PROTECTING CIVIL RIGHTS:

A Leadership Guide for State, Local, and Tribal Law Enforcement

Prepared by the
International Association of Chiefs of Police

September 2006

Protecting Civil Rights:

A Leadership Guide for State, Local, and Tribal Law Enforcement

September 2006

Dear Colleague:

The International Association of Chiefs of Police (IACP) is pleased to present the new publication, *Protecting Civil Rights: A Leadership Guide for State, Local, and Tribal Law Enforcement*. Funded by the Office of Community Oriented Policing Services, the guide examines the experiences of a wide cross section of agencies proactively engaged in protecting civil rights as well as those that have come under federally mandated monitoring resulting from investigations of patterns or practices of civil rights violations. The guide references the exemplary policies and practices of departments promoting civil rights as well as the content of the consent decrees and memorandums of agreement that individual police agencies have signed with the U.S. Department of Justice. The guide relies on information obtained from focus groups, as well as key advisors in the law enforcement community and the IACP standing committees on civil rights and professional standards. Finally, the guide is informed by the activities and staff of two distinct, yet complementary, agencies within the U.S. Department of Justice: the Special Litigation Section of the Civil Rights Division and the Community Relations Service.

By bringing these sources together, the guide provides a comprehensive overview of the civil rights issues and challenges that today's law enforcement leaders face. It offers practical recommendations for addressing these challenges, but more important, it includes recommendations that encourage leaders to engage in full community partnerships in ways that both protect and promote civil rights.

In short, this effort expresses the conviction that law enforcement leaders can and must learn as much as possible from the perspectives and direct experiences of their professional peers. Through such exchanges, chief executives can gain insights into the best ways to serve their communities using promising strategies and practices that are respectful, ethical, and effective. We hope that all law enforcement leaders will recognize the need for visionary leadership in these areas and will look to this guide as a valuable tool in their ongoing efforts to protect and promote civil rights.

Sincerely,

Chief Mary Ann Viverette
President, IACP
Gaithersburg (Maryland) Police Department

Chief John Finnegan
Barnstable (Massachusetts) Police Department
Chair, IACP Civil Rights Committee

Chief Charles A. Gruber
South Barrington (Illinois) Police Department
Chair, IACP Professional Standards Committee

Acknowledgments

Acknowledgments

Many individuals representing different organizations and professional vantage points on the issue of civil rights in law enforcement made this publication possible. The scope of their direct contributions, advice, counsel, and editorial comments extends well beyond what can be acknowledged here. Contributors and advisors are discussed below under groupings based on their primary affiliation. This format is a matter of convenience and organization; it should in no way detract from the collaborative nature of this endeavor. Indeed, a tremendous amount of overlap and cross-fertilization occurred among these groups as this project unfolded.

International Association of Chiefs of Police: Standing Committees

Two standing committees of the International Association of Chiefs of Police (IACP), the *Civil Rights* and *Professional Standards*, played pivotal roles in this project from inception to completion. Members of these committees are listed in Appendix A and Appendix B, respectively, of this guide. Individual members contributed their unique insights and perspectives. Several are singled out below.

Fittingly, we start with expressing deep appreciation to Barbara "Bobi" Wallace, whose professional commitment to civil rights and personal drive served as an inspiration for this project. Chief Wallace's enthusiasm was contagious. As the chairperson, she was the driving force behind the Civil Rights Committee and its collective embrace of this project. Ms. Wallace was chief of the Community Relations Unit of the FBI at the onset of the project. Although Bobi has since retired from the FBI and stepped down from the committee's chair, her enthusiasm and vision remained driving forces in this effort.

Charles A. Gruber, chief of the South Barrington (Illinois) Police Department and current chair of IACP's Professional Standards Committee, played a role parallel and complementary to Ms. Wallace. Throughout the course of the project his steadfast guidance, insights, and support were vital. The Leadership Guide has benefited immensely from his long-standing professional commitment to civil rights, his role in initiating IACP's Civil Rights Committee in 1990, and his leadership.

John Finnegan, chief of the Barnstable (Massachusetts) Police Department, assumed the chair of the Civil Rights Committee when Ms. Wallace retired. Chief Finnegan's resolute support and direction helped sharpen the practical focus of the guide and helped to integrate it with the broader work of the Civil Rights Committee. Chief Finnegan was instrumental providing feedback as well as in soliciting valuable input and insights from committee members.

As a whole, the Civil Rights and Professional Standards Committees provided support and guidance. Individual members took on various chapters for review and a debt of gratitude is extended to all. A special debt of gratitude is extended to Leonard Cooke, director of the Virginia Department of Criminal Justice Services, for the detailed review that he and his

staff provided across all chapters. Chief Richard Rappoport, Fairfax City (Virginia) Police Department, provided extensive comments and edits on the topic of racial profiling (Chapter 5), a particularly complex and challenging chapter. In the same vein, Chief Charles Reynolds, retired from the Dover (New Hampshire) Police Department, provided keen insights and direction on use-of-force issues (Chapter 4). Chief Susan Riseling, University of Wisconsin—Madison Police Department, contributed perceptive commentary that helped to improve the tone and language of the guide. Chief Patrick Oliver, retired from the Fairborn (Ohio) Police Department, imparted thoughtful insights and edits, particularly on the content related to ethics and community outreach. Chief James Hussey, from the Cohasset (Massachusetts) Police Department, provided commentary and suggestions about the role of personnel management as a means of promoting civil rights.

Project Advisory Group

In April 2004, project staff convened an advisory group in Memphis to discuss the project and the direction it should take. Besides representatives serving on IACP's Civil Rights and Professional Standards Committees, project staff brought together others specializing in civil rights accountability and oversight. Under the umbrella of an advisory group, many individuals representing different perspectives—including academia and persons experienced as monitors for federal consent decree and memorandums of understanding—helped provide direction in the project's early stages. Advisory group members also provided review and direction on substantive content as an annotated outline for the guide was developed and revised. Members of the Project Advisory Group are listed in Appendix C.

Project Focus Group

In April 2005, the IACP convened a group of law enforcement executives from across the nation in Pittsburgh to provide feedback and to help hone a draft of recommendations for law enforcement policies and practices to promote civil rights. This Project Focus Group included representatives from agencies that had successfully navigated federal oversight or were in the process of doing so.

The Pittsburgh Bureau of Police played a key role in helping organize this meeting and provided a wealth of information relevant to its reforms and the successful conclusion of oversight under a federal consent decree. We are particularly indebted to Chief Robert McNeilly (now retired), Deputy Chief Earl Woodyard, and Commander William Valenta (retired), for their assistance, consultation, and their overall contributions to the field, particularly with respect to early intervention strategies. The full list of participants in Project Focus Group is in Appendix D.

U.S. Department of Justice

IACP Leadership and Project Personnel

Many IACP personnel provided guidance, support, and input into this project. Leadership and project staff that had an impact on this work include the following.

Executive Staff

Chief Mary Ann Viverette
President

Eugene Cromartie
Deputy Executive Director

Dan Rosenblatt
Executive Director

John Firman
IACP Research Center Director

Project Staff

John Markovic
Project Director and Principal Author

Major Keven Gray
Maryland State Police
IACP Fellow

Christine Allred
Content Editor and Writing Consultant

Lieutenant Sharon Malloy
U.S. Capitol Police
IACP Fellow

Colin May
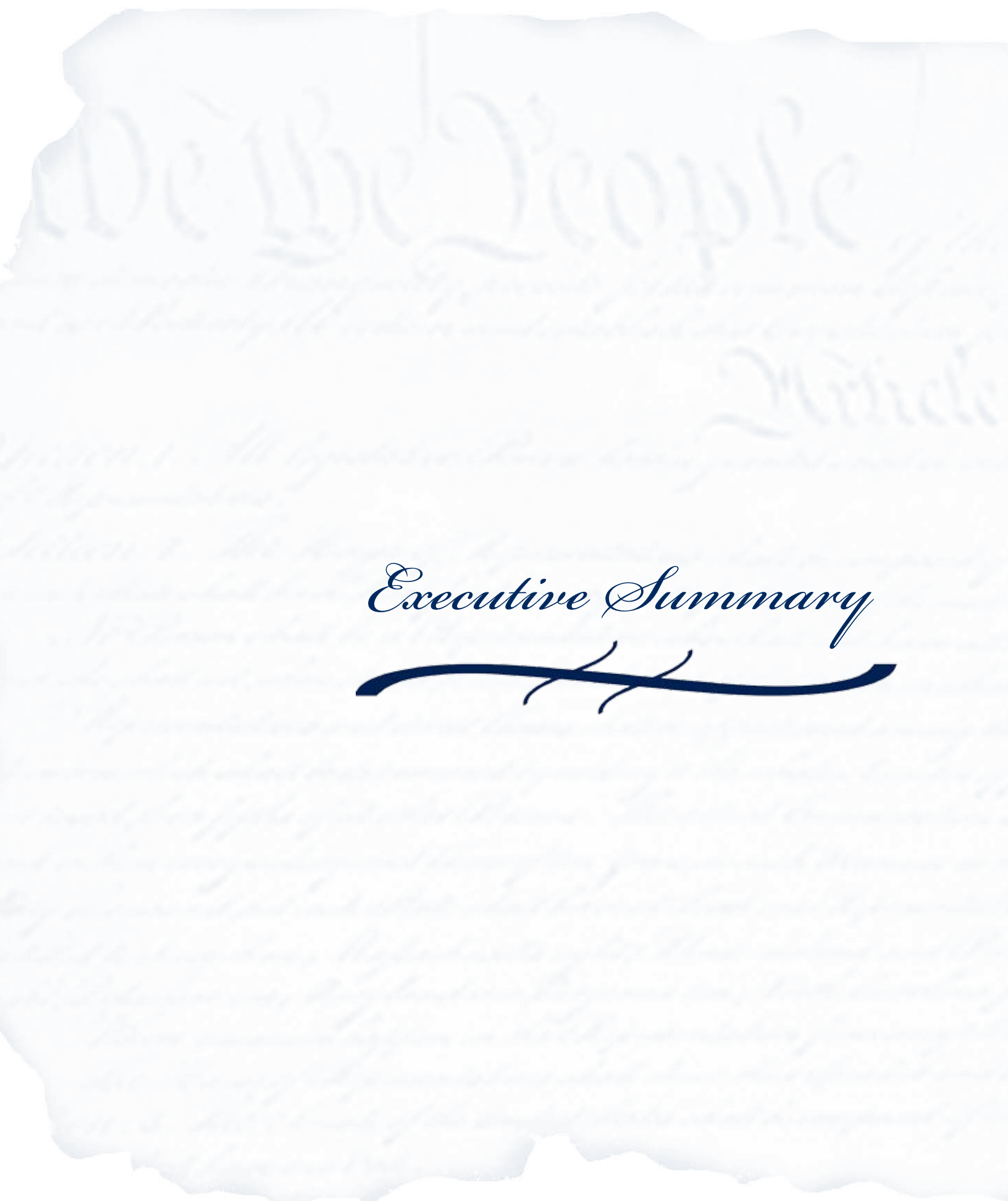*Project Assistant and Contributing Author*

Darron Mason
IACP Intern

Sergeant Steven Brochu
Charlotte-Mecklenburg (North Carolina)
*   Police Department*
IACP Visiting Fellow

Serena Werner
IACP Intern

Lieutenant Ed Dadisho
Suisun City (California) Police Department
(Formerly with Los Angeles Police Department)
IACP Visiting Fellow

Executive Summary

EXECUTIVE SUMMARY

PROTECTING CIVIL RIGHTS:
A Leadership Guide for State, Local, and Tribal Law Enforcement

BACKGROUND

Protecting Civil Rights: A Leadership Imperative

All law enforcement leaders recognize the ethical and legal imperatives to which they and their officers must adhere to ensure that civil rights of all individuals in their communities are protected. Law enforcement officers, in fact, are the most visible and largest contingent of the nation's guardians of civil rights. Every police officer commits to upholding the nation's prime guarantor of rights, the U.S. Constitution, when sworn into office. To be effective, a police department and its individual officers must be seen primarily as protectors of civil rights, rather than agents of social control whose main purpose is to limit individual freedoms. The effectiveness of police in their varied missions—from law enforcement to community service—depends on the trust and confidence of the community. Public trust and confidence are severely reduced when individuals' civil rights are compromised. And when any community perceives that its civil rights are systematically violated by the police, all sense of trust, cooperation, and partnership between the police and that community will be undermined.

Understanding these ethical imperatives, law enforcement leaders must be continually vigilant to ensure that the actions of their officers do not violate civil rights and do not compromise public support. Officers are granted a tremendous amount of authority and discretion to enforce the law, that is, to protect individual rights from being infringed upon by others in the community. At the same time, officers themselves must act within the confines of the Constitution while executing their tremendous power and wide discretion. They must never consider themselves above the law while executing their responsibility to enforce the law. This commitment is what distinguishes police in constitutionally based, democratic societies like ours from police in nondemocratic countries, where they too often are perceived as oppressive agents of a government whose main purpose is to restrict, rather than protect, the rights of civilians.

Across the United States, law enforcement personnel have an overwhelmingly positive record of accomplishment for respecting and protecting civil rights. Leaders should find it heartening and a source of pride that the vast majority of the countless interactions that officers have with civilians result in actions that are conducted lawfully, professionally, and within constitutional boundaries. The fact that the overwhelming majority of police officers routinely respect civil rights under the most trying and volatile conditions is remarkable. Given the risks inherent in police work and the grave consequences that can occur when civil rights are violated, law enforcement leaders must be unwavering in holding their officers accountable. Their officers are vested with authority and discretion that can be abused. Unlike

any other profession, the possibility of violating civil rights, or being perceived as violating civil rights, is inherent in many of the duties officers are required to perform on a day-to-day basis. Unfortunately, the notoriety and harm that arise from even isolated instances of civil rights violations can easily overshadow the vast majority of police-civilian encounters that are performed respectfully and professionally.

Law enforcement leaders bear the tremendous responsibility to ensure that individual officers and units within their agencies uphold the law and its most basic guarantees. Realistically, law enforcement leaders recognize that on rare occasions officers will violate a civilian's civil rights, wittingly or unwittingly. On even rarer occasions, groups of officers or small factions within an agency may act without regard for civil rights, perhaps even asserting that effective law enforcement can come only at the expense of civil rights. Leaders must be resolute in their responses to isolated incidents of civil rights violations to minimize damage and set a clear example. In the case of officers who systematically violate civil rights, their behavior must not be tolerated and action must be decisive and uncompromising. Effective leaders, supported by the managers who serve them, must strive to identify and intervene when officers exhibit potentially problematic behavior *before* it escalates to the point of violating civil rights.

Against this backdrop, the seriousness of law enforcement leaders' responsibility to communicate a consistent and far-reaching commitment to civil rights protections cannot be overstated. Although laws, departmental policy directives, and standard operating procedures are critically important, law enforcement executives' leadership and communication skills are the most critical elements for ensuring that officers regularly exercise sound judgment and engage in professional and ethical policing.

Law enforcement leaders can and must demonstrate a fundamental and complete allegiance to civil rights protections in a coordinated manner using multiple approaches. They must clearly convey a simultaneous commitment to effective law enforcement and civil rights protection; they must codify this commitment in their agency's mission statements; they must ensure that their department's polices are clear, sound, and consistent with civil rights guarantees; they must train and supervise officers in manners that are consistent with this commitment; and they must respond to alleged civil rights violations with vigilance and with fair and decisive action. As law enforcement leaders succeed in these regards and make these efforts transparent to the public, they validate the core premise that civil rights protection is not only an ethical and legal imperative but a practical imperative as well. Protecting civil rights is good for police, good for the community, and essential for maintaining the partnerships that must exist between the two.

Federal Investigations: A Response to "Patterns or Practices" of Civil Rights Violations

Despite the ethical, legal, and practical imperatives to protect civil rights, law enforcement officers occasionally abrogate their oaths. When these unwitting or intentional violations of citizens' civil rights go unaddressed, they can escalate into more widespread *patterns or practices* of civil rights violations that can undermine the credibility of an entire law

enforcement agency and erode public trust and confidence. Moving beyond isolated instances, pattern or practice violations of civil rights comprise an urgent call to law enforcement executives and the municipal, county, or state governments under which they serve to reassume the ultimate responsibility for ensuring that officers uphold their oaths of office and adherence to constitutional guarantees.

