the occup demonstrators threw officers and squad car of the station. ■

Law Enforcement

from getting onto the highway if necessary; and to arrest anyone committing assault or serious property damage or breaking the line to get on the freeway. According to an attendee at one of the assessment team's anonymous officer forums, they also received a directive to refrain from physically engaging and let demonstrators onto I-94 W.⁴³

By nightfall, the occupation turned violent again. Between 9:30 p.m. and 10:30 p.m., bottles and bricks were thrown over the walls in the back parking lot of the Fourth Precinct station.⁴⁴ In addition to the violence targeted at the officers and the station building, two separate shootings occurred less than two blocks away on the 1600 block of Plymouth Avenue North.⁴⁵ Though it could not be confirmed whether or not the gunshots were related to the occupation, the Special Weapons and Tactics (SWAT) Team was deployed to investigate. According to an interview with a member of the SWAT Team, they were instructed not to take the MPD Bearcat, because it would appear "too militaristic."⁴⁶ This became a source of contention for SWAT officers who were concerned for their safety (and is addressed in Chapter 7 of this report).⁴⁷

MSP: According to a Minnesota State Patrol (MSP) lieutenant, 43 adults and eight juveniles were arrested and booked into jail after marching onto I-94 W and blocking all five lanes of traffic for more than two hours.⁴⁸ Most of the individuals arrested received misdemeanor citations for unlawful assembly and being pedestrians on the freeway. ■

Incident description

Tuesday, November 17, 2015

Law Enforcement

MPD: Officers at the Fourth Precinct station began to put up fencing down both sides of the sidewalk in front of the precinct and also placed barriers on the sidewalk across the street.⁵⁵ Once again, the demonstrators remained mostly nonviolent during the daylight hours, but began throwing rocks, bricks, bottles, and half-eaten food after dusk.

When the violence escalated, the MPD Chemical Agent Response Team (CART) was deployed to identify the individuals responsible. Some of the CART members were deployed with tactical helmets and vests, camouflage winter coats, and weapons capable of firing bean bags or marking rounds. This specialized unit also carried chemical agents that could be deployed if necessary.⁵⁶

BCA: At an afternoon press conference, the BCA superintendent indicated that after reviewing several sources of video obtained from the shooting—including from the ambulance on scene, a police camera, several public housing authority cameras, and cell phone videos from witnesses—none of the videos provided a definitive perspective and none would be released to the public.⁵⁷ The superintendent also stated that the names of the officers would only be released once interviews were completed.⁵⁸

USDOJ: The USDOJ announced that they would open a civil rights investigation of the shooting.⁵⁹ ■

Government

The mayor met privately with 10 members of Jamar Clark's family and six members of BLM from 5:30 p.m. to 7:30 p.m. During the meeting, she expressed her sadness over their loss. The family members and activists requested three things from the mayor: (1) that she arrange for culturally-appropriate grief counseling for the family and community members; (2) that she convey the family's request to view the video of the shooting privately to BCA and USDOJ representatives; and (3) that she publicly call for the release of any video of the shooting. The BLM attendees stated that if the mayor communicated publicly that she had relayed the request that the Clark family be allowed to view the video, they might end the occupation. The mayor agreed to the first two requests and asked for time to consider the implications of the third. The family and BLM agreed to reconvene the next morning. The mayor also contacted Jamar Clark's brother following the meeting.⁶⁰

The Hennepin County Chief Medical Examiner conducted the official autopsy of Jamar Clark. The cause of death was determined to be a gunshot wound to the head and toxicology examinations showed that Clark had a blood alcohol concentration of .09 and had THC in his system. The autopsy also indicated that Clark's wrists had "no occult contusions (bruises), or other injuries suggestive of restraint," supporting the finding that Clark was not handcuffed during the shooting.⁶¹ ■

Community

At approximately 3:00 p.m., protesters were set up in front of the building entrance of the vestibule which was blocked off. Despite the fact that the protesters had a meeting with the mayor, the protesters continued to throw rocks and debris. They attempted to breach the police line the next morning, and damaged the building. Neighborhood residents opened the front doors to the building, but were unsuccessful.

Incident description

Wednesday, November 18, 2015

Law Enforcement

MPD: At 2:00 p.m. MPD officers cleared the vestibule, after being ordered by the chief to do so without tactical gear or helmets.⁶⁴ As officers stood in a line to provide some space between the front of the station and the demonstrators, other officers approached the front doors to the vestibule and were hit by rocks and bottles being thrown by demonstrators from behind the line.⁶⁵ After the vestibule was cleared, officers trying to restore order outside of the station were yelled at by demonstrators chanting obscenities.⁶⁶ Some officers spoke to demonstrators and answered their questions regarding why the vestibule was cleared out.⁶⁷

Additionally, after the vestibule was cleared, officers at the precinct felt the situation escalated to a level that required the deployment of the CART again.

Later in the afternoon, the chief of police spoke at a press conference where she stated that the decision had been made to clear the vestibule after demonstrators there had covered a security camera looking out from the vestibule to the front door, refused citizens entry to the building to speak with investigators and officers, and had made themselves “more comfortable” in the vestibule and smoked marijuana there.⁶⁸ During this press conference, the commander of the Fourth Precinct also explained the deployment of the CART members, and ▼

Government

The mayor had more conversations with members of the Clark family in the morning. Then, from 10:30 a.m. to 11:15 a.m., she met privately with two members of the family and six BLM representatives. During the meeting, the mayor conveyed that she had kept her promises from the previous evening and requested that they negotiate an end to the occupation. However, after the mayor told the group that she could not publicly call for the release of the videos, the meeting ended.⁷⁷

The mayor met with the U.S. Attorney for the District of Minnesota in the afternoon.

She then spoke briefly at an afternoon press conference with the chief of police and commander of the Fourth Precinct. The mayor indicated that she supported the decision to clear the vestibule and thanked the community members who continued to demonstrate peacefully.⁷⁸ After demonstrators showed up at her house, she posted a brief statement on her website in which she said that it was necessary to balance the community’s emotions and public safety.⁷⁹

Senior staff of the Governor’s Office also contacted the Mayor’s Office to set up a meeting between the senior staffs of both offices. The first USDOJ Community ▼

Community

In the early morning raised.⁸³ Five additional were also erected to be guarded by approximately

At 10:00 a.m., the URB with members of BLM demand the release of Clark’s family also spoke for peaceful protests.⁸⁴ remained mostly peaceful chants demanding the and the videos released

However, once the video of the demonstrators’ demonstrators felt that represented an escalation a perception bolstered by militarized equipment what appeared to be a Team and CART unit personnel had been at the press conference, a team that officers on the information with their

Law Enforcement

justified the continuing use of military-looking equipment outside the station, based on safety concerns over demonstrators throwing rocks and bottles as officers were clearing the vestibule.⁶⁹

At 4:30 p.m., the president of the Police Officers Federation of Minneapolis (the Federation) released a statement indicating that Clark reached for an officer's gun before he was shot, and said that witnesses that claimed Clark was handcuffed at the time of the shooting should be charged with a crime if their statements turned out to be "blatantly false."⁷⁰

That evening, as the number and intensity of the protestors grew and it became apparent that demonstrations would continue for the foreseeable future, the MPD response shifted from being handled entirely at the Fourth Precinct—and overseen by the commander and lieutenants—to a department-wide response. The city's Emergency Operations Center (EOC) was activated and MPD opened its own operations and command center next to the the EOC staff in the Emergency Operations and Training Facility. The MPD command center coordinated staffing, operations, planning, logistics, and finance and held regular briefings for command staff and the chief and executive team.⁷¹

MPD officers were yet again pelted with bottles, bricks and rocks, and other projectiles, including Molotov cocktails.^{72, 73} At this point, officers from other precincts in Minneapolis were deployed to the exterior of the

Government

Relations Service (CRS) representatives arrived at the Mayor's Office in the afternoon and led a meeting of representatives from the offices of the mayor, governor, city attorney, and city coordinator, in order to gather information and establish a timeline of significant upcoming events and discussion points.

A member of the Mayor's Office staff stopped by and went into the Fourth Precinct station to observe the conditions firsthand. When demonstrators surrounded all access points, the mayor's staff attempted to contact community members to assist with de-escalating the crowd and to get the crowd to move away from the access points. The crowd retreated from the access points and allowed people in the precinct station to leave safely.

Additionally, during the evening hours, three city councilmembers—Lisa Bender (Ward 10), Alondra Cano (Ward 9), and Cam Gordon (Ward 2)—arrived at the Fourth Precinct occupation.⁸⁰ As one councilmember indicated during an interview, while she was initially hesitant to get involved in another councilmember's ward, when her constituents began contacting her to participate and show her support, she did.⁸¹ When she found out that chemical irritants had been used by MPD, she immediately tweeted that the MPD should stop, but indicated that the department was not going to listen to any City Council calls for de-escalation.⁸² The other councilmembers also suggested during interviews that they wanted to show support and help the Clark family and the community grieve and heal. ▼

Community

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not home, the group
mayor's husband let t
10 minutes.⁸⁹ ■

Law Enforcement

Fourth Precinct station to identify demonstrators who were causing property damage and to answer calls for service, while Fourth Precinct officers were responsible for securing the interior.⁷⁴ In response to demonstrators tying tarps to the gate surrounding the back of the precinct and holding tarps up to protect those throwing projectiles, officers deployed chemical irritants and fired one marking round to tag an individual.⁷⁵

BCA: After completing all of the officer and witness interviews, the BCA released the names of the two officers involved in the shooting.⁷⁶ ■

Government

As demonstrations escalated, the mayor and the chief were in the Police Administration offices monitoring developments. ■

Incident description

Thursday, November 19, 2015

Law Enforcement

MPD: After the events of Wednesday evening, tension between officers and community demonstrators remained high; however, no significant activities took place during the morning and early afternoon hours.⁹⁰

At a 2:00 p.m. press conference, the chief of police highlighted the threats to officer safety and showed a brick that had been thrown by a demonstrator. The chief also advised that chemical irritants had been used on officers and that damage had been done to MPD cruisers, equipment, and property totaling at least \$38,000.⁹¹

During an afternoon radio show, the Federation president criticized the occupation, stating that it had nothing to do with the investigation of the officer-involved shooting but rather it was part of “an activism [sic] movement.” He also criticized city leadership, primarily the mayor, for not letting the police end the occupation because the protestors had voted her into office.⁹²

Officers continued to deal with verbal threats and harassment and with spray paint on the station walls.⁹³ MPD officers conducting patrol outside the precinct station, near the occupation, also recovered four Molotov cocktails.⁹⁴ ■

Government

A Joint Information Center (JIC) that included senior representatives from city and state government was established. Initially, the JIC was established without notifying the MPD incident commander, and did not include the MPD. However, a deputy chief and MPD public information officer (PIO) were eventually invited to participate.⁹⁵ The JIC members conducted conference calls three or four times a day, primarily to document and review issues, discuss community flashpoints, and identify resource needs.⁹⁶ MPD personnel were queried on operational and tactical questions and members of the JIC sought to have significant decisions and actions cleared through the JIC.⁹⁷

During the 2:00 p.m. press conference with the chief of police, the mayor spoke about the need to “strengthen the bonds of our community with our police and one another, both short term and long term,” and reiterated her desire to appropriately maintain the First Amendment rights of the demonstrators while ensuring public safety.⁹⁸ Later in the evening, the mayor arrived at the occupation to attend the vigil. Staff from the Mayor’s Office returned to the precinct during the evening to observe the conditions of the occupation. ▼

Community

On the heels of the vigil, demonstrators were not allowed to continue to direct vehicles from the guard of the precinct, and demonstrators were tweeting photos of inside the area” and the protestors.

Government

Additionally, three city councilmembers and the U. S. Representative who represents the congressional district that includes Minneapolis joined BLM representatives and religious leaders to yet again demand the release of videos from the shooting. The congressman asked for protestors to acknowledge how quickly some of their demands had been met by officials, but indicated that officials needed to do more if they wanted to end the occupation. The city councilmembers echoed the need to release the videos and also highlighted the importance of elected officials standing with the community.⁹⁹

A Minnesota Department of Human Rights executive also arrived at the occupation site to observe but, as he discussed during an interview with the assessment team, made no attempt to get involved. ■

Incident description

Friday, November 20, 2015

Law Enforcement

MPD: At approximately 2:30 a.m., protestors threatened officers with lit Molotov cocktails, and an intoxicated woman who tried to drive through the back fence of the Fourth Precinct station multiple times was arrested.¹⁰¹ Officers noted during interviews that these events escalated tension among their ranks, with one officer comparing the scene to his military tours in Afghanistan.¹⁰² He also noted that MPD and city leadership's failure to authorize the use of force, even after the apparent attempt on the fence, led officers to conclude their leaders had sided with the community against them.

Throughout the rest of the day, officers continued to be subjected to verbal abuse, though physical violence stopped.¹⁰³ During an interview with a local religious leader and MPD chaplain, the assessment team learned that officers were not allowed to leave the Fourth Precinct station during their shifts, or in some cases overnight, because it was too dangerous.¹⁰⁴ Even when allowed, leaving was daunting as officers had to be bused in and out, the roads were closed, and there was a general feeling that no matter what they did, they could not win.¹⁰⁵ African-American officers especially were specifically targeted for verbal abuse, with one woman calling a particular officer, "an Uncle Tom whose family should be ashamed of him," and encouraging him to commit suicide.¹⁰⁶ ▼

Government

The mayor met at the governor's residence with the NAACP national president, the NAACP Minnesota president, five local NAACP chapter presidents, executives from the Minnesota Department of Public Safety and Minnesota Department of Human Rights, and the governor. The meeting focused on improving police accountability, police-community relations, and resolving the occupation.¹⁰⁹

At around 8:00 p.m., the Federal Bureau of Investigation (FBI) and U.S. Attorney released a statement explaining why the videos from the shooting would not be released until the investigation was complete.¹¹⁰

That evening, staff from the Mayor's Office went to the precinct to observe the conditions of the occupation. ■

Community

At 2:30 a.m. a female driving while intoxicated after trying to drive through the back fence of the Fourth Precinct; at about the same time, shots were fired within blocks of the station. The shots were unrelated to the occupation. It is unclear whether the occupation created tension among the community.

Beginning at approximately 8:00 p.m., a candlelight vigil for the victims of the shooting was held at the Fourth Precinct station. The vigil's guest of honor, the importance of peace.

Law Enforcement

During a regularly-scheduled 3:00 p.m. appearance on WCCO Radio, the Federation president called for political officials to remove themselves, relinquish handling of the occupation to the police department, and allow officers to end the occupation. The chief of police called in to rebut the Federation president, resulting in a heated and public discussion of each other's experience and the best plan of action for the department.¹⁰⁷

That evening, the chief of police visited with demonstrators. The MPD also issued a warning "asking gathered demonstrators to be vigilant and report any actions that may seem out of the ordinary," based on information received from confidential sources.¹⁰⁸ The occupation had its most peaceful night yet. ■

Incident description

Saturday, November 21, 2015

Law Enforcement

MPD: Graffiti was cleaned off the Fourth Precinct building. Otherwise, there was no significant police activity. ■

Government

In the morning, the mayor visited the Fourth Precinct to speak with officers and answer questions regarding the strategy to end the occupation.

The Mayor's Office communicated with BLM representatives about scheduling garbage pickup and graffiti cleaning at the Fourth Precinct.

The governor and the U.S. Representative held a meeting with representatives of BLM to discuss ending the occupation. At the end of the meeting, the governor released a statement requesting that USDOJ investigate whether any police actions during the occupation violated anyone's civil rights.¹¹⁴

The governor also called for a special session of the Minnesota legislature to address racial disparities in North Minneapolis and in Minnesota as a whole, and he committed to a meeting with BLM leaders.¹¹⁵ The governor asked that in exchange for his request that videos be shown to the Clark family and released to the public, BLM leaders commit to ending the occupation, but no explicit commitment was made by BLM.¹¹⁶ ■

Community

During the morning, there were approximately 500 people in the Fourth Precinct, but there were no significant events. There were approximately 200 during the evening, but there was no violence.¹¹⁷ ■

Incident description

Sunday, November 22, 2015

Law Enforcement

No significant police activity occurred on this day. ■

Government

A representative from the Mayor's Office attended a public meeting at Neighborhoods Organizing for Change (NOC), where BLM agreed to end the occupation by Tuesday, November 24.¹¹⁸ At the end of the meeting, it appeared that consensus had been reached and a schedule to end the occupation was drawn up.

Another group of USDOJ CRS personnel arrived in Minneapolis to assist city officials.¹¹⁹ ■

Community

For the second day in early afternoon hours demonstrators outside the number swelled to approximately 100. There were no arrests.

Incident description

Monday, November 23, 2015

Law Enforcement

MPD: While there was no significant police activity for most of the day, at 10:40 p.m., Fourth Precinct officers responded to the shooting of five protestors outside of the precinct station.

The shooting immediately escalated the tensions of MPD officers that responded to the scene. According to radio traffic recordings reviewed by the assessment team, dispatchers relayed that multiple shots were fired and officers relayed back that a large group of protestors were coming towards them.¹²¹ Responding officers indicated that the crowd surrounding the victims was hostile to them and paramedics.¹²² Some officers said that they were prevented from getting to the victims.

Many of the exchanges between MPD and dispatchers focused on what roads emergency medical responders should take to get to the victims of the shooting.¹²³

After the victims were transported for medical attention, officers and dispatchers worked to identify the perimeter of the crime scene and exchanged information about the suspects.¹²⁴ MPD investigators worked into the night to identify and locate suspects. They indicated that they were searching for “three white male suspects.”¹²⁵ ■

Government

While the Mayor’s Office requested a meeting to coordinate security around the end of the occupation with MPD and NOC, the meeting request was rejected by NOC. During the day, demonstrators and city officials made significant efforts to put a timeline in place for the agreed-upon withdrawal of the occupation; however, no agreement could be reached.

During a statement to the media, the governor explained that he was allowed to view videos related to the shooting because the BCA, a state agency, was conducting the investigation, they report to him, and therefore it is his responsibility to know the situation. The governor stated, “I’ve seen the tape. It doesn’t show anything that would be by any confirmation to one point of view or another.”¹²⁶

Three executives from the Minneapolis Department of Civil Rights met separately with NOC.¹²⁷ ■

Community

For the majority of the day, demonstrators remained nonviolent and continued to post videos. A national civil liberties organization announced that they would collect signatures online to call for the release of the victims. Additionally, local NAACP chapters denounced the agreement and called for it to continue.

When the five victims were released, the demonstrators and the community members deteriorated and tensions increased. A community response increased. A community member interviewed, the victim’s family, and other demonstrators by other demonstrators to respond.¹²⁹ Another community member indicated that officers’ actions worsened the victims’ wounds and that they were “waiting for the police to respond.”¹³⁰ This information heightened tensions outside the precinct station.

Incident description

Tuesday, November 24, 2015

Law Enforcement

MPD: After continuing the investigation from the previous night, the MPD identified five suspects. While the actual shooter was arrested in nearby Bloomington, two accomplices were arrested in Minneapolis, and two turned themselves in.¹³¹ Ultimately, only four of the men were charged with crimes and the fifth was released after MPD determined he was not at the scene during the shooting.

Officers continued to investigate the shooting. Others continued guarding the station against the occupation, and some provided an escort to a march of demonstrators from the Fourth Precinct station downtown to City Hall.

After the march, officers arrested a protestor who jumped the temporary barriers erected outside the Fourth Precinct station and banged on the glass. Officers also faced bottles, vegetables, and other assorted food items being thrown over the back and side fences of the precinct.¹³² Renewed threats and chants were directed towards officers standing outside the precinct. ■

Government

The mayor released a short video condemning the shooting of the demonstrators the previous night and reiterating her commitment to ensuring the safety of all involved.¹³³

The Mayor's Office also coordinated with the Minneapolis public schools, Parks and Recreation Board, and Youth Coordinating Board and with the Hennepin County and Minneapolis Health Departments to arrange security for student demonstrators participating in Minneapolis public high school walkouts in support of Jamar Clark.¹³⁴

The mayor, the governor, and the U.S. Representative spent six hours with CRS representatives preparing for a meeting in the evening. This meeting was supposed to include all of the government representatives and BLM activists and was designed to reach an agreement to end the occupation immediately, but never took place because some occupation leaders refused to attend.¹³⁵

The Hennepin County Attorney also announced that the decision regarding criminal charges against the two officers involved in the Clark shooting would be brought before a grand jury.¹³⁶ ■

Community

Following the shooting, the Minneapolis Police Department's communications chair was interviewed on CNN. The chair stated that the MPD was facilitating injustices against demonstrators, was slow to respond, and was "involved in the shooting." The chair also stated that the MPD of purposeful shooting victims and was not listening to eyewitnesses, conducting investigations against demonstrators, and losing faith in the MPD to keep the occupation.¹³⁸

Jamar Clark's brother released a statement early in the morning of the shootings, thanking the police for keeping the officers safe and for keeping the officers from being hurt. He stated that in light of the shooting, the police had an imminent concern for the officers' safety and must get the occupation ended and on to the next step.

At approximately 2:00 p.m., a group of people marched from the Fourth Precinct station to the Jamar Clark shooting site, demanding the release of the officers involved in the shooting.

Community

An additional 500 people listened to a concert.¹⁴¹

After the march, demonstrators gathered in the Precinct. Some became violent, throwing other projectiles at officers and burning a car in the parking lot.¹⁴² ■

Incident description

Wednesday, November 25, 2015

Law Enforcement

No significant police activity occurred on this day. Officers from the Fifth Precinct were called on to monitor and provide extra patrol during Jamar Clark's funeral and the dinner his family hosted afterwards, but no incidents were reported. ■

Government

The U.S. Representative attended Jamar Clark's funeral and afterwards, noting the unsafe conditions highlighted by the shooting of five demonstrators, called for the occupation to, "evolve beyond encampment."¹⁴³ He was the only elected official to attend Clark's funeral.

CRS transitioned to a new on-the-ground team.

