

Testimony of the International Association of Chiefs of Police

Task Force on 21st Century Policing
Listening Session on Policy and Oversight
January 30, 2015



The IACP is the world's largest association of law enforcement executives, with more than 22,000 members in 98 different countries. For over 120 years, the IACP has been launching internationally acclaimed programs, speaking out on behalf of law enforcement, conducting ground-breaking research, and providing exemplary programs and services to the law enforcement profession across the globe.

The Role of Police Leadership

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 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. 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 policies 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.

Civilian Oversight

Civilian review or advisory boards are not new to policing and are currently in place in many major and midsize police agencies across the country. The establishment of civilian review or advisory boards may have many benefits for an agency, including; improved citizen-police relationships;

enhanced trust in police actions and strategies, and bridge-building among community and police.

Certainly there are instances where citizen input has turned inappropriately to ‘oversight’ that diminishes the law enforcement leader’s role. To avoid that imbalance, it is essential that law enforcement agencies create relationships that simultaneously honor and accept all kinds of citizen input and advice, but retain final decision-making with law enforcement leaders.

Early Intervention Systems

Early Intervention Systems (EIS) are an effective tool in furthering ethical, professional policing. EIS and Risk Management Systems are effective in identifying, addressing, and preventing problem behavior before it escalates to a matter for Internal Affairs. EIS help supervisors identify, assess, and evaluate employees’ performance in order to address potential concerns in a timely manner. Part of a larger effort to raise the level of accountability in a police department, an EIS is a valuable way to collect and analyze data on an officer’s performance. An EIS, however, not only reveals unacceptable performance, it should also identify exemplary performance. While an EIS helps an officer in a non-punitive way (e.g., referral to counseling or training), it also should reward outstanding behavior through awards or promotions.

In the IACP report, *Protecting Civil Rights*, we reinforce the need for effective, data-driven, EIS, using advanced technologies to allow police leaders to hold officers at all ranks accountable for misbehavior. EIS are essential in their ability to allow police agencies to identify and interdict misconduct at its earliest stage. The absence of EIS predicts failure because misconduct will likely be identified by community members before police leaders know it is happening. Effective EIS predicts success - allowing the department to fix problems, weed out problem employees, and move all employees to heightened professionalism.

Disciplinary Systems

Establishing Internal Affairs policies and procedures within an agency is not just important, but essential. If misconduct occurs, the agency should already have measures in place to investigate and address such behavior. The intake process for filing complaints must be accommodating for the individual registering the complaint so they feel comfortable. In addition, the individual filing the complaint should be kept up to date on the status of his/her complaint. If an agency has in place a strong internal police disciplinary system, that is well–designed and carried out by well-trained and staffed internal affairs investigators, it will send a strong ethical and professional message to all staff, both sworn and civilian.

The recent IACP report, *Building Trust Between the Police and the Citizens They Serve: An Internal Affairs Promising Practices Guide*, that was funded by the Office of Community Oriented Policing Services, stresses the value of best practice disciplinary systems to both the department and the community in helping to build a high degree of trust between citizens and police. As much as the community wants to see officers rewarded for excellence, they also want to see officers held strictly accountable for any misconduct – particularly serious misconduct.

It is important to note that, internal Affairs investigations, however, should be but one component of a systemic approach to ethical conduct. If law enforcement executives hire the appropriate staff, deliver ethics training, establish an early intervention system, and properly supervise staff, all of which build trust within their communities, the Internal Affairs process may be necessary only in rare instances.

Use of Force

Over two decades ago, IACP joined forces with Bureau of Justice Statistics and the National Institute of Justice to undertake the first ever national survey of police use of force. The intent of this project was two-fold. The short term objective was to address the nation's concerns post Rodney King, about police use of force practices and in particular - improper use of force. The long term goal was to put in place a standardized local data collection approach to create a permanent national use of force database.