During the last decade, the federal government has responded to such situations in the rare, but urgent circumstances where allegations of pattern or practice civil rights violations have arisen. The passage of the *Violent Crime Control and Law Enforcement Act of 1994* (Public Law No: 103-322) enabled the federal government to take action to remedy any pattern or practice of conduct by state and local law enforcement agencies "that deprives persons of rights, privileges, or immunities secured or protected by the Constitution or laws of the United States." In response to this enabling legislation, the Special Litigation Section of the Civil Rights Division of the U.S. Department of Justice assumed the responsibility for investigating alleged pattern or practice civil rights violations and for establishing remedies to such violations.

During the last decade, the Special Litigation Section has investigated an array of alleged pattern or practice civil rights violations including the following:

- Unlawful or excessive use of force
- Inadequate training on use-of-force techniques
- Racial profiling
- Illegal stops and searches
- Intimidation by police
- Harassment of civilians in retaliation for reported misconduct
- Inadequate supervision
- Failure to investigate alleged officer misconduct.

Investigations by the Special Litigation Section resulting in a determination of actionable civil rights violations generally have been resolved through negotiated agreements in the form of memorandums of agreement (MOA) or consent decrees. Through such agreements, the federal government and law enforcement agencies agree to a course of action to correct the patterns of civil rights violations and to remedy the conditions that allowed the violations to occur. Since 1994, 14 agencies have been or currently are under federal monitoring as a result of civil rights violation investigations. While these 14 agencies represent an infinitesimal fraction of the country's nearly 18,000 state, county, local, tribal, and special jurisdictional law enforcement agencies, the impact of these federal investigations and agreements has been and continues to be profound and far-reaching.

ASSERTING A LEADERSHIP ROLE

The very existence of these investigations reminds us of the critical messages and management strategies that law enforcement leaders must assert—or reassert—in their efforts to protect and promote civil rights. Accordingly, the International Association of Chiefs of Police's (IACP) release of *Protecting Civil Rights: A Leadership Guide for State, Local, and Tribal Law Enforcement* is meant to serve as a compass for law enforcement leaders committed to affirmatively addressing civil rights issues. The guide originated in a series of discussions among representatives from U.S. Department of Justice—specifically the Office of Community Oriented Policing Services and the Special Litigation Section of the Civil Rights Division—and the IACP. It realizes their shared conviction that the accumulated knowledge of law enforcement leaders who have undergone a federal civil rights investigation and resultant monitoring, coupled with that of law enforcement leaders who have proactively demonstrated exemplary records of protecting and promoting civil rights, can and should benefit all other law enforcement leaders. To make this accumulated knowledge available to law enforcement leaders, the IACP took several discrete steps.

First, the IACP engaged in a comprehensive review of federal pattern and practice investigatory processes. This review revealed that these processes are constantly evolving. For instance, the Special Litigation Section has increasingly relied on expert consultants with direct law enforcement experience for providing technical assistance to departments under investigation. The investigations themselves have become increasingly transparent to the departments. The IACP's review also revealed that these processes are highly individualized. They are shaped by the nature of the allegations, by the findings specific to each jurisdiction, and by the tone and comprehensiveness of an agency's response. While these investigations often are viewed as adversarial, new leaders with reform agendas and who were intent on resolving inherited civil rights problems, often made the best of these situations. These leaders were committed to responding positively to the direction and assistance that federal intervention could offer and worked with the Special Litigation Section and its consultants to establish cooperative investigatory processes. In fact, several chief executives were instrumental in requesting that the investigations take place. Leadership responses such as these have enabled the Special Litigation Section to work effectively with these agencies and to build on the agencies' preexisting successes.

Second, the IACP engaged in a comprehensive review of the MOAs and consent decrees resulting from these federal investigations. These agreements are of broad value because they condense the insights of formal and extensive inquiries about civil rights violations into clear and practical mandates for new courses of action. These agreements articulate specific remedies for patterns of civil rights violations including the excessive use of force, racial profiling, and other forms of police misconduct. They also address accountability or management practices, such as early intervention systems and critical incident reviews, that can help address and prevent civil rights violations as well as limit department liability. These agreements provide valuable insight for chief executives who are determined that effective law enforcement and the protection of civil rights will be missions that are complementary to their agencies.

Third, the IACP explored other agencies' internal solutions to protecting and promoting civil rights. During the same decade that 14 agencies underwent federal investigation and resultant monitoring for pattern or practice civil rights violations, other agencies addressed challenging civil rights concerns on their own initiatives. In developing the guide, the IACP recognized that these agencies would be an equally important, if not more important, source of insight. Law enforcement leaders in these agencies worked to protect community members' civil rights by proactively enacting sound policies, comprehensive training, far-reaching and close methods of supervision, and more effective systems of accountability.

Finally, the IACP gathered all of this information into this concise, yet comprehensive guide. In its first chapter, *Protecting Civil Rights: A Leadership Guide for State, Local, and Tribal Law Enforcement Leaders* familiarizes law enforcement leaders with federal pattern or practice investigatory processes as well as general resources and strategies available to all departments committed to protecting and promoting civil rights. In the remaining chapters, the guide offers in-depth discussions of the policies, procedures, and practices that are critical to civil rights protection.

For the benefit of law enforcement leaders, the guide crystallizes these in-depth discussions into concise recommendations. In summary, *Protecting Civil Rights* is designed to enable law enforcement leaders to learn from their peers who have engaged in deliberate strategies, both with and without federal intervention, to protect civil rights.

SELECTED RECOMMENDATIONS

Protecting Civil Rights recognizes that the motivation to safeguard civil rights must emerge out of law enforcement executives' visionary leadership, but then must be continually reinforced by internal, and in some instances external, accountability mechanisms. Accordingly, the guide offers recommendations in six substantive areas including early intervention, the civilian complaint process, use of force, racial profiling, personnel management, and data management. The following is a sampling of key recommendations.

Early Intervention Strategies

- **All agencies, regardless of size, should strive to incorporate the core concepts of early intervention into their personnel management practices.** Early intervention strategies, when properly designed and implemented, allow supervisors to address concerns about officers' behavioral patterns before they escalate to a point where discipline would be needed. Many large agencies have now developed sophisticated early intervention systems that rely on computerized data-driven approaches that automatically alert supervisors to potential problems. Any size department, large, medium, or small, however, can use early intervention strategies in its day-to-day supervisory practices without needing to rely on sophisticated technology solutions.

- **Agencies seeking to develop early intervention should look to their peers for ideas, but must recognize that they will have to tailor their own system to their department's needs.** Every department's supervisory and information management practices are unique. Because these practices are at the core of early intervention strategies, there is no one-size-fits-all strategy. Nonetheless, agencies should look to their peers for practical and technological advice on how to plan for and build these systems and then carefully tailor the best features of these external systems to meet their own department's structure, data, and needs.

- **Agencies should strive to include as many stakeholders as possible in the planning of early intervention systems.** Many individuals, groups, and associations have a stake in early intervention strategies. When designing these strategies, agencies should seek input from a wide cross section of internal representatives including rank-and-file officers, supervisors, personnel managers, and data management/information technology staff. Many departments have also found it useful to seek external input by involving the police union and the community in the planning process.

- **Agencies should ensure that supervisors have the appropriate experiences, skills, and training to perform their early intervention responsibilities.** An early intervention data management system is not a panacea for resolving personnel problems and officer misconduct issues. The system will only work as well as those who use it. First-line supervisors must be trained specifically in the use of the system and in making sound early intervention judgments for the system to be an optimal management tool that will result in genuine and effective assistance being provided to officers. The success of early intervention strategies relies principally on first-line supervisors who are trained on, skilled in, and motivated to use these systems.

- **Agencies must ensure that the early intervention system remains distinct from the disciplinary system.** Properly designed early intervention systems are preemptive and can reduce reliance on reactive disciplinary measures. Law enforcement leaders must make certain that these systems operate independently to avoid the perception among officers that early intervention is simply another form of discipline.

- **Agencies should develop a discrete policy directive addressing the purpose and functional elements of the department's early intervention system.** Once an early intervention system is developed, the department should also develop a clear and precise policy that addresses the system's purposes and outlines the processes of notification, review, and intervention when potentially problematic behavior is identified.

The Civilian and Internal Complaint Process

- **Every department should have a clear policy and well-defined practices for handling civilian and internally generated complaints against officers or against the department as a whole.** Clear policies and well-defined practices are critical for the effective functioning of an agency's complaint process. These policies and practices for handling civilian and internal complaints may be treated as a stand-alone section of the department's policy manual or may be embedded within other appropriate policy sections (i.e., Internal Affairs Unit Policy). Civilian complaint data must be systematically analyzed and used for personnel management purposes, to refine policy and training, and as a general barometer of citizen satisfaction.

- **Departments should establish an accessible complaint-filing process that allows for the receipt of complaints about officer misconduct from a wide range of sources.** To respond effectively to concerns raised by the community and by personnel within the department, agencies must ensure that the process of filing complaints is open, accessible, and free of unnecessary inconveniences that would inhibit individuals from filing complaints. Because requiring civilians to file complaints in police facilities can be inconvenient or intimidating, many departments are making civilian complaint forms available at other public places, e.g., at libraries or community centers, and more agencies are allowing civilians to file complaints on agency web sites.

- **Departments should establish complaint investigation processes that are comprehensive and fair.** Departments will receive complaints ranging from the relatively minor grievances of community members who felt that they were treated rudely to serious allegations against officers for actions that would constitute criminal behavior if proven true. A department must set up an investigatory process that takes all complaints seriously and that fairly and effectively deals with this broad range of diverse complaints.

- **Departments should specifically select and train personnel responsible for investigating complaints.** While departments may rely on the chain of command or use specific units (e.g., Internal Affairs) to investigate complaints of police misconduct, they should recognize that such investigations are unique and apart from other agency investigative functions and that they may require different aptitudes and skill sets. Departments should select and train their personnel carefully to ensure that the complaint investigation process is taken seriously and that all investigations are comprehensive, fair, and adequately documented.

- **Departments must protect officers against fraudulent complaints. Occasionally, civilians lodge complaints out of frustration, retribution, or to purposely undermine legitimate law enforcement actions.** Departments must ensure that complaint investigators identify and appropriately dismiss fraudulent complaints through thorough investigation. In such instances, cases should be documented as unfounded and officers should be fully exonerated. Departments should never use fraudulent complaints to assess the officer for early intervention or disciplinary processes.

Managing Use of Force

- **All departments should have a clear use-of-force policy that specifically addresses both deadly and nondeadly use of force and is consistent with all legal and professional standards.** Regardless of size or function, all departments should have a use of force policy with directives on deadly and nondeadly force. These policies must be clear and easy to interpret. The policies should not be less restrictive than applicable state laws or professional standards.

- **A department's use-of-force policy must address all available use-of-force options, clearly place these options on a use-of-force continuum, and associate these options with corresponding levels of subject resistance.** A department's use-of-force options—weapons and techniques—will evolve over time. Departments must continually review and update their use-of-force policies to keep pace with these changes.

- **A department's polices and training should specifically address alternatives to use of force and encourage their use in appropriate circumstances.** While policies and training typically and appropriately address the use of force, they should also directly address alternatives to the use of force. Policies should encourage officers to consider alternative techniques such as verbal judo and containment whenever possible, yet never at the expense of compromising the safety of officers and the general public.

- **Every department should have a clear policy and set of standards for determining what level of force requires formal written documentation by involved officers.** Every use-of-force policy must stipulate the level of force at which a formal written use-of-force report is required. While this threshold may vary depending on individual department's use-of-force options, their practices, and their precedents, the consensus recommendation of the advisors to this project is that any instance of force above "soft-hand control" should be considered a reportable use of force.

- **Every department should have a clear policy and set of standards for determining what level of force requires formal review by the chain of command or a specialized review unit (e.g., critical incident review team).** Similarly, while every use-of-force policy should stipulate at what level of force deployments are to be reviewed, the consensus recommendation of the advisors to this project is that any instance of force above soft-hands control should be considered a reviewable use of force. Systematically reviewing all use-of-force reports above a designated threshold, not just those reports that raise general suspicion, is a critical accountability tool, both for maintaining civil rights and for limiting department liability. Larger departments often develop graduated review protocols that are relevant to the level of force used and potential liability involved. This is based on the premise that deployments of deadly force, for instance, should be more thoroughly reviewed than deployments of nondeadly force.

Addressing Racial Profiling

- **All departments should have a clear and unequivocal departmental policy prohibiting racial profiling and promoting bias-free policing**. Such a policy directive should include a clear and unambiguous departmental definition of racial profiling and related terminology. It must also clearly convey that behavior and evidentiary standards—not race or ethnicity—shall guide police stop-and-search decisions. The policy should be sufficiently restrictive so that it prohibits the use of race-motivated pretext stops (stopping a car for a minor traffic violation when the real motive for the stop is the race or ethnicity of the driver). The policy should articulate the limited circumstances in which race or ethnicity can be used in a decision to take police action. Race and ethnicity can be used as a specific descriptor about a suspect or suspects in a crime. In other words, race or ethnicity should be used in the same manner as other physical descriptors—such as hair color, weight, or gender—might be used in identifying specific suspects. Similar limitations are expressed in the U.S. Department of Justice's "Guidance Regarding the Use of Race by Federal Law Enforcement Agencies" (June 2003) as they apply to investigative circumstances.

  > In conducting activities in connection with a specific investigation, Federal law enforcement officers may consider race and ethnicity only to the extent that there is trustworthy information, relevant to the locality or time frame, that links persons of a particular race or ethnicity to an identified criminal incident, scheme, or organization.

- **Departments must embed the ideals of bias-free policing in their mission statements, training, accountability mechanisms, and community outreach.** While a clear policy against racial profiling is the foundation for bias-free policing, law enforcement leaders must reinforce this policy throughout their departmental practices. Clearly demonstrating intolerance for racial profiling at every turn is critical for limiting acts of racial profiling by individual officers, curbing the community's perceptions of racial profiling, and sustaining trust throughout all segments of a diverse community.

- **All departments must consider carefully whether or not to collect racial profiling data, while every department that collects racial profiling data must abide by applicable state laws and mandates.** To assess the presence or prevalence of racial profiling, many departments are collecting data on traffic stops voluntarily or as a result of state mandates or legal rulings. Departments' efforts to collect, analyze, interpret, and respond to racial profiling data are highly complicated and tend to be expensive and resource intensive. Every law enforcement leader must educate himself or herself about these processes and should complete some level of cost-benefit analysis to determine whether racial profiling data collection are advisable for his or her department. Leaders should also weigh the benefits of proactively collecting such data against the potential costs of having to collect such data reactively and according to methods or rules imposed by outside interests. Above all, it should be recognized that departments that signal their willingness to address racial profiling in a forthright and deliberate manner are in a better position to maintain and enhance their communities' level of trust in the department.

Personnel Management

With the current shortage of recruit candidates that many law enforcement agencies are facing, agency executives are struggling to maintain their authorized staffing levels and have expressed that it is increasingly difficult to compete for the ideal candidates who show a high aptitude for service-oriented policing and an unfaltering respect for civil rights. As a result, executives and personnel management staff must be more proactive and more creative in their pursuit of candidates. The guide addresses these challenges with several recommendations, including the following:

- **Agencies must recruit, hire, and promote personnel in a manner that best ensures that officers throughout the ranks reflect the communities that they serve.** Many agencies have worked diligently to recruit and retain personnel from groups who have historically been underrepresented in law enforcement. While improvements have been made in the recruitment of ethnic and racial minorities and women in many departments, police executives must continue to work closely with their local governments and communities to devise specific strategies to diversify their police agencies. Improved community trust and confidence in the agency and better insights into the community from within the agency are among the benefits of such strategies.

- **Agencies should start the recruitment process early.** Many agencies have found that they can bring in quality applicants by fostering familiarity with the agency and identifying young candidates with a predisposition to a career in law enforcement. Many agencies find some of their most promising candidates, for instance, among members of police explorer troops and participants in Police Athletic Leagues. Departments not currently doing so should consider sponsoring such activities for the specific recruitment benefits, as well as the overall benefit gained through enhanced community outreach and building trust with the youthful members of the community.

- **Agencies should consider changing maximum age restrictions.** While agencies must look to our youth for future recruits, many are recognizing the strengths that experienced adults can bring to law enforcement. Numerous agencies, motivated in part by a commitment to community policing and in part by a move away from action-oriented recruitment, have increased their maximum age restrictions or done away with them altogether. Changing the maximum age restriction welcomes persons with more maturity and life experience who may be better prepared to deal effectively with the stress inherent in policing, be less likely to engage in impulsive actions, and who can serve as mentors to younger recruits.