Staff from the Mayor's Office returned to the precinct during the late evening to observe the occupation conditions. ■

Community

Between approximately hundreds of people and the International Ministerial Council, the community gathered for Clark's funeral.¹⁴⁴ The presence of many religious leaders and

After the funeral, the community continued to gather. The League echoed the exhortation of the community and Clark's family to continue the occupation and needed to be restored. The Fourth Precinct had many interruptions, smoke, and helicopters overhead. The community continued traditional community practices and called for an end to the occupation. The dynamic of the occupation

That sentiment was shared by many who announced that they would attend the funeral, that the video of the shooting of five people still soured the community that returned to the Fourth Precinct. The occupation reached up to the community leaders called for more support for the homeless and trans community. Up for help, some of v

Community

growing camp. Protests, sit-ins, and concerts and rallies were held. As one demonstrator said, "We are here to build the beloved community of the demonstrators and the people with members of all races and religions." Allies joining the occupation included students, demonstrators, many of whom were from outside North Minne-

Incident description

Thursday, November 26, 2015 (Thanksgiving)

Law Enforcement

No significant police activity occurred on this day. ■

Government

The mayor met with USDOJ CRS personnel to negotiate terms of a meeting with the presidents of the NAACP Minneapolis Chapter and the NAACP Minnesota Chapter. Among the terms agreed to by all parties was the removal of three large tents by 8:00 a.m. the following day.¹⁵⁰

The mayor also visited the Fourth Precinct station to thank officers for their service and to allow them an opportunity to express their feelings and ask her questions. ■

Community

About 100 people gathered together outside the F of violence, genocide, #Blacksgiving.”¹⁵¹ Cor North Minneapolis d Thanksgiving food.¹⁵²

Incident description

Friday, November 27, 2015

Law Enforcement

No significant police activity occurred on this day. However, officers heard several gunshots east of the Fourth Precinct station, and a window on the west side of the building was damaged when a large rock was thrown through it.¹⁵³ ■

Government

The mayor and her chief of staff had a meeting with the presidents of the NAACP Minneapolis Chapter and the NAACP Minnesota Chapter, mediated by two CRS representatives.¹⁵⁴ The mayor expressed her openness and willingness to advance most of the items on the NAACP's police reform and equity agenda, in exchange for extinguishing the fires on Plymouth Avenue North—a violation of city ordinances and an increasing public health and safety problem.¹⁵⁵

Staff from the Mayor's Office returned to the precinct during the late evening to observe the occupation conditions. ■

Community

The three tents that a 8:00 a.m. were not removed in the street. While the station varied from 40 to 20 overnight, 50 other downtown Minneapolis minimum wage and 3 a "Solidarity with the of Minneapolis, which without incident."¹⁵⁶ ■

Incident description

Saturday, November 28, 2015

Law Enforcement

No significant police activity occurred on this day. ■

Government

The mayor participated in eight hours of negotiations, from noon to 8:00 p.m., with the president of the NAACP Minneapolis Chapter regarding removing the fire pits on Plymouth Avenue North. The mayor offered to allow demonstrators to bring in their own heaters and use them in the Fourth Precinct visitor parking lot across the street from the station and offered to facilitate the acquisition of a legal permit for doing so.¹⁵⁷ ■

Community

During eight hours of negotiations, the president of the NAACP Minneapolis Chapter agreed to have all of the fire pits on Plymouth Avenue North extinguished if the demonstrators brought in their own heaters and supplied the fuel. When these stipulations ended unsuccessfully, the number of demonstrators varied from approximately 10–15 to approximately 10–12, with no problems.¹⁵⁹ ■

Incident description

Sunday, November 29, 2015

Law Enforcement

No significant police activity occurred on this day. ■

Government

A staff member from the Mayor's Office and the chief and assistant chief of the Minneapolis Fire Department visited the Fourth Precinct station to inspect the fire pits and to encourage demonstrators to extinguish them. In advance of this visit, the mayor's office contacted occupation leaders and USDOJ representatives to inform them of the purpose of the visit.¹⁶⁰

The mayor continued to work through CRS representatives to negotiate terms with BLM for an end to the occupation the following day. When the mayor was unable to grant the requests and meet the demands of BLM, the negotiations ended unsuccessfully.¹⁶¹ ■

Community

According to the mayor, the following demands were made:

- That Minnesota law be reviewed for a review of police discretion
- Changes to Minnesota law
- That prosecutors be held accountable with the shooting terrorism
- A federal investigation of the demonstrators
- That charges for assault be dropped

They also demanded that the Working Families Agreement be implemented, including minimum wage; paid sick leave; predictable schedules; and that the demonstrators be allowed to remain in the park through December.¹⁶²

Incident description

Monday, November 30, 2015

Law Enforcement

No significant police activity occurred on this day. ■

Government

The mayor, the U.S. Representative, a Minnesota Department of Human Rights executive, and multiple former and current elected officials including city councilmembers signed a message calling for an end to the occupation.¹⁶⁴ The message reemphasized the safety concerns for demonstrators, neighborhood residents, officers, and bystanders and emphasized the “many wins . . . already . . . attained.”¹⁶⁵ The mayor also reiterated her intention to work with community leaders to advance a comprehensive agenda surrounding racial equity and police-community relations.

The mayor also visited the Fourth Precinct station again to thank officers for their service and to answer questions. ■

Community

While some community members expressed support along with government officials, some members of the NAACP Minneapolis chapter signed a message to end the occupation and stating that they were released. Many people at the occupation site also circulated rumors that the occupation was “imminent” and that the encampment was made of robust structures.¹⁶⁷ ■

Incident description

Tuesday, December 1, 2015

On December 1, four men connected to the shootings of five protestors made their first court appearance. One was charged with five counts of second-degree rioting and one count of second-degree rioting. The other three were each charged with one count of second-degree rioting.¹⁶⁸

Law Enforcement

The MPD planned an operation to clear the encampment at 4:00 a.m. However, the operation was deemed unsafe and called off after a Department of Public Works employee leaked the details to the press.¹⁶⁹ For the rest of the day, officers monitored the peaceful group of 30–35 demonstrators that remained.¹⁷⁰ ■

Government

The governor called on demonstrators to “move on” and allow residents to regain their neighborhood,” and to “look at the bigger picture and build the community together,” though he did not indicate a timeframe to remove demonstrators. He also proposed a special session of the state legislature to address racial disparities in Minnesota.¹⁷¹ ■

Community

At approximately 4:00 p.m., BLM members marched through the city, and the release of videos of the occupation continued.

Incident description

Wednesday, December 2, 2015

Law Enforcement

MPD released data on response times as evidence that the occupation had affected community safety.¹⁷³ The data showed that Priority 1 call response time—from phone pickup to arrival of officer—had increased almost three minutes, Priority 2 call response time had increased almost nine minutes, and Priority 3 call response time had increased more than 10 minutes.¹⁷⁴ For the first time, MPD leadership explained that officers from other precincts were answering calls for service, mainly because Fourth Precinct officers had been forced to stay inside and protect their station, leading to some of the delays.¹⁷⁵

Additionally, the MPD finalized staffing and plans for an early morning operation to clear the encampment, scheduled for the following day, December 3.¹⁷⁶

Officers continued to monitor the occupation as the number of demonstrators remained static. ■

Government

No significant government activity occurred on this day. ■

Community

Rifts between the Nonviolent Resistance and the demonstrators that requested the occupation. After the MPD released the data on response times, traditional faith community leaders, including the occupation, with something different to the community” and claimed that they had lost sight of what the occupation was for. Community leaders from BLM, continued to encourage the occupation to move until the video

Incident description

Thursday, December 3, 2015

Law Enforcement

At approximately 3:45 a.m., the MPD conducted a coordinated operation involving over 145 officers, city crews, firefighters, and private contractors to officially remove the encampment in front of the Fourth Precinct. The MPD removed tents and supplies and took valuable items to the Property and Evidence Unit; the Minneapolis Fire Department extinguished the remaining fires; street sweepers drove down Plymouth Avenue North to clean the garbage that was left; and the street was reopened.¹⁷⁸ Officers gave the dispersal order to approximately 35 people, and seven demonstrators were willingly and peacefully arrested.¹⁷⁹

At 10:27 a.m., the chief of police sent an email to all MPD personnel—sworn and civilian—expressing her gratitude, respect, and unwavering support. The email explained, “This movement is much larger than just the MPD as it is a pivotal time for law enforcement across our county as changes need to be made and our profession is being tested. I am proud that we lead the way in best practices in 21st Century policing.”¹⁸⁰

Following the email, the chief of police briefly addressed officers at the Fourth Precinct directly. She reiterated many of the points in her email and noted that they had garnered public support and won because they had that support.¹⁸¹ ▼

Government

The Mayor’s Office staff was present at the Fourth Precinct to observe the removal of the encampment.

The mayor spoke at a press conference at the Special Operations Center, indicating that the increasing safety risks to the neighborhood and the demonstrators made it the right time to end the occupation. She reiterated the city’s commitment to balancing First Amendment rights with public safety and thanked both officers for their professionalism and the demonstrators for withdrawing peacefully.¹⁸³ ■

Community

After the encampment was removed, many community members, believing they had been misled, held a protest and march full of anger. The occupation would not be repeated.

Law Enforcement

Later in the day, the chief of police publicly expressed her support for officers who helped manage the occupation and many marches, investigated shootings, and continued to conduct their jobs, all while being “consummate professionals” to the media. The chief also thanked the other law enforcement agencies that assisted in the cleanup of the encampment and thanked the residents near the Fourth Precinct for their patience over the course of the 18 days.¹⁸² ■

Summation

Overall, the occupation cost the City of Minneapolis more than \$1.15 million, with almost \$1 million accounting for MPD overtime and \$165,000 for barriers and fencing, repairs, services, and miscellaneous costs.¹⁸⁵ Unlike some of the demonstrations in other

cities nationwide that preceded this event, there were no significant property damage, and none of the officers or demonstrators sustained injuries. As concluded in the Minneapolis Police Department After-Action Report:

“This protest and three week occupation of a police precinct was a situation never previously encountered by the City and the MPD. It was unlike a traditional public safety operation in that it was politically charged and solely focused on the police department, echoing national concerns raised over racial equity. The City and the MPD had to weigh all of its actions carefully considering the consequences of those actions and whether such actions would diffuse and de-escalate the situation, or further inflame and escalate an already tense and tenuous situation.”¹⁸⁶

PART IV. CRITICAL INCIDENT RESPONSE ASSESSMENT AND

CHAPTER 4. LEADERSHIP AND INCIDENT COMMAND LESSONS

Leadership

The 18-day occupation of the lawn and street in front of the Minneapolis Police Department's (MPD's) Fourth Precinct station—including three days of occupying the front vestibule of the station—disrupted a wide range of social, political and organizational processes. While some of these disruptions may have been unavoidable, many were due to preventable or ameliorable causes: lack of coordination among federal, state, and local efforts to resolve the occupation; informal communication issues within the MPD executive and command staff that created confusion among the officers working the front lines; chaotic and extended illegal, and often dangerous, behavior by demonstrators; mixed messages to the public; and extended inconvenience and difficulty for community members living and working in the Fourth Precinct.

Situational complexity

As shown by the incident description of the 18 days, the occupation was a dynamic and chaotic process, and one that was unprecedented in the Minneapolis area. Many of the involved political, police, and community leaders struggled with the open-ended nature of the occupation and their inability to bring closure to the event. Like many protests, the Fourth Precinct occupation ebbed and flowed throughout the 18 days based on the specific incidents occurring, as well as on the general public's interpretation of the incident through the lenses of mass and social media and politics. At the beginning of the occupation, demonstrators had significant public support; however, the longer the occupation lasted the more neighborhood and public support wavered. This balance among First Amendment protections, law enforcement's desire to quickly end civil disturbances in the interest of public safety, and the complexities surrounding each of these imperatives created a difficult environment in which to quickly and definitively make decisions, with few models or examples to follow.

The scope, complexity, ambiguity and political salience of the occupation posed high stakes for the MPD's leadership team, policy makers and the community. The demonstration, and occupation together comprised a significant event that they did on similar responses to officer-involved fatalities and protests. Demonstrators in Ferguson, New York City, and Chicago. In Minneapolis, efforts to resolve the event at various levels of coordination and communication often conflicted with each other, as city and other officials participated in the event.

In addition, the City of Minneapolis did not have a standard policy or process for managing demonstrations or protests. There was no prior nor was any situation-specific policy disseminated as a result of the occupation. Minneapolis has a general policy regarding responding to protests and a general policy outlining the use of force during protests. However, none of these policies nor the trainings associated with them were applied to the situations that arose. In addition, as the assessment team learned from an MPD Commander, the formal *MPD Guidelines/Regulations* were not updated until after the 18-day occupation: MPD wanted to make sure they were in writing to look at if an incident like this arose again. Communication gaps also existed as federal, state, and local officials and community leaders, worked to resolve the occupation.

Collaboration

A fundamental principle of crisis and civil disturbance response requires partnership among multiple levels of government and community. For any other critical incident that may require a joint response, collaboration between officials is imperative. Strong b

provide a foundation for effective collaboration during critical events and alleviate many of the potential issues that arise during high-stakes scenarios. As exemplified both by the mayor exerting her authority to make policing decisions and weigh in on operational processes, and by the manner in which press conferences were conducted, these baseline relationships—both among city officials and between city and state officials—either didn't exist or were strained. The time to build these relationships was not during the occupation.

Politics

While the Minneapolis Police Department was the lead city agency for response to the occupation, the police chief's authority as incident commander was limited, intentionally or not, by the involvement of the mayor and city council acting on their own given authority, as well as by other individuals with authority and influence in the city, state, and federal government. In an operation of this magnitude, officials must respect each other's areas of authority, responsibility, and operational expertise. They must also clearly communicate and articulate these roles among themselves and to others.

Effects of the national landscape

While the occupation of the Fourth Precinct station was unprecedented in its nature (physically occupying part of a police building for three days) and its length (18 days), neither it, nor the officer-involved shooting which precipitated it took place in isolation; rather, they occurred within the context of police-involved shootings and subsequent protests, civil disturbances, and riots in other American cities. Minneapolis elected officials, police, and community leaders were aware of these events and focused on preventing violence and property destruction while also providing the community an opportunity to grieve and heal together. That MPD did not arrest any of the demonstrators who physically occupied the vestibule, did not arrest or cite anyone demonstrating at the Fourth Precinct station despite the fire code and ordinance violations, and peacefully ended the occupation was noted as a success by government and MPD officials during interviews with the assessment team.

Elected officials, without the inclusion of or coordination with MPD leadership, chose to resolve the occupation through negotiated management—the use of dialogue among elected officials, community leaders, the police, and demonstrators.¹⁹⁰ This strategy was

consistent with current best practices and with the 21st Century Policing (established by President Obama) that law enforcement agencies consider identifying a problem and issuing citations in lieu of arrest for minor infractions; and ambiguity of the occupation, clear policies should be communicated to guide MPD personnel in determining the use of force in order to effectively maintain public order of the occupation; clear and accurate reporting mechanisms; citizen complaints should have been established or clarified; accountability and transparency; and a clear strategy should be communicated regularly to officers. Without these clear mechanisms, disparities arose in some of MPD's data on the use of force documented in the MPD Computer-Assisted Reporting system, though with only three associated incident numbers; officer injuries other than the 5 shooting victims.¹⁹¹ The Police Executive Research Forum (PERF), leadership behaviors will or will not be tolerated" and "allow officers to arrest."¹⁹³ In that regard, leaders should "clearly communicate when considering when exercising their authoritative discretion."

MPD National Initiative for Building Community Trust

Minneapolis is one of six pilot sites for the National Initiative for Building Community Trust and Justice (National Initiative). The National Initiative centers on law enforcement departments and communities based on three pillars: enhancing trust, reducing the impact of implicit bias, and fostering reconciliation. For more information on participation and progress in the National Initiative, visit <https://www.minneapolis-minnesota.gov/national-initiative>.

Communication¹⁹⁵

MPD officers in the Fourth Precinct did not receive clear vertical communication from their precinct commander or command and executive leadership regarding the strategy of negotiated management, nor did they receive clear orders regarding the factors to consider in using force or making arrests. In part, that lack of clarity may have derived from inconsistent horizontal coordination and communication among elected officials, between civic and police leadership, and within MPD's executive and command structure regarding the strategy and process to resolve the occupation. As detailed in the timeline (chapter 3), Fourth Precinct officers told the assessment team in interviews that there were several times they received a message to prepare to remove occupiers from the vestibule, but then just minutes later were ordered to refrain from doing so until further notice. It is difficult to determine the exact content and context of these directives from leadership because they were purposely not put in writing, but instead communicated verbally through the chain of command.

The role Chief Harteau played was inconsistent over the course of the occupation, in part because Mayor Hodges led the decision-making and operational processes at different points, which is legally within her authority based on the City Charter. The apparent strained relationship between Mayor Hodges and Chief Harteau, and the mayor's unfamiliarity with the implications of the terminology she used when in charge, likely contributed to the inconsistent direction given to MPD personnel and the resulting frustration among officers over poor communication and inconsistent, uncoordinated leadership.

Incident Command System

The MPD's own *After Action Report* indicates that on November 18, three days after the Jamar Clark shooting and the beginning of the occupation, the city's emergency operations center (EOC) was activated and the MPD established a command center adjacent to it and implemented the Incident Command System (ICS).¹⁹⁶

Within this same timeframe, a work group was established to manage the city's response to the occupation, consisting of representatives from the Mayor's Office, the City Communications Office, the City Coordinator's Office, the City Attorney's Office,

and representatives from Governor Dayton's staff, as a work group, sometimes referred to as a Joint Information Center (JIC), met in the mayor's conference room and worked to resolve the situation with occupation leaders. The JIC also sought to direct the tactics employed by the MPD. While this would typically be a command structure, led by the chief of police, the JIC made operational decisions for the MPD, and was not well integrated into the command structure. The lack of coordination between the JIC and the MPD worked to end the occupation outside the city's effort.

The *After Action Report* identifies the disconnect that existed between the command structure and political leaders:

“Beginning on the morning of Thursday, November 18, representatives outside of the MPD began making calls to discuss the situation which had escalated. Initially, this group established a ‘JIC’ (joint information center). When initially established, MPD incident commander nor was the IC (incident commander) aware of the stated primary purpose of these conference calls. The group was to document and review issues, coordinate resource needs.

“This JIC however became involved into operational and resource needs. Further, [neither] the City Center nor MPD incident command were involved.

“Due to concerns over operational security and [JIC], the MPD representatives of the group typically only limited information of crowd estimates, movement structures in place, as well as dispel any rumors from protestors or others. . . .

“The tenor of the group was that [it] should be consulted prior to the MPD taking any significant actions and that any such actions should be cleared through this group. While MPD was working within an established incident command structure and in communication with the City’s EOC on the public safety operations, the joint information system seemed to be working in a parallel direction on more of a political level.”⁹⁷

The *After Action Report* and interviews conducted by the assessment team also identified inconsistent, disconnected, and conflicting leadership within the MPD. For example, according to one interview,

“The Fourth Precinct established its own command structure during the three weeks of protests. . . . One of the issues identified was that although an IC was established (in the precinct), there were no other specific support roles established nor was a more formal ICS structure established at the precinct level which would include Operations, Logistics, Planning (Staffing) positions. . . .”

One Fourth Precinct official who had recently attended ICS training attempted to follow the ICS structure but received little support, meaning many areas were left unattended when he was off duty.

“The lack of a clearly identified ICS structure at the precinct level complicated the process and created some level of confusion. It also contributed to delays in communication between the MPD Command Post and the precinct IC[,] particularly relating to staffing and logistical issues. Further, Fourth Precinct supervisory staff did not believe they had decision-making authority on matters and [believed] that all operational decisions were being made by the offsite command post.”⁹⁸

ICS emphasizes the importance of a single, unambiguous incident commander who has the authority to manage the incident and to delegate authority to personnel within the ICS structure to perform their roles. Knowing who is in command during an incident is of the utmost importance to the execution of clear and consistent operational tactics.

Many of the issues that arose during the occupation command structure. While there are unique circumstances to this incident, ICS is a key component of the response to a situation. The ICS does not negate the role of elected officials but provides a framework to enable smooth cooperation between responders. For example, in response to the Boston Marathon bombing, police and law enforcement officials developed a collaborative response to the bombing and investigation as well as a unified command structure.

The Boston Marathon bombing required political coordination across multiple jurisdictions and with different authorities and priorities. In the days following the terrorist attack, search for the terrorists, and direct the response. According to a report prepared by the National Preparedness Commission, city, state and federal leaders “set a tone of remarkable collaboration and leveraging among one another.”¹⁹⁹

Swarm Intelligence

Boston’s multiagency response was based on the principles of swarm intelligence:

1. “Unity of mission and connectivity of action;
2. A spirit of generosity that rallied groups and individuals;
3. Respect for the responsibilities and authorities of others while assisting others to succeed in their lane to accomplish the mission;
4. Neither taking undue credit nor pointing blame among individuals; ‘checking your ego at the door’;
5. Genuine interpersonal trust and respect developed well before the incident; leadership relationships, integrity, and camaraderie can be leveraged during the incident.

*Leonard Marcus et al., *Crisis Meta-Leadership Lessons From The Boston Marathon Bombing: The Ingenuity of Swarm Intelligence* (Cambridge, MA: The President and Fellows of Harvard University, 2014), https://cdn2.sph.harvard.edu/wp-content/uploads/sites/8/2014/04/040114_CML_Book.pdf

The critical feature of leadership in the Boston Marathon bombing response, which is applicable to the occupation and critical issues more generally, was the dedicated coordination of decision making, action and communication among city, state, and federal government leaders; elected officials; and law enforcement agencies. By effectively linking and leveraging their collective knowledge, assets, resources, and operations, officials in Boston quickly and efficiently met the unique challenges posed by the bombing, investigation and recovery.²⁰⁰ Similar collaboration and coordination can be seen in San Bernadino's response to the terrorist attack among federal, state, county and local law enforcement officials, despite changes in jurisdiction as the investigation progressed.²⁰¹

The City of Minneapolis, Hennepin County, and state and federal partners demonstrated the strength and efficiency of collaborative leadership in response to the I-35W Mississippi River Bridge collapse on August 1, 2007. The bridge fell into the river and onto the river banks below, killing 13 people and injuring more than 90 others. The U.S. Fire Administration's Technical Report explains, "strong working relationships and knowledge of roles and procedures were arguably the greatest strengths of the Minneapolis emergency services community's response. The city had invested heavily in the development of those relationships, which were built through plan development, universal National Incident Management System (NIMS) training, appropriate use of exercises, and strategic planning over several years. These factors contributed heavily to creating an environment in which key players not only knew each other, but were familiar with the operations and disaster assignments of others. When it came time to pull together efficiently as a team—they did. One example of how relationships made a difference can be found in the request that the governor and the mayor speak with one voice from the EOC to avoid the potential for releasing different information during the response to the bridge collapse."²⁰²

Minneapolis should build on the leadership lessons from its response to the bridge collapse, the lessons learned from the Boston Marathon bombing response, and other crisis events, as well as on recommendations from the Task Force on 21st Century Policing, to develop and implement a coordinated and scalable interagency response to critical events based on the principles of the ICS.

Findings and recommendations

Leadership

Finding 4.1

The City of Minneapolis lacked a coordinated political strategy to respond to the protests, demonstrations, and occupation of the Fourth Precinct.

RECOMMENDATION 4.1.1

City officials and MPD command personnel should develop a coordinated political strategy to respond to critical incidents, to include the level of tactical response, negotiation and other strategies.²⁰³

RECOMMENDATION 4.1.2

Planning and training for responses to civil disturbances should include elected and appointed officials, law enforcement (fire, EMS, emergency management), other relevant government agencies (counsel, finance, public works), and non-governmental organizations (Red Cross, utility companies, business improvement districts) as appropriate. Annual tabletop exercises and biennial full-scale exercises should focus on coordinated planning, implementation, and follow-up. The tabletop exercises and FSEs should be observed by elected officials.

Finding 4.2

City officials and the MPD did not have a process to anticipate and respond to civil disturbances as they develop from short-term protests to long-term occupations.

At the beginning, elected officials and the MPD focused on tactical responses and did not entirely anticipate that the occupation would be long term, or that the occupation of the Fourth Precinct would continue. When the occupation continued, they did not recognize the challenge of long-term operation.

RECOMMENDATION 4.2.1

Agencies should develop strategies, based on timely and accurate intelligence and assessments, to identify the shift from routine events to protracted complex events that demand significant human and material resources as well as a well-coordinated and collaborative response from elected officials and law enforcement leaders.

RECOMMENDATION 4.2.2

City agencies should develop comprehensive plans that recognize that a negotiated management response to a civil disturbance, such as the Fourth Precinct occupation, will require the careful and intentional coordination of the response by elected and law enforcement officials, taking into account the human and resource challenges that develop during a protracted event.