The short term objective was achieved and the results were significant. The total use of any kind of force for every 10,000 calls for service was 3.61. Thus the real (vs. perceived) rate of use of force by police across the U.S. was 0.061—making it clear that police are extremely cautious and judicious in when and how they use any kind of force. These facts stand in stark contrast to the public perception of the frequency and appropriateness of force used by the police. In large part, the public perception of police use of force is framed and influenced by a few high profile incidents, which are not representative of the daily interactions of law enforcement and the policing profession. As a result of these misconceptions, the public has raised questions regarding police use of force practices. In turn, law enforcement has raised concerns about the public's support of the public safety mission.

Unfortunately the long term goal was not fully achieved due to lack of funding resources to keep a permanent national database up and running. However, we welcome data collection in this area as we strongly feel that transparency is important and the results will provide the public with an accurate and up to date picture of the use of force by police. Again, these incidents are rare.

The IACP's work on the use of force continued with the development of a report on '*Emerging Use of Force Issues*' in 2012. This report reinforced the need for data collection, careful review of all use of force incidents and transparency in information sharing with the public after a force incident occurs.

In addition, the IACP has developed model policies in this area, including: Use of Force; Reporting Use of Force; and Officer-Involved Shootings, In-Custody Deaths, and Serious Uses of Force.

Handling Mass Demonstrations and the Use of Military Equipment

Everyone deserves the right to freedom of speech and to public demonstrations; however, that does not grant anyone the right to violence. Today's environment has demonstrated that even peaceful demonstrations can spawn protests and counter protests that can lead to civil disorder and violence.

Law enforcement agencies are frequently called upon to manage demonstrations and public protests. The management and control of crowds by law enforcement agencies are dependent on a large number of factors including the size and intent of the gathering; propensity for violence or property damage; probability of counter-demonstrations; capabilities of the law enforcement agency; and availability of officers from contiguous jurisdictions under mutual aid. Law enforcement agencies generally have advance notice of events that will draw significant crowds. The degree of advance notice will, to some extent, govern how much time a law enforcement agency can invest in planning in order to prepare a fully responsive operational plan.

Today, one of the challenges that law enforcement agencies face is that demonstrations have taken on a more systematic, organized nature due to tools that were not available in the past, like social media. Social media is now commonly used to mobilize and manage participants prior to and during demonstrations and civil disturbances. We recently experienced the power of social media in organizing demonstrations and protests to the events in Missouri, New York, and Ohio.

It's a delicate balance for law enforcement in their response to mass demonstrations. For example, commanders on the ground are often better able to judge the temperament and mood of a crowd and its course of action than those in a command post removed from the incident scene. On the other hand, commanders on the ground during large gatherings may not have a full grasp of the myriad crowd activities needed to make informed logistical and resource decisions. As such, balancing the proper response to quickly evolving situations or unexpected contingencies can at times be difficult.

Law enforcement executives understand that recent events have given rise to questions about the use of military equipment by law enforcement and its value to law enforcement agencies and the communities we serve. The vast majority of this equipment has been properly transferred to and deployed by law enforcement agencies. The use of military equipment by law enforcement agencies has undoubtedly improved the safety of U.S. law enforcement officers and enhanced their abilities to protect citizens and communities from harm. While most of this equipment is used properly, there have been instances when it was unnecessarily used. Law enforcement agencies should be judicious about the use of military equipment, but there are times when military equipment needs to be deployed in order to protect the public and public safety personnel, reduce violence, and prevent mass destruction during large public demonstrations.

The IACP has developed a model policy on Crowd Management and Control.

Civil Rights Enforcement

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 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. That is why the IACP, with support and collaboration from the U.S. Department of Justice Office of Community Oriented Policing Services published a guide entitled *Protecting Civil Rights: A Leadership Guide for State, Local, and Tribal Law Enforcement* (2006). This guide, included in the appendix, describes the processes by which agencies with alleged "pattern or practice" civil rights violations are investigated and monitored. It offers lessons learned, resources, and strategies for protecting and promoting civil rights across the varied communities' police agencies serve.