Data Management

Effective law enforcement leaders collect and analyze volumes of data to enhance their management practices. The policing profession has made tremendous progress in information technology and information-driven management during the last decade. Relying increasingly on CompStat models and problem-oriented policing approaches, law

enforcement leaders have made real progress in measuring crime and disorder and in tracking traditional policing actions such as citations issued, arrests made, and clearance ratios. Increasingly, agencies' data-management practices are becoming more innovative and are more often addressing community engagement and civil rights protection as outcome measures. As many agencies are now enhancing their reliance on data collection and analysis in these areas, the guide offers the following recommendations:

- **Agencies should publicly share data that reflect community policing efforts and key civil rights issues.** Many agencies have become more open and transparent in their efforts to share data with the public. It is now more common, for instance, for agencies to provide summary data about their use-of-force deployments or about their receiving, processing, and disposing of citizen-generated complaints. While agencies must maintain the privacy and confidentiality of individual officers and civilians involved in the process, sharing such data in aggregated form or in sanitized case synopses builds community trust and can help initiate and inform joint problem-solving strategies. Agencies are increasingly tabulating and publishing data about positive civilian-police interactions, including participation in community policing meetings or citizen police academies. These data are often shared with the public through agency web sites or annual reports and can used to target outreach to particular communities that may not yet be sufficiently engaged in partnership with the police.

- **Agencies must recognize that sharing data with the public carries certain risks and involves certain responsibilities.** Agencies sharing data publicly must make certain to put all data in context and discuss the limitations inherent in the collection of administrative data. Data, taken out of context, can be misleading. Law enforcement agencies must be very deliberate in their data-sharing strategies. An increase or decrease in the number of citizen complaints filed, for instance, may reflect positive or negative changes in officers' behavior. These statistical trends, however, may also reflect changes in department policies or in practices governing the complaint process. When agencies take steps to make the complaint process more open and accessible, e.g., through allowing complaints to be filed on the web, they should expect the number of complaints filed to increase. Management should be prepared to explain the reasons for these policy-driven increases and turn them into opportunities for improving public relations, community outreach, and agency assessment.

A Continuing Effort

To some observers, the era of civil rights ended in the 1960s. To others, the equation for balancing civil rights against public safety and security concerns changed abruptly following the terrorist attacks of September 11, 2001. Clearly, today's law enforcement executives are confronted with challenges that they have never before faced and perhaps never imagined. Technology, tactics, laws, and political policies will continually evolve and have an impact on civil rights. While an understanding of historical and contextual factors is important, what remains constant is the fact that law enforcement leaders must keep abreast of promising practices in the areas where policing and civil rights intersect, all while remaining loyal to

the constitutional rights guaranteed to the public they are sworn to serve. This guide was designed with these objectives in mind, but also with the recognition that the issue of civil rights in law enforcement is not static.

The IACP is committed to remaining at the forefront of civil rights issues, including efforts to help devise better ways to measure police success. Success must be broadly assessed and recognized as more than just crime reduction. Success must also be recognized as service to the public, adherence to the democratic principles of openness and transparency, and faithfulness to the direct role that law enforcement plays in protecting and promoting civil rights. Law enforcement's use of evolving technology—including the use of conducted energy devices (CED, commonly referenced under the brand name Taser™) and the use of hot-spot mapping to identify areas for concentrated enforcement—are giving rise to new civil rights issues that the IACP is intent on tracking. Changes in funding priorities, shifting paradigms about policing, and new challenges will continue to evolve. Accordingly, the IACP recognizes that *Protecting Civil Rights* is a living document, one that will require periodic updates.

Content

CHAPTER FOUR
MANAGING THE COMPLAINT PROCESS 81

CHAPTER FIVE
MANAGING USE OF FORCE 113

CHAPTER SIX
ADDRESSING RACIAL PROFILING: CREATING A COMPREHENSIVE
COMMITMENT TO BIAS-FREE POLICING 153

CHAPTER SEVEN
PERSONNEL MANAGEMENT ISSUES IN THE CONTEXT OF PROTECTING CIVIL RIGHTS AND SERVING THE COMMUNITY 193

CHAPTER EIGHT
DATA–MANAGEMENT ISSUES IN THE CONTEXT OF PROTECTING CIVIL RIGHTS AND SERVING THE COMMUNITY 209

APPENDIXES

I. Protecting Civil Rights: A Leadership Guide for State, Local, and Tribal Law Enforcement

PROTECTING CIVIL RIGHTS: A LEADERSHIP GUIDE FOR STATE, LOCAL, AND TRIBAL LAW ENFORCEMENT

> We must scrupulously guard the civil rights and civil liberties of all citizens, whatever their background. We must remember that any oppression, any injustice, any hatred is a wedge designed to attack our civilization.[1]
>
> **President Franklin Delano Roosevelt**

Introduction

Civil rights are the rights and freedoms that every person possesses. In the United States, these rights are embodied in the United States Constitution, in numerous amendments, and by acts of Congress. Although these rights are based on the federal constitution, the 14th Amendment makes them applicable to the states. Civil rights are often categorized into rights of due process, equal protection under the law, and freedom from discrimination. Perhaps the most famous and influential civil rights act, the Civil Rights Act of 1964, extended civil rights protection by making discrimination because of race, color, national origin, or religion unlawful in federally funded entities and other enterprises such as employment, education, housing and public accommodations. Under this act, any state or local government or public interest that receives federal funding is required to abide by this law. While civil rights and minority rights have a clear and important historical association, civil rights in the broadest perspective are basic human rights to which all in our society are entitled.

Law enforcement agencies have the ethical and legal imperative to abide by and uphold civil rights. Indeed, when sworn to duty, police officers commit to uphold the foundation of our civil rights—the United States Constitution. This commitment is embodied, for instance, in the model oath of honor adopted by resolution at the 107th Annual Conference of the International Association of Chiefs of Police (IACP) in 2000:

> 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.[2]

Ideally, all law enforcement officers and agencies uphold their commitment to protect and promote civil rights while enforcing the law. They do this not only because it is an ethical and legal imperative, but because it is a practical imperative as well. From a community outreach perspective, many law enforcement leaders assert that officers who steadfastly protect and promote civil rights succeed where others do not. A fundamental commitment to protecting civil rights is good policy: it is good for the police, good for the community, and good for maintaining the partnerships that exist between the two.

The core principle of this guide is that effective law enforcement and the protection of civil rights are complementary pillars for policing in a democratic society. Law enforcement

leaders who understand this principle will not fall into the trap of believing that effective law enforcement has to come at the expense of civil rights protection.

Despite the ethical, legal, and practical imperatives to protect civil rights, officers occasionally abrogate their oaths. When this occurs—when officers unwittingly or intentionally violate citizens' civil rights—law enforcement leaders must take action. Law enforcement leaders must assume the final responsibility for ensuring that officers uphold their oath of office. This responsibility requires clear commitment and constant vigilance. Law enforcement leaders must address every isolated civil rights violation, or these acts may escalate into widespread patterns or practices that will undermine the credibility of the agency and erode public trust and confidence.

This is a challenging responsibility. In fact, during the last decade, 14 law enforcement agencies have been investigated and have subsequently come under federally imposed monitoring for alleged "patterns or practices" of civil rights violations. While these 14 agencies represent but an infinitesimal fraction of the country's nearly 18,000 state, county, local, and tribal law enforcement agencies, the impact of the investigations has been profound and far-reaching. *Protecting Civil Rights: A Leadership Guide for State, Local, and Tribal Law Enforcement* is, in part, about how lessons learned by agencies under this federal oversight process can be used to enhance the learning of other law enforcement agencies.

There is much to learn. The experiences of the agencies that have been investigated and of those that, as a result, now operate under federal consent decrees or memorandums of agreement (MOA) are compelling. Although facing the scrutiny of a federal investigation and possibly a protracted period of monitoring can be daunting, many law enforcement leaders have responded constructively to the realities of federal oversight. These chief executives have revitalized their organizations' commitments to civil rights. Other law enforcement leaders have even recognized the process as a catalyst to bring about positive and necessary change. Indeed, several pattern or practice investigation requests were initiated by police chiefs.

Other agencies are learning lessons about civil rights protection as well. During the same decade that these 14 agencies have been under federal investigation or have been monitored for patterns or practices of civil rights violations, other departments have been addressing challenging civil rights issues on their own. In many of the latter agencies, executives have worked to protect citizens' civil rights by proactively enacting sound policies, comprehensive training, improved methods of supervision, and more effective systems of accountability. Through these means, law enforcement leaders have identified and responded to challenges such as the excessive use of force, racial profiling, and other forms of police misconduct. In part, *Protecting Civil Rights* is also intended to communicate those lessons learned by law enforcement agencies and communities that have benefited from such proactive leadership.

In summary, *Protecting Civil Rights* offers lessons learned from law enforcement leaders and agencies who have taken reactive and/or proactive steps to protect and promote civil rights throughout their communities. This guide recognizes that the motivation to take these steps emerges out of visionary leadership, but must be continually reinforced by internal and external accountability mechanisms.

The Origins of the Leadership Guide

Protecting Civil Rights originated in a series of discussions among representatives from the U.S. Department of Justice Civil Rights Division-Special Litigation Section (SPL), the Office of Community Oriented Policing Services (COPS), and the IACP. These discussions revealed a shared vision—that the accumulated knowledge resulting from pattern and practice investigations and agreements could provide valuable lessons for law enforcement executives who want to take proactive measures to assure that effective law enforcement, public safety, and the protection of civil rights are complementary missions within their agencies. Accordingly, the guide's recommendations are largely the result of analysis of the provisions imbedded in the consent decrees and MOAs themselves. These mandates reflect the insights of intensive and long-term investigations into civil rights violations. Project staff relied heavily on these agreements to help ensure that this guide is comprehensive and responsive to the full range of areas in which civil rights violations can occur.

Simultaneously, however, project advisors and staff recognized that the efforts of agencies proactively and effectively engaged in the protection and promotion of civil rights would be an equally important source of insight. In searching out insights among agencies that were not forced to reform as a result of federal intervention, staff and advisors quickly learned that the distinction between "proactive" and "reactive" reform was an oversimplification. Some agencies that initially reacted to federal investigations undertook reforms that went beyond the demands of their federal requirements. Accordingly, *Protecting Civil Rights* draws on lessons learned by agencies across the spectrum, including agencies that have dealt with civil rights protection either proactively, reactively, or both.

The advisors and staff of *Protecting Civil Rights* encountered dedicated advocates of civil rights protections among the leaders in many agencies, including those under federal civil rights agreements. In some agencies operating under consent decrees and MOAs, new, reform-minded leaders were intent on resolving the problems that they had inherited and that had given rise to the investigations. In other agencies, existing executives responded positively to the direction and assistance that federal intervention made available. The efforts of all agency leaders to protect and promote civil rights are sources of insight.

Accordingly, this introduction to *Protecting Civil Rights* will familiarize the reader with the processes by which agencies protect and promote civil rights. First, it will acquaint the reader with the process by which agencies with alleged pattern or practice civil rights violations are investigated and monitored. Then, it will review the general resources and strategies available to and used by all departments committed to protecting and promoting civil rights. Such information should enable readers to make practical use of subsequent substantive chapters on community policing, early intervention, the complaint process, use of force, racial profiling, and personnel and data management issues. This introduction will conclude with an overview of these individual chapters.

Federal Investigation and Oversight of Pattern or Practice Violations

The following section offers an overview of the federal role in investigation and oversight of pattern or practice civil rights violations. This specialized area of federal intervention focuses on the conduct of law enforcement agencies and is distinct from processes that address civil rights actions against individuals in law enforcement. Federal investigations and oversight in response to allegations of agencies' patterns or practices of violating civil rights are relatively recent phenomena that have evolved rapidly over the last decade.

Origins

Federal intervention on behalf of law enforcement agencies allegedly exhibiting a pattern or practice of civil rights violations began in 1994. The enabling language came from the Violent Crime Control and Law Enforcement Act of 1994, a multifaceted and far-ranging crime bill perhaps best known for its authorization of federal funding to put 100,000 new police officers on the street. Although other facets of the act—including a federal version of the "three-strikes-rule," an expansion of the list of federal crimes eligible for the death penalty, and an increase in funding for services and enhancement of prosecution in the area of violence against women—were relatively well known, Section 14141, one of the lesser known facets of the 1994 act, expanded the role of the United States Attorney General to affect remediation of systematic misconduct by state or local law enforcement agencies, so-called patterns or practices. The relevant sections of the act follow:

> **United State Code**
>
> Title 42 - The Public Health And Welfare
>
> Chapter 136 - Violent Crime Control And Law Enforcement
>
> Subchapter Ix - State And Local Law Enforcement
>
> Part B - Police Pattern or Practice
>
> **(a) Unlawful conduct**
> It shall be unlawful for any governmental authority, or any agent thereof, or any person acting on behalf of a governmental authority, to engage in a pattern or practice of conduct by law enforcement officers or by officials or employees of any governmental agency with responsibility for the administration of juvenile justice or the incarceration of juveniles that deprives persons of rights, privileges, or immunities secured or protected by the Constitution or laws of the United States.
>
> **(b) Civil action by Attorney General**
> Whenever the Attorney General has reasonable cause to believe that a violation of paragraph [a] has occurred, the Attorney General, for or in the name of the United States, may in a civil action obtain appropriate equitable and declaratory relief to eliminate the pattern or practice.[3]

The Definition of "Pattern or Practice"

Section 14141, which makes government agencies directly responsible for unlawful conduct of their employees if that behavior rises to the level of a pattern or practice, was considered precedent setting. *Individual* actions of law enforcement officers that constitute civil rights violations have long been actionable in federal courts under Title 42, Chapter 21 § 1983. The 1994 act, however, gave the U.S. Department of Justice authority to hold law enforcement agencies responsible when individual actions formed a "pattern of misconduct" or were part of "systematic practices underlying the misconduct."

Federal courts have defined the meaning of "pattern or practice." According to a Supreme Court ruling in an employment discrimination case based on the Civil Rights Act of 1964, the term "pattern or practice" is not to be construed as a "term of art," but rather as "words [that] reflect only their usual meaning."[4] The Court indicated that these words were intended to apply "only where the denial of rights consists of something more than an isolated, sporadic incident, but is repeated, routine, or of a generalized nature."[5]

Based on Section 14141, federal courts can order local or state government agencies to eliminate patterns or practices deemed unlawful. Two criteria must be met for a case to be actionable under Section 14141. First, as discussed, the alleged misconduct must constitute a pattern or practice, not just individual or sporadic acts. Second, that misconduct, if proved true, must constitute a violation of federally protected civil rights.

Federal Investigation and Oversight Responsibility

In response to the 1994 act, the Special Litigation Section (SPL) of the Civil Rights Division (officially abbreviated as CRT)[6] of the Department of Justice was given the responsibility of reviewing and investigating alleged misconduct and enforcing Section 14141. One of 12 sections of the CRT, the SPL is responsible for enforcing federal civil rights pattern or practices in the following four areas:[7]

> (1) Conditions of institutional confinement.
> (2) Law enforcement misconduct.
> (3) Access to reproductive health facilities and places of religious worship.
> (4) Protection of institutionalized persons' religious exercise rights.[8]

For the purposes of this guide, we are concerned with pattern or practice violations as they relate specifically to law enforcement misconduct. The Civil Rights Division's web site describes the SPL's work in this area as follows:

> The Special Litigation Section enforces the police misconduct provision of the Violent Crime Control and Law Enforcement Act of 1994, which authorizes the Attorney General to seek equitable and declaratory relief to redress a pattern or practice of illegal conduct by law enforcement agencies or agencies responsible for the administration of juvenile justice. The Section also enforces the Omnibus Crime Control and Safe Streets Act of 1968, which authorizes the Attorney General to initiate civil litigation to remedy a pattern or practice of discrimination based on race, color national origin, gender or religion involving services by law enforcement agencies receiving financial assistance from the Department of Justice.[9]

The SPL is located in Washington, D.C., but occasionally acts in coordination with regional U.S. Attorneys' offices. All Section 14141 reviews are civil actions, not criminal. This does not preclude the fact that criminal actions, initiated by another component of the Department of Justice or local authorities, may be simultaneously directed at individuals for specific acts.

Patterns or Practices Addressed

On the basis of the 1994 act as well as other such acts, the CRT has addressed an array of alleged pattern or practice violations. The CRT has addressed patterns including, but not limited to, the following:

- Unlawful or excessive force, including unjustified use of deadly and nondeadly force
- Racial profiling or discriminatory enforcement based on race, ethnicity, gender, or other group status
- False arrests
- Harassment of civilians in retaliation for reported misconduct
- Illegal stops or searches
- Intimidation.

On the basis of the 1994 Act, the CRT has also addressed systematic practices—or the absences of practices—including the following:

- Inadequate training on use of force and other law enforcement techniques
- Inadequate supervision
- Failure to adequately investigate allegations of officer misconduct
- Failure to address misconduct through appropriate means (e.g., training, retraining, discipline, or other forms of intervention).