RECOMMENDATION 4.2.3

The City of Minneapolis and the MPD should review lessons learned from other large-scale civil disturbances across the country—and previous MPD critical incident after-action assessments—to improve citywide and police department planning, preparedness, and response to unique critical events.

RECOMMENDATION 4.2.4

The City of Minneapolis should have a crowd control plan in place that clearly defines the city's overall political, strategic, and tactical response framework for reacting to protests that develop beyond 'routine' events.

According to Howard Rahtz, “a review of previous riots reveals . . . [that a] major lesson is that the lack of planning and leadership in the early stages of [civil] disorder is a recipe for disaster.”²⁰⁴

RECOMMENDATION 4.2.5

The MPD must assume a lead role, or be provided frequent updates by elected officials, during protracted negotiations so that appropriate operational strategies and tactics can be developed and implemented consistent with the actions being taken by elected officials and others outside the police department.

Finding 4.3

Disagreements between City of Minneapolis, MPD resulted in inconsistent messaging, unnecessary confusion, and a lack of coordination that significantly and negatively affected the response.

Inconsistent, and at times contradictory, public communication, as well as public arguing between the chief of police and city leaders, and unclear divisions which hampered the ability to find a unified response, which continue to inhibit department and community coordination.

RECOMMENDATION 4.3.1

All leaders, elected and appointed, should recognize the importance of formal and informal, and their actions contributed to the challenges and difficulties of MPD and its ability to effectively resolve civil disturbances.

RECOMMENDATION 4.3.2

All leaders, elected and appointed, should avoid engaging in public arguments that detract from the goals of keeping the community safe during civil disturbances.

Finding 4.4

Elected officials, the chief, and the Fourth Precinct leadership failed to implement a clear, unified response to the occupation.

RECOMMENDATION 4.4.1

Messaging from the city as a whole must be unified and consistent. The city leadership is not divided in any fashion. There must be clear messages from city and police department leadership and support to provide appropriate direction and support for all personnel during a civil disturbance or critical events.

Finding 4.5

Efforts to resolve the occupation lacked consistent coordination and collaboration among elected officials and operations personnel.

A number of officials—including city and state elected officials and the USDOJ CRS—engaged in negotiations with leaders from Black Lives Matter, Neighborhoods Organized for Change (NOC), and the National Association for the Advancement of Colored People (NAACP) and did not coordinate their efforts among themselves or with the MPD.

RECOMMENDATION 4.5.1

Federal, state, and city elected officials should plan and practice a coordinated response to civil disturbance and critical incidents on a regular basis. For example, in their review of the Boston Marathon bombing, the National Preparedness Leadership Initiative (a joint program of the Harvard School of Public Health and Harvard's Kennedy School of Government, Center for Public Leadership) found that "leaders set a tone of remarkable collaboration and interagency leveraging among one another." Leaders operated in concert and achieved something together—both order and outcome—which they never would have been able to accomplish on their own.²⁰⁶ Similar observations were made in the assessment of the response to the San Bernardino terrorist attack, and about the Minneapolis region's response to the bridge collapse.

RECOMMENDATION 4.5.2

Responses to civil disturbance events that originate and occur entirely within the city limits should be led by the City of Minneapolis, with the MPD assuming the lead role in coordinating planning, operations, negotiations, and messaging in concert with elected officials.

Incident Command System

Finding 4.6

The City of Minneapolis did not fully implement NIMS or ICS, which would have provided a structure to organize and coordinate the city's response to the occupation.

Although the Emergency Operations Center was activated, a JIC was established that operated separately from the MPD ICS, leading to inconsistent communication, uncoordinated, and disconnected negotiations with protestors.

RECOMMENDATION 4.6.1

All City of Minneapolis personnel, including elected officials, should receive training on incident command.

A U.S. Department of Justice, Bureau of Justice Assistance report found that "local law enforcement management organizations and personnel at all levels, including the private sector and nongovernmental organizations must be trained to improve all-hazards incident management capability. This includes courses on incident command and management, incident response, operational coordination processes and systems—tools, techniques, discipline and agency-specific subject matter expertise. Training at all jurisdictional levels and across disciplines can fund an incident."²⁰⁷

RECOMMENDATION 4.6.2

Minneapolis should establish one citywide incident management team to coordinate its response to future large-scale incidents that involve multiple agencies. The IMT should include operational personnel from the mayor's staff to ensure collaboration, coordination, and communication. The IMT should also train through tabletop exercises and FSEs.

RECOMMENDATION 4.6.3

The City of Minneapolis and MPD should use ICS principles and practices as a way to practice established protocols and training.

Finding 4.7

Fourth Precinct supervisors and line officers did not receive consistent communication regarding strategies and tactics to be employed.

The lack of consistent communication from the precinct commander and senior and executive MPD leadership regarding strategies and tactics left many officers in the Fourth Precinct feeling as if they were left to deal with the occupation on their own, and in many cases unable to use the authority vested in them to enforce laws and ordinances to protect their community and their property.

RECOMMENDATION 4.7.1

MPD Policy 5-312 “Civil Disturbances” should be expanded to clearly define Minneapolis leadership structure, roles, responsibilities, strategies, goals, and objectives for resolving civil disturbances.

RECOMMENDATION 4.7.2

Agency supervisors must ensure that first responders take the necessary steps and efforts to resolve critical incidents, even if they are not

RECOMMENDATION 4.7.3

Managers and supervisors, responsible for carrying out the agency's mission, must be included in daily briefings and operational planning to ensure a complete understanding of operational strategies and tactics, and to their subordinates, and give them the opportunity to contribute to the understanding.

CHAPTER 5. OPERATIONS

Internal communications

“The single biggest problem in communication is the illusion that it has taken place.”

– George Bernard Shaw

The Minneapolis Police Department (MPD) experienced multiple breakdowns in internal communication and messaging over the course of the occupation. Communication between the MPD executive staff and the precinct commander was strained and affected how information was given to line officers at the Fourth Precinct. Communication within the Fourth Precinct took place informally between supervisors and officers, sometimes without the knowledge of precinct or department leadership. This created confusion regarding who the Incident Commander (IC) was, which officers were working different shifts, and what the overall strategy was for the law enforcement response. Additionally, the roles and responsibilities of those at the Fourth Precinct were not clearly defined or communicated, creating confusion in the response to certain events and uncertainty regarding decision-making authority.

On top of the communication challenges within the precinct, communication failures between the Fourth Precinct and MPD command staff complicated the response. For example, while MPD’s Strategic Information Center (SIC) produced daily intelligence briefs which included overviews of the previous day’s activities, lists of upcoming events, officer safety information, and other useful information, the briefs were only sent to MPD command staff and did not make it down to line officers in the precinct who stood to benefit the most from having that information. This furthered the perception among Fourth Precinct officers that they were isolated and uncared for by their leadership.

Other unintended consequences of the MPD’s communication failures were officers frustrated over the tone and message conveyed by precinct and city leadership, missing and mixed internal messages, and divisiveness in the department.

The Incident Command System (ICS)²⁰⁹ establishes a standardized communications structure to be implemented during a critical incident. Under the ICS, communications are interwoven throughout the response; this is imperative for establishing a common operating picture and ensuring the accessibility of information. Having a common operating picture provides on-scene personnel with the same information about the incident, including available resources needed, and gives them an incident overview that enables them to make effective, consistent, and timely decisions. To prevent this to occur, ICS emphasizes common terminology, clear roles and responsibilities, and a clear chain and unity of command.

Using common terminology is identified as an essential component to avoid misunderstandings in relaying commands across personnel. In the course of the occupation, differences in terminology between the Joint Information Center (JIC), and the rank and file led to misunderstandings and inaction. For example, MPD officers stated that they understood that their instructions were to ‘stand by’ during interviews with the executive staff, including the chief of police. Such commands were given. While some MPD leaders stated they directed the rank and file to delay conducting certain activities as literal commands and entirely disengaged. The lack of clarity for those making and relaying the decisions led to the delay being longer than expected and ultimately delaying it until the situation was resolved.

outside—inflaming an already tense situation—and to demonstrators freely walking up an exit ramp onto the interstate. Even during some of the more violent nights of the occupation, varying definitions affected operations and led to the operating picture being seen differently by the rank and file and off-site leadership.

Confusion and inaction also resulted from the lack of clearly defined and communicated roles and responsibilities. Initially, the protests were handled entirely at the Fourth Precinct. However, after the first night, and the escalation of violence and the increasing number of demonstrators, the city's Emergency Operations Center (EOC) was activated and run by the Office of Emergency Management staff. The MPD also opened and staffed its own command center and set up its version of an incident command structure. Meanwhile, city representatives outside of the MPD, including the Mayor's Office, the City Communications Office, the City Coordinator's Office, the City Attorney's Office, and representatives from the governor's staff, established a virtual JIC, holding regular conference calls and formulating both internal and external messaging. According to the ICS, a JIC is, "a facility established to coordinate all incident-related public information activities. It is the central point of contact for all news media at the scene of the incident."²¹¹ However, when an MPD deputy chief and public information officer were finally invited to participate, the focus of the JIC shifted from coordination and dissemination of information to involvement in operational decisions and resource needs. This created a parallel structure in which the MPD was working with the EOC on public safety operations, and personnel in the JIC were making operational and political decisions. Ultimately, the parallel processes slowed the timeframe for decision making, communication to the Fourth Precinct, and implementation of policies and practices to manage the occupation.

Establishing and communicating the chain of command and unity of command are essential features of ICS. These two features clarify reporting relationships, eliminate confusion caused by multiple or conflicting directives, and provide incident managers at all levels a clear picture of personnel under their supervision. Both during the initial phase of the response, where information is still being gathered and the full scope of the problem and necessary response has not yet been determined, and as the size and complexity of the situation evolves, there should be a clear understanding of who is responsible for various aspects and decisions and who any individual officer should be taking commands from.

Over the course of the 18 days there were instances where demonstrators were taken to the Fourth Precinct in an uncoordinated fashion and teams to extract them. For example, on multiple occasions, the Fourth Precinct's Tactical (SWAT) Team was deployed to the Fourth Precinct without full knowledge of what the situation was. This created a situation where a van was quickly surrounded by demonstrators and the Fourth Precinct's (BRRT) had to be deployed to escort the SWAT Team. The Fourth Precinct station gates deployed marking rounds with tear gas outside the gate to ensure that they were available to the SWAT Team. Within the station itself, decisions being made on one side of the gate were communicated to teams on other sides, leading to situations where officers for maintaining the security of the east gate were pushed back and vice versa. Officers also indicated they received conflicting information from personnel and were unsure which command they were to follow. Officers were unsure with whom to share their concerns regarding the situation.

Incident Action Plans

Another key feature of the ICS structure regarding communication is the dissemination of an Incident Action Plan (IAP). An IAP is a written plan that states the incident objectives and reflects the tactics necessary to achieve those objectives during the operational period.²¹² While there are five phases of IAP development: "Develop, disseminate the plan" and "Execute, evaluate, and revise the plan," each update should include assessments of what was accomplished during the operational period. Each IAP should be distributed via other internal message boards so that all task force leaders and incident support leaders can easily access them and for the benefit of all staffs. While the MPD drafted IAPs daily from November 1 through November 10, the practice was stopped after Thanksgiving weekend and the occupation.

Public information and media

The MPD Public Information Office (PIO) is a three-person team comprising a former police officer and two former members of the media. Together, the team is responsible for managing relationships with the news media, posting on the MPD's social media accounts and website, and managing relationships with the public. One team member is responsible for handling media inquiries and records requests, responding to the scene of every fatality in the city, and contributing to the department's social media presence. Another team member has trained a cadre of MPD officers in every unit and precinct on how to use social media to communicate with the public. The third team member creates, captures, and produces pictures and videos to share with the public and the media.

Between the PIO and the MPD command staff, the department leveraged both news media and social media during the occupation to share updates and messages. The chief made the significant decision—learned from previous critical incidents—to include the PIO in all command-level briefing and strategy sessions. With unfiltered access to the discussions being had at the highest levels of the city, regarding both the physical response and the overall messaging response to the occupation, the PIO was able to determine the appropriate media strategy.

The MPD also leveraged its social media platforms—including Facebook, Twitter, YouTube, and Periscope—to share information and updates during developing incidents. On one of the most volatile nights of the occupation, the MPD employed its Twitter account to clarify its use of force, acknowledging that one marking round was deployed and that officers were being sprayed with mace by demonstrators. MPD even retweeted an individual who confirmed that mace was being used by both sides. MPD also tweeted pictures of the Molotov cocktails that were recovered near the Fourth Precinct station and provided information about the demonstrators who were shot and the subsequent arrests made.

The department also used Periscope to livestream entire press conferences so that clips could not be taken out of context and later posted them on YouTube for those who were unable to watch the press conferences live. At the height of the occupation, departmental Facebook posts were reaching more than 100,000 people and the department's tweets were generating over 1 million impressions.

Figure 6. Screenshot of MPD Twitter timeline from November 2014.



Source: Minneapolis Police Department Twitter; accessed December 1, 2014. [minneapolispd](https://twitter.com/minneapolispd).

In addition to the MPD's press conferences and use of social media, stories were produced, predominately by local media outlets. Through media channels, two radio channels, and two newspapers. Through media inquiries and, as a result of the preexisting relationship with the media, was afforded an opportunity to provide a narrative to the stories produced. The MPD was given the opportunity to provide status of the occupation, details of any arrests made, and information to citizens, and notable events during the occupation. On the day immediately following the shooting of five demonstrators, and answered 179 media inquiries. MPD also disseminated information and precinct safety, the destruction of property at the scene, and the difference between exercising First Amendment rights and the use of force.

Over the course of the 18 days, MPD leadership participated in seven press conferences and issued three press releases. During each of the press conferences, emphasis was placed on projecting citywide calm and control, speaking with a unified voice, and highlighting the fact that there were no large scale riots like those seen in other cities. The chief was accompanied at these conferences by the command staff on the ground, the mayor, and members of the city council. Some of the press conferences also included community leaders encouraging demonstrators to remain peaceful.

The city's and MPD's public information and media strategy—including holding multiple press conferences, leveraging both news media and multiple social media platforms, and acknowledging the peacefulness of the demonstrators—provided important information to the community throughout the occupation. Despite these efforts and accomplishments, some community leaders criticized the MPD for their lack of transparency regarding the shooting and investigation, as well as their defense of the involved police officers.

Use of force

According to the Minneapolis Police Department Policy and Procedure Manual, which was in place at the time of the occupation, *use of force* is defined as “Any intentional police contact involving: the use of any weapon, substance, vehicle, equipment, tool, device, or animal that inflicts pain or produces injury to another; or any physical strike to any part of the body of another; any physical contact with a person that inflicts pain or produces injury to another; or any restraint of the physical movement of another that is applied in a manner or under circumstances likely to produce injury.”²¹³

During a critical incident, the on-scene Incident Commander (IC) is responsible for evaluating and determining whether it is reasonable and appropriate to use less-lethal weapons to address the threat. Until the IC completes this evaluation and officially authorizes the deployment of less-lethal weapons, officers must refrain from deploying the systems “[u]nless there is an immediate need to protect oneself or another from apparent physical harm[.]”²¹⁴

Over the course of the occupation, officers used force in response to the demonstrators' actions to “unnecessary but legally justified” according to MPD. During the first two nights of the occupation, when demonstrators were aggressive, officers used a marking round to target and deter throwing bricks.²¹⁵ Chemical irritants were used multiple times. Officers alleged that they were hit and poked with batons by demonstrators when they were holding up tarps to prevent mace getting in. Officers used a joint lock and a takedown to arrest a demonstrator at the police barricade and exposed him or herself to officer injury.

Depending on the level of force used, officers are required to file a CAPRS report. The Assisted Police Records System (CAPRS) report no longer includes information on which the force was used. Based on the type of force used, officers are required to determine whether or not the use of force was justified. All of the uses of force that occurred during the occupation were recorded. According to an MPD commander and a review of Incident Reports, there were only three force reports filed during the occupation. This was in part, because of a command staff decision made on the day of the occupation to open only one CAPRS incident per day. All incidents that occurred on a given day were recorded as one incident. All incidents were recorded under individual incident numbers.²¹⁷

Accountability and transparency

According to Walter Katz, Deputy Inspector General, “[T]here are few acts committed by police that generate more controversy than a police department's use of lethal force. Large cross-sections of the public have lost trust in local law enforcement. The perception of biased investigations of such deadly force incidents threaten the legitimacy of local law enforcement institutions.”

The 2015 report of the Task Force on 21st Century Policing states that police legitimacy only on those whom they believe are acting lawfully. Law enforcement agencies should establish a culture of transparency.

to build public trust and legitimacy.”²²⁰ The Task Force encourages departments to adopt policies that mandate the use of external and independent investigations and prosecutions of officer-involved shootings and use of force situations.²²¹

Legislators/elected officials across the nation are striving to regain the public’s trust and confidence in their police departments by increasing accountability and transparency, particularly in instances of officer-involved shootings and use of force incidents. For example, Colorado, Wisconsin, and Utah have passed legislation mandating that outside agencies either conduct or lead investigations of officer-involved deaths.²²² Along the same lines, many local departments have partnered with county, state, and other police agencies to form officer-involved shooting task forces. Other agencies are entering into memoranda of understanding (MOU) or other contracts to have impartial investigators conduct officer-involved shooting investigations. “Including outside agencies in an investigation promotes and encourages a level of transparency and objectivity that provides increased credibility to the final outcome. . . . [I]ncluding outside agencies eliminates biases, whether real or perceived, which in turn strengthens public confidence in the outcomes of such investigations.”²²³

Request for independent investigations of the Jamar Clark officer-involved shooting

Police-involved deaths are typically investigated on two tracks—the first to determine whether the officer(s) committed a crime, and the second to determine whether the officer(s) violated department policies or tactics.

In the immediate aftermath of the Jamar Clark shooting, Mayor Hodges and Police Chief Harteau requested that the Minnesota Bureau of Criminal Apprehension (BCA) investigate the incident. Mayor Hodges also requested a separate investigation by the U.S. Department of Justice (USDOJ). The BCA agreed to conduct the independent investigation and presented its findings to Hennepin County Prosecutor Michael Freeman.²²⁴ Taking into account the popular public sentiment, and understanding the importance of the result, Prosecutor Freeman determined that he would not present the

findings to a grand jury, but would make the final decision. In the case of the Jamar Clark shooting, he declined to bring charges against the two officers involved. Following his own independent review of the case, U.S. Attorney General also declined to pursue civil rights charges against the officers involved in the criminal investigations, one by the county prosecutor and one by the city prosecutor. Both investigations have been completed and prosecution has been declined in both cases.

Findings and recommendations

Internal Communications

Finding 5.1

Neither MPD nor the City of Minneapolis leadership strategies, directives and rationales were adequate to ensure personnel were fully aware and to avoid

For example, once the decision to end the occupation of the Fourth Precinct was made, the decision was not clearly communicated to all personnel.

RECOMMENDATION 5.1.1

Once decisions are made that result in operational directives and instructions should be clearly communicated to all personnel (Fourth Precinct in this case) through the chain of command, via written protocol to ensure personnel are fully aware and to avoid

Finding 5.2

Breakdowns in communication within MPD—among staff, Fourth Precinct command, and Fourth Precinct officers—communication issues between city and MPD officials, and officers to carry out the response.

While Fourth Precinct leadership participated in daily activities of the previous day and determine strategies and sometimes transmitted those strategies and other measures

the line officers, according to Fourth Precinct staff interviewed. Although daily written IAPs and intelligence briefings were distributed to precinct-level commanders, they were not routinely disseminated to Fourth Precinct line officers.²²⁷

RECOMMENDATION 5.2.1

MPD leaders should establish a clear and concise messaging strategy so that officers know from whom and how they are to receive directives. As addressed in a previous critical incident review,

“Agency leadership must take significant, affirmative steps to communicate frequently with their line personnel about the current status of the situation, what is being done to protect their safety, and to offer an avenue to dispel rumors. Regularly scheduled information briefings, even if done over email or Twitter, are better than leaving an information vacuum that will predictably be filled with negative, speculative information.”²²⁸

RECOMMENDATION 5.2.2

Precinct leadership must provide consistent, timely, and accurate information regarding the strategies and tactics to be employed in response to mass demonstrations and held accountable for delivering accurate information and directives to their subordinates.

RECOMMENDATION 5.2.3

Genuine concern for officer safety and support should be communicated and demonstrated by the executive staff and through the chain of command to ensure the well-being of officers responding to mass demonstrations.

RECOMMENDATION 5.2.4

The MPD should provide strategies to ensure two-way communication so that frontline officers are able to input information about what they are experiencing on the line to members of their command staff through email, a dedicated Twitter account, etc. This would provide an opportunity for line officers to convey feedback regarding operations, intelligence, and officer safety to department leadership.

Finding 5.3

The lack of consistent strategy and the unclear command structure of Fourth Precinct and other officers assigned to the

Clear and consistent communication of the city’s response would have eliminated confusion and helped to alleviate supervisors and the rank and file in the Fourth Precinct as to the proper response to incidents.

RECOMMENDATION 5.3.1

City and MPD leaders should ensure a clear communication structure to prevent frustration and misunderstanding, in particular on the part of personnel responsible for operational implementation

Finding 5.4

Leadership decided to use verbal communications in order to prevent compromise or leaks of operational information to confusion and the dissemination of inaccurate information to rank-and-file officers.

RECOMMENDATION 5.4.1

Invest in a secure, encrypted Incident Management System by facilitating two-way information-sharing; tracking and providing real-time mission updates, direction, and safety tasks, goals, and actions. The ability to communicate via secure communication without jeopardizing officer and command

Public information and media

Finding 5.5

Preexisting relationships with local media afforded MPD the opportunity to respond to many of the stories produced during the protests, which led to increased accuracy in reporting.

RECOMMENDATION 5.5.1

Build and maintain relationships with local media prior to a major event, and prioritize those relationships during events that draw national and international media attention.

Finding 5.6

Although a JIC was established, the public information process between city agencies and officials was uncoordinated.

In addition, information sharing with the Governor's Office was inconsistent and at times uncoordinated. In fact, it was reported during interviews that some in the ICS began purposefully keeping information from the JIC in an effort to keep the information 'safe' from public release.²³⁰

RECOMMENDATION 5.6.1

Include PIOs from all city and state stakeholders in command-level briefings and strategy sessions to increase coordination and project one voice. Lessons learned from previous critical incident reviews highlight the importance of including the PIOs in all political, command-level briefings and strategy sessions to help determine the appropriate media strategy.²³¹

RECOMMENDATION 5.6.2

Develop plans for coordinating public information efforts among multiple participating agencies through the ICS and the creation of a JIC.

Finding 5.7

The MPD's extensive use of social media during the protests provided the public informed as individual incidents occurred.

RECOMMENDATION 5.7.1

Continue and expand the use of various social media platforms in addition to traditional media about unfolding events and provide updates on individual incidents to facilitate transparency and build trust.

Use of force

Interviews and a review of documents provided by the MPD indicated that many complaints were received during the 18-day occupation. During interviews conducted by the assessment team, protestors enumerated several instances of and inappropriate police-citizen interactions that were not reported. If they did not report these incidents, the assessment team could not investigate their complaints. The 10 citizen complaints have been reviewed by the MPD and the Office of Police Conduct Review.

Finding 5.8

During the occupation at the Fourth Precinct, MPD officers used force and non-lethal weapons without clear authorization, constituting a violation of policy 5-312.