Research and Data Collection

Research and data collection are the two foundational elements of successful and effective policing. IACP has been a champion of these elements since its inception in 1893—always calling for enhanced information and data to drive policing policy. Within the last decade, our support for research and data collection has increased exponentially with the creation of our Research Advisory Committee (RAC) to promote evidence-based policing research across the country—with a focus on successful police-researcher partnerships. We have also expanded our own data collection and research capacity through innovative partnerships with private sector foundations like the Joyce Foundation, the MacArthur Foundation, the Public Welfare Foundation, and the Arnold Foundation. Our position is clear from these actions- all police policy and practice should be evidence-based, and that evidence must come from reliable, current data and science-based research.

Conclusion

Law enforcement leaders are committed to protecting the public and upholding the civil rights of all communities. The IACP has long been working with law enforcement leaders to provide guidance in the use of Early Intervention Systems, Internal Affairs, research and data collection, the use of force, the protection of civil rights, and ways to promote and enhance the relationship law enforcement has with the public. It is our hope that the Task Force will review our supporting documents that are included in the appendix to help aid in the enhancement of community-police relations.



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

This project was supported by Grant Number 2003-HS-WX-K309 awarded by the U.S. Department of Justice Office of Community Oriented Policing Services (the COPS Office). Views expressed in this document are those of the International Association of Chiefs of Police and do not necessarily represent the official position or policies of the COPS Office or the U.S. Department of Justice.



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,

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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

From within the Department of Justice the project relied on the expertise and assistance from three separate offices.

First, we are indebted to the Special Litigation Section (SPL) within Civil Rights Division. As the section responsible for conducting pattern or practice investigations, brokering consent decrees and memorandums of agreement, and overseeing reforms, the SPL played a pivotal and patient role in helping IACP staff understand the complexities and nuances of the process. We are particularly indebted to the direct roles that Shanetta Y. Cutlar, chief of the SPL, and Tammie Gregg, deputy chief, played as advisors and facilitators in this endeavor. Staff from throughout the SPL provided comments on early outlines of the guide and were instrumental in helping ensure that the document was comprehensive and well balanced.

Second, we are also indebted to the Community Relations Service (CRS) within the Department of Justice. Director Sharee Freeman was a loyal advisor throughout the course of this project. George Henderson, general counsel for CRS, and Timothy Johnson, senior conciliation specialist, were instrumental in helping project staff understand the role of CRS in promoting civil rights and distinguishing CRS' role addressing civil rights concerns from that of the Civil Rights Division. Mr. Henderson was also instrumental in convening a group of CRS staff to help underscore and illustrate the scope and variety of assistance.

The third component within the Department of Justice to whom we owe our deepest gratitude is the Office of Community Oriented Policing Services (COPS). We thank the COPS Office not just for funding the project, but also for providing consistent and active support as well as direct contributions. Director Carl Peed was instrumental in helping initiate the project. His participation in and support for the project was invaluable and helped to underscore the important role that community policing, and the COPS Office in particular, have played in promoting policing that is more fair, more responsive to the community, and more effective. Deputy Director Pam Cammarata served as the COPS project manager. Her support, insights, and direct involvement helped to bring us together with other COPS grantees involved in similar work. These contacts and our participation in various workshops and symposia sponsored by COPS were indispensable in helping define the scope of the project and ensuring that our approach was balanced and complementary to the efforts other COPS grantees working on projects focused on civil rights. A final debt of gratitude is extended to two contract employees of COPS: Judith Beres for her editing of this document and Ayonna Johnson for her work on the layout of this document.

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.

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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 policies 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 policies 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 be 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.

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*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 1968¹² 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.