The Stages of Federal Investigation and Oversight

The process that the CRT and, in particular, the SPL use to address alleged pattern or practice violations can be understood as a series of steps that parallel, in many ways, the processes that law enforcement agencies themselves use in the investigations they carry out. Although federal investigatory processes are guided by clear legal standards, they often are quite fluid. In fact, both the investigatory processes and the resolution depend on the nature of the allegations. Investigatory processes may also be affected by the level of cooperation provided by the agency under investigation and may vary as the findings of the investigation unfold. In reality, the investigation and resolution of every pattern or practice case conducted by the CRT have been unique. Not only have they been individually shaped by the nature of allegations, findings, and agency responses, but the CRT's response to investigating and responding to pattern or practice allegations during the last decade has quite naturally evolved. When compared to other legal traditions in the United States, pattern or practice investigations and the resulting oversight of law enforcement agencies are still developing.

As a result, detailing a standard set of circumstances that will suggest definitively when an agency can expect a federal investigation or how that investigation will proceed is not possible. However, common stages and general patterns within the investigatory process have been established. The following discussion outlines five stages in the investigation and

resolution of federal pattern or practice complaints, and identifies some of the variations that may occur as such investigations unfold.

Stage 1: Alleged Activities Come to Light

Federal investigations of the past decade reveal that allegations of pattern or practice violations may come to the attention of the SPL in a variety of ways. The SPL may be apprised of police misconduct allegations through complaints brought directly by individuals, advocacy groups, local political officials, police personnel, or local prosecutors. In addition, allegations of civil rights violations may come to the attention of the CRT through the media or through civil or criminal suits filed in local or federal courts. Oftentimes a combination of allegations and events give rise to the CRT's involvement. The following examples demonstrate the variety of ways in which the CRT is alerted of the need for investigation:

- The investigation of the Pittsburgh Bureau of Police stemmed from a 1996 lawsuit filed by the American Civil Liberties Union on behalf of the NAACP, a community group called Parents Against Violence, and 66 individuals alleging various forms of police misconduct.
- The investigation of the Prince George's (Maryland) County Police Department followed a series of incidents, including a number of high-profile shootings, instances in which suspects and bystanders were bitten by canines, and a number of large jury awards. The incidents, dating to 1995, sparked heated media and public attention and resulted in investigation by the FBI and then the CRT.
- In 1999, Washington, D.C. Mayor Anthony Williams and Chief Charles Ramsey of the Metropolitan Police Department requested an investigation of the department to assess potential patterns of excessive use of force.
- In 2002, Mayor Charles Luken of Cincinnati requested that CRT review the police department's use of force. The mayor's request came after several days of civic unrest following a police-involved shooting.

Stage 2: Initial Assessment

During an initial assessment, the CRT determines whether it has authority to pursue the case that has come to its attention. In this stage of the process, the primary objective of CRT attorneys is to determine whether a particular allegation would constitute a federal pattern or practice violation if it were proven true. CRT staff gathers relevant information from a variety of sources. Specifically, CRT staff may attempt to obtain information from the complainant or may access media sources to determine whether patterns of violations are evident. CRT staff may also obtain information about civil suits, criminal proceedings, or legal documents related to the underlying complaint. For instance, if concerns were raised about a pattern of excessive use of force, CRT staff would obtain relevant public documents. CRT staff may also interview persons whose civil rights were allegedly violated as well as advocacy or special interest groups. In accord with various state laws, CRT staff will not interview police personnel at this stage.

When an initial assessment "does not produce evidence tending to support the existence of a pattern or practice violation," the preliminary inquiry is closed.[10] When an initial assessment does discover evidence that tends to support the allegation, internal memoranda, subjected to a thorough, multistage review, are prepared. These memoranda may culminate in a recommendation from the head of SPL within the CRT to the Assistant Attorney General (AAG)

seeking to investigate. The AAG makes a final determination about whether to proceed with a formal pattern or practice investigation.

Stage 3: Formal Investigation
The formal investigation begins when CRT notifies the jurisdiction that a pattern or practice investigation will take place. This notification typically takes the form of a letter to the agency's legal counsel, most often preceded by a telephone call. At this stage, CRT investigations become comprehensive and far-reaching. Investigations routinely include the following:

- An inventory and thorough assessments of an agency's relevant policies and procedures
- A review of training documents and practices
- A review of accountability and disciplinary practices
- An assessment of routine police activities, including direct observation of training sessions and participation in patrol ride-alongs
- A request for and a review of relevant forms, such as use-of-force report forms and citizen complaint forms
- During the formal investigation, in-depth interviews are typically conducted with police command staff and all relevant stakeholders, which typically include rank-and-file officers, police union representatives, and parties who believe they were subject to police misconduct. The parties interviewed are not necessarily limited to the complainants.

A Two-Part Process
The formal investigation typically falls into two phases. The first phase focuses on the collection of available documentation in the form of policies and procedures as well as interviews with rank-and-file officers. Once this phase is completed, the second phase begins as CRT staff request relevant documents about police behaviors and actions being investigated. Documents requested could include those such as use-of-force reports, arrest reports, or citizen complaint forms. They may also request documentation of investigatory proceedings related to use-of-force or misconduct investigations.

While awaiting the receipt of the requested forms and internal investigatory reports, CRT staff routinely complete a technical assistance letter. This letter outlines the findings of the first phase of the formal investigation and makes recommendations. This letter, however, does not determine whether a pattern or practice of civil rights violations has occurred.

> ### Technical Assistance Letters
>
> Regardless of whether an investigation results in a finding of a pattern or practice violation, the CRT spends considerable time conducting investigation, particularly in assessing agency policies and practices and in engaging the technical assistance of experienced police practice consultants. The CRT routinely provides technical assistance letters to agencies while they are under investigation. In effect, these letters itemize the deficiencies found during the investigation and make recommendations about remedies. This technical assistance goes beyond a focus on policies and practices to address issues such as supervision and

accountability. Since technical assistance letters are offered before the formal investigation is completed and before final determinations are made, they carry no implication as to whether a pattern or practice violation has occurred. In essence, city officials, police chiefs, and city attorneys are being notified of areas of deficiency that do not necessarily reach the threshold of unconstitutionality.

As pattern or practice investigations have evolved over the last 10 years, CRT has relied more heavily on subject matter consultants with direct law enforcement experience, and has provided technical assistance letters and exit interviews throughout the course of the investigation, rather than just at the end. This reflects a conscious shift toward more transparency in the investigation process and has resulted in a greater emphasis on technical assistance as opposed to relying solely on adversarial legal processes.

Tone of Formal Investigations

Although the investigation is formal, at this point the cooperation of the department under investigation is voluntary. Departments are under no legal obligation to cooperate, and the CRT has no subpoena power at this stage.

During the decade that the CRT has been involved in these investigations, the level of cooperation received from departments has varied. Some departments have been highly compliant to requests for information and, in these instances, the tone of the investigation can be described as cooperative. Other departments have been resistant to the CRT's requests. Although, over the decade, the tone of the investigations has generally reflected a greater spirit of cooperation, the balance of power in the relationship between the CRT and the law enforcement agency clearly rests with the CRT. For its part, the CRT has increasingly relied on consultants in various areas of expertise with direct law enforcement experience to provide technical assistance.[11] The CRT has also consciously shifted toward a more transparent investigatory process.

It is important to note that an agency's failure to cooperate will not terminate the CRT's investigation. Instead, the investigation will continue and CRT's findings will be based on sources from outside the department who are willing to cooperate.

It is also important to note that while agencies usually are not required to participate voluntarily in investigations, The Omnibus Crime Control and Safe Streets Act of 1968[12] stipulates that agencies must cooperate if the allegation of pattern and practice is based on race. Agencies with federal funding risk losing their funding, depending on the outcome of a hearing.

A Time-Relevant Process

While past patterns or practices that formed the basis of the complaint are relevant for screening purposes, CRT's main objective in the investigation is to determine how the department is operating at the time of the investigation. In some instances, departments

have already begun to make changes before or during CRT's formal investigation. If such is the case, CRT will acknowledge such progress and attempt to work with the department to build on these successes. Department cooperation can be recognized in letters from the CRT outlining investigatory findings. An excerpt from an investigatory findings letter to the Washington (D.C.) Metropolitan Police Department is illustrative.

> We recognize that in the past two years, MPD has achieved a significant reduction in the rate at which it uses deadly force and the rate at which its canines bite subjects. In 1998, eleven fatalities resulted from MPD's use of deadly force. Fatalities decreased to four in 1999 and to two in 2000. Due to important changes in its canine operations, over the same time period, canine bites have decreased from occurring approximately 70 percent of the time that canines are deployed to slightly over 20 percent.[13]

Stage 4: Determination of Action

Following the formal investigation, the CRT must determine whether a case is actionable. It makes this determination on the bases of the investigation's findings and the steps that departments may have already taken to remedy civil rights violations. Three basic determinations are possible:

1. No pattern or practice violation is found to exist at the time of the investigation.
2. A pattern or practice violation is found to exist and the CRT and law enforcement agency come to a negotiated agreement involving the government entity—municipality, county, or state—which funds and oversees the law enforcement agency.
3. A pattern or practice violation is found to exist and the CRT files a formal suit in federal court.

The vast majority of pattern or practice investigations that have resulted in a determination of actionable civil rights violations have been resolved through negotiated agreements in the form of either a consent decree or an MOA. At present, 14 jurisdictions have been signatories to 16 separate consent decrees or MOAs. Several agencies now operate under two federal agreements. In June 2003, the Detroit Police entered into two separate consent judgments—agreements analogous to consent decrees. One of these deals with issues regarding the use of force and one deals with arrest and detention policies and practices. In January 2004, the Prince George's County Police Department entered into an MOA regarding the general use of force and a consent decree with respect to use of canines as a force option.

To date, only one investigation—involving the Columbus (Ohio) Division of Police—has resulted in a formal suit. Before being adjudicated, however, that suit was set aside after a letter of resolution was submitted by the mayor of Columbus that specified numerous remedies that the police department would undertake. In this particular case, the remedies set forth in this letter were considered acceptable by the Assistant Attorney General for Civil Rights.

<u>Consent Decrees and Memorandums of Agreement</u>
Whether an investigation results in a consent decree or an MOA, the basic outcome is an extensive list of provisions with which the agency promises to comply and for which a federally approved monitor provides oversight for a specified time period. In general terms, an MOA is an agreement between the department and the CRT that details specific remedies to correct the patterns and practices of civil rights violations found during the investigatory stage. A consent decree results in a similar set of specific remedies, but takes the form of a judicial decree. As stipulated in both consent decrees and MOAs, the law enforcement agency admits no fault or liability, but in effect agrees to cease certain practices and to engage in specified remedies. On its part, CRT asserts within the agreement that it is acting pursuant to Section 14141 in seeking "declaratory or equitable relief to remedy a pattern or practice of conduct by law enforcement officers that deprives individuals of rights, privileges or immunities secured or protected by the Constitution or laws of the United States."[14]

In practice, the individual consent decrees and MOAs have been negotiated agreements involving the police agency, superseding government agency (e.g., the mayor's or city manager's office), and the Department of Justice. Some agreements, such as the MOA for the Buffalo Police Department, also include the police union as a signatory. Whether an investigation culminates in a consent decree or MOA may depend on a variety of factors. Included among these is the likelihood that compliance can be achieved cooperatively and with full support from within the department and city leaders. If an agency has demonstrated cooperation and progress in remedying problems during the investigatory phase, the CRT may determine that an MOA is a better vehicle to co-facilitate reform. Flexibility in this process of determination allows the CRT to respond to particular circumstances. In the case of the Prince George's County Police Department, for instance, the investigation of excessive force resulted in two agreements. An MOA was signed with provisions on general use-of-force policies, training, and accountability while a separate consent decree was signed to address policies, training, and accountability specifically related to canines as a use-of-force option.

Stage 5: Independent Monitoring
Consent decrees and MOAs generally establish a period of formal and systematic federal monitoring of the law enforcement agency investigated. In fact, all existing consent decrees and MOAs have resulted in such oversight. Ideally, the independent monitoring or auditing function is held by a mutually agreeable person. In the case of consent decrees, if parties cannot arrive at a mutually agreeable person within a reasonable period, the court determines the appropriate monitor from a list provided by the parties. In the case of MOAs, the process is similar, but is not decided by the court. For instance, the MOA may include provisions that an independent third party, rather than the court, should resolve any impasse in selecting a mutually agreeable monitor.

Because of the extensive authority, influence, and responsibility that this monitor will hold, the fact that an agency has a role to veto a monitor can be crucial. The authority and key responsibilities of the monitor include, but are not limited to, the following:

- The monitor is to be given access to all relevant documentation, including policy directives and training material bearing on the provisions.
- The monitor is to be given access to records and data systems to assess compliance and conduct quality assurance analysis. This may include access to use-of-force reporting forms and the early warning system.
- The monitor is to be given access to department personnel for purpose of assessing compliance.
- The monitor is to report on a regular basis regarding the agency's compliance with each provision articulated in the consent decree or MOA.

As with the investigatory process and the drafting of agreements, independent monitoring is guided by clear policies that allow for some level of flexibility. In several agreements the role of the monitor has included both oversight and consultative services. Indeed, technical assistance is often formally included as part of federal agreements. This is illustrated by the following excerpt from the Steubenville (Ohio) Police Department consent decree:

> The auditor shall offer the City technical assistance in coming into compliance with this Decree, including with: policy development, forms, training, management information systems. The auditor shall perform the policy review function specified in the Decree, and also shall audit and evaluate compliance with the Decree.[15]

An experienced monitor can help the department make sense of the complex and extensive provisions of the consent decree or MOA by breaking them down into a comprehensible and actionable set of steps. Most important, a cooperative and constructive relationship among the law enforcement agency, the independent monitor, and the Department of Justice can help set the foundation for continued accountability once the federal agreement has been terminated and monitoring is no longer taking place.

Duration of Federal Investigation and Oversight

Federal investigations and the resulting monitoring are labor-intensive for departments and for the CRT. Still, the Department of Justice seeks to complete investigations and its monitoring function in a responsible and timely manner. The DOJ web site, last updated in January 2003, states that the CRT will attempt to complete investigations within 18 months from the time it begins the formal investigation.[16] The document further states, however, that this length of time can be affected by the complexity of the case, the existence and quality of related documentation within the agency, and the degree of cooperation. In some instances, cooperation may actually serve to lengthen the investigatory phase. If the agency has begun to implement meaningful reforms that may bear on its patterns or practices, the CRT may wish to wait until those reforms have taken effect before concluding its investigation and making a final determination. Other factors may also lengthen the duration of an investigation. For instance, if separate criminal investigations are underway, the SPL may defer to that investigation and wait for it to be completed before commencing its investigation.

The minimal length of time for which monitoring must take place and the conditions that must be met before federal monitoring is terminated are specified in detail in the language of the consent decrees or MOAs. The exact conditions of monitoring have evolved over the time that pattern or practice have been in use. The first consent decree, signed in Pittsburgh in December 1999, established the following provisions regarding federal oversight:

> At any time after five (5) years from the date of entry of this Decree, and after substantial compliance has been maintained for no less than two years, the City may move to terminate this Decree. Any motion to terminate must detail all aspects of the City's compliance with each provision of this Decree, supported by affidavits and supporting documentation.[17]

While the next two consent decrees, those with the Steubenville (Ohio) Police Department and the New Jersey State Police, followed this precedent, subsequent agreements have reduced the minimal time of required oversight. For instance, the Prince George's County (Maryland) Police Department consent decree, signed in January 2004, stipulated a 3-year follow-up period with 2 years of substantial compliance.