MPD policy 5-312 "Civil Disturbances" states in part, "Officers shall refrain from deploying any less-lethal or non-lethal weapons during a civil disturbance until it has been authorized by the commanding officer." During interviews, some demonstrators claimed they were holding up tarps to protect themselves from chemical weapons. There was confusion regarding who the on-scene incident commander was, and authorizations regarding use of force were coming from multiple sources, making it difficult to verify who specifically authorized the use of force.

RECOMMENDATION 5.8.1

The MPD should establish a clear incident commander and strengthen, train on, adhere to, and enforce the use of force policy—especially as it relates to civil disturbances (MPD Policy 5-312).

RECOMMENDATION 5.8.2

MPD use of force policy 5-312 “Civil Disturbances” should clearly delineate levels of approval to be obtained—and a specific individual to seek that approval from—prior to the donning of personal protective equipment or equipment which may intimidate or threaten protestors (typically characterized as “military-style equipment”), the use of marking rounds, and additional uses of force.

Finding 5.9

MPD deployed chemical agents without prior authorization, in violation of policy 5-313.

MPD policy 5-313 “Use of Chemical Agents – Policy” states in part, “Sworn MPD employees shall exercise due care to ensure that only intended persons are exposed to the chemical agents.”²³³ In interviews, demonstrators claimed that chemical irritants were deployed by MPD officers, including against demonstrators who were trying to administer first aid to the five shooting victims the night of November 23. It should be noted that no official complaints were filed by the demonstrators regarding the indiscriminate deployment of chemical agents.

RECOMMENDATION 5.9.1

The MPD should strengthen, train on, adhere to and enforce the use of force policy—especially as it relates to the use of chemical agents (MPD Policy 5-313).

RECOMMENDATION 5.9.2

MPD use of force policy 5-313 “Use of Chemical Agents” should clearly delineate levels of approval—and a specific individual to seek that approval from—prior to the donning of personal protective equipment and equipment which may intimidate or threaten protestors (typically characterized as “military-style equipment”), the use of marking rounds, and additional uses of force.

Finding 5.10

The policy on documenting uses of force, as laid out in the MPD Use of Force Policy Manual, may not have been followed.

Demonstrators claimed that officers used chemical irritants against them when they were shot (November 23), but there is no official MPD record of this being used nor were any pertinent complaints filed by the demonstrators. In an inconsistent way uses of force were documented, the accuracy of which could not be confirmed or disproved by the assessme

RECOMMENDATION 5.10.1

The MPD Use of Force Policy (5-306)—especially as it relates to documenting uses of force—should be strengthened, trained on, adhered to, and enforced.

RECOMMENDATION 5.10.2

Supervisor notification should be required for chemical irritant use during civil disturbances and crowd control, to ensure that the best strategies and best practices are followed. While supervisor notification is required for exposures according to MPD Policy 5-306, it is contradictory to MPD Policy 5-306, part, “The on-scene incident commander shall evaluate the need for less-lethal force if it would be a reasonable force option to use less-lethal force to accomplish that objective.”

RECOMMENDATION 5.10.3

The MPD should document each use of force case separately.

Accountability and transparency

Finding 5.11

The decision to document multiple uses of force under a single case number led to failure to accurately account for and track uses of force.

According to the MPD Policy & Procedures Manual policy 5-306 “Use of Force – Reporting and Post Incident Requirements,” CAPRS Reports are required for each use of force incident.²³⁴ During the 18 days, the MPD categorized and recorded all uses of force under one case number per day. In total, MPD collected three force reports for the 18-day occupation, but they account for nine uses of force. For example, on November 19, 2016, there is only one force report (FR), but six separate uses of force were reported by officers and supervisors.²³⁵ While there is no evidence that the MPD deliberately attempted to underreport the use of force, the decision to capture incidents by assigning one incident case number per day caused confusion as to the actual number of incidents reported by officers and supervisors. The information below was provided by the MPD²³⁶ and indicates the official number of uses of force reported:

Incident #1 (11/19/2015)

FR #1: 40MM [marking round] less lethal round (Torso)

FR #2: MACE – crowd control

FR #3: Improvised Weapon – (Firearm as striking tool) – (Torso)

FR #4: 40MM [marking round]less lethal round (Legs)

FR #5: 40MM [marking round]less lethal round (Legs)

FR #6: 40MM [marking round]less lethal round (Torso)

Incident #2 (11/25/2015)

FR #1: Body Weight to pin (Torso)

FR #2: Joint Lock and Body Weight to pin (arms/hands) & (Torso)

Incident #3 (12/11/15)

FR #1: Body Weight to pin (Torso)

RECOMMENDATION 5.11.1

MPD should require that officers and supervisors complete a report for each incident and assign unique case numbers to each incident to ensure accountability and transparency.

RECOMMENDATION 5.11.2

Policy 5-306 “Use of Force – Reporting and Post Incident Requirements” should be officially codified to require that each use of force report require the following information: surrounding the use of force, who authorized it (if necessary), and a list of witnesses present that can be interviewed.

RECOMMENDATION 5.11.3

All commanders and supervisors should ensure the timely reporting of all events, facts, and uses of force as soon as practicable.

RECOMMENDATION 5.11.4

To promote transparency, use of force data should be reported in an accurate manner via the MPD website, the Office of Police Transparency, or other state or federal databases.

Finding 5.12

All citizen-initiated complaints may not have been properly recorded or investigated.

The assessment team was unable to determine if all citizen complaints were properly investigated due to inconsistent record keeping.

RECOMMENDATION 5.12.1

All citizen complaints should be individually recorded, tracked, and adjudicated in a manner consistent with MPD policies, and law enforcement best practices.

CHAPTER 6. PLANNING AND PREPARATION

Training in civil disturbances and crowd management

Minnesota POST requirements

The Minnesota Board of Peace Officer Standards and Training (MN POST) is the governing and licensing body of all peace officers, has the authority to establish policies and standards for peace officers, and develops and approves continuing education for peace officers in Minnesota. While MN POST oversees the certification and recertification of officers statewide, it does not mandate what courses a prospective or current officer must take, nor how long each subject should be. In fact, pursuant to state statute, the only MN POST requirement is that every active and part-time peace officer in the state be trained annually on use of force. Peace officer instruction must be based on learning objectives developed by MN POST and must be consistent with the individual agency's policy; however, MN POST does not require a specific number of hours of training for each officer.²³⁷ Additionally, MN POST requires agencies to have 10 policies and learning objectives, covering such topics as allegations of misconduct, professional conduct and conduct unbecoming, and avoiding racial profiling. It also requires five other standards—including reporting bias-motivated crimes and reporting the circumstances of discharging a firearm during the course of duty—that agencies must fulfill in order to be state-certified.²³⁸

Minneapolis Police Department training

The Minneapolis Police Department (MPD) meets all required MN POST standards for training and required policies. MPD also provides training on a variety of topics for recruits, cadets, lateral hires, and for current employees as part of its in-service training program. All recruitment and training is conducted in accordance with MPD Policy 2-500 "Training and Recruitment."²³⁹

All newly-hired officers must attend the Minneapolis Police Department's (NPD) the additional five-month Field Training Program.²⁴⁰ Recruits receive approximately 14 to 16 weeks of classroom instruction on various topics. The recruit class that graduated in December 2019 received 134.5 hours of training and practice in defensive tactics, by far the largest amount of instruction for any individual subject. They also received a total of 19 hours of cultural communication instruction, with 13 hours dedicated to cultural communication instruction (including training blocks dedicated to individual cultural communication) and six hours dedicated to Fair And Impartial Policing, and two hours of Mobile Field Force training. Recruits also received 6.5 hours of Mobile Field Force training, and two hours of use of force training and instruction, and two hours of National Incident Management System (NIMS) training.²⁴¹

Meanwhile, the Field Training Program cadet class that graduated in December 2019 received 30 weeks of classroom instruction and training on various topics for the recruits. However, they received a total of 134.5 hours of training and practice in defensive tactics—again, by far the largest amount of instruction for any individual subject. They also received a total of 46 hours of community policing instruction, with 13 hours dedicated to cultural communications and foreign cultural communication and six hours to general community policing instruction (including training blocks dedicated to individual cultural communication), and two hours to de-escalation. The cadets also received 134.5 hours of instruction, three hours of use of force training and instruction, and two hours of involved shooting instruction, and nine hours of NIMS training.

In-service and specialized training courses on a number of topics are also offered and taught by MPD instructors on an as-needed basis. Officers are required to meet or exceed continuing education requirements.

and the City of Minneapolis and to attend and participate in other training as assigned. By policy, MPD requires all sworn employees to complete 48 hours of POST-approved training every three years to be eligible for re-licensing.²⁴³

MPD specialized training

In addition to its normal training regimen, the MPD has also provided specialized training in preparation for large events hosted in the Twin Cities area, including the 2008 Republican National Convention (RNC) and the 2014 Major League Baseball All Star Game. The department also provides specialized training and instruction for specific units, including the Bicycle Rapid Response Team (BRRT) and Special Weapons and Tactics (SWAT) Team.

In 2008, the MPD invested heavily in equipment and training to prepare its members for the RNC. The majority of MPD personnel received special crowd management equipment, provided by the U.S. Department of Homeland Security (DHS) primarily through the Federal Emergency Management Agency (FEMA), and trained in topics associated with managing such an event.²⁴⁴ Several MPD officers also received extensive Civil Disturbance training from DHS in preparation for the RNC, focusing on MFF training, First and Fourth Amendment Rights, and chemical agents. The MPD also received legal training from the Minneapolis City Attorney's Office, which included information on state and local laws, incident report writing, elements of riots, and Fourth Amendment rights.²⁴⁵

In advance of the RNC, MPD also established a bicycle team, known as the BRRT, which remains an active unit today.²⁴⁶ BRRT officers receive specialized training as part of their duties. According to one of the BRRT team leaders, who is also a certified bicycle instructor, approximately 175 to 200 MPD officers have completed the five-day International Police Mountain Bike Association (IPMBA) training program.²⁴⁷ Of those officers, approximately 50 received an additional three-day training that covers topics such as crowd dynamics and management, formations, transitions, escorts, target hardening, and arrest dynamics and arrests.²⁴⁸

At the time of the RNC, the SWAT Team was a full-time unit consisting of 12 officers, though it has since been downgraded to a part-time unit with one officer at each precinct. The SWAT team "is available as a resource for the response to a variety of large civil disturbances and other events at the discretion of the commanding officer." ²⁴⁹ The unit is overseen by a commander—a non-sworn (ESU) lieutenant—who is responsible for setting performance standards. A SWAT Coordinator who is in charge of SWAT equipment, training, and logistics. In an interview with an MPD lieutenant and SWAT Team leader, they stated that they get one day per month for the specialty units—entry, training, and maintenance. They train separately, and that they try to get together as a whole unit. MPD SWAT attempts to adhere to National Tactical Law Enforcement (NTEU) standards, they are not able to do so because of limited resources. They also receive neither do they receive any additional specialized crowd control training.

Training on specific policies and procedures for personnel, use of force, weapons, instruments, and arrest protocol is imperative for full-time officers. The training on operations and maintenance of public safety during civil disturbances is inadequate. Inadequate training on use of force, less-lethal weapons, crowd control, personal protective gear, and arrest procedures leave officers unsure of the requirements of their roles, puts undue judgement on officers, and results in unpredictable individualized decisions. This leads to the risk of inappropriate use of force and the associated risk to the public and police personnel.

Civil disturbance training

Uniform and consistent training of law enforcement is essential for successful agencies. Training prepares officers for the challenges of a civil encounter on a daily basis and prepares them to address the challenges of civil disturbances—that occur infrequently but have a high potential for escalation. In this environment, officers, supervisors, and senior and experienced officers are prepared to manage crowd control at events where civil liberties are at risk. Their Constitutional rights to free speech and assembly are at risk.

Police leaders and officers should be well trained in NIMS and ICS, crowd management, MFF, authorized use of force, constitutionally protected behaviors, communication and de-escalation, bias awareness, procedural and impartial policing, cultural responsiveness, and community policing.²⁵³ The MPD's training in these areas—or in some cases, lack thereof—played a significant role in its response to the Jamar Clark protests, particularly in the early days.

“Training for managing a mass demonstration,” according to a report by the Police Executive Research Forum (PERF), “is essential to success.”²⁵⁴ Training must begin with incident command for elected officials, department heads, police department leadership, and the rank and file. The management of civil disturbances must be grounded in the MPD's core values, a commitment to protecting the First Amendment rights and civil liberties of all members of the community, de-escalation, the appropriate use of force, less-lethal weapons, and the proper use of personal protective equipment.

Elected officials, department heads, and police leaders should recognize the complexity of civil disturbances and develop and practice the skills and tactics necessary to respond to them, using not only online and classroom training but also tabletop and other reality-based exercises.

Effective and appropriate training, based on the best practices of policing, is essential to keeping community members and police officers safe during both routine operations and critical incidents. A review of after-action reports following civil disturbances in Ferguson, Baltimore, and other cities highlights the importance of training in police agencies' response to civil disturbances.²⁵⁵

Equipment and tools for managing civil disturbances

Civil disturbance equipment in Minneapolis

During the 2008 RNC, the MPD purchased helmets, batons, shields, and gas masks for the majority of its officers and established an MFF unit. According to some MPD employees, since then, the MFF Unit has been disbanded. The gas masks are still accounted for on a yearly basis (during firearms training) and tested to ensure proper

fit. However, based on interviews, the rest of the equipment was not. Over the years, with no current inventory or maintenance, during the occupation, the MPD's leadership followed best practices and wore normal duty uniforms; however, when tension and violence increased, officers responding to the Fourth Precinct protests lacked proper equipment and some lost time to locating or repairing appropriate equipment.

During the Fourth Precinct station occupation, the Minneapolis Community and Police Team (MCPT) and the Community Action Response Teams (CART) were responsible for the deployment of less-lethal munitions. These teams are currently equipped with 12.9mm rounds. Several members of the CART Team are also trained in the use of less-lethal munitions. As noted in the MPD *After Action Report* and in several interviews, the CART did not have clear written rules of engagement. According to an Internal Affairs report, non-lethal munitions were used a total of four instances during the occupation.²⁵⁶ It is unclear from the documents reviewed, who authorized the firing of the munitions. It appears that any arrests were made of individuals hit by the munitions.

Since the RNC, the MPD has used the BRRT to control crowds, including the occupation of the Fourth Precinct station. The BRRT is a specialty unit to be deployed because officers' bicycle-mounted shields do not present a negative appearance to the crowds or do not impede officers' equipment with collapsible batons, pepper spray, and other less-lethal tools. Officers' behavior by demonstrators that threatens community members' safety, helmets are part of their issued equipment but do not have face shields. During the occupation, the MPD used the BRRT as barriers between officers and the community members. The BRRTs protect groups during demonstrations at facilities before and after marches. The use of BRRT officers is consistent with crowd management; however, the MPD should establish a unit with the force to respond to large crowds, protracted events, and

During the occupation, the MPD also purchased/leased equipment and deployed them around the station.

Use of equipment

In addition to adequate intelligence gathering and training, effective and safe management of demonstrations relies heavily on acquiring and maintaining the necessary civil disturbance equipment. Equipment can be divided into three categories: protective equipment, less-lethal devices, and crowd barriers.²⁵⁷

Each type of equipment serves the distinct purpose of not only effectively managing the event, but also ensuring the safety of officers and demonstrators, protecting property, affording individual rights under the First Amendment, and establishing the image of the department.

Equipment considerations

Along with the equipment itself, departments must have comprehensive policies and directives that guide its purpose and deployment. Equipment deployment must take into consideration how, when, and why to use it to ensure its effectiveness. Equipment must be well maintained and not stagnate on a shelf or in the trunk of a police vehicle where it will deteriorate. According to a recent PERF report on managing mass demonstrations, all civil disturbance equipment should be “reviewed for applicability, proper utilization, and officer proficiency.”²⁵⁸ Departments must train periodically to ensure officer familiarity and proficiency with its equipment, as well as to review use of force procedures. Proper equipment deployment should reduce the negative effect of a crowd without jeopardizing the department’s ability to manage the event peacefully or demonstrators’ ability to exercise their First Amendment rights.

Protective equipment

Police departments, while prioritizing officer safety, must carefully consider the balance between the need for protection and the image presented by a frontline clad in protective gear. Historically, protective gear has been thought to have a deterrent effect on violent protest behavior; however, in recent events, police departments equipped with protective gear have been perceived as contributing to the escalation of civil disturbances—for example, the media has shown police officers in full protective gear facing demonstrators, portraying police officers in a heavy-handed or militaristic light.

Nonetheless, protective equipment may be essential to manage civil disturbances. Its deployment should be a thoughtful, measured decision on the part of commanders—part of a tiered decision-making process for all disturbances. All deployment of protective gear should be referenced during after-action reviews.

Less-lethal devices

Deployment of less-lethal devices is usually a response to a crowd or civil disorder in civil disturbances. However, departments must consider the deployment of such devices against the consequences for the community against demonstrators. A thoughtful, measured approach is required. According to the PERF report on managing mass demonstrations,

“Use [of less lethal devices] must be balanced against the risks to the community by frontline officers, as well as the goals officers are trying to accomplish (e.g., contain, make arrests, quell violence). Less-lethal devices should be used only until the desired effect is achieved and should be frequently reassessed to ensure continued effectiveness. Deployment and use should be authorized at the tactical or command level. The decision and the circumstances surrounding the use should be documented to support after-action reviews, a subsequent inquiry or litigation. The incident commander, tactical commander, and public information officer should be kept accurately informed on use to allow them to brief spokespersons and to maintain the media information. The incident commander, operational commander, tactical commander, and supervisors must have detailed knowledge of the capabilities and limitations of each option to assist in authorizing use.”

PERF recommends that officers deployed in the field be fully trained, aware of the devices’ capabilities and limitations, and make the final decision to use or not use the device based on the situation. If police department officials believe that a command-level decision is required, the deployment of less-lethal options unless there is

to community or officer safety. While individual officers may have the final decision regarding the deployment of less-lethal options, the PERF report recognizes that their deployment and use should be authorized at the agreed supervisory or command level. The Seattle Police Department, for example, requires an order from the incident commander to use chemical agents and other less-lethal systems to disperse crowds.²⁶¹ Additionally, the decision and circumstances leading to the use should be documented to support after-action reporting and any subsequent inquiry or litigation.²⁶²

Barriers

Use of barriers during civil disturbances can provide much needed supplementation to personnel during civil disturbances. Barriers can control crowd management, prevent access to restricted or vulnerable areas, and guide demonstrators down a particular route. Use of barriers should be guided by policies and scaled to circumstances, and officers should be trained on their use. Perimeter fencing, cement walls, and bicycle teams are all types of barriers that can be deployed by police departments during civil disturbances.

Findings and recommendations

Training in civil unrest and crowd management

Finding 6.1

The Minneapolis Police Department did not have adequate department-wide training on crowd management, negotiated resolution, de-escalation, the use of personal protective equipment, or the use of less-lethal instruments prior to the occupation.

The last documented department-wide training regarding crowd management strategies and tactics was conducted in preparation for the 2008 RNC.

RECOMMENDATION 6.1.1

Curricula to train all MPD personnel on crowd management strategies and tactics should be developed from current best practices, policy recommendations, and lessons learned from after-action reviews of similar events, and implemented in the Minneapolis Police Academy to reflect the core values of the MPD.

At a minimum, future department-wide training should include:

- First Amendment rights and protections, legitimizing protest
- Crowd management, MFF operations, de-escalation, and problem solving;
- ICS training that builds on the FEMA curricula and includes coordination with regional public safety partners, and elected officials
- Use of force and less-lethal instrument deployment consistent with the recently released use of force policy²⁶³ and best practices
- Hands-on personal protective equipment training

RECOMMENDATION 6.1.2

The MPD should return to the pre-RNC practice of sending personnel to training for Domestic Preparedness in Anniston, Alabama or to other training to ensure that MPD crowd management training is consistent with best practices. MPD personnel should understand the rules of engagement for police-citizen encounters, use of force policies, and arrest procedures.

RECOMMENDATION 6.1.3

The MPD should provide annual training and updates to personnel regarding its policies and procedures regarding civil disturbances.

Equipment and tools for managing demonstrations

Finding 6.2

The MPD effectively deployed bicycle unit officers to mitigate aggressive actions by the demonstrators during the moving demonstrations.

Bicycle officers are more able than squad cars to maneuver through crowds and are often seen by demonstrators as less intimidating. For these reasons, the use of bicycle officers is consistent with best crowd management.²⁶⁴

RECOMMENDATION 6.2.1

The MPD should continue the practice of deploying well-trained and well-equipped bicycle officers during protests and demonstrations. Bicycle officers were thanked by demonstrators who marched from the Fourth Precinct station to City Hall for their professionalism and protection.²⁶⁵ Some demonstrators and officers interviewed by the assessment team report that at one point, when the BRRT formed a line at the Fourth Precinct, one officer shared food with demonstrators, successfully defusing a volatile confrontation.

Finding 6.3

No recent inventory of civil disturbance equipment has been conducted within the department, nor is anyone responsible for inventory, maintenance, or disbursement of MFF equipment.

RECOMMENDATION 6.3.1

All previously issued equipment should be turned in and the MPD should purchase new protective gear, to ensure that everyone is operating with the same modern, functional, approved, fit-tested gear. This will also aid administrative staff in keeping track of the equipment's distribution.

RECOMMENDATION 6.3.2

Establish a quartermaster system within the Special Operations Division for the accounting, inventory, purchase, and deployment of all MFF equipment. The commander of the Special Operations Division or their designee should also be responsible for ensuring that inventory is managed and inspected regularly. Any worn or outdated equipment should be identified and replaced on a biannual basis.

Finding 6.4

The Minneapolis Police Department had inadequate policy, guidelines, training, and equipment for crowd management.

RECOMMENDATION 6.4.1

The MPD should develop written policies, guidelines, training, and equipment for crowd management. These should define the department's approach to crowd management as well as its tactical response framework. These policies, guidelines, training, and equipment should build on police best practices for crowd management, problem-solving, and force restraint.

RECOMMENDATION 6.4.2

The MPD should employ tiered intervention and response strategies to address the challenges posed by demonstrators, recognizing the department's goal to preserve human life, with a strategic goal of de-escalation to prevent further escalation, and officer safety. This strategy should be developed and implemented.

RECOMMENDATION 6.4.3

The MPD should train all personnel in crowd management, including the capacity for a coordinated response to civil disturbances. This training should be given to the role of patrol officers, who may be the first responders. Such officers and their supervisors will need to be trained to provide the information that will inform incident management and ensure an appropriate response at the precinct and department level.

Finding 6.5

No departmental policy currently exists on MFF equipment. Also, no policy exists to define who receives equipment or the inspection and deployment of equipment.

RECOMMENDATION 6.5.1

Develop policy that directs the purpose of MFF equipment issuance. The policy should address the deployment of equipment and limitations, based on a continuum of use and deployment, and address who is authorized to deploy protective equipment and barriers when managing demonstrations.

Finding 6.6

Currently, no unified training of MFF units accompanies identified MFF equipment.

RECOMMENDATION 6.6.1

Establish a team to help identify and recommend the types of MFF equipment needed within MPD to effectively manage major events and demonstrations. Develop regular training on the various types of equipment, whereby officers can demonstrate proficiency in their purpose, use, and effects.