Consent Decrees and Memorandums of Agreement

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):

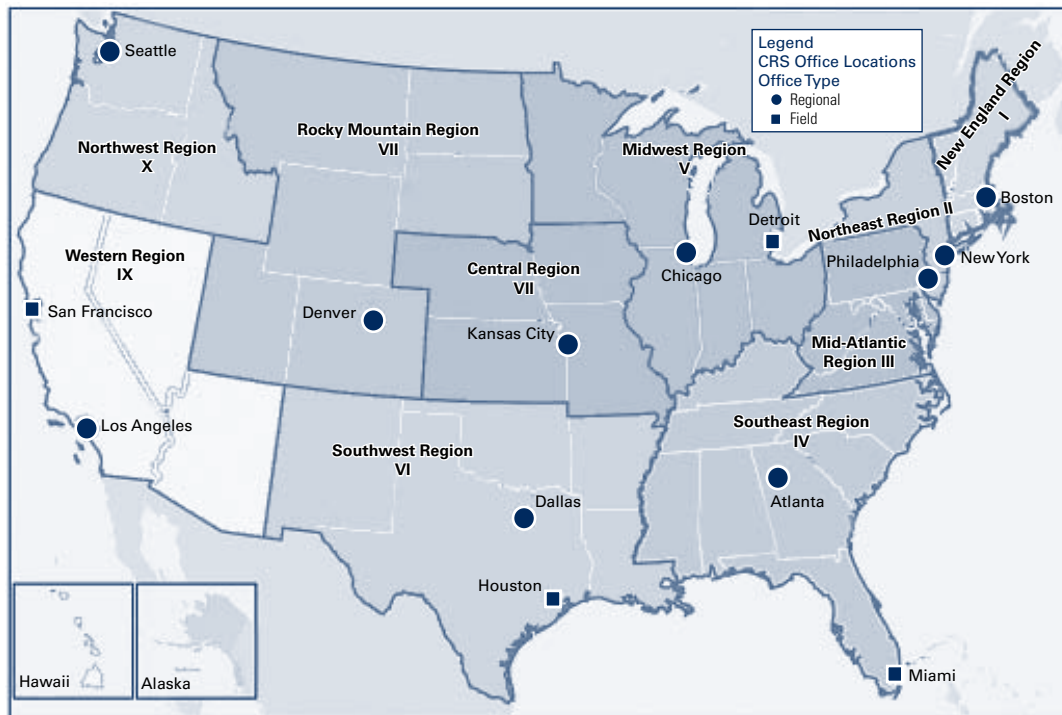
The Community Relations Service is the [U.S. Justice] Department’s “peacemaker” for community conflicts and tensions arising from differences of race, color, and national origin. Created by the Civil Rights Act of 1964, CRS is the only Federal agency dedicated to assist State and local units of government, 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



- ~ 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, the 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.
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- ¹⁹ "Homepage." No date. U.S. Department of Justice, Community Relations Service. Retrieved November 18, 2005 from www.usdoj.gov/crs.
- ²⁰ Walsh, William F., and Gennaro F. Vito. "The Meaning of Compstat: A Theoretical Analysis." Journal of Contemporary Criminal Justice 20.1 (2004): 51-69.
- ²¹ Magers, Jeffrey S. "Compstat: A New Paradigm for Policing or a Repudiation of Community Policing?" Journal of Contemporary Criminal Justice 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.