The Potential Benefits of Federal Investigation and Oversight

The CRT's investigation and monitoring processes are structured but do afford a certain amount of fluidity that can be of benefit to individual agencies and prudent leaders. As civil rights violation investigations proceed, these investigations can develop into cooperative processes in which CRT staff and consultants with law enforcement expertise provide needed technical assistance to the agency. Some law enforcement leaders actually find that meeting the CRT half way and facing the realities of reform is a necessary and productive, though not necessarily easy, path. The Pittsburgh Bureau of Police was the first agency to emerge from federal monitoring under Section 14141. It has been widely acclaimed for its success. The study, *Turning Necessity into Virtue: Pittsburgh's Experience with a Federal Consent Decree*, chronicles how the department effectively managed the oversight process. This report found that Pittsburgh Bureau of Police went beyond the spirit of the agreement in Its implementation of comprehensive early intervention system that improved policing practice and helped to ensure protection of civil rights.[18]

Additional Federal Assistance: The Community Relations Service

Other forms of federal assistance are available to agencies committed to addressing civil rights challenges, problems, or concerns. In fact, law enforcement agencies need not reach the crisis of a pattern or practice violation or a community demonstration alleging biased based policing before seeking out the aid of the federal government. Another division of the Department of Justice is empowered to assist individual law enforcement officials, community leaders, or advocacy groups to deal with civil rights-related issues

This division, the Community Relations Service (CRS), has had substantial experience in bringing police agencies and communities together where racial conflict, the potential for violence, or actual violence related to race, color, or national origin have inhibited cooperation. Since its inception more than 4 decades ago (1964), CRS has facilitated hundreds of mediation agreements designed to resolve civil rights conflicts between

communities and local and state entities, including law enforcement agencies. CRS operates 10 regional offices and 4 field offices across the country. CRS services are free, neutral, and confidential. The work takes place in accordance with its mission statement, available on the CRS web site (www.usdoj.gov/crs):

> The Community Relations Service is the [U.S. Justice] Department's "peacemaker" for community conflicts and tensions arising from differences of race, color, and national origin. Created by the Civil Rights Act of 1964, CRS is the only Federal agency dedicated to assist State and local units of government, private and public organizations, and community groups with preventing and resolving racial and ethnic tensions, incidents, and civil disorders, and in restoring racial stability and harmony. CRS facilitates the development of viable, mutual understandings and agreements as alternatives to coercion, violence, or litigation. It also assists communities in developing local mechanisms, conducting training, and other proactive measures to prevent or reduce racial/ethnic tension. CRS does not take sides among disputing parties and, in promoting the principles and ideals of non-discrimination, applies skills that allow parties to come to their own agreement. In performing this mission, CRS deploys highly skilled professional conciliators, who are able to assist people of diverse racial and cultural backgrounds.[19]

Historically, CRS has been a low-profile agency. This is the result, in part, of a provision in its enabling legislation that requires the agency to provide conciliation assistance in confidence and without publicity. CRS work can become public when parties to the conciliation or mediation choose to make their agreements public. Mediation agreements between a law enforcement agency and a community based organization are sometimes made public as a demonstration of the agency's proactive community policing initiative. In the accompanying text box, this guide provides examples of successful community/police agreements that have become public.

Spotlight on the U.S. Department of Justice Community Relations Service

As mentioned in the introduction to this guide, the Community Relations Service (CRS) within the U.S. Department of Justice provides mediation and conciliation services to communities and to the local and state government agencies that serve these communities. In accordance with its mandate, CRS assists community and government agencies in addressing conflicts and tensions arising from differences of race, color, and national origin. CRS offices are geographically organized into regions, with regional and field offices as indicated in the map below. A list of the specific locations and contact information for these offices is available on the CRS web site and is provided in Appendix E of this guide. The CRS National Headquarters is located in Washington, D.C.

Map of Regional and Field Offices
Community Relations Service

Legend
CRS Office Locations
Office Type
● Regional
■ Field
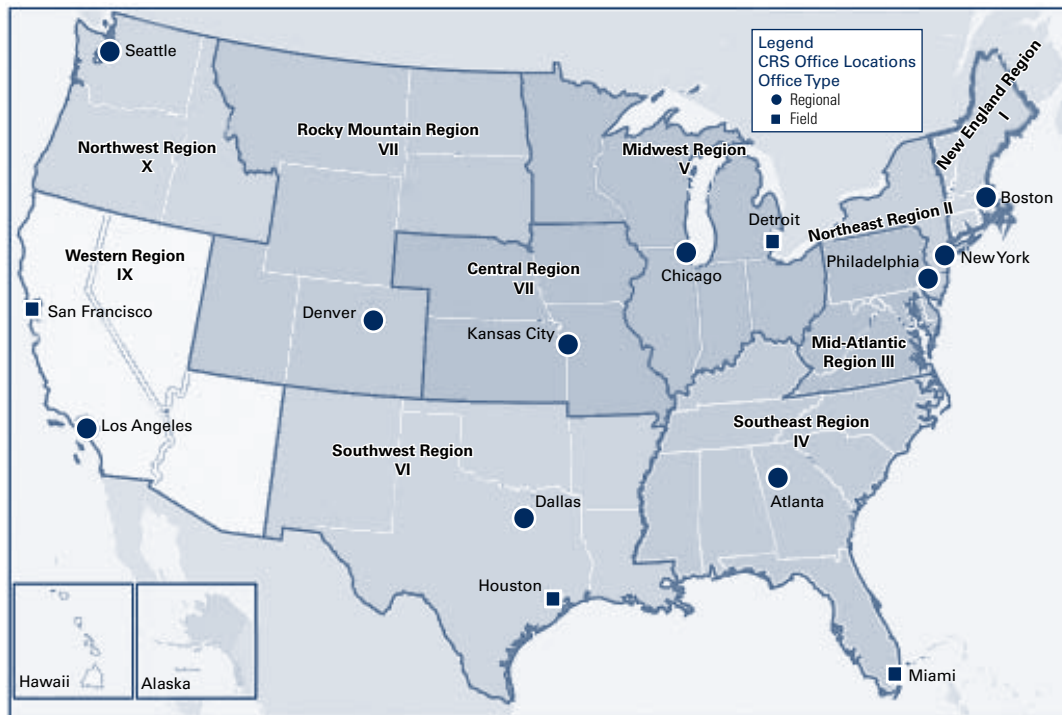
~ **Puerto Rico and the Virgin Islands are served by the Northeast Region**
~ **Guam is served by the Western Region**

CRS offers its mediation and conciliation services when there is an underlying conflict between a local or state government entity and its residents; and also when there is a conflict between two different racial groups. CRS creates the opportunity for communities to reach voluntary conciliations through formal agreements. While CRS maintains a strict commitment to confidentiality, the parties to the conciliations often choose to make their agreements public. At least 13 agreements involving law enforcement agencies have been so publicized over the past few years, often in the form of a memorandum of understanding (MOU). CRS also intervenes and helps build relationships between community groups and government agencies such as schools and public institutions.

Given the CRS mandate to deal with issues of race, color, and national origin, many of the agreements involving law enforcement agencies were initiated in the aftermath of critical incidents involving allegations of excessive use-of-force within the minority community or pursuant to allegations or perceptions of racial profiling. The content of these agreements, however, may be far-reaching in scope and spirit. Agreements also may reinforce many of the concepts, strategies, and tools addressed in this guide.

In many ways, the agreements facilitated by CRS address the same substantive topics that appear in the consent decrees and memorandums of agreement that have resulted from investigations by the Civil Rights Division (CRT). The main difference between the agreements brokered by CRS and those implemented by CRT is that CRT's agreements stem from a determination or finding based on a "pattern or practice" investigation. These consent decrees have the force of law. Since CRS has no authority to enforce the law, agreements facilitated by CRS are between the parties that sign the agreement and are maintained voluntarily. To the extent that these agreements are voluntarily publicized with the consent of parties, the parties then have an additional vested interest to maintain and live up to the agreements. The map below shows the location of the 13 most recent publicized agreements. What follows below the map is a synopsis of three recent agreements.

Publicized Agreements Involving Law Enforcement
Facilitated by the Community Relations Service Since 1992

Richmond, Kentucky: The Richmond Police Department entered into a memorandum of agreement with various public officials and the local chapter of the NAACP and other community representatives in November 2004. At the core of this agreement was an acknowledgement that minority residents were fearful of the potential of police to misuse force. As a result, the Richmond Police Department agreed to revise its policy to better

address these concerns, to define an administrative threshold for reportable use of force, and to enhance accountability. In the spirit of building bridges and trust with the community, he Department committed to establishing a police/community relations council that would serve as an advisory body, providing comment on police policy and training. The Department also reaffirmed its commitment to diversify its work force through recruitment and retention efforts as well as reaffirmed its commitment to engage in bias-free policing. In addition, the Department agreed to implement a wide variety of training programs that would promote outreach and civil rights.

Randolph, Massachusetts: In 2004, CRS worked with the Randolph Police Department to help it respond to allegations of police harassment and racial profiling by members of the Randolph, Massachusetts minority community. CRS worked jointly with the Randolph Fair Practices Committee and the Randolph Police Department to enable the police to change the community's perception of the police department and respond in a concrete way to allegations of disparity of treatment based on race. With CRS' help, the parties developed an MOU whereby the Randolph Police Department pledged to continue ongoing, mandatory cultural and racial diversity training for all police department personnel, established a monitoring system for police traffic stops to determine if racial profiling is taking place, and established an ombudsman program to focus on neighborhood issues surrounding race-based harassment of residents, among other detailed provisions. The primary purpose of this MOU is to establish a dialogue between the police department and local minority residents that better enables each party to work cooperatively. This is the goal of CRS mediation. It brings parties together in a neutral setting where issues from both parties can be discussed and resolved jointly.

Minneapolis, Minnesota: In December 2003, the Unity Community Mediation Team and the Minneapolis Police Department entered into a memorandum of agreement. This detailed and comprehensive agreement addressed improving police department responsiveness to and treatment of persons with mental illness and developmental disabilities. Other unique features of the agreement included a commitment by the police department to provide outreach material in the Spanish, Hmong, and Somali languages.

These highlighted agreements, and the others facilitated by CRS, address a broad range of community outreach and civil rights issues that have been addressed throughout this manual. A common thread in the agreements facilitated by CRS, but constructed by the parties involved, include frank acknowledgements of existing problems and concerns that are coupled with a commitment to building the trust, communication, and partnerships necessary to address underlying issues. While CRS is the vehicle for helping improve police community relations, clearly, CRS' mandate is not the same as the CRT regarding its procedural and legally binding approach. The scope of CRS' agreements, however, is similarly comprehensive and is focused on achieving the same goals. Law enforcement leaders committed to taking proactive approaches to protecting and promoting civil rights can learn a lot from the content of CRS agreements.

Although CRS' involvement on behalf of law enforcement agencies working through civil rights challenges is restricted—it cannot provide direct assistance to a jurisdiction unless there is some underlying conflict or allegation with respect to race, color, or national origin—CRS can refer interested parties to other sources for assistance. In addition, CRS is empowered to provide training to any law enforcement agency or community on general strategies for addressing civil rights issues or measures to prevent civil rights violations such as on the following topics responding to allegations of racial profiling; building trust between police and the community; law enforcement mediation; community dialogues; hate crimes; and others. Most training provided by CRS is accredited by state Police Officer Standards Training (POST) offices. All CRS training is free of charge.

Fulfilling its mission to undertake proactive actions to prevent or reduce racial and ethnic tension, CRS engages in outreach to law enforcement agencies and community groups. Often these actions include providing training to both law enforcement staff and community leadership. In the aftermath of the September 11 terrorist attacks, CRS developed a compelling and focused training symposium using locally based trainers from the Arab, Muslim, and the Sikh communities. This half-day symposium entitled *Arab, Muslim & Sikh Protocol Awareness Training Seminar* has been presented to numerous law enforcement agencies across the country. Many law enforcement agencies sponsor CRS training events and include community leadership in the classes. CRS training can also be tailored to specific local needs.

Another resource developed by CRS in response to September 11 is a police roll call video available on CD or DVD entitled, *The First Three to Five Seconds*, which is being used for training in law enforcement agencies across the country. This film, made for law enforcement audiences, familiarizes police with the Arab and Muslim cultures. The film stresses the vast diversity that exists within the Arab and Muslim cultures and provides practical advice for officers about traditional customs and beliefs. As a result of this training, officers are better able to interact with members of these communities in ways that are respectful and lessen the risk of engaging in behavior, often inadvertently, that might offend Arabs or Muslims within the communities they serve. Copies of the CD or DVD are available at no charge from CRS.

Distinct Roles of the Civil Rights Division, Special Litigation Section, and the Community Relations Service

While the SPL of the CRT and the CRS operate under the Department of Justice and both deal with civil rights issues, it is important to understand their distinct functions. Some in law enforcement have been confused by their respective roles.

CRS is a separate, independent agency within the Department of Justice. Its SPL has a narrowly defined legal mandate to bring remedy to patterns or practices that violate the Constitution or laws of the United States. It does this through investigations and potentially through litigation. Only CRT is empowered to investigate alleged pattern and practice violations, to authorize agreements as a remedy, or to litigate cases when other remedies have failed.

In contrast, the CRS's function does not involve investigations, enforcement, or litigation. CRS is empowered to facilitate collaborative agreements between departments and various community or advocacy groups on issues involving allegations of civil rights concerns. CRS

is not, however, a party to these mediation agreements that often take the form of MOAs. The parties to these MOAs facilitated by CRS are entirely free to walk away from the agreements without any legal repercussions. By contrast, consent decrees and MOAs developed by CRT are legally binding and strict accountability mechanisms are built into the process.

Proactively Protecting Civil Rights: Creating a Culture Bound by Rules

While law enforcement agencies confronting serious civil rights challenges should and do seek out federal assistance when necessary, hundreds of agencies are working internally— within their departments and in partnership with their communities—to ensure that their members adhere to ethical policing and protect the civil rights of the individuals they serve. These agencies work through two complementary strategies: first, they establish a policing culture that respects and protects civil rights and second, they establish sound accountability mechanisms. Of course, law enforcement agencies that establish both best succeed at protecting and promoting the civil rights of those individuals who live and work within their communities. Neither a culture-based nor an accountability-based approach alone is sufficient.

An ideal policing culture is one in which all officers are instilled with a respect and tolerance for diversity, a belief in the individual dignity of all persons, and a commitment to community service. While such a culture is a critical foundation for the protection of civil rights, it is, by itself, inadequate. Indeed, it is difficult to imagine a police agency—a complex organization with the broad responsibility to serve and protect the public under strict legal scrutiny—to function without the guidance of clear procedural rules, both internal and external to the agency.

Sound accountability mechanisms must consist of clear expectations, clear rules, and effective means by which to manage the performance of individual officers to ensure that they are meeting agency expectations and abiding by agency rules. Accountability mechanisms must also address problems as they arise through both corrective measures, such as counseling and retraining, and disciplinary processes. While relying solely on rules and accountability mechanisms may have some effect, this would likely result in resentment and disenfranchisement among officers. Rules are most likely to be embraced and adhered to when they are presented in the context of a policing culture. A core message of *Protecting Civil Rights*, then, is that law enforcement executives must be able to interweave the best of police culture and rule-bound accountability to provide effective law enforcement while protecting the civil rights of all.

The Evolution of Culture and Rules in Policing

Of course, policing cultures and rules evolve. Law enforcement, historically, has experienced shifts in its sense of mission as well as in its strategies for realizing its mission. The most recent shifts have occurred with the rise of community policing in the 1980s and the CompStat model of data-driven management in the early 1990s, led by the New York City Police Department. Although seen by some as competing approaches to policing, these popular and, now, rather fluid concepts have been molded to meet the needs of individual agencies and communities.[20] Indeed, many law enforcement agencies express a commitment to both community policing and CompStat—or a CompStat-*style* of—policing. And some police scholars do argue that community policing and CompStat are compatible.[21]

Protecting Civil Rights seeks to emphasize that there are elements of both strategies that can and do contribute to effective civil rights protections. In its first chapter, this guide will discuss the ways in which community policing philosophies and practices can help promote a policing culture that is sensitive and responsive to civil rights. In subsequent chapters, it will address the core elements of management that are essential to law enforcement executives who are working to protect and promote civil rights. This guide clearly advocates, for instance, that police leaders use the strategies of accountability, supervision, and information-driven management that are at the core of CompStat. Law enforcement executives can rely on these strategies to manage and reduce citizen complaints, the excessive use of force, and police misconduct in the same manner that they rely on them to reduce crime or increase productivity. This guide also advocates that agencies working to protect and promote civil rights adopt the proactive and preventive strategies that CompStat recommends for general agency management.

The incorporation of community policing and CompStat into law enforcement in general has been seen as revolutionary. *Protecting Civil Rights* suggests that invoking these strategies specifically in the service of law enforcement leaders, agencies, and officers dedicated to protecting and promoting civil rights will be just as revolutionary.

Overview of Chapters

Following this introduction, *Protecting Civil Rights* is divided into five chapters that are considered key building blocks for promoting and sustaining a commitment to civil rights protections. Each of the next five chapters addresses a major civil rights issue—community policing, early intervention, the complaint process, use of force, and racial profiling—that has been at the core of a pattern or practice investigation. While much of the material in these chapters is drawn from provisions embodied in federal consent decrees and MOAs, the chapters also rely on examples of illustrative policies and promising practices emerging out of a broad range of law enforcement agencies that have demonstrated a clear commitment to protecting civil rights. Each chapter ends with a series of recommendations. The concluding seventh and eighth chapters address personnel issues and issues of data collection, management, and analysis related to police efforts to protect civil rights. These chapters are outlined, in brief, below.