Finding 6.7

The deployment of less-lethal weapons during the 18-day occupation of the Fourth Precinct station was not centralized or tracked.

The unprecedented nature of this event does not justify the lack of documentation and need to track the use of less-lethal responses.

RECOMMENDATION 6.7.1

The MPD should establish a system to accurately record and document the deployment of less-lethal weapons. The system should include the date, time, and circumstance for each deployment.

Finding 6.8

Marking rounds were deployed without plans for the safety of the individuals who were marked.

RECOMMENDATION 6.8.1

The MPD should direct by policy and training that marking rounds be deployed only with specific protocols for safe extraction and arrest of individuals.

Finding 6.9

The MPD does not have policy, procedures, or training for the use of marking rounds.

Civil disturbance best practices recommend that marking rounds be used only with policy guidelines only, to assist in identifying and arresting individuals exhibiting dangerous behavior in a crowd during civil disturbances.

RECOMMENDATION 6.9.1

The department must develop policies, procedures, and training for marking rounds that are deployed.

RECOMMENDATION 6.9.2

The MPD should consistently record uses of marking rounds and use body-worn camera technology to avoid claims of harassment or inappropriate use.

CHAPTER 7. OFFICER WELLNESS AND RESILIENCE

Officer wellness and resilience

“In addition to working with difficult—even hostile—individuals, responding to tragic events, and sometimes coming under fire themselves, they suffer from the effects of everyday stressors—the most acute of which often come from their agencies, because of confusing messages or non-supportive management; and their families, who do not fully understand the pressures the officers face on the job.” – Final Report of the President’s Task Force on 21st Century Policing

Officer mental health and wellness

The prioritization of officer resilience and mental health and wellness is critical to the success of individual police officers, their families and departments, and the communities they serve. According to the COPS Office’s *After-Action Assessment of the Police Response to the August 2014 Demonstration in Ferguson, Missouri*, mass demonstrations pose a unique risk to officer wellness:

“While research shows that officers’ work exposure has a cumulative effect on stress, being deployed in a critical situation . . . can significantly increase the stressors and their effects. . . . A prolonged situation . . . can be stressful and fatiguing for various personnel, from the incident commander to the officer. . . . In times of prolonged and stressful duty, law enforcement agencies should closely monitor officers’ emotional and physical well-being and develop a resilience support program that includes peer support. . . . In prolonged stressful situations, agencies should consider deploying a trained police counselor or psychologist who can discuss stress issues with individual officers and offer some stress management or reduction strategies or advice, as well as provide crisis intervention or make appropriate referrals for officers and their family members.”²⁶⁷

Officer morale

Within hours of the officer-involved shooting, protesters occupied the Fourth Precinct station. That evening, the number of protesters at the precinct swelled into the hundreds. Some demonstrators gathered at officers and the precinct building, while other demonstrators damaged police vehicles. In addition, six to twelve demonstrators entered the precinct front vestibule and refused to leave. Police vehicles were damaged, a window in the precinct was damaged. The costs of repairs to tires, fences, cruisers, and cameras that had been damaged were more than \$50,000, which was slightly higher than the cost of the November 19 press conference while the occupation was ongoing.

Throughout the 18-day occupation, Minneapolis Police officers, especially minority officers—were subjected to significant verbal abuse. The precinct, police vehicles, and cameras were damaged. At several times, unknown individuals fired weapons in the vicinity of the precinct, breached the precinct’s security fence, threw Molotov cocktails, looted the lot, and attempted to block ingress and egress from the precinct. Protesters threw rocks, bricks, and Molotov cocktails at officers and some civilians.

Police officers assigned to the Fourth Precinct were confined to the station at the precinct station and precluded from responding to calls during the occupation. While at the station, they provided perimeter security for the building. Officers from other MPD precincts were assigned for service in North Minneapolis. As mentioned above, officers on security were subjected to significant verbal abuse, physical assault, and the verbal abuse and assaults on the precinct, by many protesters.

demonstrated professionalism and restraint in their use of force throughout the occupation. It should be noted, however, that some protesters did describe instances in which they believed officers to have acted inappropriately during the response.

Several issues emerged during interviews of Fourth Precinct and other officers involved in the department's response to the occupation.

Officers, including some command level personnel, were angry and frustrated for the following reasons:

- They were not authorized to take or direct actions that they believed would have ended or controlled the protest before it became an occupation.
- They were confined to the precinct and not allowed to respond to calls from "their" residents asking for assistance.
- They were assigned to perimeter security without personal protective equipment. In some cases, officers were not allowed to wear the protective equipment they had because it appeared too militaristic.
- They lacked information and received inconsistent orders from command personnel.
 - » Several officers noted the significant disconnect between precinct commanders, the chief, and the MPD's leadership team.
 - » Officers felt unsupported by the mayor, chief, and MPD's leadership team during and after the occupation. It was not until the occupation had ended that the chief sent an email to the entire department stating "You have my gratitude, my respect and my unwavering support."²⁶⁹
 - » Officers, some of whom had served in combat tours in Iraq and Afghanistan, described feeling "under siege" and in danger of injury, as shots were directed at the precinct station; gas-filled bottles, lit "sterno canisters," Molotov cocktails, and other objects were thrown at them and the station; and smoke from fires in the neighborhood entered the building. These feelings were exacerbated by their inability to take actions to end the occupation or even the specific activities that posed security threats.

- » Officers advised the assessment team that they were angry with the Fourth Precinct residents why they didn't end the occupation. Some officers called the precinct asking for assistance. Some officers told them the department lost a certain amount of respect when they allowed demonstrators to openly break laws in order to maintain the optics of protecting the public.

Many officers advised that they no longer engage in public order violations and are reluctant to write traffic and quality-of-life violations because of the negative optics to the department.²⁷⁰

The MPD command staff and the Mayor's Office advised that the officers were held at the Fourth Precinct station following the occupation. A practitioner/facilitator with funding from either Targeted Violence Prevention or the Department of Public Safety should be involved. It should be noted that none of the officers interviewed expressed a desire to return to work.

Negotiated management, led by police officials, is the most common response to civil disturbances. Because the practice of negotiated management to protest response that were based on the philosophy of increasing disruption and violence on the part of demonstrators, increasing force on the part of the police, it is imperative to develop policies with traditional law enforcement culture and community public. Reinforcement should occur throughout the process, on policy rationale, verbally in roll calls, during Mobilization, written communications, and structurally with relationships.

Findings and recommendations

Officer resilience

Finding 7.1

MPD officers and supervisors maintained perimeter security at the Fourth Precinct to the best of their ability, while protecting the First Amendment rights of the civil protesters.

By all indications, MPD officers acted in a professional manner and demonstrated great restraint while holding the line, even as they encountered verbal abuse (especially toward African-American officers), threats, and risks to their safety from some elements within the protest gathering. Videos and social media posts of the protests and occupation showed incidents of protesters verbally abusing officers and throwing Molotov cocktails, bottles filled with gasoline, bricks, rocks, and other objects at officers, vehicles, mounted cameras, and the precinct station.

RECOMMENDATION: 7.1.1

Support for wellness and safety should permeate all police practices and be expressed through changes in procedures, requirements, attitudes and behaviors. Special attention should be paid to frontline officers who may be subjected to abuse based on their race, ethnicity, or religious affiliation. The physical and mental health of officers is critical to their safety, their families, the department, and the community they serve. An officer whose capabilities, judgement, and behavior is adversely affected by poor physical or psychological health may not only be a danger to her or himself, but also to other officers and to the community she or he serves.

Finding 7.2

City officials and the MPD did not sufficiently plan for a protracted deployment.

They did not anticipate that the occupation of the Fourth Precinct would last for 18 days, and thus did not adjust the operational strategy, including wellness and support of officers, accordingly. For example, MPD did not take into account the impact of extended shifts, overtime, and the physical and mental stress associated with maintaining

perimeter security as protesters verbally abused officers and threatened officer safety by throwing Molotov cocktails, bottles filled with gasoline, bricks, and other objects at officers, vehicles, and the precinct station.

RECOMMENDATION 7.2.1

Agencies should transition from a short-term response to a long-term response that provides assistance and support to officers and the community. Having enough staff that officers have opportunities to request mutual aid—that involves requesting mutual aid—is important for officer safety.

Finding 7.3

Fourth precinct officers continue to express frustration more than six months after the incident, suggesting

RECOMMENDATION 7.3.1

The MPD should assign the duty of a wellness coordinator to the Incident Command System (ICS) position during all critical events to ensure officer wellness needs are addressed.

RECOMMENDATION 7.3.2

The MPD should develop guidelines regarding the provision of services to the officers assigned to critical incidents and their families, particularly if the events are prolonged or violent.

RECOMMENDATION 7.3.3

The MPD should continue to conduct debriefings and provide support regarding the occupation at, or in close proximity to, the precinct station involved shooting and occupation.

Finding 7.4

Fourth precinct officers felt unsupported and undervalued before, during and after the occupation.

RECOMMENDATION 7.4.1

Organizational leadership should ensure that all involved in the response feel valued through open communication and the provision of mental health and other services to the officers and their families.²⁷³

RECOMMENDATION 7.4.2

The department should also consider greater use of chaplains or other professionals trained in psychological first aid or critical incident stress management (CISM) to provide assistance to personnel during and following a critical incident.

Officer safety and wellness

Finding 7.5

MPD Officers expressed concern regarding their ph provide perimeter security at the Fourth Precinct st

RECOMMENDATION 7.5.1

*The MPD should purchase, issue, and familiarize its o
Officers should be required to conduct formal training
personal protective equipment to ensure the ability to j
dynamics of wearing such equipment.*

RECOMMENDATION 7.5.2

*The MPD should have a clearly defined and communi
personal protective gear.*

CHAPTER 8. COMMUNITY PERSPECTIVE AND ENGAGEMENT

Community response

For some in the North Minneapolis community, the shooting of Jamar Clark further exposed two key fissures in North Minneapolis: one between the community and the Fourth Precinct officers, and one between community organizations.

Police-community relations

Relationships between the Minneapolis Police Department (MPD) and the North Minneapolis community had long been strained, and the occupation was another event in a long chain that intensified the tension.²⁷⁴ As a result of previous officer-involved shootings and encounters, some community leaders had previously called for a U.S. Department of Justice investigation to mandate changes. Although there had been some recent attempts on the part of MPD leaders to engage the community through meetings and listening sessions, from the community perspective, significant change was not occurring. According to one community member who participated in the listening sessions, the police largely ignored relationships with committee members in the days after the shooting—with the single exception of the Fourth Precinct inspector, whom many local residents said made tremendous efforts to continue to be present in the community, engage community members, and be responsive to their needs.²⁷⁵ However, the behaviors of the responding MPD officers during the initial days were interpreted by all leaders of the community as overly aggressive.

Intracommunity relations

Additionally, within the Black community of North Minneapolis, leadership tensions between different generations impacted the occupation. The continued occupation exposed a fractured relationship within the community of color, one which continues to

deepen. For the younger, newer leaders, the occupation deepened their larger understanding of how society should change. For older leadership, the occupation went entirely too long, discredited leadership, and became a platform for fringe political groups and organizations within the community.

Findings and recommendations

Finding 8.1

Historical and contemporary tensions between the community and the Minneapolis police continue to inform perceptions of the occupation.

RECOMMENDATION 8.1.1

The MPD should continue to invest in community police training in North Minneapolis, to include acknowledging the historical context of the community and develop a process and programs to move the community toward reconciliation.²⁷⁶

RECOMMENDATION 8.1.2

The MPD's training programs on positive community-police relations and building and maintaining trust should continue and be expanded during the 18-day occupation.

Finding 8.2

Tensions within the North Minneapolis community complicated the law enforcement and city response to the occupation.

RECOMMENDATION 8.2.1

The MPD should identify and work closely with emerging and traditional community leaders to ensure inclusion and representation from all members of the Minneapolis community.

RECOMMENDATION 8.2.2

The MPD should discuss its strategy and equipment for responding to civil disturbance with community members to increase transparency and to solicit ideas to prevent and resolve incidents without injury or property damage.

Finding 8.3

Relationships between the North Minneapolis Community and the MPD were challenged; this continues to leave the community, and particularly the most vulnerable, to increased crime and violence in the area.

RECOMMENDATION 8.3.1

The MPD should more fully engage the Chief's Citizen Advisory Council, and the MPD Chaplains and increase outreach to community groups to help facilitate communication, build trust, and improve relations. The MPD's Police Community Support Team should be more active in the community, responds to all critical incidents in Minneapolis, and provides information to residents.

RECOMMENDATION 8.3.2

The MPD should more fully engage community members in recruitment, promotion, training, and other activities to improve community trust and legitimacy. This type of community input into the MPD's operations provides the community a voice and meaningful involvement in how the MPD operates and polices the community.

PART V: CONCLUSION

CHAPTER 9. CONCLUSION

The 18-day occupation of the front lawn and street of the Fourth Precinct station—including three days in which demonstrators occupied the front vestibule—of the Minneapolis Police Department (MPD) by community members and activists in North Minneapolis was undeniably an unprecedented event. While the MPD frequently manages peaceful protests and demonstrations in Minneapolis, the MPD and the City of Minneapolis were unprepared for the level of complexity that this protracted event would bring. The city’s unconventional governance structure, as well as the often public political discord between city, police, and union leadership, added to this complexity and detracted from identifying and working toward a unified goal reaching a peaceful resolution to the occupation.

The city and the police department endeavored to provide community members the opportunity to exercise their First Amendment freedoms and to avoid violent confrontations. The City of Minneapolis and the Minneapolis Police Department resolved the occupation without any significant injuries and/or property damage, and prevented the violence and riots seen in other cities following officer-involved shootings. The decisions made by city and police leaders were set within the context of the national conversation regarding police legitimacy and the relationship between the police and the communities they serve. However, the extended incident took a toll on the city, the police department, and the North Minneapolis Community. Damage caused to city and police property, as well as the cost of extended overtime and additional personnel was significant. In addition, community residents suffered consequences of the 18-day occupation. They struggled with the smoke from fires and increased response time from emergency medical services when needed. Neighbors around the Fourth Precinct complained about helicopters overhead all night; bottles, food, garbage, and human waste in their yards; cars damaged; and feeling

unsafe in their own houses. Additionally, neighborhood revenues. Finally, Fourth Precinct MPD officers continued frustration, and anger stemming, at least in part, from what happened, and was handled by city and MPD leaders.

This review, and the lessons learned within, are designed for the MPD to analyze and reflect on the decisions made in response. Key lessons focused on leadership, operations, planning, and community impact can be gained by studying the response.

While the occupation of the Fourth Precinct police station was an event, many of the lessons learned throughout the 18-day event has happened since, are applicable to police response to protests or may occur in U.S. cities in the future. These lessons provide a body of knowledge that assists law enforcement agencies in responding to disturbances. The findings and recommendations in this COPS Office CRI-TA program, add to the growing body of knowledge agencies can use to enhance their preparation for, and response to, civil disturbances, and other critical incidents.

APPENDIX A. FINDINGS AND RECOMMENDATIONS

Finding 4.1

The City of Minneapolis lacked a coordinated political, tactical, and operational response to the protests, demonstrations, and occupation of the Fourth Precinct police station.

RECOMMENDATION 4.1.1

City officials and MPD command personnel should discuss, plan, and practice a coordinated response to critical incidents, to include the level of tactical engagement as well as negotiation and other strategies.

RECOMMENDATION 4.1.2

Planning and training for responses to civil disturbances and critical incidents should include elected and appointed officials, law enforcement, other public safety agencies (fire, EMS, emergency management), other relevant government agencies (e.g., Corporation counsel, finance, public works), and non-government and private sector organizations (Red Cross, utility companies, business improvement districts, neighborhood councils, etc.) as appropriate. Annual tabletop exercises and biennial full-scale exercises (FSE) should focus on coordinated planning, implementation, and follow-up across all city agencies. The tabletop exercises and FSEs should be observed by and include appropriate roles for elected officials.

Finding 4.2

City officials and the MPD did not have a process to change its strategy for managing civil disturbances as they develop from short-term into protracted events.

At the beginning, elected officials and the MPD focused primarily on immediate political and tactical responses and did not entirely anticipate that the demonstrations would be long term, or that the occupation of the Fourth Precinct station would occur. As the occupation continued, they did not recognize the changing dynamics and plan for a long-term operation.

RECOMMENDATION 4.2.1

Agencies should develop strategies, based on timely and accurate assessments, to identify the shift from routine events to those that demand significant human and material resources and collaborative response from elected officials and law enforcement.

RECOMMENDATION 4.2.2

City agencies should develop comprehensive plans that outline a management response to a civil disturbance, such as the occupation of the Fourth Precinct station, which will require the careful and intentional coordination of all city and law enforcement officials, taking into account the human and material resources required during a protracted event.

RECOMMENDATION 4.2.3

The City of Minneapolis and the MPD should review local, state, and national civil disturbances across the country—and previous Minneapolis events and assessments—to improve citywide and police department response to unique critical events.

RECOMMENDATION 4.2.4

The City of Minneapolis should have a crowd control plan that addresses the city's overall political, strategic, and tactical response for events that develop beyond 'routine' events.

According to Howard Rahtz, “a review of previous riots and civil disturbances is that the lack of planning and leadership in the early stages of the occupation for disaster.”

RECOMMENDATION 4.2.5

The MPD must assume a lead role, or be provided frequent updates by elected officials, during protracted negotiations so that appropriate operational strategies and tactics can be developed and implemented consistent with the actions being taken by elected officials and others outside the police department.

Finding 4.3

Disagreements between City of Minneapolis, MPD, and Fourth Precinct leadership resulted in inconsistent messaging, unnecessary confusion, and poor communication that significantly and negatively affected the response.

Inconsistent, and at times contradictory, public comments by the mayor and city council, as well as public arguing between the chief of police and the Federation president, created clear divisions which hampered the ability to find a unified resolution to the conflict and which continue to inhibit department and community healing.

RECOMMENDATION 4.3.1

All leaders, elected and appointed, should recognize the impact that their messaging, both formal and informal, and their actions contributed to the management and operational difficulties of MPD and its ability to effectively resolve the 18-day occupation.

RECOMMENDATION 4.3.2

All leaders, elected and appointed, should avoid engaging in public arguments and rhetoric that detract from the goals of keeping the community and police officers safe and resolving civil disturbances.

Finding 4.4

Elected officials, the chief, and the Fourth Precinct inspector failed to define and implement a clear, unified response to the occupation.

RECOMMENDATION 4.4.1

Messaging from the city as a whole must be unified and the city leadership is not divided in any fashion. There must be consistent messages from city and police department leadership and support for all personnel to provide appropriate direction and support for all personnel during a civil disturbance or critical events.

Finding 4.5

Efforts to resolve the occupation lacked consistent coordination among elected officials and operations personnel.

A number of officials—including city and state elected officials—were engaged in negotiations with leaders from Black Lives Matter, the National Association for Change (NOC), and the National Association for the Advancement of Colored People (NAACP) and did not coordinate their efforts among

RECOMMENDATION 4.5.1

Federal, state, and city elected officials should plan and coordinate responses to civil disturbance and critical incidents on a regular basis. Following the Boston Marathon bombing, the National Preparedness Commission (a joint program of the Harvard School of Public Health and the U.S. Department of Government, Center for Public Leadership) found that agencies that collaborated and interagency leveraging among one another were more likely to achieve something together—both order and outcomes. Agencies that had been able to accomplish on their own. Similar observations were made of the response to the San Bernardino terrorist attack, and the response to the bridge collapse.

RECOMMENDATION 4.5.2

Responses to civil disturbance events that originate within city limits should be led by the City of Minneapolis, with the support of other agencies in coordinating planning, operations, negotiations, and other activities of elected officials.

Finding 4.6

The City of Minneapolis did not fully implement NIMS or ICS, which would have provided a structure to organize and coordinate the city's response to the occupation.

Although the Emergency Operations Center was activated and MPD established incident command, a JIC was established that operated separate and apart from the EOC and MPD ICS, leading to inconsistent communication, uncoordinated operations, and disconnected negotiations with protestors.

RECOMMENDATION 4.6.1

All City of Minneapolis personnel, including elected officials, should complete ICS training.

A U.S. Department of Justice, Bureau of Justice Assistance report advised, "Incident management organizations and personnel at all levels of government and within the private sector and nongovernmental organizations must be appropriately trained to improve all-hazards incident management capability. . . . Training involving standard courses on incident command and management, incident management structure, operational coordination processes and systems—together with courses focused on discipline and agency-specific subject matter expertise—helps ensure that personnel at all jurisdictional levels and across disciplines can function effectively together during an incident."

RECOMMENDATION 4.6.2

Minneapolis should establish one citywide incident management team (IMT) to lead its response to future large-scale incidents that involve a multiagency, multijurisdiction response. The IMT should include operational personnel as well as representatives from the mayor's staff to ensure collaboration, coordination, and unity of command. The IMT should also train through tabletop exercises and FSEs.

RECOMMENDATION 4.6.3

The City of Minneapolis and MPD should use ICS principles to manage everyday situations, as a way to practice established protocols and training.

Finding 4.7

Fourth Precinct supervisors and line officers did not communicate consistently regarding strategies and tactics to be employed.

The lack of consistent communication from the precinct supervisors to executive MPD leadership regarding strategies and tactics left the Fourth Precinct feeling as if they were left to deal with the occupation. Officers in the Fourth Precinct were unable to use the authority vested in them to enforce the law and protect their community and their property.

RECOMMENDATION 4.7.1

MPD Policy 5-312 "Civil Disturbances" should be expanded to include a clear leadership structure, roles, responsibilities, strategies, and tactics for responding to civil disturbances.

RECOMMENDATION 4.7.2

Agency supervisors must ensure that first responders take the necessary steps and efforts to resolve critical incidents, even if they are not the primary agency.

RECOMMENDATION 4.7.3

Managers and supervisors, responsible for carrying out daily operations, should include in daily briefings and operational planning. This will help ensure that all personnel are aware of operational strategies and what messages should be relayed to the community. They should also have the opportunity to communicate their observations and concerns.

Finding 5.1

Neither MPD nor the City of Minneapolis leadership communicated clear strategies, directives and rationales were adequately communicated.

For example, once the decision to end the occupation was made, the decision was not clearly communicated. More than direct police action was made, the decision was made by the City of Minneapolis Fourth Precinct.

RECOMMENDATION 5.1.1

Once decisions are made that result in operational directives, those decisions, directives, and instructions should be clearly communicated to all relevant personnel (the MPD Fourth Precinct in this case) through the chain of command, using clearly defined communication protocol to ensure personnel are fully aware and to avoid distortion or lack of clarity.

Finding 5.2

Breakdowns in communication within MPD—among the chief of police, command staff, Fourth Precinct command, and Fourth Precinct rank and file—compounded communication issues between city and MPD officials and impacted the ability of line officers to carry out the response.

While Fourth Precinct leadership participated in daily conference calls to discuss the activities of the previous day and determine strategies for the upcoming day, they sometimes transmitted those strategies and other messages inaccurately in roll calls with the line officers, according to Fourth Precinct staff interviewed. Although daily written IAPs and intelligence briefings were distributed to precinct-level commanders, they were not routinely disseminated to Fourth Precinct line officers.

RECOMMENDATION 5.2.1

MPD leaders should establish a clear and concise messaging strategy so that officers know from whom and how they are to receive directives.