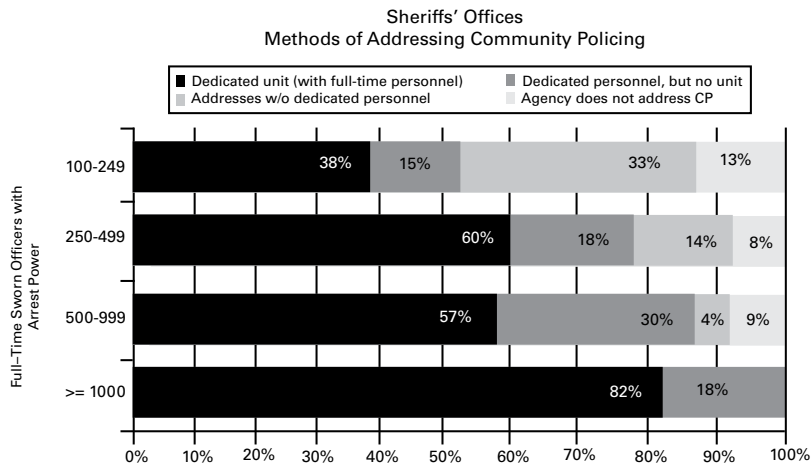
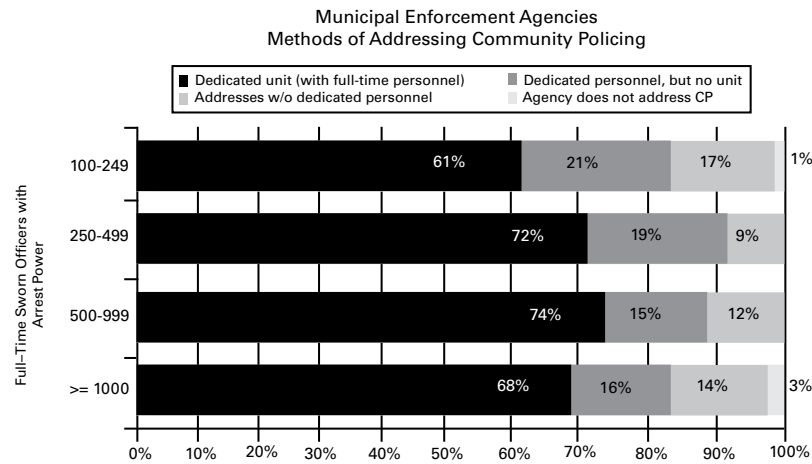
The data presented in this guide are drawn from the 2000 census and 2003 survey. A subset of questions in the survey were only asked of agencies with 100 sworn officers, while others were asked of all sampled agencies regardless of size.

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.



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 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 Project¹⁰

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 Bridges¹²

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 Unit¹³

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.

Unit Priorities

- 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 Academy¹⁶

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 Trust¹⁷

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 through "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." The Police Chief October 2005. The text was adapted from the article.

- ¹³ The text above was obtained from the programs web page at www.ci.charlotte.nc.us/Departments/Police/Crime+Info/International+Relations/Home.htm. The publication "Law Enforcement Services to a Growing International Community." The manual is available on CMPD's web site at www.cmpd.org and the North Carolina Governor's Crime Commission's web site at www.ncgccd.org.
- 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 www.theiacp.org/awards/webber/2005WSAbstracts.pdf.
- ¹⁵ "Frequently Asked Questions." The National Citizens Police Academy Association (NCPAA). Retrieved November 15, 2005 from www.nationalcpaa.org/faq.htm
- 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 www.motorola.com/governmentandenterprise/contentdir/en_US/Files/General/WebberSeavey2003Winners.pdf.
- 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.

III. *Developing an Early Intervention Strategy*



DEVELOPING AN EARLY INTERVENTION STRATEGY

The costs associated with hiring and training a police officer run in the thousands of dollars. It is in the officer's and our best interest to intercede when an officer is struggling personally or professionally. Without early intervention, we risk losing personnel from our ranks that we might well have been able to keep with intervention.¹

James Hussey, Chief of Cohasset (Massachusetts) Police Department

Introduction

When carefully designed and implemented, early intervention systems can benefit individual officers, police departments, and the community. Increasingly being integrated into broader personnel assessment or risk-management systems, early intervention management strategies provide a means of identifying officers who may be headed for trouble. This strategy offers a crucial opportunity to intervene on behalf of these officers, their departments, and their communities. At the individual level, early intervention can save officers' careers and potentially save lives. Police departments justifiably devote considerable resources and offer extensive training to prevent on-duty deaths and injuries. Nevertheless, at least twice as many law enforcement officers are lost each year to suicide as are killed in the line of duty.² Properly implemented early intervention strategies can provide the assistance that officers working in a highly stressful profession urgently may need.