Chapter 2 – Sustaining Community Outreach and Engagement: The Intersection of Civil Rights and Community Policing

Exploring the connection between community engagement and civil rights protection, the chapter argues that effective community policing serves as a strong foundation from which agencies may protect and promote the civil rights of all community members. Acknowledging that community policing encourages the empowerment of citizens through participation in problem-solving partnerships with the police, this chapter emphasizes the need for community policing that is tailored to individual communities and that is institutionalized in individual agencies from the chief executive on down to the officer on the street. Of course, to best protect and promote civil rights, community policing strategies must engage the *entire* community. To this end, the chapter investigates strategies such as strengthening

police-community relations in distressed neighborhoods, improving minority and immigrant outreach, and enhancing community understanding of policing through citizen academies. Repeatedly, the chapter underscores the reality that civil rights and community engagement are inextricably linked.

Chapter 3 – Developing an Early Intervention Strategy

The chapter will enhance law enforcement executives' understanding of early intervention systems—systems that analyze officer performance for the purpose of identifying and addressing potential problems before disciplinary action is required. The chapter is attentive to the commonalities of effective early intervention systems: the proactive focus on potential problems, the dependence on data collection, and the reliance on strong supervisory review. It also identifies some of the major differences in such systems—from the vast variety of performance indicators that agencies track to predict risk to the differing thresholds at which departments may determine that a review of an officer's performance is required. Through its attention to such details, this chapter suggests not only that early intervention is an appropriate tool for all agencies (not just large agencies with sophisticated data-management technologies), but that early intervention strategies can benefit individual officers, entire agencies, and whole communities by promoting a culture of accountability and emphasizing a commitment to ethical policing.

Chapter 4 – Managing the Complaint Process

An accessible, transparent, thorough, and fair citizen complaint process is not only a tool that instills public confidence, but a tool that improves a department's ability to be responsive to the community. Police executives who act on the substantiated concerns of the community members they serve garner the support of the public while enhancing their own policing. This chapter considers the challenges of managing an effective complaint process. Federal consent decrees and MOAs have revealed that complaint processes in some departments are inaccessible and ineffectual. This chapter addresses those concerns by investigating the complaint process in detail. From the initial filing of a complaint to its final adjudication, this chapter serves as a primer for executives looking to improve their agency's complaint process.

Chapter 5 – Managing Use of Force

The authorization to use force is a tremendous power that bears with it a tremendous a responsibility. Federal consent decrees and MOAs consistently require departments to modify their use-of-force policies, training practices, and accountability mechanisms to ensure that citizens' civil rights are protected. Accordingly, this chapter addresses departments' management of the use of force. It not only considers the most prevalent use-of-force options, but it explores executives' responsibility to ensure that the use of force is no greater than necessary to ensure public and officer safety, that excessive force is not tolerated, and that allegations of excessive or unlawful force are thoroughly investigated. This chapter stresses law enforcement leaders' responsibility to establish a policing culture as well as strong accountability structures that are intolerant of unlawful and excessive force. It also stresses the benefits to officer, agency, and community of keeping overall levels of force to a minimum while ensuring public and officer safety.

Chapter 6 – Addressing Racial Profiling: Creating a Comprehensive Commitment to Bias-Free Policing

The prevalence of racial profiling is a hotly contested topic among the media, the public, and police personnel. Addressing the community perception of racial profiling and taking proactive steps to prevent racial profiling deserves commensurate levels of attention from police leaders. This chapter focuses on the challenges law enforcement executives confront as they work to address and prevent racial profiling. The chapter begins by analyzing the role of race as a consideration in police discretion and decision-making. Against this backdrop, it considers law enforcement executives' efforts to establish clear policy directives against racial profiling, train staff on this complex and multifaceted issue, and establish sound accountability mechanisms. The chapter also considers the challenges that attend to racial profiling data collection and analysis. Its insights will be invaluable to law enforcement executives who currently collect data as well as those who are contemplating data collection in response to political and public pressures. Finally, the chapter offers insights into managing highly visible instances of perceived racial profiling in such a way as to build confidence with the public as well as within the department.

The chapters just discussed correspond to the core areas of concern addressed in the provisions of federal consent decrees and MOAs. In essence, these substantive areas are those for which prudent police chiefs are constantly refining their policies, training, and accountability. Several other issues such as personnel and data management, however, transcend these individual topics to demand the attention of law enforcement executives at every turn. The seventh and eighth chapters consider these issues.

Chapter 7 – Personnel Management Issues in the Context of Civil Rights

Personnel are the most valued resource in any police agency. They are also the most expensive and represent an agency's single most substantial investment. Law enforcement leaders must possess sufficient vision and skill to ensure that the right people with the right qualities are hired as officers. They must then train and hold on to these officers. This chapter identifies the strategies that make these goals achievable. It explores methods by which to maintain a diverse force that is reflective of the community; select officers committed to community service; and evaluate, reward, and promote officers on the basis of their community policing skills and their commitment to protecting civil rights. Finally, this chapter also considers the challenges facing chief executives who must hire excellent officers at a time when there is a scarcity of applicants.

Chapter 8 – Measuring and Evaluating Outcomes in the Context of Civil Rights

To evaluate the effectiveness of their personnel and to assess whether the agency is meeting its missions, executives rely on performance data. Data-driven management strategies have spread rapidly to law enforcement agencies of all sorts and sizes. Presently, law enforcement executives regularly collect, manage, and analyze data to gauge an agency's overall performance in preventing crime and operating efficiently. Increasingly, law enforcement agencies are using nontraditional performance data and analysis to assess their success in protecting and promoting civil rights. This chapter considers the benefits and challenges of

effective data management. Although these issues are touched on in earlier chapters, this final chapter offers overall advice on data quality issues as well as systematic data collection, analysis, and interpretation. It also discusses the capacities and limitations inherent in using administrative data and suggests other avenues of data collection to supplement administrative data and to better assess both officer and agency performance with respect to civil rights.

Sources of Information

In the preparation of *Protecting Civil Rights*, IACP staff relied on several sources of information. These include the following:

- All publicly available information on civil rights pattern or practice investigations and agreements, including the content of all consent decrees and MOAs as well as publicly available documents providing technical assistance recommendations to departments under federal investigation.
- IACP–sponsored roundtable discussions with law enforcement leaders, both those involved in pattern or practice agreements and those from agencies known for exemplary civil rights practices.
- The expertise of staff at the COPS Office. This agency has provided federal support for community policing efforts through direct funding to local law enforcement and through an extensive array of publications, seminars, and trainings promoting fair and effective policing practices.
- Consultation with members of IACP's standing committees on civil rights and on professional standards. Committee members have been selected on the basis of their demonstrated commitment to enhancing the quality of policing and protecting civil rights. Several members serve as subject matter expert consultants to the Department of Justice in civil rights pattern or practice investigations.
- Roundtable discussions and focus groups of similar projects, most notably the Community Policing Consortium's technical assistance project on helping law enforcement agencies self-evaluate their policies and practices on civil rights.
- Consultation with several federal justice agencies, most notably two agencies within the Department of Justice: the Special Litigation Section of the Civil Rights Division and the Community Relations Service. These two agencies approach civil rights issues from different, but complementary perspectives.
- An extensive array of professional and scholarly literature available on the substantive issues addressed in this guide, including individual agency policy directives and model policies offered by professional associations and state oversight agencies.

Endnotes

1   Roosevelt, Franklin Delano. "Greeting to the American Committee for the Protection of the Foreign-born." Washington, DC. January 9, 1940.

2   International Association of Chiefs of Police. Law Enforcement Oath of Honor. www. theiacp.org/profassist/ethics/oath_honor_word.doc.

3   Pubic Law 103-322, title XXI, Sec. 210401, September 13, 1994, 108 Stat. 2071.

4   *International Brotherhood of Teamsters* v. *U.S.*, 431 U.S. 324, 336 n.16 (1977)

5   *Teamsters* v. *United States*, 431 U.S. 324 (1977)

6   Within the U.S. Department of Justice CRT is commonly used as the acronym for the Civil Right Divisions, while CRD is used to reference the Criminal Division.

7   The 12 sections are Appellate Section, Coordination and Review Section, Criminal Section, Disability Rights Section, Educational Opportunities, Section, Employment Litigation Section, Housing and Civil Enforcement Section, Office of Special Counsel for Immigration Related Unfair Employment Practices, Special Litigation Section Voting Section, and Administrative Management Section

8   "Overview." November, 22, 2002. U.S. Department of Justice, Civil Rights Division, Special Litigation Section. Retrieved November 13, 2005 from www.usdoj.gov/crt/split/overview. htm.

9   "Overview." November 22, 2002. U.S. Department of Justice, Civil Rights Division, Special Litigation Section. Retrieved November 13, 2005 from www.usdoj.gov/crt/split/ overview.htm. Note that the receiving financial assistance provisions clause is limited to Omnibus Crime Control and Safe Streets Act of 1968. The Violent Crime Control and Law Enforcement Act of 1994 applies to all state and local agencies, whether or not they receive federal assistance.

10 "Frequently Asked Questions." January 31, 2003. U.S. Department of Justice, Civil Rights Division, Special Litigation Section. Retrieved November 13, 2005 from www.usdoj.gov/crt/ split/faq.htm.

11 Brown, Shanetta C. "Introductory Remarks." Community Policing Consortium: National Civil Rights Symposium. Mayflower Renaissance Hotel, Washington, DC. June 12, 2005.

12 42 USC § 3789d. § 3789d

13 "Department of Justice Investigation of Use of Force by the Washington Metropolitan Police Department." No date. U.S. Department of Justice, Civil Rights Division, Special Litigation Section. Retrieved November 13, 2005 from www.usdoj.gov/crt/split/documents/ dcfindings.htm.

14 Law Enforcement Act of 1994, 42 U.S.C. § 14141

15 "United States v. City of Steubenville, Ohio Consent Decree. September 3, 1993. U.S. Department of Justice, Civil Rights Division, Special Litigation Section. Retrieved on November 11, 2005 from www.usdoj.gov/crt/split/documents/steubensa.htm.

16 "Frequently Asked Questions." January 31, 2003. U.S. Department of Justice, Civil Rights Division, Special Litigation Section. Retrieved November 13, 2005 from www.usdoj.gov/crt/ split/faq.htm.

17 *United States* v. *City of Pittsburgh* Consent Decree. February 26, 1997. Retrieved November 13, 2005 from www.usdoj.gov/crt/split/documents/pittscomp.htm.

[18] Davis, Robert, Christopher W. Ortiz, Nicole J. Henderson, Michelle Massie, and Joel Miller. <u>Turning Necessity into Virtue: Pittsburgh's Experience with a Federal Consent Decree</u>. New York: Vera Institute of Justice, 2002.

[19] "Homepage." No date. U.S. Department of Justice, Community Relations Service. Retrieved November 18, 2005 from <u>www.usdoj.gov/crs</u>.

[20] Walsh, William F., and Gennaro F. Vito. "The Meaning of Compstat: A Theoretical Analysis." <u>Journal of Contemporary Criminal Justice</u> 20.1 (2004): 51-69.

[21] Magers, Jeffrey S. "Compstat: A New Paradigm for Policing or a Repudiation of Community Policing?" <u>Journal of Contemporary Criminal Justice</u> 20.1 (2004): 70-79.

[22] Funded by U.S. Department of Justice Office of Community Oriented Policing Services (COPS), the Community Policing Consortium (CPC) is a partnership of five professional police associations. They are the International Association of Chiefs of Police; National Organization of Black Law Enforcement Executives; National Sheriffs' Association ; Police Executive Research Forum; and the Police Foundation. These agencies, who have all committed to the philosophy of community policing, provide research, training, and technical assistance through the CPC to further the development of the community policing model and its adoption by law enforcement agencies across the country.

II. Sustaining Community Outreach and Engagement: The Intersection of Civil Rights and Community Policing

Sustaining Community Outreach and Engagement: The Intersection of Civil Rights and Community Policing

> [P]olice chiefs must know that the concepts of community policing and the concepts of protecting human and civil rights are inseparable. They are one and the same. And for law enforcement you can't have one without the other.[1]
>
> **Chief Charles Gruber, South Barrington (Illinois) Police Department**

Introduction

During the past 2 decades, law enforcement executives from all types of agencies—municipal police departments, sheriffs' offices, tribal agencies, state police departments, and special jurisdictional police departments—have adopted community policing strategies. The differences across these agencies—including variations in size, mission, management, and the nature of the communities they serve—mean that these leaders' implementations of community policing often look quite different. Despite these differences, however, community policing efforts are recognizable for several core commonalities. Most notably, for the purposes of this guide, they are built on partnerships with the community that promote trust, respect for diversity, and tolerance. These partnerships—the core of successful, genuine community policing strategies—have been credited with helping to resolve the us-versus-them mindset that too often has existed in agencies and communities alike.

The concept of community policing certainly is a familiar one to law enforcement leaders. Not all, however, may have considered the inextricable ties between the core tenets of community policing and civil rights protections as articulated in the above quote.

Chapter Overview and Objectives

This chapter explores the inextricable links between civil rights and community policing strategies. Following a brief definition of community policing, an assessment of evolving attitudes toward community policing in the aftermath of September 11, and an analysis of indicators of the prevalence of community policing, this chapter offers a review of five substantive community policing strategies for protecting and promoting civil rights. The chapter underscores each strategy by providing examples of innovative programs. Each example is notable for its success in using active community engagement and police-community partnerships to protect and promote civil rights and to better engage residents in the civic process.

A Definition of Community Policing

Many have described community policing as a philosophy of policing, rather than as a set of rules. The U.S. Department of Justice Office of Community Oriented Policing Services (COPS) defines community policing as: "[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."[2]

Considering this conceptual definition, it is not surprising that there is no established programmatic checklist for what qualifies a department as practicing effective community policing. Each partnership is as unique as the community and police department that are part of it. While recognizing the uniqueness of each partnership, however, the following elements are often cited as key components:

- Adopting community service as the overarching philosophy of the organization
- Making an institutional commitment to community policing that is internalized throughout the command structure—from the chief executive to the officers in the streets
- 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
- Empowering citizens to act in partnership with the police on issues of crime and more broadly defined social problems (e.g., fear of crime, disorder, decay, public nuisances, and quality of life)
- Using problem-oriented or problem-solving approaches involving police personnel working with community members.

In addition to enacting these key components, departments committed to effective community policing also work to increase levels of interaction between the police and community residents. They do this through practices and techniques that include the following:

- Holding regular (e.g., monthly), formal meetings with community members on a local level (e.g., "beat meeting" or "precinct meetings")
- Making greater use of citizen advisory groups or councils
- Directing outreach efforts toward key community leaders and stakeholders including those from business, educational, and faith-based communities as well as representatives from civilian associations such as neighborhood groups and tenant organizations
- Promoting geographic and functional decentralization by providing first-line supervisors and front-line officers with greater flexibility and discretion in dealing with the community
- Identifying and/or training selected officers and/or units to serve as liaisons with particular communities and interest groups (e.g., Hispanic outreach teams, senior citizen services teams)

- Increasing use of foot and bicycle patrol to allow officers to interact more frequently with community members
- Establishing and expanding citizen academies designed to offer community residents an operational overview of their police agency and its internal culture
- Increasing the use of civilian volunteers who provide assistance to the police.

As a whole, community policing strategies allow agencies the opportunity to establish more frequent contact and more meaningful relationships with a broad cross-section of their community. In addition, each practice described above provides police personnel of all ranks with more opportunities to engage with citizens in building trust, confidence, and partnerships. Community policing strategies not only make participants feel they are part of the policing process, they can actually increase overall levels of civic involvement. Achieving this goal successfully can actually serve to promote, rather than just protect, the civil rights of community members.

Law enforcement agencies, often in partnership with community members, have relied on the SARA model of problem-solving in many areas. SARA comprises *scanning* to identify the problems, *analyzing* as a means to study the problem and identify potential solutions, *responding* by using methods tailored to address the specific problem, and assessing problem-solving success through evaluation methods. Clearly, this model can be applied to civil rights issues as illustrated in several of the examples discussed later in this chapter.