RECOMMENDATION 5.2.2

Precinct leadership must provide consistent, timely, and accurate information regarding the strategies and tactics to be employed in response to mass demonstrations and held accountable for delivering accurate information and directives to their subordinates.

RECOMMENDATION 5.2.3

Genuine concern for officer safety and support should be communicated and demonstrated by the executive staff and through the chain of command to ensure the well-being of officers responding to mass demonstrations.

RECOMMENDATION 5.2.4

The MPD should provide strategies to ensure two-way communication so that line officers are able to input information about what they see and hear to their command staff through email, a dedicated line, or other means, and provide an opportunity for line officers to convey feedback on officer safety to department leadership.

Finding 5.3

The lack of consistent strategy and the unclear communication from city and MPD leadership inhibited effective crowd management and lowered the morale of Fourth Precinct and other officers assigned to the Fourth Precinct.

Clear and consistent communication of the city's response to incidents would have eliminated confusion and helped to alleviate concerns of supervisors and the rank and file in the Fourth Precinct and other precincts as to the proper response to incidents.

RECOMMENDATION 5.3.1

City and MPD leaders should ensure a clear communication strategy to prevent frustration and misunderstanding, in particular on the part of line officers and personnel responsible for operational implementation.

Finding 5.4

Leadership decided to use verbal communications in order to prevent compromise or leaks of operational information, which led to confusion and the dissemination of inaccurate information to rank and file officers.

RECOMMENDATION 5.4.1

Invest in a secure, encrypted Incident Management System to facilitate two-way information-sharing; tracking and reporting; and providing real-time mission updates, direction, and support.

tasks, goals, and actions. The ability to communicate using encrypted channels improves communication without jeopardizing officer and community safety.

Finding 5.5

Preexisting relationships with local media afforded MPD the opportunity to respond to many of the stories produced during the protests, which led to increased accuracy in reporting.

RECOMMENDATION 5.5.1

Build and maintain relationships with local media prior to a major event, and prioritize those relationships during events that draw national and international media attention.

Finding 5.6

Although a JIC was established, the public information process between city agencies and officials was uncoordinated.

In addition, information sharing with the Governor's Office was inconsistent and at times uncoordinated. In fact, it was reported during interviews that some in the ICS began purposefully keeping information from the JIC in an effort to keep the information 'safe' from public release.

RECOMMENDATION 5.6.1

Include PIOs from all city and state stakeholders in command-level briefings and strategy sessions to increase coordination and project one voice. Lessons learned from previous critical incident reviews highlight the importance of including the PIOs in all political, command-level briefings and strategy sessions to help determine the appropriate media strategy.

RECOMMENDATION 5.6.2

Develop plans for coordinating public information efforts among multiple participating agencies through the ICS and the creation of a JIC.

Finding 5.7

The MPD's extensive use of social media during the protests kept the public informed as individual incidents occurred.

RECOMMENDATION 5.7.1

Continue and expand the use of various social media platforms in addition to traditional media about unfolding events and provide timely updates on incidents to facilitate transparency and build trust.

Finding 5.8

During the occupation at the Fourth Precinct, MPD officers used force and non-lethal weapons without clear authorization, constituting a violation of policy 5-312.

MPD policy 5-312 "Civil Disturbances" states in part, "Officers shall refrain from deploying any less-lethal or non-lethal weapons during a civil disturbance until it has been authorized by the Incident Commander." During interviews, some demonstrators claimed they were not holding up tarps to protect themselves from chemical weapons. The confusion regarding who the on-scene incident commander was and the authorizations regarding use of force were coming from multiple sources, making it difficult to verify who specifically authorized the use of force.

RECOMMENDATION 5.8.1

The MPD should establish a clear incident commander and enforce the use of force policy—especially as it relates to civil disturbances.

RECOMMENDATION 5.8.2

MPD use of force policy 5-312 “Civil Disturbances” should clearly delineate levels of approval to be obtained—and a specific individual to seek that approval from—prior to the donning of personal protective equipment or equipment which may intimidate or threaten protestors (typically characterized as “military-style equipment”), the use of marking rounds, and additional uses of force.

Finding 5.9

MPD deployed chemical agents without prior authorization, in violation of policy 5-313.

MPD policy 5-313 “Use of Chemical Agents – Policy” states in part, “Sworn MPD employees shall exercise due care to ensure that only intended persons are exposed to the chemical agents.” In interviews, demonstrators claimed that chemical irritants were deployed by MPD officers, including against demonstrators who were trying to administer first aid to the five shooting victims the night of November 23. It should be noted that no official complaints were filed by the demonstrators regarding the indiscriminate deployment of chemical agents.

RECOMMENDATION 5.9.1

The MPD should strengthen, train on, adhere to and enforce the use of force policy—especially as it relates to the use of chemical agents (MPD Policy 5-313).

RECOMMENDATION 5.9.2

MPD use of force policy 5-313 “Use of Chemical Agents – Policy” should clearly delineate levels of approval—and a specific individual to seek approval from—to be obtained prior to the donning of personal protective equipment and equipment which may intimidate or threaten protestors (typically characterized as “military-style equipment”) and additional uses of force.

Finding 5.10

The policy on documenting uses of force, as laid out in the MPD Use of Force Manual, may not have been followed.

Demonstrators claimed that officers used chemical irritants on November 23, but there is no official MPD record of this. No policy being used nor were any pertinent complaints filed by demonstrators. Any inconsistent way uses of force were documented, the policy could not be confirmed or disproved by the assessment.

RECOMMENDATION 5.10.1

The MPD Use of Force Policy (5-306)—especially as it relates to documentation—strengthened, trained on, adhered to, and enforced.

RECOMMENDATION 5.10.2

Supervisor notification should be required for chemical agents used in civil disturbances and crowd control, to ensure that the best strategies and best practices are followed. While supervisor notification is required for exposures according to MPD Policy 5-306, it is contradictory to the policy, “The on-scene incident commander shall evaluate the use of force if it would be a reasonable force option to use less-lethal force to accomplish that objective.”

RECOMMENDATION 5.10.3

The MPD should document each use of force case separately.

Finding 5.11

The decision to document multiple uses of force under a single case number led to failure to accurately account for and track uses of force.

According to the MPD Policy & Procedures Manual policy 5-306 “Use of Force – Reporting and Post Incident Requirements,” CAPRS Reports are required for each use of force incident. During the 18 days, the MPD categorized and recorded all uses of force under one case number per day. In total, MPD collected three force reports for the 18-day occupation, but they account for nine uses of force. For example, on November 19, 2016, there is only one force report (FR), but six separate uses of force were reported by officers and supervisors. While there is no evidence that the MPD deliberately attempted to underreport the use of force, the decision to capture incidents by assigning one incident case number per day caused confusion as to the actual number of incidents reported by officers and supervisors. The information below was provided by the MPD and indicates the official number of uses of force reported:

Incident #1 (11/19/2015)

FR #1: 40MM [marking round] less lethal round (Torso)

FR #2: MACE – crowd control

FR #3: Improvised Weapon – (Firearm as striking tool) – (Torso)

FR #4: 40MM [marking round]less lethal round (Legs)

FR #5: 40MM [marking round]less lethal round (Legs)

FR #6: 40MM [marking round]less lethal round (Torso)

Incident #2 (11/25/2015)

FR #1: Body Weight to pin (Torso)

FR #2: Joint Lock and Body Weight to pin (arms/hands) & (Torso)

Incident #3 (12/11/15)

FR #1: Body Weight to pin (Torso)

RECOMMENDATION 5.11.1

MPD should require that officers and supervisors complete a report for each incident and assign unique case numbers to each incident to ensure transparency.

RECOMMENDATION 5.11.2

Policy 5-306 “Use of Force – Reporting and Post Incident Requirements” should be officially codified to require that each use of force report require the following information: who authorized it (if necessary), the date and time of the incident, and the names of all officers and supervisors present that can be interviewed.

RECOMMENDATION 5.11.3

All commanders and supervisors should ensure the timely reporting of all events, facts, and uses of force as soon as practicable.

RECOMMENDATION 5.11.4

To promote transparency, use of force data should be reported in a timely and accurate manner via the MPD website, the Office of Professional Standards, and other state or federal databases.

Finding 5.12

All citizen-initiated complaints may not have been properly documented or investigated.

The assessment team was unable to determine if all citizen-initiated complaints were properly investigated due to inconsistent record keeping.

RECOMMENDATION 5.12.1

All citizen complaints should be individually recorded, tracked, and adjudicated in a manner consistent with MPD policies, and law enforcement best practices.

Finding 6.1

The Minneapolis Police Department did not have adequate department-wide training on crowd management, negotiated resolution, de-escalation, the use of personal protective equipment, or the use of less-lethal instruments prior to the occupation.

The last documented department-wide training regarding crowd management strategies and tactics was conducted in preparation for the 2008 RNC.

RECOMMENDATION 6.1.1

Curricula to train all MPD personnel on crowd management strategies and tactics should be developed from current best practices, policy recommendations, and lessons learned from after-action reviews of similar events, and implemented in the Minneapolis Police Academy to reflect the core values of the MPD.

RECOMMENDATION 6.1.2

The MPD should return to the pre-RNC practice of sending personnel to the FEMA Center for Domestic Preparedness in Anniston, Alabama or to another similar-quality provider to ensure that MPD crowd management training is consistent with national best practices. All MPD personnel should understand the rules of engagement, how to evaluate and de-escalate police-citizen encounters, use of force policies, and arrest procedures.

RECOMMENDATION 6.1.3

The MPD should provide annual training and updates to all members of the department regarding its policies and procedures regarding civil disturbances.

Finding 6.2

The MPD effectively deployed bicycle unit officers during the occupation as barriers to mitigate aggressive actions by the demonstrators, gather intelligence, and protect moving demonstrations.

Bicycle officers are more able than squad cars to manage crowds and are often seen by demonstrators as less intimidating. For these reasons, the use of bicycle officers is consistent with effective crowd management.

RECOMMENDATION 6.2.1

The MPD should continue the practice of deploying bicycle officers during protests and demonstrations. Bicycle officers who marched from the Fourth Precinct station to City Hall for protection. Some demonstrators and officers interviewed at one point, when the BRRT formed a line at the Fourth Precinct with demonstrators, successfully defusing a volatile confrontation.

Finding 6.3

No recent inventory of civil disturbance equipment was conducted by the department, nor is anyone responsible for inventorying or maintaining MFF equipment.

RECOMMENDATION 6.3.1

All previously issued equipment should be turned in and inventoried, including protective gear, to ensure that everyone is operating with approved, fit-tested gear. This will also aid administrative tracking of equipment's distribution.

RECOMMENDATION 6.3.2

Establish a quartermaster system within the Special Operations Division to manage inventory, purchase, and deployment of all MFF equipment. Special Operations Division or their designee should also be responsible for ensuring equipment is managed and inspected regularly. Any worn or outdated equipment should be replaced on a biannual basis.

Finding 6.4

The Minneapolis Police Department had inadequate policy, guidelines, training, and equipment for crowd management.

RECOMMENDATION 6.4.1

The MPD should develop written policies, guidelines, training, and exercises regarding crowd management. These should define the department's overall strategic approach as well as its tactical response framework. These policies, guidelines, and training should build on police best practices for crowd management, negotiated resolution, de-escalation, problem-solving, and force restraint.

RECOMMENDATION 6.4.2

The MPD should employ tiered intervention and response strategies consistent with the challenges posed by demonstrators, recognizing the department's priority is to value and preserve human life, with a strategic goal of de-escalation, containment, prevention of further escalation, and officer safety. This strategy should be codified in policy.

RECOMMENDATION 6.4.3

The MPD should train all personnel in crowd management operations in order to strengthen the capacity for a coordinated response to civil disturbances. Particular attention should be given to the role of patrol officers, who may be the first on the scene of an escalating event. Such officers and their supervisors will need to be trained to make an initial assessment and to provide the information that will inform incident management decisions and, ultimately, ensure an appropriate response at the precinct and department level.

Finding 6.5

No departmental policy currently exists on MFF equipment type, use, or training. Also, no policy exists to define who receives equipment, training on equipment, or the inspection and deployment of equipment.

RECOMMENDATION 6.5.1

Develop policy that directs the purpose of MFF equipment issuance. The policy should address the deployment of equipment and limitations, based on a continuum of use and deployment, and address who is authorized to deploy protective equipment and barriers when managing demonstrations.

Finding 6.6

Currently, no unified training of MFF units accompanied the event.

RECOMMENDATION 6.6.1

Establish a team to help identify and recommend the training needs within MPD to effectively manage major events and demonstrations. This team should provide training on the various types of equipment, whereby officers are trained in their purpose, use, and effects.

Finding 6.7

The deployment of less-lethal weapons during the event at the 1st Precinct station was not centralized or tracked.

The unprecedented nature of this event does not justify the need to track the use of less-lethal responses.

RECOMMENDATION 6.7.1

The MPD should establish a system to accurately record the use of less-lethal weapons. The system should include the date, time, location, and officer for each deployment.

Finding 6.8

Marking rounds were deployed without plans for the subsequent extraction and arrests of the individuals who were marked.

RECOMMENDATION 6.8.1

The MPD should direct by policy and training that marking rounds only be used when specific protocols for safe extraction and arrest of individuals are in place.

Finding 6.9

The MPD does not have policy, procedures, or training regarding the deployment of marking rounds.

Civil disturbance best practices recommend that marking rounds be used under strict policy guidelines only, to assist in identifying and arresting individuals exhibiting dangerous behavior in a crowd during civil disturbances.

RECOMMENDATION 6.9.1

The department must develop policies, procedures, and training before marking rounds are deployed.

RECOMMENDATION 6.9.2

The MPD should consistently record uses of marking rounds or any other less-lethal technology to avoid claims of harassment or inappropriate use of force.

Finding 7.1

MPD officers and supervisors maintained perimeter security at the Fourth Precinct to the best of their ability, while protecting the First Amendment rights of the civil protesters.

By all indications, MPD officers acted in a professional manner and demonstrated great restraint while holding the line, even as they encountered verbal abuse (especially toward African-American officers), threats, and risks to their safety from some elements within the protest gathering. Videos and social media posts of the protests and occupation

showed incidents of protestors verbally abusing officers, throwing
bottles filled with gasoline, bricks, rocks, and other objects at
cameras, and the precinct station.

RECOMMENDATION: 7.1.1

Support for wellness and safety should permeate all police activities. Training should be provided through changes in procedures, requirements, attitudes, and policies. Compensation should be paid to frontline officers who may be subject to harassment based on race, ethnicity, or religious affiliation. The physical and mental health of officers, their safety, their families, the department, and the community are all at risk. Their capabilities, judgement, and behavior is adversely affected. The officer's health may not only be a danger to her or himself, but also to the community she or he serves.

Finding 7.2

City officials and the MPD did not sufficiently plan

They did not anticipate that the occupation of the Fort days, and thus did not adjust the operational strategy of officers, accordingly. For example, MPD did not take extended shifts, overtime, and the physical and mental perimeter security as protestors verbally abused officers' safety by throwing Molotov cocktails, bottles filled with objects at officers, vehicles, and the precinct station.

RECOMMENDATION 7.2.1

Agencies should transition from a short-term response that provides assistance and support to officers and the community to a long-term response that provides training and support to the community. Having enough staff that officers have opportunities to work with the community and that involves requesting mutual aid—is important for

Finding 7.3

Fourth precinct officers continue to express frustration and anger with the occupation more than six months after the incident, suggesting that many issues remain unresolved.

RECOMMENDATION 7.3.1

The MPD should assign the duty of a wellness coordinator to an existing Incident Command System (ICS) position during all critical events to ensure physical and mental health issues are addressed.

RECOMMENDATION 7.3.2

The MPD should develop guidelines regarding the provision of mental health and other services to the officers assigned to critical incidents and civil disturbances, and to their families, particularly if the events are prolonged or violent.

RECOMMENDATION 7.3.3

The MPD should continue to conduct debriefings and engage officers in discussions regarding the occupation at, or in close proximity to, the one-year anniversary of the officer-involved shooting and occupation.

Finding 7.4

Fourth precinct officers felt unsupported and undervalued before, during and after the occupation.

RECOMMENDATION 7.4.1

Organizational leadership should ensure that all involved in the response feel valued through open communication and the provision of mental health and other services to the officers and their families.

RECOMMENDATION 7.4.2

The department should also consider greater use of chaplains or other professionals trained in psychological first aid or critical incident stress management (CISM) to provide assistance to personnel during and following a critical incident.

Finding 7.5

MPD Officers expressed concern regarding their physical safety and ability to provide perimeter security at the Fourth Precinct site.

RECOMMENDATION 7.5.1

The MPD should purchase, issue, and familiarize its officers with personal protective equipment. Officers should be required to conduct formal training on the use of personal protective equipment to ensure the ability to respond to different dynamics of wearing such equipment.

RECOMMENDATION 7.5.2

The MPD should have a clearly defined and communicated policy regarding the use of personal protective gear.

Finding 8.1

Historical and contemporary tensions between the police and the community in North Minneapolis continue to inform perceptions of police legitimacy.

RECOMMENDATION 8.1.1

The MPD should continue to invest in community policing efforts in North Minneapolis, to include acknowledging the historical context of the community and develop a process and programs to move the MPD toward reconciliation.

RECOMMENDATION 8.1.2

The MPD's training programs on positive community-building and maintaining trust should continue and be integrated into day occupation.

Finding 8.2

Tensions within the North Minneapolis community complicated the law enforcement and city response to the occupation.

RECOMMENDATION 8.2.1

The MPD should identify and work closely with emerging and traditional community leaders to ensure inclusion and representation from all members of the Minneapolis community.

RECOMMENDATION 8.2.2

The MPD should discuss its strategy and equipment for responding to civil disturbance with community members to increase transparency and to solicit ideas to prevent and resolve incidents without injury or property damage.

Finding 8.3

Relationships between the North Minneapolis Community and the MPD were challenged; this continues to leave the community, and particularly the most vulnerable, to increased crime and violence in the area.

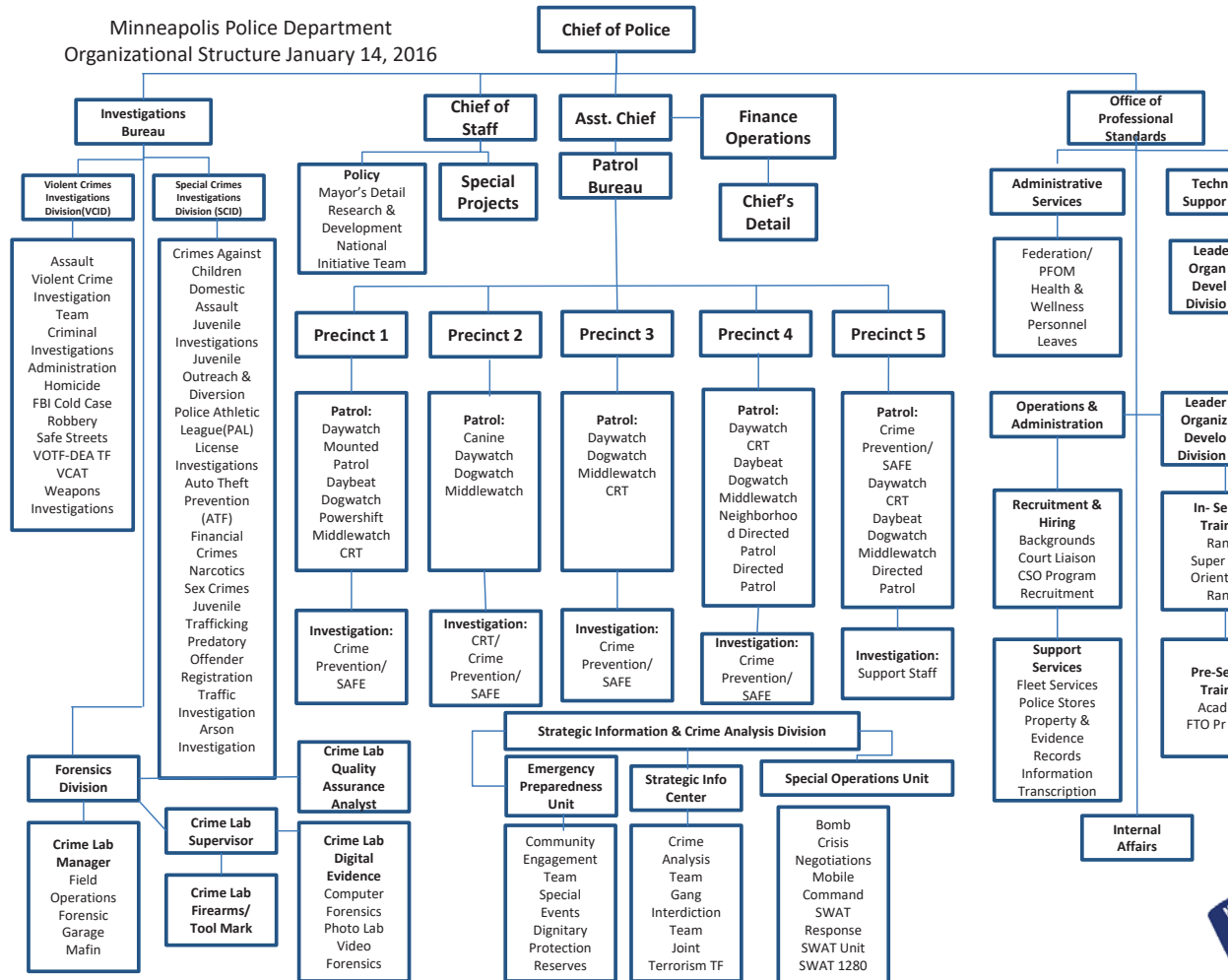
RECOMMENDATION 8.3.1

The MPD should more fully engage the Chief's Citizen Advisory Council, and the MPD Chaplains and increase outreach to community groups to help facilitate communication, build trust, and improve relations. The MPD's Police Community Support Team should more fully engage civilians, responds to all critical incidents in Minneapolis, and provide information to residents.

RECOMMENDATION 8.3.2

The MPD should more fully engage community members in recruitment, promotion, training, and other activities to improve community trust and legitimacy. This type of community input into the MPD's operations provides the community a voice and meaningful involvement in how the MPD operates and polices the community.