Individual officers, police departments, and their communities benefit when departments succeed in addressing the factors that contribute to officers' risk for errors in professional judgment, alcohol abuse, and suicide as well as other personal and professional problems. To be fully effective, early intervention must be accepted by officers, supervisory personnel, and communities as an important alternative and complement to disciplinary systems. Through early intervention policies and practices, departments benefit from proactive prevention and actually reduce the need for reactive discipline. When well designed, early intervention programs stress positive performance. The same focused supervisory techniques used to identify the first signs of a problem can also be used to identify and encourage officers whose performance is markedly above average. Communities benefit from a law enforcement agency that has enhanced its commitment to accountability, both internal and external.

Chapter Overview and Objectives

This chapter offers a working definition of early intervention, in part, by drawing on information about early intervention from federal consent decrees and memorandums of agreement (MOA) as well as from promising and innovative early intervention efforts from police departments throughout the nation. It explores a range of practices commonly associated with early intervention and addresses both its benefits and its challenges.

This chapter acknowledges that, much like CompStat and problem-oriented policing, early intervention is a data-driven management strategy. Early intervention efforts are only as effective as the information that is gathered and the managers who use it. The most technologically sophisticated early intervention systems will be severely compromised if data that inform decisions are not collected systematically and if managers are not motivated and trained to take advantage of this tool. Although more and more departments are using early intervention systems, clear data standards and uniform practices have yet to be established.

This chapter deliberately considers early intervention within the context of police departments' other operations. Early intervention efforts do not exist in a vacuum. They must be considered in a broad context, i.e., as part of an integrated agencywide management approach. Early intervention must be coordinated with many areas of police practice. It must be deployed in ways that are consistent with department policies, field operations, supervisory practices, personnel practices, data management practices, and community outreach strategies.

Finally, this chapter argues that early intervention is cost-effective. Although early intervention requires a considerable commitment of department resources and personnel, its effectiveness in identifying indicators of risk among police officers is being demonstrated in a growing number of departments. While the sheer number, variety, and complexity of early intervention systems prohibit a precise cost-benefit analysis at this time, many departments are recognizing that the short-term costs of implementing early intervention, though significant, are less than the long-term costs they will incur without such a system in place.

A Definition of Early Intervention

Early intervention refers to a series of interrelated personnel management processes that help supervisors identify, assess, and evaluate employees' performance for the purposes of addressing potential concerns in a timely manner. Early intervention allows supervisors to address problems in officers' performance before these problems escalate to the point of requiring disciplinary action. Samuel Walker, professor of criminal justice at the University of Nebraska Omaha specializing in police accountability, defines early intervention systems as the "systematic collection and analysis of data on officer performance for the purpose of identifying problems that need to be corrected."³

The Evolution of Early Intervention

Early intervention strategies are continually evolving. Paralleling the development of improved management techniques and technological innovations across all operational areas of law enforcement, early intervention strategies are becoming more prevalent and more sophisticated. Leading examples of early intervention systems include those at the Los Angeles County Sheriff's Department, the Miami-Dade Police Department, the Phoenix Police Department, and the Pittsburgh Bureau of Police.⁴ While all four of these model systems are located in large departments, law enforcement agencies of various sizes and various jurisdictions—municipal, county, state, and special—are now adopting early intervention systems and tailoring them to meet their own needs.

The spirit of early intervention is similarly evolving. Initially, many early intervention systems were designed primarily to detect, and even remove, officers who constituted a risk to their department. Now, these systems tend to be more far-reaching and refined. Today's early intervention systems are designed to identify—at the first sign of a potential problem—officers who might benefit from assistance in the form of counseling, retraining, and other forms of nonpunitive intervention. In this way, early intervention is realizing the vision of those forward-thinking law enforcement leaders who first recognized the value of nonpunitive approaches to promoting police integrity and spearheaded some of the first early intervention efforts.