The Evolution of Community Policing in a Post-9/11 Era

In the wake of the terrorist attacks of September 11, 2001, many analysts and observers have expressed concern about the future of community policing. When properly and fully implemented, community policing efforts can be time-consuming and resource intensive. Community policing and associated problem-solving strategies are, as political science Professor Wesley Skogan has suggested, difficult to sustain. He notes that they require "a great deal of training, close supervision, strong analytic capacity, and organization-wide commitment."[3]

Some community policing advocates fear that, in response to terrorism, police departments may feel that they have less time and fewer resources to devote to community policing efforts. On a practical level, departments are stretched to meet the new demands that confronting terrorism imposes including prevention, protective patrol, and preparedness. Challenges to maintain these efforts have become more acutely pronounced during times of shrinking municipal, state, and federal budgets and as police ranks and candidate pools are reduced through military call-ups to support war efforts. In response, some law enforcement agencies may feel the need to resort to a heavier reliance on, some may say retreat to, reactive strategies.

Many community policing advocates, however, have become ever more assertive about the critical role of community policing in the aftermath of September 11. These advocates argue that community policing philosophies and strategies actually can enhance antiterrorism efforts and intelligence gathering. Director Carl R. Peed of the COPS Office suggests that as departments seek out the most effective ways to combat terrorism they will embrace community policing strategies:

> Since September 11, many state and local law enforcement agencies have sought new and effective methods of protecting our country's cities and counties, and have come to realize that community policing is more important now than ever before. Community policing encourages collaborative partnerships, employs problem-solving strategies, engages the community in its own protection, and requires organizational change within law enforcement to support effective decision making and efficient operations. Community policing can assist law enforcement agencies identify and respond to public concerns about terrorism, and help provide vital insight into a community's vulnerabilities and needs.[4]

While Director Peed underscores the effectiveness of community policing strategies for combating terrorism generally, others specifically emphasize the role community policing can play to enhance localized intelligence gathering. Decentralized management and accountability, as well as assignment of officers to specific beats on a more permanent basis, can result in stronger, more trusting relationships with the community. These relationships, in turn, can translate into greater vigilance—or extra eyes and ears—in reporting suspicious behavior and in enhancing intelligence-gathering efforts. As Drew Diamond, a former police chief, and his colleague Bonnie Bucqueroux suggest:

> Our goal should…be to provide as many opportunities as possible for people to tell police what they know, without singling themselves out for retaliation….We want people from all walks of life to trust police enough to place the call, and we also need officers who will listen. Neither will happen if the police become an occupying army….If we are to maintain recent reductions in violent crime and uncover the terrorists living among us, while preserving the civil rights that make our society special, we must insist on community policing now more than ever.[5]

Recognizing what police can obtain from a trustful community in terms of leads and alerts to suspicious behavior is only one side of the coin. Community policing emphasizes mutually beneficial relationships. Furthermore, new community needs have arisen following the terrorist attacks. Ellen Scrivner, deputy superintendent of the Chicago Police Department and former deputy director of the COPS Office, provided the following reminder of what communities may now need from police in a post-September 11 era:

> "Community fears when crime was spiraling out of control pales in comparison to the fears of suicide bombers and chemical attacks that kill innocent people going about their everyday lives."[6]

The Prevalence of Community Policing

Given that there are many varieties and definitions of community policing, it should not be surprising that a precise tally of law enforcement agencies engaged in community policing is difficult to establish. According to the 2003 Law Enforcement Management and Administrative Statistics Survey (LEMAS) conducted by the Bureau of Justice Statistics, an overwhelming majority—94 percent—of law enforcement agencies with 100 or more full-time sworn officers indicated that they practiced community policing in some manner. Percentages varied according to the type of agency surveyed. Overall, 99 percent of municipal police departments with 100 or more sworn personnel with arrest power indicated that they implemented community policing in some manner. By comparison, 92 percent of county police departments, 89 percent of sheriffs' offices, and 82 percent (39 of 48 responding) of state police agencies indicated that they had addressed community policing in some manner. The numbers of tribal and regional police agencies included in the survey were too few to make reliable estimates.

Methodological Note on Bureau of Justice Statistics Law Enforcement Data

The Bureau of Justice Statistics (BJS) administers both a census and survey of law enforcement agencies, both conducted on a periodic basis, as part of its **Law Enforcement Management and Administrative Statistics** (LEMAS) program. The two most recent LEMAS efforts are the census conducted in 2000 and the survey conducted in 2003.

The Census of State and Local Law Enforcement Agencies provides a baseline tabulation of the nation's police agencies operating in the U.S. and contains basic information about personnel, operational capacity, technological capacity, key equipment, and policies and programs.

BJS administers the LEMAS survey every 3 or 4 years. This survey captures more detailed information than is captured through the census. The survey is targeted to all law enforcement agencies with 100 or more full-time equivalent sworn personnel, as well as a representative sample of smaller agencies. This sampling strategy results in a nationally representative sample of 2,859 agencies that represent the approximately the 18,000 publicly funded state and local law enforcement agencies (determined by the census) that operate on a full-time basis in the U.S.

The data presented in this guide are drawn from the 2000 census and 2003 survey. A subset of questions in the survey were only asked of agencies with 100 sworn officers, while others were asked of all sampled agencies regardless of size.

For the survey-based analysis and comparisons made in this and other chapters of the guide, readers should be aware that the number of responses for agencies with less than 100 sworn officers are based on randomly selected agencies. As a result of the BJS stratified–random

---

> sampling processes, however, these analyses provide scientifically reliable estimates when sufficient numbers are included in the categories compared. For some less common agency types (e.g., tribal police), too few agencies were included in the sample for reliable comparisons to be made across agency-size categories. More information on the survey methodology can be found on the BJS-LEMA web site (www.ojp.usdoj.gov/bjs/lawenf.htm).

The concept of community policing, of course, may be implemented in a variety of ways. The LEMAS survey allowed responding agencies to identify one of three ways in which they implemented community policing.[7] The most common form of implementation reported was a *specific community policing unit with full-time staff.* This accounted for 55 percent of responding agencies. The other two methods, each accounting for 19 percent of responses, were implementation by *dedicated community policing personnel* (but no unit) and by *other means.*[8]

In the LEMAS survey, prevalence of community policing implementation, as well as methods of implementation, varied by agency size. In general, the likelihood of implementation increased with agency size. And, while the clear majority of agencies (regardless of size) implemented some type of community policing, the method of implementation for municipal agencies and sheriffs' offices varied according to the size of the agency. These results are indicated in the charts below.

Municipal Enforcement Agencies
Methods of Addressing Community Policing

Sheriffs' Offices
Methods of Addressing Community Policing
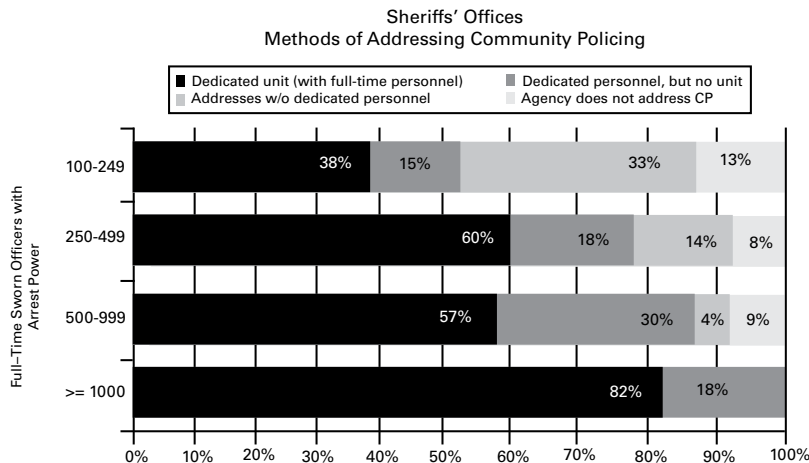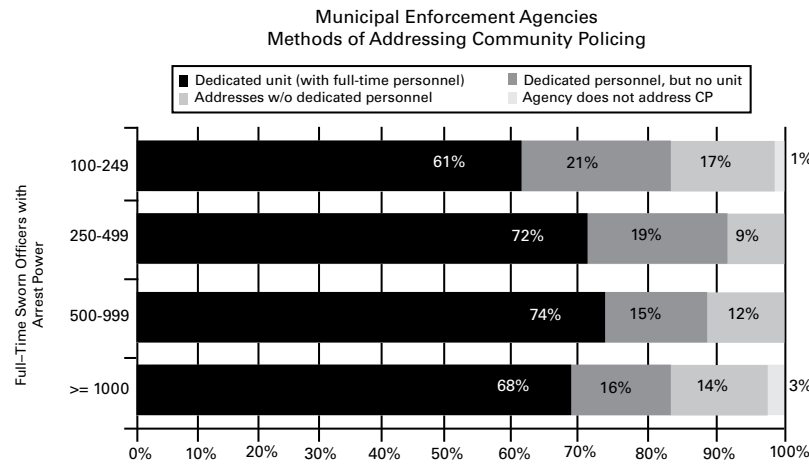
While the LEMAS survey determined that the overwhelming majority of agencies report that they implement community policing in some manner, this self-reported index should not be interpreted as a definitive measure of the prevalence of community policing among the nation's law enforcement agencies. This response to the questionnaire says little about the depth of commitment or the degree to which community policing is institutionalized and internalized across the command structure and in operational contexts. The LEMAS survey itself, contains a series of other questions addressing community policing implementation and the prevalence of other components (e.g., use of problem-solving strategies and the citizen police academies) by which to assess variations in community policing in more detail. Any attempt to characterize a law enforcement agency's philosophical and organizational approach requires in-depth assessment.[9]

Promising Practices: Protecting and Promoting Civil Rights through Community Policing Strategies

The high prevalence of community policing reported among law enforcement agencies across the nation is an encouraging sign if one maintains that comprehensive community policing initiatives and civil rights protections are inseparable, as is a core tenet of this guide. Far from suggesting that community policing strategies can be applied mechanically or that that there is a single or most preferred way to implement community policing, however, this guide recognizes that implementation may vary widely. In the following sections, this chapter illustrates five strategies that are consistent with the core tenets of community policing. The programs used to illustrate these strategies are just a small sampling from among many successful implementations of community policing strategies that protect and promote civil rights.

Each of these programs illustrates the variety of ways that local agencies implemented community outreach strategies to fit local needs. Of course, the reader should realize that many of the examples are multifaceted. That is, they may address community policing and traditional policing strategies simultaneously. Moreover, the five strategies outlined here are not mutually exclusive. Indeed, most of the promising practice examples presented here simultaneously address several of these strategies.

Strategy One: Improving Police-Community Relations in Distressed Neighborhoods

Law enforcement leaders who have embraced community policing and problem-solving approaches recognize that partnerships are vital, yet not all communities have equal capacity to organize themselves. Many agencies have diverse jurisdictions, including some areas of affluence and other areas that are impoverished, run down, and lacking adequate resources. These latter areas are frequently those in which police presence is most critical, but in which police-community relations, unfortunately, have been most strained. Many police executives have recognized that they can take the lead in developing partnership strategies to reduce neighborhood stress, enhance the quality of life, and empower residents. Through these comprehensive outreach strategies, the police agencies are more likely to be perceived as

partners and allies rather than indifferent bureaucrats, preservers of the status quo, or even "occupying forces." Through such strategies, police officers learn to work effectively with law-abiding residents—the overwhelming majority of residents in these areas—not only to reduce levels of victimization but also to improve the overall quality of life.

The following examples are only two of many such programs that have been successfully implemented across the nation.

Robert Hartley Housing Complex Project[10]

The Robert Hartley Housing Complex Project was initiated by the New Rochelle (New York) Police Department in the early part of 1999. This project, which is still in progress, began as the police and the community used the problem-solving technique of scanning to identify a six-block area as the area with the most recurring problems of concern to the public and the police. Comprising mostly municipal housing buildings, the area is centrally located in New Rochelle, the seventh largest city in New York with a population of 72,500.

Drug dealings, shootings, assaults, and robberies were prevalent in this area. As a result, residents not only experienced a good deal of fear, but made increased calls for police services. Regrettably, community members felt a pervasive distrust of the police on whom they relied. They perceived the police to be insensitive and lacking understanding of the needs of the community.

These circumstances were only complicated as the city of New Rochelle, always ethnically diverse, experienced population increases in Blacks and Hispanics. These increases resulted in racial tensions as the composition of neighborhoods altered. They also resulted in problems for police who addressed these tensions while managing increasingly complex police-community relations issues.

In March 1999, local clergy, community leaders, and the New Rochelle Police Department responded to the distrust of police and increasing racial tensions by partnering to create Citizens for a Better New Rochelle. Upon its formation, the group adopted the following mission statement:

"The police and community working together to provide a mutually respectful relationship through open lines of communication and cooperation."

Citizens for a Better New Rochelle consists of members from the New Rochelle Police Department, the clergy, the NAACP, the New Rochelle Municipal Housing Authority, the Youth Bureau, the City Council, the United Tenants Council, the Community Action program, and private citizens. With the Citizens for a Better New Rochelle in place, the police

formulated a multifaceted response plan to deal with distrust and racial tension that included the following components:

- Training for a Neighborhood Watch Patrol
- Assignment of housing officers to patrol the area on foot
- Assignment of beat officers to patrol the area on foot and bicycle
- Assignment of Critical Incident Unit officers to park and walk patrol during hours of past criminal activity as well as to patrol Lincoln Park during summer basketball league
- Establishment of Community/Police Liaison Office to provide local residents with an immediate bridge to the department
- Involvement of department's community resources coordinator to provide crisis intervention services to residents experiencing serious family and personal problems through information referral and counseling.

The New Rochelle Police Department conducted an assessment by collecting pre-response and post-response data to determine whether their goals were being met. They determined that their project effectively and efficiently scanned, analyzed, responded and assessed (SARA) the recurring problems of distrust and racial tension. Their assessment also demonstrated that the police and the community attained the specified goals of the Robert Hartley Housing Complex Project.

Agency Profile: Population 72,500; Officers 179

Community Action Team [11]

In 1998, the El Paso (Texas) Police Department collaborated with various community and police organizations to form the Community Action Team. The Community Action Team works to decrease crime and improve the quality of life in El Paso. The purpose and the practices by which the team realizes this purpose are detailed in a mission statement on the programs web page and reproduced below. (www.elpasotexas.gov/police/yip_cat.asp):

Function: The mission of the Community Action Team is to work in partnership with the community, the police regional commands and various community agencies. Together, areas of high crime and quality-of-life issues will be identified and targeted to reduce the fear and incidence of crime, and restore the neighborhood's pride and commitment, while employing the department's community policing and problem solving tactics.

Strategies: The concept requires the establishment of a team, consisting of six officers and one sergeant. The team will work to resolve the crime and quality of life issues that exist within each predetermined neighborhood.

The duties of the team will extend well beyond an officer's normal duties. The concept requires the officers and supervisor to work as a team (with the community), identify crime indigenous to a neighborhood, and employ problem-solving tactics. In addition, the team

will address the quality-of-life issues that are apparent and those that are brought to its attention by citizens or other sources.

The team will employ a wide-range of tactics to accomplish its objectives. The team must also remain flexible due to the various range of problems present in each of the targeted neighborhoods. For example: officers will conduct neighborhood surveys, speak with residents to determine their concerns and thoughts, conduct foot patrol in neighborhoods, identify new problems, conduct surveillance of suspected criminal activity, initiate community involvement through neighborhood watch and other community programs, and, where applicable, initiate the abatement process.

Agency Profile: Population 650,000; Officers 1,126

Strategy Two: Reaching Out to Engage Minority Communities

Strained relationships between minority communities and the police may seem, to some, as ubiquitous. Many police departments, however, have built bridges to diverse community groups through effective community policing strategies. While such outreach strategies are often associated with major urban cities, or particular distressed inner-city neighborhoods, many departments use a broader strategy recognizing that minority populations are themselves diverse in socioeconomic status, culture, religion, and other characteristics. The concerns of minority members in smaller or rural communities may be quite distinct, as is demonstrated in the following example.

Building Community Bridges[12]

In 2001, under the chief of police at the time, the Camillus (New York) Police Department started an outreach program called Building Community Bridges. The program was intended to improve access to the Camillus Police Department for minority groups and other segments of the population that felt their needs were not understood as thoroughly as the needs of other segments of the Central New York community.

In a bold and proactive effort, Chief Perkins and his department invited representatives of diverse groups directly into department planning sessions where they were given an excellent opportunity to have their concerns heard. Organizations such as the Onondaga Commission on Human Rights, the NAACP, the New York Civil Liberties Union, and the Inter-Religious Council of Central New York have attended these meetings as have elected officials from Camillus, the Spanish Action League of Syracuse, and the Syracuse Model Neighborhood Facility.

By bringing together all segments of the community—the residential population, visiting shoppers, and the commuting workforce—this effort is building a law enforcement agency of which the whole community is proud.