APPENDIX B. MPD Organizational Chart



Source: Minneapolis Police Department

ACRONYMS

BCA	Bureau of Criminal Apprehension	IMT	Incident Management Team
BLM	Black Lives Matter	JIC	Joint Information Center
BRRT	Bicycle Rapid Response Team	MFF	Mobile Field Force
CART	Chemical Agent Response Team	MPD	Minneapolis Police Department
DHS	Department of Homeland Security	MSP	Minneapolis State Patrol
EOC	Emergency Operations Center	MN POST	Minnesota Peace Officer Standard
FEMA	Federal Emergency Management Agency	NAACP	National Association for the Advancement of Colored People
FSE	Full-Scale Exercises	NIMS	National Incident Management System
CAPRS	Computer Assisted Police Records System	NOC	Neighborhoods Organizing for Change
CIR	Critical Incident Review	PERF	Police Executive Research Forum
COPS Office	Office of Community Oriented Policing Services	PF	Police Foundation
CRI-TA	Collaborative Reform Initiative for Technical Assistance	PIO	Public Information Officer
CRS	Community Relations Service	RNC	Republican National Convention
IAP	Incident Action Plan	SIC	Strategic Information Center
IC	Incident Commander	SWAT	Special Weapons and Tactics
ICS	Incident Command System	USDOJ	United States Department of Justice

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ABOUT THE AUTHORS

Minneapolis After-Action Team

Chief Frank Straub (Ret.), PhD – Dr. Straub provided on-site project management, coordinating the work of subject matter experts and providing law enforcement guidance and expertise to the project. He managed the document review process and worked closely with Jennifer Zeunik to ensure that all on- and off-site decisions and activities met project goals. A 30-year veteran of law enforcement, Dr. Straub currently serves as the Director of Strategic Studies for the Police Foundation. He last served as the chief of the Spokane (Washington) Police Department, where he received national recognition for the major reforms and community policing programs he implemented and significant crime reductions achieved during his tenure. Dr. Straub also served as director of public safety for the City of Indianapolis, Indiana, during which time the Indianapolis Metropolitan Police Department reduced homicides to the lowest level in 20 years. Dr. Straub has also served as the public safety commissioner for the City of White Plains, New York, where his department reduced serious crime by 40 percent. He established the first police-community mental health response team in Westchester County to proactively assist persons challenged by mental illness, homelessness, and domestic violence. Dr. Straub previously served as the deputy commissioner of training for the New York City Police Department and as a federal agent. He holds a BA in Psychology from St. John's University, an MA in Forensic Psychology from John Jay College of Criminal Justice, and a PhD in Criminal Justice from the City University of New York's Graduate Center. He co-authored a book on performance-based police management and has published several articles regarding community policing, police reform, and jail management.

Chief Rodney Monroe (Ret.) – Chief Monroe has over 37 years of law enforcement experience serving in various positions and overseeing a vast array of specialized commands, including handling of large events and mass demonstrations. He has 12 years of senior executive level experience as the chief of police for the Cities of Macon, Georgia; Richmond, Virginia; and Charlotte, North Carolina. Chief Monroe has extensive experience in organizing communities and developing meaningful partnerships with youth, residents, businesses, and faith-based organizations with a common goal of reducing crime, improving the quality of life,

and reducing citizens' fear level. Chief Monroe served 20 years at the senior executive level experience for the Metropolitan Police Department, where he managed financial planning, personnel logistics, major criminal investigations, and managed initiatives to implement Community Policing. He has extensive experience in planning, organizing, and managing community development and engagement and special events within the department. Chief Monroe has experience in planning, organizing, and managing investigations, involving multiple federal and local law enforcement agencies, including the FBI, United States Secret Service, DEA, ATF, and United States Marshals Service. He has extensive experience in managing and assessing responses to major events. During his time at the Metropolitan Police Department, he managed the 1995 Million-Man March and the 1997 Presidential Inauguration. He served as the Charlotte-Mecklenburg Police Department, Chief Monroe was the chief of police for the Democratic National Convention, as well as managing the city. In 2015, Chief Monroe testified in front of the President's Commission on Policing on the issue of Mass Demonstrations.

Reverend Jeffrey Brown – Rev. Brown is a nationally recognized leader in coalition-building, gangs, youth, and urban violence prevention. He has over 20 years of experience of gang mediation and intervention and has been instrumental in community relations in the United States and around the world. His expertise in helping faith-based organizations and law enforcement stakeholders, increase their capacity for solving gang problems. His work builds on the idea that while community policing is a good idea, in many urban areas, the relations between the urban community and law enforcement is poor, which inhibits effective community from getting the quality of life it deserves. He has been successful in his successful work nationally in cities like Boston, MA, and Salinas, California to help build a strong community safety crime reduction strategy. Rev. Brown is the founder of the Community Around Peace), a new national organization.

better partnerships between community, government, and law enforcement agencies to reduce gang violence. He is also one of the co-founders of the Boston Ten Point Coalition, a faith-based group that was an integral part of the “Boston Miracle”—a process where the city experienced a 79 percent decline in violent crime in the 90s—and spawned countless urban collaborative efforts in subsequent years that followed the Boston Ceasefire model. Rev. Brown consults with municipalities and police departments on issues around youth violence and community mobilization and has provided expertise to Fortune 25 corporations and the World Bank for the past 14 years on Collaborative Leadership and Managing Change. In October of 2014, Rev. Brown traveled to Ferguson, Missouri to be a part of a national clergy group to support the efforts of Hands Up United and to participate in and serve as a buffer between residents and the police during protests, as well as to assist in moving forward.

Chief Hassan Aden (Ret.) – Chief Aden provided on-site project management, coordinating the work of the on-site team and providing law enforcement guidance and expertise for the project. He worked with Jennifer Zeunik to ensure that all on- and off-site decisions and activities fed project goals. After more than 28 years in law enforcement and executive leadership experience, Chief Aden currently serves as the Senior Advisor on Policing for the Police Foundation. Chief Aden’s police experience includes serving as the Chief of Police with the Greenville (North Carolina) Police Department. He has extensive experience in the administrative, investigative, and operational aspects of policing, and has demonstrable success in working with questions such as crime control policies, community engagement, and strategic planning. While Chief of Police at the Greenville Police Department, he and all of the Greenville Police staff were deeply committed to community partnerships aimed at reducing crime and improving the quality of life in the City of Greenville. Prior to his appointment as Chief of Police for the Greenville Police Department, he served in the Alexandria (Virginia) Police Department for 26 years, rising to the rank of deputy chief of police. He also previously served as the Director of Research and Programs at the International Association of Chiefs of Police, overseeing a large portfolio of operational programs and research projects aimed at advancing professional police services and promoting enhanced administrative, technical, and operational police practices and policies.

Ben Gorban, Police Foundation Policy Analyst – Ben Gorban has over eight years of experience supporting law-enforcement agencies with the provision of technical assistance and policy analysis. His research includes community policing and the role of social media in law enforcement. His work includes research, resource development, and information management. He holds a M.S. in Justice, Law and Society from American University and a B.A. in both Philosophy and Justice, Law and Society from American University.

Jennifer Zeunik, Director of Programs, provided overall project management. She worked with project staff in driving toward goals and managing the activity of on- and off-site staff and SMEs. She also served as the control manager on the final report, ensuring report quality. She has twenty years of public sector and nonprofit project management, working closely with all levels of government. In her career, she has strategic management expertise to international, federal, and state clients focused on justice policy research, business development, management, strategic planning, training and technical assistance, and development of strategic communications. She served on numerous published reports throughout her career, including the *Report on Community-Police Relations: Advancing a Culture of Mutual Respect* as well as the COPS Office-funded Police Foundation *Community Policing Assessment of the St. Louis County Police Department* and the *Shooting critical incident report, Bringing Calm to Communities*.

Also on the Project Team

Jim Bueermann, President, provided organizational leadership.

Blake Norton, VP/COO, provided high-level strategic guidance and was one of the primary liaisons to the COPS Office throughout the project.

Joyce Iwashita, Project Assistant, provided project coordination, editing, and technical and mapping support.

ABOUT THE POLICE FOUNDATION

The **Police Foundation** is a national nonmember, nonpartisan, nonprofit organization that has been providing technical assistance and conducting innovative research on policing for nearly 45 years. The professional staff at the Police Foundation works closely with law enforcement, community members, judges, prosecutors, defense attorneys, and victim advocates to develop research, comprehensive reports, policy briefs, model policies, and innovative programs. The organization's ability to connect client departments with subject matter expertise, supported by sound data analysis practices, makes us uniquely positioned to provide critical response and technical assistance (CRTA).

The Police Foundation has been on the forefront of researching and providing guidance on community policing practices since 1985. Acceptance of constructive change by police and the community is central to the purpose of the Police Foundation. From its inception, the Police Foundation has understood that in order to flourish, police innovation requires an atmosphere of trust; a willingness to experiment and exchange ideas both within and outside the police structure; and, perhaps most importantly, a recognition of the common stake of the entire community in better police services.

The Police Foundation prides itself in a number of core competencies that define the foundation for CRTA, including a history of conducting high-quality research, strong data analysis, an Executive Fellows program that attracts the nation's strongest thought leaders and experienced law enforcement professionals, and leadership with a history of exemplary technical assistance.

ABOUT THE COPS OFFICE

The **Office of Community Oriented Policing Services (COPS Office)** is the component of the U.S. Department of Justice responsible for advancing the practice of community policing by the nation's state, local, territorial, and tribal law enforcement agencies through information and grant resources.

Community policing begins with a commitment to building trust and mutual respect between police and communities. It supports public safety by encouraging all stakeholders to work together to address our nation's crime challenges. When police and communities collaborate, they more effectively address underlying issues, change negative behavioral patterns, and allocate resources.

Rather than simply responding to crime, community policing focuses on preventing it through strategic problem solving approaches based on collaboration. The COPS Office awards grants to hire community police and support the development and testing of innovative policing strategies. COPS Office funding also provides training and technical assistance to community members and local government leaders, as well as all levels of law enforcement.

Another source of COPS Office assistance is the Collaborative Reform Initiative for Technical Assistance (CRI-TA). Developed to advance community policing and ensure constitutional practices, CRI-TA is an independent, objective process for organizational transformation. It provides recommendations based on expert analysis of policies, practices, training, tactics, and accountability methods related to issues of concern.

Since 1994, the COPS Office has invested more than \$1.5 billion in hiring and training police officers to the nation's streets, enhance crime prevention initiatives, and provide training and technical assistance for community policing.

- To date, the COPS Office has funded the hiring of more than 13,000 police officers by more than 13,000 of the nation's 18,000 law enforcement agencies, small and large jurisdictions.
- Nearly 700,000 law enforcement personnel, community leaders have been trained through COPS Office-funded programs.
- To date, the COPS Office has distributed more than 100 publications, training curricula, white papers, and other resources.
- The COPS Office also sponsors conferences, roundtables, and workshops on issues critical to law enforcement.

The COPS Office information resources, covering a wide range of community policing topics—from school and campus safety to gun violence—can be found at www.cops.usdoj.gov. This website is also the grant application portal to online application forms.

Following the fatal police shooting of a member of their North Minneapolis community in 2015, a group of residents demonstrated in front of the Minneapolis Police Department's (MPD) Fourth Precinct headquarters, blocking access to the building and occupying the area for 18 days. Though the incident was handled with restraint and did not escalate into significant violence and property damage, the incident provided a number of lessons learned in multiple areas. This COPS Office After-Action Assessment, completed in partnership with the Police Foundation, provides a comprehensive review of the response to the protests from the perspectives of the MPD, elected leaders, and demonstrators and community members. The report presents findings focused on leadership; command and control; response to civil disorder; accountability and transparency; internal communications; public information and media; use of force; intelligence gathering; training; technology; and morale. Though the protests and temporary occupation of the precinct headquarters was a unique incident, the lessons learned can be applied to mass demonstrations, civil disturbances, and similar critical incidents in other communities.



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Implicit Bias versus the “Ferguson Effect”

Psychosocial Factors Impacting Officers' Decisions to Use Deadly Force

By Lois James, PhD, Assistant Professor, College of Nursing, Sleep and Performance Research Center, Washington State University; Lorie Fridell, PhD, Associate Professor, Department of Criminology, University of South Florida; and Frank Straub Jr., PhD, Chief of Police (Ret.), Spokane, Washington, Police Department

A key issue facing the police profession today is the allegation of racial bias in the use of force. This longstanding issue was placed in the forefront with the events in Ferguson, Missouri, in August 2014, and the concern on the part of many community members has been reinforced and bolstered through the accumulating effect of media coverage of police shooting incidents throughout the year that followed. This debate occurs as the police profession, other professions, and the public learn about the science of bias, including implicit bias. Theory and research from psychologists who study human bias help with understanding the various psychological (as well as sociological) forces that might impact police decisions to shoot (or not shoot). Three lines of research shed light on these forces; together these studies identify several factors that might impact an officer's decision to shoot—factors that might produce or eliminate differential responses to Black and White subjects. The three important groups of studies support the following statements:

- Police professionals may use *more* force (or be quicker to use force) against Blacks because, like many

humans, they have a Black-crime implicit bias producing greater perceptions of threat from Blacks than from people of other races.

- The above phenomenon can be countered by high-quality use-of-force training.
- Police professionals may use *less* force (or be slower to use force) against Blacks—possibly putting the officers in danger—out of concern for the social and legal consequences associated with shooting racial and ethnic minorities.

Background

It is well documented that police intervene disproportionately with racial and ethnic minority individuals. Studies have confirmed, for instance, the disproportionate representation of minorities among subjects who are arrested or ticketed,¹ searched,² stopped as pedestrians or drivers,³ or otherwise surveilled.⁴ Disproportionate intervention with minorities has also been documented with regard to police use of force.⁵

Two general explanations have been put forth to explain this over-representation of racial and ethnic minorities among people with whom police intervene. Some have argued that patterns of racial disparity are

consistent with racial minority groups' involvement in criminal behavior and resistance to police intervention.⁶ Consistent with this argument, racial and ethnic minorities are disproportionately on the receiving end of police enforcement actions because of their relatively greater involvement in criminal activity.⁷ In the case of force, in particular, the argument is that greater force is used against racial and ethnic minorities because of this disproportionate criminal involvement and greater subject resistance in incidents with police.⁸

The second explanation is that greater police intervention with racial and ethnic minorities is due to police bias and prejudice.⁹ Arguably, racial bias has been an issue facing the police since the creation of the first police agencies in the United States, and certainly since the civil rights movement in the 1960s.¹⁰ Although these allegations are longstanding, the issue re-emerged with particular potency in the late 1990s and early 2000s with the label of "racial profiling" and is back at the forefront of the national discussion of police and community.

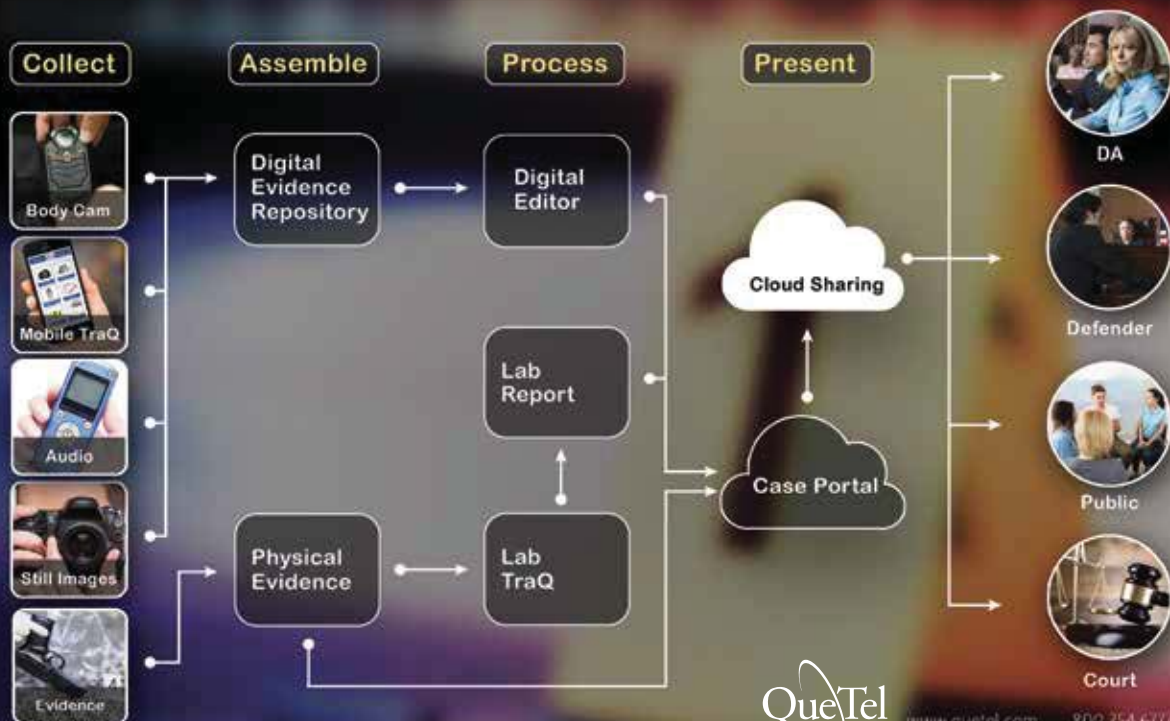
The science of bias has advanced a renewed discussion of police interventions with minorities. Bias researchers identify a difference between "explicit" and "implicit" bias and explain that bias has changed over

time. Early researchers on the psychology of bias reported that prejudice was based on animus toward groups and that a person with prejudice was aware of it. This type of bias is known as "explicit bias"; racism is an example. Bias today is less likely to manifest as explicit bias and more likely to manifest as "implicit" (or unconscious) bias. Social psychologists have shown that implicit bias can impact what people perceive and do. It works outside of conscious awareness and manifests even in people who consciously hold non-prejudiced attitudes.

Three lines of research from this broad literature enhance the understanding of how race might impact officers' use-of-force decisions. The first line of research, on the Black-crime implicit bias, indicates that officers' implicit biases could produce a greater tendency to use force against Black subjects compared to, for instance, White subjects. The good news from a second line of studies is that high-quality use-of-force training seems able to reduce the impact of human biases on police use of force. A third line of research brings an additional factor to light that might impact police officer decisions: a sociopolitical atmosphere that threatens grave consequences for officers who shoot Black suspects, regardless of the reasonableness of those shootings. Such an environment may explain results from this third

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line of studies showing officers using *less* force against Blacks compared to force used against Whites.

Digging deeper into these three lines of research can help police professionals understand the psychosocial factors that may impact officers' decisions to shoot, as well as identify the important implications of the research.

Studies on the Black-Crime Implicit Bias

The findings from the first line of research, indicate that officers—like other persons—have implicit biases that lead them to perceive Blacks as prone to aggression, threat, and violence. Such a perception could produce a greater tendency on the part of police to use force against Black subjects compared to, for instance, White subjects.

In studies related to this theoretical perspective, subjects are required to determine very quickly (within milliseconds) whether a person on the computer screen is a threat or not a threat and to press the “shoot” key when the person is the former and the “not shoot” key when they reflect the latter. For instance, in a 2002 study, non-police subjects faced a computer screen on which pictures of males with objects in their hands flashed up very quickly. Some of the males were White and others were Black; they held either a gun or a “neutral” (i.e., non-threatening) object. The subjects were instructed to push the “shoot” button if the person held a gun and the “don’t shoot” button if he held a neutral object. The researchers measured both time-to-decision (in milliseconds) and errors. The results supported the Black-crime implicit bias. The subjects shot an armed male more quickly if he was Black than if he was White. Conversely, they decided more quickly *not* to shoot an unarmed White than an unarmed Black. The most common errors were shooting an unarmed Black man and not shooting an armed White man.¹¹

Other studies on this type of bias included police subjects and found an impact of suspect race on the speed of decision making. They found that police subjects (like non-police subjects) were quicker to shoot armed Black subjects than armed White subjects, indicating “robust racial bias.”¹² Researchers have also found that a neurophysiological threat response in the brain was more pronounced when participants were faced with Black suspects and that this predicted the speed of pressing “shoot” for armed Black suspects.¹³

Laboratory findings such as these are consistent with recent analyses of officer-involved shootings by the Philadelphia Police Department (PPD). In 2015, investigator George Fachner and a law enforcement consultant, Steven Carter, analyzed Threat Perception Failures (TPF) in officer-involved

shootings. They defined TPF as “mistake of fact” shootings. In these situations, the officer perceives (reasonably or not) that the suspect is armed when he or she is not; this might be due to a misperception of an object (e.g., cellphone versus gun) or actions (e.g., furtive movements). Consistent with the laboratory findings of a Black-crime implicit bias, the researchers found that the shooting of unarmed Black individuals was more likely to be due to TPF than was the case for shooting unarmed individuals of other races.¹⁴

Studies Indicating the Potential of Training to Reduce Bias in the Application of Force

Although the line of research above indicates that police, like other persons, link Blacks to violence and threat, which may impact their decisions to shoot, another line of research indicates the potential value of state-of-the-art training to rein in this human tendency. Simulator-scenario training provides this potential. Even though, as reported, research has found that a subject's race impacted the speed of shooting decisions by both police and non-police subjects, they found a more promising result when they looked at another outcome with their police subjects: errors (i.e., errors such as incorrectly shooting a Black suspect with no gun, or failing to shoot a White suspect with a gun). When researchers compared police and non-police subjects with regard to errors, they found that police officers did not show racial bias in their errors. The researchers linked this result to the possibility that high-quality use-of-force judgment training helps officers override their implicit biases. There also exists some empirical support for this conclusion. A study has shown that bias in officers' application of force disappears when participants are exposed to repeated trials where suspect race and presence of a weapon are unrelated.¹⁵ As discussed further, their “exposure to repeated trials” is consistent with high-quality, scenario-based police use-of-force training.

The “Counter Bias” Studies

Recent research has produced findings that raise the possibility that the atmosphere surrounding police and use of force against minorities may actually lead officers to *hesitate* when facing a threatening Black subject, therefore putting themselves in danger. These studies use state-of-the-art techniques that improve upon the traditional “shoot”/“don’t shoot” methods that have been criticized for bearing little resemblance to a real-life officer-involved shooting.¹⁶

The researchers addressed the limitations of the original “shoot”/“don’t shoot” button-pressing experimental designs by testing police participants in state-of-the-art

simulators similar to those used by law enforcement agencies in the United States and around the world for deadly force judgment and decision-making training. Sixty realistic, high-definition deadly force scenarios were developed based on 30 years of official data on officer-involved shootings in the United States. The scenarios were filmed using professional actors to play the roles of “suspects” and other people (e.g., crime victims and witnesses) in real-world settings. Some of the filmed scenarios depict suspects who are armed with deadly weapons of some sort, while in others the suspects hold innocuous objects such as wallets or cellphones and, thus, present no threat. The dynamic, interactive, life-size video scenarios used in these simulators were made to capture the complexity and emotional content of deadly encounters while maximizing experimental control. Subject race varied in the scenarios; all other variables within a scenario (e.g., demeanor, use of foul language, proximity, clothing style, physical size, location, and speed and subtlety of movement) were controlled, ensuring that any variation in participant decisions was based on a suspect's race.¹⁷

Using this novel methodology, Dr. Lois James (lead author of this article) and her colleagues ran a series of experiments between August 2012 and November 2013 in which 80 police patrol officers from the Spokane Police Department (a mid-size agency with 289 sworn officers) were tested on deadly force judgment and decision making through scenario simulations. These experiments were conducted in the Washington State University (WSU) Simulated Hazardous Operational Tasks laboratory, directed by Dr. Bryan Vila. Participants responded to roughly equal numbers of scenarios featuring White (59 percent) and Black (41 percent) suspects, and within those categories, roughly equal numbers of suspects were armed (56 percent) and unarmed (44 percent).¹⁸

Contrary to the results in the first line of studies described above, the experiments found that the subjects took significantly *longer* to shoot armed Black suspects than armed White suspects in deadly force scenarios. Holding all other variables constant, officers took an average 200 milliseconds longer to shoot armed Black suspects than armed White suspects. When examining shooting errors, they found that officers were significantly *less* likely to shoot unarmed Black suspects than unarmed White suspects, again holding scenario difficulty constant. Officers were slightly more than three times less likely to shoot unarmed Black suspects than unarmed White suspects.¹⁹

These results seem to suggest that officers found the Black subjects to be less threatening, and yet the researchers had



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tested participants' Black-crime implicit bias and found that participants demonstrated strong implicit biases associating Black suspects with weapons, a finding that is consistent with the first line of studies described above. Other factors (including methodological ones) that might explain the findings were discussed, and it was concluded that the most likely explanation for the results is rooted in police officers' concerns about the social and legal consequences of shooting a racial or ethnic minority. Despite the study being conducted *before* the events in Ferguson, it appears the officers may have been concerned about the consequences of shooting a Black male, particularly an unarmed Black male. For example, the officers might have been concerned about departmental discipline, prosecution, media attention, and even the safety of his or her family.²⁰ Support for the possibility that this concern existed even before the events in Ferguson sparked the current debate comes from interviews with police officers; for example, David Klinger, in his book published in 2004, *The Kill Zone: A Cop's Eye View of Deadly Force*, reported multiple instances in which officers voiced concern over the differential treatment of officer-involved shootings based on suspects' race.²¹ One of Klinger's interviewees shared

The press always plays up the racial angle on shootings around here, and that used to affect my thinking about things. I remember this one time... a black guy took a shot at me and my partner and then took off running. When we caught up to him, he was walking towards some citizens with his rifle. I told him several times to drop the gun, but he just kept moving. I yelled, "This is the last time I'm gonna tell you to put the gun down. If I have to shoot you in the back, I'll shoot you in the back. I don't want to shoot you in the back, but I'm gonna shoot you in the back right now!" As soon as I said that, he threw the rifle down. The whole time I was telling him I was going to shoot him, I was thinking, "They'll crucify me on the news tomorrow if I shoot this black guy in the back." That was all it was gonna be: "White cop shoots black man in the back." That was gonna be the extent of the story because that's just what the press preys off of."²²

The Implications of the Aggregate Findings

How does one make sense of these three lines of study? One key question is whether the methodologically superior and more recent studies reflected in the third group disprove the first? That is not the perspective adopted here. Instead, it is likely that these three sets of studies each contribute to an overall understanding of race and police decisions to use force. They highlight

the potential impact on officers of (1) their human biases, (2) use-of-force training, and (3) the police-community environment. The strength of each of these forces will vary across officers, jurisdictions, and time periods and depend on personal characteristics, the nature and frequency of training, and the local and national environments.