Indeed, many departments are expanding their use of early intervention systems to identify and reward exemplary officers. The same data systems and management techniques that allow departments to identify officers who may benefit from nonpunitive intervention allow departments to identify officers who are exemplary performers. Early intervention systems may be used to identify an officer who, for example, may be working on highly active and risky details such as drug or gang interdiction units where suspect complaints are commonplace, but who receives very few citizen complaints or use-of-force citations. Departments are also using early intervention systems to identify officers who receive public commendations or awards.

Early intervention systems are expanding in other ways as well. Many departments are using early intervention to enhance management and performance assessment of nonsworn personnel.

Early Intervention: Terminology with a Purpose

The terms “early intervention,” “early warning,” “personnel assessment,” and “risk management” are often used interchangeably for early intervention systems. The federal consent decrees and MOAs generally refer to “early warning” or “risk management” systems or adopt the name of the specific system that was in use in the jurisdiction at the time of the agreement, e.g., The Personnel Performance Management System by the Washington, D.C., Metropolitan Police or TEAMS II by the Los Angeles Police Department.

When discussing specific systems, this guide, like the consent decrees and MOAs, uses the term used by the specific agency. When discussing these systems generally, however, this guide uses the term “early intervention” exclusively. As Samuel Walker suggests, the term “early intervention” better conveys the nondisciplinary and corrective characteristics of these systems while the term “early warning” has connotations that appear more ominous to police personnel.⁵ An early intervention process based on objective screening and careful supervisory assessment followed by intervention strategies chosen to meet the specific needs of an individual officer is consistent with a management philosophy that advocates professional development and assistance over management based solely on compliance and punishment.

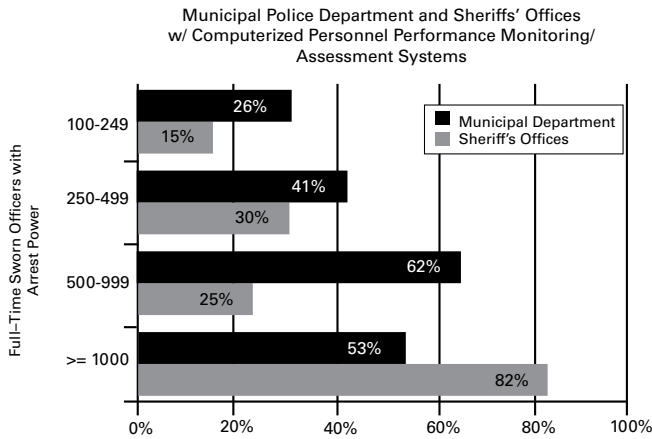
Terminology can make a major difference. Relying on the term “early intervention” instead of “early warning” is a better reflection of the true aim of these systems and may help impart a less threatening image to personnel and police unions.

The Prevalence of Early Intervention

There is some difficulty in determining the prevalence of early intervention strategies in law enforcement agencies. Part of the problem is that most of the attention has been paid to discussing the front end of the system—data collection and setting thresholds—and little attention to the back end—the role of supervisors in contextually assessing indicators and determining interventions. Consequently, the assumption remains that early intervention systems are by definition computerized. A broader definition might reveal that many more departments, particularly smaller departments, are engaging in early intervention systems in their day-to-day practices without the benefits (or the need) for computerized system.

Results from the 2003 Sample Survey of Law Enforcement Agencies (LEMAS) conducted by the Bureau of Justice Statistics provide an opportunity to assess the prevalence of *computerized* early intervention systems. Only departments with 100 or more sworn personnel with arrest powers were asked about such a system.⁶ Details about LEMAS methodology and data are in the text box on page 31 in Chapter 2.

LEMAS results revealed that 32 percent of municipal departments and 22 percent of sheriffs' offices of that size reported having computerized early intervention systems in 2003. Approximately 33 percent (16 of 48) responding state police agencies and approximately 56 percent (18 of 32) of county police agencies reporting having such a system.