Agency Profile: Population 23,000 (Town of Camillus including Village of Camillus); Officers 19

Strategy Three: Reaching Out to Engage Immigrant Communities

Although police may attempt to reach out to all groups within their community, they may not succeed in engaging all equally. Immigrant groups can be among the most difficult for police to engage because of the unique challenges they confront, including limited English proficiency. Police also may struggle to engage immigrant groups where a large number of group members are themselves struggling to overcome negative perceptions of the police that are the result of realities in their home countries. It is important for police to understand that many immigrants come from countries where police are perceived, often with good reason, as coercive agents of the government. These immigrants must first shed their inherent distrust of police before they can begin to appreciate the positive role that police may play in their new communities in this nation. Besides language and trust issues, challenges may be exacerbated by the lack of organizational capacity of recent immigrants and the existence of undocumented workers. While it may seem nearly impossible for law enforcement agencies to forge significant partnerships with these groups, successful efforts are becoming more common.

Dedicated and concentrated effort by police can win the trust of immigrant groups. Departments that have proactively reached out to immigrant communities through language immersion and cultural awareness programs have begun to build partnerships that departments that expect immigrant groups to take part in police programs or services of their own initiative will never realize. The following examples illustrate how several departments have organized to respond to the needs of immigrants. In one example, a department found success in reaching out to multiple immigrant communities spread over a wide geographic area by establishing a specialized unit. In another department, the agency responded to a need that they identified for a particular immigrant group.

International Relations Unit[13]

In 2000, the Charlotte-Mecklenburg (North Carolina) Police Department established the International Relations Unit to serve as the department's liaison when dealing with issues associated with the international community. The ultimate goal was to enhance the quality of life within the international community in Charlotte-Mecklenburg. This program consists of the following key components and principles:

Mission Statement
The International Relations Unit (IRU) of the Charlotte-Mecklenburg Police Department is a countywide resource committed to improving the quality of life, reducing crime, and fostering mutual trust and respect with members of the international community.

Personnel
The IRU is composed of six full time officers and one sergeant who have fluency in a second language and or an understanding of a second culture. Currently, the IRU is composed of members who speak Spanish, Vietnamese, Laotian, and Thai. These officers facilitate

communication and improve understanding between police and members of the International community.

<u>Unit Priorities</u>
• To assist the international community, patrol officers, and police detectives with finding solutions to problems and concerns
• To conduct training within the international community and public/private organizations to improve service and reduce the number of victims
• To conduct language and cultural awareness training within the police department
• To provide assistance with police investigations that affect the international community
• To use specialized training, expertise, and experience to improve relationships with the international community
• To participate in community events that directly affect the international community
• To assist with the recruitment of culturally diverse and bilingual officers
• To act as a liaison between the police department and the international community.

Agency Profile: Population 746,500; Officers 1520

Operacion Apoyo Hispano (Operation Hispanic Outreach)[14]

A surging Hispanic population posed a challenge to the Clearwater (Florida) Police Department. The Hispanics were hesitant to approach the police and many long-time residents were suspicious of their new neighbors. Those attitudes have changed thanks to a truly unique collaboration between the police department and the YWCA. The comprehensive program encompasses everything from crime concerns to social and economic opportunity for Hispanics. Housed in a city-owned building, the one-stop center has an active outreach component and provides immigration and child care services along with interpretation and victim advocacy. Hispanics now come forward and report crimes to the police, resulting in a number of successful prosecutions. In 1 year, more than 175 Hispanic residents received crisis intervention and counseling at the center.

Agency Profile: Population 109,000; Officers 264

Strategy Four: Helping Residents Understand Police Operations and Culture
Law enforcement agencies engaged in genuine and effective community policing regularly engage their officers in cultural awareness training to learn more about the particular communities they serve. As police better understand the cultures—the value systems, taboos, and social rituals—of the communities that they serve, they are able to interact more respectfully and effectively with individuals from those communities. By the same token, citizens can benefit from learning about their law enforcement organization that, in many ways, has a culture of its own. The formation of Citizen Academies has become an effective vehicle for achieving this goal. As explained the National Citizens Police Academy Association's web site:

> [A]gencies have formed Citizen Police Academy programs that create an expansion of their community based efforts. These programs are intended to open the lines of communication between the Community and the Police Department. Generally, the relationship between the police and the citizen is one of "love/hate". To the Citizen, it may frequently appear that the police are not doing their job or are exceeding their boundaries. By allowing citizens a firsthand look at what rules, regulations and policies the police follow, some of the misunderstanding may be alleviated. The objective of the Citizen Police Academy is not to train an individual to be a "Reserve Police Officer" but to produce informed citizens. The Citizens and Police Officers meet each other face to face in a neutral, friendly setting and each becomes a person to the other. In the past, citizens have simply seen a uniform, now they have an understanding about the person behind the badge.[15]

As indicated in the following examples, many departments successfully tailor their citizen academies to particular populations, including youth groups or immigrant groups.

The Beaverton Police Department's Student Academy[16]

The Beaverton (Oregon) Police Department formed its Student Academy to provide high school students with a better understanding of law enforcement's role in society. Like many law enforcement agencies across the nation, the Beaverton Police Department had seen a decreasing amount of respect for authority among some of its younger residents. Children's ideas of what police officers do are more often based on what they see on television shows and in the movies than on actual positive interactions with police officers.

The Beaverton Police Department embraced the philosophy of community policing in 1993. As part of that effort, the Beaverton Police Department established a Citizens Academy as a tool to bring community members and law enforcement officers together. This program experienced great success. As a result, the department developed its Student Academy on similar ideals. Designed to reach out to young people, the Student Academy uses the strategies of communication, education, and hands-on experience.

Strategy #1 – Communication: The goal of the Student Academy is to break down barriers to communication by providing an opportunity for police and students to work together. It is difficult to build bridges with young people when their initial perception of law enforcement is negative. During the Student Academy, young citizens and officers are able to spend quality time together and learn more about each other.

Strategy #2 – Education: Students are educated on the need for proper procedures in law enforcement. These procedures are explained to students in order to combat the perception that police officers "pick on" them. Students are told what can happen to police officers, perpetrators, victims, or innocent bystanders when police procedures are not followed.

Strategy #3 – Hands-On Experience: Students attend mini workshops that provide them with basic education and hands-on experience with topics such as traffic, forensic science, and use of force. Students participate as well in simulated scenarios.

The Beaverton Police Student Academy is a positive forum for young citizens and police officers alike as it provides accurate information about the role of law enforcement.

Agency Profile: Population 80,000; Officers 117

Hmong Finish Course on Policing In Minnesota

The following Associated Press article regarding the success of the Hmong Course on Policing in St. Paul appeared in the *Minneapolis-St. Paul Star-Tribune* on March 31, 2005.

ST. PAUL (AP) -- Several Hmong residents completed a citizens academy designed to give them a better understanding of the police and how they do their jobs.

The graduates Wednesday, most of them Hmong community leaders, said their new understanding of the Police Department will help them resolve disputes within the community.

"This will really help us to learn the different departments in the police," said Bao Yang, who attended the academy with her husband.

A majority of the class members were from the Hmong 18 Council, the historical leaders of the Hmong community. The council represents each of the 18 Hmong family clans and typically resolves family disputes that arise from divorce, adultery, runaway children or domestic abuse.

St. Paul has one of the largest Hmong populations in the country.

The 11-week academy, not an accredited law enforcement course, is free to anyone aged 21 or older.

Police Chief John Harrington said the graduates may now qualify to serve on the Police Community Internal Affairs Commission, which currently does not have a Hmong member.

Some of the graduates said they appreciated simply learning who the police were.

Vue Chu said he plans to begin a citizens patrol in his East Side neighborhood. Brandon Moua said he wants to enter the police academy.

While the students were learning, they taught police officers a few things about the Hmong 18 Council, said Sao Lee, of St. Paul, who attended the academy with his wife.

"They didn't know how the Hmong 18 Council works, so now (the relationship) is much closer," he said.

Agency Profile: Population 275,000; Officers 579

Strategy Five: Cooperative Approaches to Addressing Racial Profiling Concerns

One of the reasons that law enforcement agencies have embraced community policing strategies is because they realize that they can be more efficient and effective by working cooperatively with the community rather than working alone. Increasingly, police departments are adopting this same principle as they strive to deal with the issue of racial profiling. One such strategy is described below.

Addressing Racial Profiling through Building Trust[17]

Enhancing trust between the citizens of Wichita, Kansas and the Wichita Police Department has been an aspiration of the department since its transition to a community policing philosophy in the mid 1990s. A desire to proactively address the issue of racial profiling and community concerns about race-based policing led the Wichita Police Department to undertake the Building Trust Initiative.

In May 2000, the Wichita Police Department joined with the community to develop a comprehensive plan to address the issue of racial profiling. From the beginning, it was apparent that the term "racial profiling" did not adequately describe the community's concerns. The core issue was trust. Using the SARA model, the department relied on its philosophy of community involvement in problem solving.

The Kansas Region of the National Conference for Community and Justice served as the community facilitator to gather community input on the initiative's three major components: collecting data on traffic and pedestrian stops, increasing the ease and opportunities for community members to voice their concerns about police activity, and developing cultural diversity and customer service training for all members of the department.

As a result, the department integrated committee recommendations and the analysis from its stop study—composed of 37,000 traffic and pedestrian stops—to promote a change in departmental police culture. Innovations included revising the traffic stop policy, simplifying and publicizing the citizen complaint process, creating a regulation on racial profiling, designing and implementing training on customer service and cultural diversity, and diversifying recruiting practices.

The Building Trust Initiative has resulted in positive, sustainable change. Racial profiling complaints have dropped significantly from 2001 to the present. Trust relationships have grown and positive organizational change has occurred because policies, practices, and training now reflect the department's core values. Citizens accurately perceive that the Wichita Police Department is truly community oriented and is not afraid to examine its organization for potential weaknesses. The Building Trust Initiative has created a model to address racial profiling issues that can be easily replicated by other law enforcement agencies.

The Building Trust Initiative has not come to its final conclusion. Strategies to sustain changes and to measure ongoing success include the collection and analysis of a second set of data on pedestrian/traffic stops (2004), a critical review of the state of Kansas's racial-profiling study, continued customer service training for new employees, and a review of professional standards complaints regarding racial profiling. While pleased with the outcomes of its Building Trust Initiative, the Wichita Police Department recognizes that the issue of race-based policing requires constant vigilance.

Agency Profile: Population 380,000; Officers 646

Conclusion

This chapter has asserted that law enforcement agencies that adopt community policing philosophies and that use the types of strategies highlighted in this chapter can better succeed in their critical mission of protecting and promoting civil rights. This is not intended to suggest that community policing is a panacea or that law enforcement agencies that do not officially embrace community policing are not able to ensure that they enforce the law while protecting civil rights. Building bridges throughout the community that a law enforcement agency serves, under any philosophical banner, is a critical cornerstone of protecting civil rights. These efforts, of course, can be made stronger by systematic analysis and adoption of a problem-solving approach. While customer-service orientations embraced by departments are highly valuable, they must be reinforced by the types of policies, training, practices, and accountability tools discussed in the rest of this guide.

Suggestions for Further Reading

Many publications addressing community policing exist in the literature. More information about those supported through the U.S. Department of Justice Office of Community Oriented Policing Services can be found at www.cops.usdoj.gov/Default.asp?Item=118.

A short list of resources relevant to community policing and its nexus with the enhancement of mutual respect and the protection and promotion of civil rights are listed below.

Davies, Heather J., and Gerard R. Murphy. Protecting Your Community From Terrorism: Strategies for Local Law Enforcement – Volume 2: Working with Diverse Communities. Police Executive Research Forum, Washington, DC; 2004.

Ethics Toolkit: Enhancing Law Enforcement Ethics in a Community Policing Environment presented by The International Association of Chiefs of Police and the U.S. Department of Justice Office of Community Oriented Policing Services. www.theiacp.org/profassist/ethics.

Khashu, Anita, Robin Busch, and Zainab Latif. Building Strong Police-Immigrant Community Relations: Lessons from a New York City Project, Vera Institute of Justice, New York, NY; 2005. www.cops.usdoj.gov/mime/open.pdf?Item=1576.

Peed, Carl R. Making a Mark: Police Integrity in a Changing Environment. Police Executive Research Forum, Washington, DC; 2002. www.cops.usdoj.gov/mime/open.pdf?Item=781.

Scrivner, Ellen. Mutual Respect in Policing: Lesson Plan. Police Executive Research Forum, Washington, DC; 2006. Including VHS tape @ 22:47 minutes.

Endnotes

1. Gruber, Charles. "A Chief's Role in Prioritizing Civil Rights." The Police Chief. November 2004 Available on web at www.policechiefmagazine.org/magazine and selecting "Archive."

2. What is Community Policing. November 2000. Office of Community Oriented Policing Services. Retrieved on November 1, 2005 from www.cops.usdoj.gov/default.asp?Item=36.

3. Skogan, Wesley, and Lynn Steiner. CAPS at Ten: Community Policing in Chicago; An Evaluation of Chicago's Alternative Policing Strategy. Chicago/Evanston IL: Chicago Community Policing Evaluation Consortium, 2004.

4. Peed, Carl. "Applying Community Policing Principles Post 9/11." Making a Mark. Introductory Letter. January 16 2003. Retrieved November 1, 2005 from www.cops.usdoj.gov/mime/open.pdf?Item=780.

5. Diamond, Drew and Bonnie Bucqueroux. Community Policing Is Homeland Security. policing.com. October 30, 2005. Available on the web at www.policing.com/articles/terrorism.html.

6. Scrivner, Ellen. "Building Training Capacity for Homeland Security: Lessons Learned from Community Policing." The Police Chief October 2005. www.policechiefmagazine.org/magazine select "Archive."

7. For this question, "community policing" was part of a list of programs and tasks. For each task, respondents were requested to answer, "How does your agency address the following problems/tasks?" Response categories for all programs and tasks were the same. The response selections were: (1) "Agency HAS specialized unit with FULL-TIME personnel to address this problem/task" or, under the general heading of " Agency DOES NOT HAVE a specialized unit with full-time personnel" choices were (2) "Agency has dedicated personnel to address this problem/task," (3) "Agency addresses this problem/task, but does not have dedicated personnel," or (3) "Agency does not address this problem/task" (emphases in original).

8. "Other means" may include a broad diversity of implementation strategies. The use of this response by the Chicago Police Department provides an illustrative example. Chicago is recognized widely as having an ambitious community policing strategy. Rather than making community policing the task of a particular unit or designated personnel, the department expects community policing to be the responsibility of every officer. Other survey respondents who also have indicated that they implement community policing trough "other means" do not necessarily follow the Chicago model.

9. See for instance McGuire, Edward R. Organizational Structure in American Police Agencies: Context, Complexity, and Control. Albany, NY: SUNY Press, 2003.

10. This program was an applicant in the 2002 IACP Webber Seavey Award for Quality in Law Enforcement and an applicant for the Herman Goldstein Award for Excellence in Problem Oriented Policing, also in 2002. Text is derived from the Webber Seavey program abstract.

11. This program received the Herman Goldstein Award for Excellence in Problem Oriented Policing in 2000, was a finalist for the 2001 IACP Webber Seavey Award for Quality in Law Enforcement, and was an applicant in the 2002 Innovations in American Government Program. More information on this program is available at www.innovations.harvard.edu and on the department's web site at www.eppd.org

12. Perkins, Lloyd, and Thomas Winn. "Crime Prevention and Community Programs: Building

Bridges." <u>The Police Chief</u> October 2005. The text was adapted from the article.

13 The text above was obtained from the programs web page at <u>www.ci.charlotte.nc.us/ Departments/Police/Crime+Info/International+Relations/Home.htm</u>. The publication "Law Enforcement Services to a Growing International Community." The manual is available on CMPD's web site at <u>www.cmpd.org</u> and the North Carolina Governor's Crime Commission's web site at <u>www.ncgccd.org</u>.

14 This program was a semifinalist for the IACP 2005 Weber Seavey Award for Quality in Law Enforcement. The text was adapted from the award publication available on the web at <u>www.theiacp.org/awards/webber/2005WSAbstracts.pdf</u>.

15 "Frequently Asked Questions." The National Citizens Police Academy Association (NCPAA). Retrieved November 15, 2005 from <u>www.nationalcpaa.org/faq.htm</u>

16 This program was a semifinalist for the IACP 2003 Weber Seavey Award for Quality in Law Enforcement. The text was adapted from the award publication available on the web at <u>www.motorola.com/governmentandenterprise/contentdir/en_US/Files/General/ WebberSeavey2003Winners.pdf</u>.

18 This program was an applicant in the 2003 IACP Weber Seavey Award for Quality in Law Enforcement. The text was adapted from the award submission submitted to the IACP.