What are the implications of the research? Foremost is the need to work through the current U.S. environment wherein police have gone from being the "good guys" to being the "bad guys." Officers need to feel confident that they will be supported when they do their job right and well and punished (whether by the department, the criminal justice system, the public, or the media) only when they do not. A recent Gallup poll found that public trust of the police is the lowest it has been in 22 years.²³ (The lowest rating prior to this was during the federal trial of the four officers involved in the Rodney King incident.) Another poll, conducted jointly by the *Washington Post* and ABC News, found that, at the one-year anniversary of the events in Ferguson, Whites in the United States today are significantly more likely than in years past to say that "Blacks are treated less fairly than others by law enforcement." While most in policing would agree that the police should be held accountable for their actions, right now, the atmosphere is such that every use of deadly force (particularly against minority subjects) seems to be presumed unreasonable until proven otherwise. A number of court cases and trials involving police shootings have been in the news recently, including the following:

- Two officers under indictment in Albuquerque, New Mexico, for killing a homeless man²⁴
- Two former officers in East Point, Georgia, under indictment for a death that occurred following their use of Tasers²⁵
- A North Charleston officer facing murder charges for the death of Walter Scott²⁶
- A former Fairfax, Virginia, officer charged with second-degree murder for shooting a Springfield man²⁷
- Six officers under indictment in Baltimore, Maryland, for the death of Freddie Gray²⁸
- Officers from the University of Cincinnati and Chicago Police Departments facing murder charges²⁹

In the wake of these high-visibility prosecutions, CNN spoke with police researcher Philip Stinson of Bowling Green State University who reported that, during the period 2005 through 2011, there were, on average, 6.5 prosecutions of police for on-duty deaths. Fourteen officers have been charged over the past five months, which produces an "annualized rate of 33.6 cases per year, or more than five times the usual rate."³⁰

Regardless of the merits of the cases individually or collectively, such an environment has an impact on officers, and, indeed, officers report "pulling back" for fear of department sanctions, criminal charges, media attention, and more. On August 7, 2015, in Birmingham, Alabama, a detective was pistol-whipped and knocked unconscious by a Black subject whom he had pulled over. The unnamed officer told CNN why he did not respond with force: "A lot of officers are being too cautious because of what's going on in the media. I hesitated because I didn't want to be in the media like I am right now."³¹

The good news comes from the work being done by agencies across the United States to heal the breach between law enforcement and the diverse communities they serve. This work has been promoted, guided, and recognized by the President's Task Force on 21st Century Policing as well as documents produced by major police organizations, such as the International Association of Chiefs of Police (IACP)'s report on community-police relations.³²

As previously discussed, a key implication of the psychosocial research is the need to heal the breach between police and diverse communities and give back to officers the confidence they need to do their jobs without fear that legitimate actions will draw punishment. A second, very important implication of the research is linked to training. Interestingly, for all three lines of research, the implications for training are the same: Agencies need to provide high-quality, scenario-based judgment training that conditions officers to focus not on demographics, but on indicators of threat.

A concept from the science of implicit bias advances the understanding of how high-quality use-of-force judgment training that uses carefully controlled and realistic scenarios (such as the ones discussed herein) can help to reduce the impact of demographics on the split-second use-of-force decisions that police must make. Social psychologists who study how individuals can reduce their biases point to the potential value of "exposure to counter-stereotypes." This concept is easy to understand. If a person has an association between a group and a stereotype, exposure to members of that group who reflect the opposite of that stereotype can reduce the strength of it.³³

If this concept is extended to police training, video-simulator judgment training wherein the trainees are exposed to counter-stereotypes could serve to reduce differential responses to subjects based on demographics or other appearance factors. This means that the person or persons in the videos who turn out to be a threat to officers in a scenario are just as likely to be women as men, just as likely to be old as

young, just as likely to be White as Black or Hispanic, and so forth. In 2005, a team of researchers used button-pressing “shoot”/“don’t shoot” methods with subjects to see if repeated exposure to counter-stereotypes would reduce the manifestation of bias. Related to the counter-stereotypes theory, the subjects saw pictures (“stimuli”) that were consistent with stereotypes: Black man with a gun (or White man without a gun), but they were just as likely to see counter-stereotypes: a White man with a gun (or a Black man without a gun). The researchers confirmed their hypothesis that repeated exposure to “shoot”/“don’t shoot” stimuli that included counter-stereotypes reduced the biased application of force.³⁴

The key outcome of this training is to focus officers’ attention not on demographics and other aspects of appearance, but on indicators of threat. Making race irrelevant to the force decision is the aspiration for officers whether dealing with a Black-crime bias or the counter-bias effect.

To be most effective, the scenarios should place these counter-stereotypes in ambiguous threat situations. Biases and stereotypes are most likely to impact people when they are facing ambiguous stimuli. The application to force training will make sense with an example: If the threat in a scenario is unambiguous—for instance, the officer enters a room and finds herself facing a person with a gun pointed at her—it is unlikely that demographics (and associated stereotypes) will impact on her decision. It is when the threat is ambiguous that the risk of implicit biases is greatest. An example is the 2014 shooting by a trooper in Columbia, South Carolina. The trooper pulled over a young black male for a traffic violation and, after the man was out of the car, asked him for his driver’s license. The young man quickly turned and reached into the car. The officer, in fear (as indicated by the dashcam video), fired his weapon at the young man.³⁵ This ambiguous behavior on the part of a Black male produced perceptions of threat; likely, if a White woman had acted the same way, the perception (and outcome) would have been different.

Police professionals reading this will recognize that scenarios already exist in judgment training that reflect counter-stereotypes in ambiguous threat situations. The following are questions for the profession and the communities they serve: Is the field providing video-scenario training *enough* to produce the conditioning effect sought? What proportion of officers are exposed to this method of training? And, for those who are exposed to it, is their exposure frequent enough to produce the desired effects? Not all agencies have access to video-scenario training, and, of those who do, many have the resources (including the resources required to take officers off the streets for training) to provide only a minimal amount of exposure to scenarios each year.³⁶

Recent research indicates that fewer than half of agencies provide computer-based scenario training and, of those that *do* provide the training, one-quarter expose their in-service personnel to only one scenario annually.³⁷ (Six in ten expose their in-service officers to fewer than four scenarios annually.) Furthermore, it cannot be assumed that the few scenarios to which officers are exposed contain sufficient demographic variation and the elements previously described. It is not empirically known how much is enough and that research is needed, but, in the meantime, common-sense conjecture of implicit bias researchers is that the more exposure one gets over time (e.g., to judgment scenarios), the more likely it is to produce long-lasting changes.³⁸

Officers put their lives on the line every day to safeguard their communities, and, to provide this protection, they are given the authority to take others’ lives. Because they have this authority, they must be held to high standards, but it cannot be forgotten that they are people like everyone else. They bring biases to their profession and can’t be expected to disregard the inflamed debate on police and race in the United States. The lines of research outlined here identify countervailing forces that can impact officers in their decisions to use deadly force, but, fortunately, the research also provides implications for action. ♦

Lois James, is an assistant professor with the Washington State University (WSU) College of Nursing and a principal investigator in the WSU Sleep and Performance Research Center (SPRC). Her novel methodology of testing racial bias in deadly force judgment and decision-making simulators and her consequent “counter-bias” results—that officers tend to be more hesitant to shoot Black suspects—have received national and international attention. With support from the International Association of Chiefs of Police (IACP) she has recently expanded her research to include the provision of portable simulated “counter-bias” training for agencies across the United States.

Lorie Fridell, a former director of research at the Police Executive Research Forum (PERF), is an expert on biased policing. She has authored and co-authored articles, chapters, and books on the topic. Dr. Fridell has been invited on a number of occasions to speak to various chiefs’ and sheriffs’ associations and police accountability groups. She has provided training or consulting services for a number of U.S. police agencies, as well. With funding from the U.S. Department of Justice, Office of Community Oriented Policing Services and with the assistance from national experts on law enforcement and the social psychology of bias, Dr. Fridell, with Ms. Anna Laszlo, has produced science-based Fair and Impartial Policing curricula for recruits and patrol officers, first-line supervisors, mid-level managers, command-level staff, and law enforcement trainers. Dr. Fridell is an associate professor of criminology at the University of South Florida in Tampa.

Frank Straub, has served in federal, state, and local public safety positions during his 31-year career. Previously, he served as the chief of police for the Spokane Police Department; Director of Public Safety in Indianapolis; Public Safety Commissioner in White Plains, New York; the Deputy Commissioner of Training for the New York City Police Department; and as a federal agent. Dr. Straub holds a PhD in criminal justice from the City University of New York and taught graduate public management and criminal justice classes at John Jay College of Criminal Justice for more than 10 years. He co-authored a book on performance-based police management, as well as articles on community policing, corrections, and the integration of public safety services.

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³⁵"Dashcam Captures South Carolina Trooper Shooting Unarmed Man in Traffic Stop," ABC News, September 25, 2014, <http://abcnews.go.com/US/dashcam-captures-south-carolina-trooper-shooting-unarmed-man/story?id=25749239> (accessed January 4, 2016).

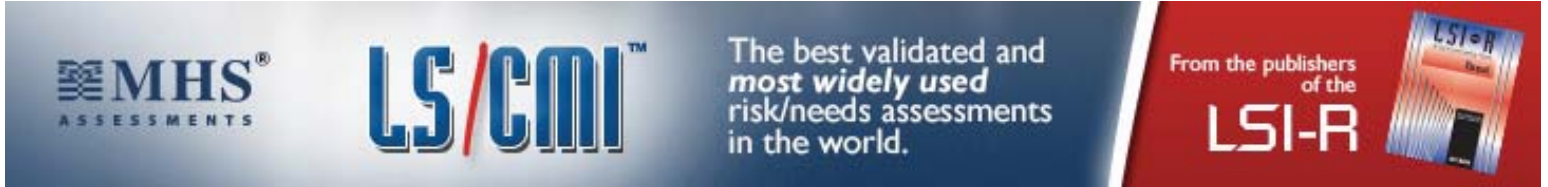
³⁶James and colleagues provide a potential solution to several of these problems with their portable simulation system that is equipped with carefully controlled, highly realistic deadly force scenarios based on 30 years of official data on officer-involved shootings in the United States. Their system can be brought to an agency, making high-quality simulated deadly force training easily accessible nationwide.

³⁷Gregory B. Morrison and Timothy K. Garner, "Latitude in Deadly Force Training: Progress or Problem?" *Police Practice and Research* 12, no. 4 (2011): 341–361.

³⁸Blair, Ma, and Lenton, "Imagining Stereotypes Away."

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Collaborative Reform in Spokane, Washington: A Case Study and Its Implications for Police Reform

Frank Straub, Chief, Spokane, Washington, Police Department



In March 2006, Spokane, Washington, police officer Karl Thompson responded to a robbery call at an ATM. Arriving in the area, Officer Thompson observed an individual who met the suspect's description enter a convenience store, and he followed the individual, Otto Zehm, into the store. Officer Thompson engaged Mr. Zehm, who was unarmed, using force—baton strikes and Taser charges—during the encounter. Other responding officers used body weight and control techniques to arrest Mr. Zehm, who died less than two days after the incident. The Spokane County medical examiner ruled that Mr. Zehm's death was a homicide.¹

The medical examiner's ruling that Mr. Zehm's death was a homicide, paired with the lack of transparency and accountability regarding the police department's investigation of the incident, led to community unrest, protests, and calls for a

federal investigation and police oversight. Three years later (2009), Officer Thompson was indicted by a federal grand jury and members of Mr. Zehm's family filed a federal civil rights lawsuit against the City of Spokane and the nine police officers involved in the incident. In 2011, Officer Thompson was found guilty of violating Mr. Zehm's civil rights.

During a subsequent hearing, approximately 50 Spokane police officers who were present in the courtroom saluted Officer Thompson as he was taken into custody by federal marshals. In 2012, six years after Mr. Zehm's death, Officer Thompson was sentenced to 51 months in federal prison, and the city settled the lawsuit, awarding \$1.67 million to the Zehm family, and agreed to reform the police department.² During the six years (2006–2012) that followed Mr. Zehm's death, community tension and distrust of the Spokane Police Department (SPD) continued to grow as the department did little to repair relations or implement reforms. In fact, the department's lack of community engagement, transparency, and accountability exacerbated community distrust and drove the community's demand for new police leadership, reform, and stronger civilian oversight.

A New Mayor and Police Reform

In 2012, newly elected Mayor David Condon established the Spokane Use of Force Commission "to review and make recommendations to his office regarding SPD's use of force policies and practices, civilian oversight of the police department, and how city agencies respond to cases when it is claimed that an SPD officer has used excessive force."³ After extensive



investigation, expert witness testimony, and public hearings, the Use of Force Commission issued 26 recommendations to reform the SPD. The recommendations included conducting a cultural audit of the department; securing accreditation from the Washington Association of Sheriffs and Police Chiefs (WASPC); establishing a continuing crisis intervention training (CIT) program; improving the investigation of use-of-force incidents; developing and deploying an early intervention system; equipping officers with body-worn cameras; and investing the Office of Police Ombudsman with the authority and discretion to open and conduct independent investigations concerning the operations, actions, or omissions of the SPD.

In October 2012, Frank Straub was hired to lead the SPD, and he moved quickly to begin the reengineering process. Chief Straub put a new command staff in place by promoting talented internal candidates and hiring outside experts. He developed and implemented a strategic plan to focus the department on three critical goals: (1) reducing crime—crime rates had consistently increased during the previous six years, (2) implementing the Use of Force Commission's recommendations, and (3) restoring community trust in the SPD.

Within months of his appointment, Chief Straub requested the assistance of the U.S. Department of Justice's Office of Community Oriented Policing Services (COPS Office) to assess the police department's use-of-force policies and practices and provide technical assistance as the department, the community, and the chief engaged in the reform process.

Collaborative Reform and Technical Assistance

In 2011, the COPS Office established the collaborative reform initiative for technical assistance program (CRI-TA). Collaborative reform is a proactive, non-adversarial, and cost-effective form of technical assistance for agencies with significant law enforcement-related issues. CRI-TA provides a process to create



department-wide reform and improve community trust without a formal Civil Rights Division investigation and monitoring under a consent decree.⁴

The COPS Office uses assessment and technical assistance providers to coordinate the CRI-TA engagements. In Spokane's case, the COPS Office selected the Center for Naval Analyses (CNA) to conduct the assessment and to provide technical assistance.

The CRI-TA focused on the SPD's use-of-force policies and procedures, training and tactics, investigation and documentation, civilian oversight, and community engagement. Over 11 months, CNA subject matter experts interviewed police officers and civilian members of the department; interviewed citizens and community stakeholders; observed SPD in-service training and deadly force review boards (DFRBs); participated in ride-alongs with SPD officers; analyzed 243 use-of-force incident reports (2009–2013); and reviewed SPD policies, training requirements, training manuals, and other related materials within the context of best practices. At the conclusion of each site visit, the chief and SPD's executive team met with COPS and CNA to discuss their observations and "take aways." The sessions provided important opportunities for the department's leadership to comment on the COPS-CNA team's observations; to add context or explanation regarding SPD policies, procedures, training, and practices; and, frequently, to move forward with the implementation of best practices without having to wait for the written report. Throughout the assessment phase, both teams worked

collaboratively to identify 42 findings and recommendations, as well as to develop SPD's implementation schedule and plan.

At the end of the 11-month assessment, COPS issued a 118-page public report in which it identified the 42 findings and recommendations that must be implemented to improve the SPD's use-of-force policies, procedures, training, investigations, administrative review of incidents, and community relations. The findings included inherent problems in the forms used to report use-of-force incidents and inconsistent documentation; rarely issued disciplinary findings or recommendations by administrative review panels; a need to expand the variables captured by the early intervention system (EIS); a lack of formal processes and training for officers promoted to the ranks of sergeant, lieutenant, and captain; the need to sustain and institutionalize the department's community outreach efforts; and the need to formalize the police ombudsman's policies and procedures.⁵

According to the collaborative reform agreement, the city and the police department have 18 months to implement the recommendations. SPD identified subject matter experts (SMEs) within the organization who were identified as the leads on policy, procedure, training, and practice areas. The SMEs report their progress to the program manager in SPD's Office of Police Accountability. The program manager is coordinating the department-wide implementation process and is the primary liaison to the COPS-CNA team. Key members of SPD's team hold biweekly and, when necessary, more frequent discussions with the CRI-TA team regarding the overall implementation process as well as specific recommendations. The COPS Office will monitor SPD's implementation efforts and produce public progress reports at approximately six-month intervals.

The Collaborative Reform Process – A Chief's Perspective

The Spokane collaborative reform report was released in December 2014.⁶ The

first presentation of the report was made to the police department in a town hall forum that was open to all commissioned and civilian personnel. COPS Director Ron Davis, the COPS-CNA team, and the chief and his executive team led an in-depth discussion of the findings and recommendations as well as answering participant questions. A couple of hours later, the public received the report during a press conference at the U.S. Attorney's Office. Following the press conference, Director Davis and U.S. Attorney Mike Ormsby held a community stakeholders meeting to further discuss the findings and recommendations. Approximately a month later, the COPS-CNA team returned to Spokane and held a series of community town hall meetings to further community engagement and to solicit comments.

The Spokane experience has been truly collaborative from the time of the initial engagement. Although the chief moved quickly to implement the Use of Force Commission's recommendations, which led to substantive and meaningful change, he also recognized the need for additional expertise and third-party oversight in the reengineering process. The CRI-TA brought this added dimension to the endeavor. It has and continues to be a significant factor in rebuilding community trust in the reengineering process and the police department.

The city's leaders, the mayor, and city council were well briefed by COPS and CNA at the onset and have provided critical political and financial support to the CRI-TA. The U.S. Attorney's Office continues to work closely with the COPS Office, the SPD, and the community to provide local Department of Justice oversight, support, and validity to the project. The Spokane Police Guild (a labor organization representing police officers, corporals, detectives, and sergeants), as well as the Spokane County Lieutenants and Captains Association, assisted throughout the 11-month review and assessment phase and are integral partners in the implementation phase. The Police Advisory Board, individual community members, faith-based organizations, neighborhood groups, and other organizations continue to play an active role providing input and external review. The CRI-TA has provided a rallying

point for historically disparate groups around a common cause—the reengineering of the Spokane Police Department.

Conclusion

The collaborative reform report concluded that Spokane police officers do not routinely and deliberately engage in excessive use of force or deadly force. They did not find a pattern of biased application of force and observed the department fell within the spectrum of good policing practices. The report also acknowledged the significant efforts made by the chief and his staff to reform the police department, implement the Use of Force Commission's recommendations, and rebuild community trust.⁷

The Spokane Police Department has accomplished much since 2012. In 2014, serious crime was reduced by over 8 percent (violent crime by more than 19 percent and property crime by more than 7 percent), reversing six years of double-digit crime increases.⁸ All 22 police-specific Spokane Use of Force Commission reform recommendations have been implemented, including accreditation by the WASPC.

All commissioned personnel at SPD have completed 40 hours of CIT, and an enhanced crisis intervention team with more than 100 hours of training has been established. In 2014, use-of-force incidents were reduced by 22 percent. By the end of 2015, all 180 uniformed patrol officers will be equipped with body-worn cameras.⁹

Since 2012, the SPD has made tremendous strides in rebuilding community trust through aggressive outreach on multiple levels. SPD has established precinct-based youth-police dialogues and a summer sports program. The department has re-energized its police advisory board, reestablished its citizens' academy, and established an advisory board on minority concerns.

Building on the reform recommendations made by the Spokane Use of Force

Commission, as well as the professionalism and dedication of the women and men who serve in the Spokane Police Department, the COPS CRI-TA engagement has been a “game changer.” CRI-TA has brought third-party oversight, SMEs, best practices, and national standards to the reform effort. As important, if not more so, the CRI-TA has brought political, community, and faith-based groups; police; and other leaders and groups together to collaboratively and thoughtfully reform the Spokane Police Department. ♦



Notes:

¹“Otto Zehm’s Death Ruled a Homicide,” *The Spokesman Review*, May 31, 2006, <http://www.spokesman.com/stories/2006/may/31/otto-zehms-death-ruled-homicide> (accessed September 1, 2015).

²Rob Kauder “Thompson Sentenced to 51 Months in Prison,” KXLY.com, November 15, 2012, <http://www.kxly.com/news/spokane-news/Thompson-sentenced-to-51-months-in-prison/17418782> (accessed September 1, 2015).

³*Draft Report of the Spokane Use of Force Commission*, December 20, 2012, 3, <http://samuelwalker.net/wp-content/uploads/2013/02/SpokaneForceReport2013.pdf> (accessed September 1, 2015).

⁴U.S. Department of Justice, Office of Community Oriented Policing Services, “Collaborative Reform Initiative for Technical Assistance,” April 2015, <http://www.justice.gov/file/cris-fact-sheet/download> (accessed September 1, 2015).

⁵Denise Rodriguez King, Charles Saloom, and Blake McClelland, *Collaborative Reform Model: A Review of Use of Force Policies, Processes, and Practices in the Spokane Police Department* (Washington, D.C.: Office of Community Oriented

Policing Services, 2014), <http://ric-zai-inc.com/Publications/cops-w0751-pub.pdf> (accessed September 1, 2015).

⁶Ibid.

⁷Ibid.

⁸Spokane Police Department, "CompStat Reports," 2015, <https://my.spokanecity.org/police/prevention/compstat> (accessed September 3, 2015).

⁹Ibid.

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