The graph presented here illustrates findings across municipal police departments and sheriffs' offices by agency size. Among municipal police departments and sheriffs' offices, the likelihood of an agency having a computerized early intervention system generally increased with size. Except for the largest category, early intervention systems are more common in municipal departments than in sheriffs' office of similar size.⁷

The Benefits of Early Intervention

When properly implemented and managed, early intervention offers numerous benefits to law enforcement agencies. The benefits associated with early intervention include the following:

- Enhancing police integrity
- Promoting a culture of accountability and reconciling the ideals of internal and external accountability
- Emphasizing the department's commitment to ethical policing
- Decreasing reliance on negative sanctions and punitive actions

- Providing supportive intervention to sustain, revive, and advance individual careers
- Supporting and increasing efficiency of first-line supervisors
- Promoting clearer and more consistent communication between supervisors and subordinates across the organization
- Improving staff retention, thereby limiting the costs associated with staff turnover and lost investments in recruitment and training
- Increasing overall management efficiency
- Improving officer morale
- Decreasing liability and costs of civil suits associated with misconduct and use of force
- Enhancing community relations, particularly when community generated data are made part of the early intervention system
- Reinforcing problem-oriented policing (POP) approaches for both internal and external problems
- Underscoring the department's commitment to information and data-driven management strategies.

Core Principles of Early Intervention

Although early intervention systems vary in scope and complexity according to agencies' size, mission, and management priorities, three core principles are critical to successful early intervention.

1. Effective early intervention identifies potentially problematic behaviors in individual officers rather than identifying and removing problematic officers.

Successful early intervention proactively identifies and addresses precursors to misconduct rather than imposing sanctions for actual misconduct. As the expression "early intervention" implies, these systems seek to recognize potentially problematic behaviors early on, when nondisciplinary, corrective actions will have the greatest likelihood for success. When early intervention systems indicate a need for intervention, these systems seek to problem-solve with the goals of redirecting and enhancing an officer's performance, rather than isolating or ostracizing that individual for the purposes of discipline or termination.

The Gladstone (Missouri) Department of Public Safety emphasizes the necessity for identifying problematic behaviors early on in order to ensure a problem-oriented versus a person-oriented approach in its description of the "Personal Early Warning System":

The Personnel Early Warning System [is] a time-sensitive system effectively designed to organize critical performance and evaluation data in a format conducive to promptly identify early indicators of certain performance and/or stress related problems and to facilitate any necessary or appropriate follow-up activities.

Source: Gladstone (Missouri) Department of Public Safety's Policy Manual
Agency Profile: Population 23,246; Officers 42

Through such an approach, early intervention not only assists individual officers, but also benefits an entire agency by sending the message that positive reinforcement, professional development, and education are favored over negative sanctions. To send this message unequivocally, management must emphasize and ensure that early intervention focuses on detecting problematic *behaviors* in officers rather than identifying, labeling, and weeding-out problematic *officers*. This latter task should remain the function of the disciplinary system, which ideally would be used as a last resort only if early intervention fails.

2. Effective early intervention depends on the collection of relevant data and the use of that data in decision making.

Many law enforcement departments have embraced data-driven strategies—including problem-solving and CompStat-style management—to fight crime and maintain public order. Early intervention is predicated on the same commitment to data-driven management. Prudent police managers recognize the power of data-driven management practices in improving public safety. They are now recognizing that these same strategies can be focused inward to improve personnel performance and integrity and to manage risk.

While it is critical that departments demonstrate a commitment to the collection of relevant data and the use of that data in decision-making processes, early intervention systems do not require sophisticated information technology systems. Small and medium-sized departments can achieve the same objectives as larger, more technologically advanced agencies by relying on consistent and comprehensive record-keeping practices. The federal MOA between the Department of Justice and the Villa Rica (Georgia) Police Department indicates that early intervention can succeed even when a computerized database is not used:

The VRPD [Villa Rica Police Department] shall develop a formal system to monitor officer conduct. This system shall include information on investigations, complaints (including civil lawsuits), uses of force, training histories, supervisory reviews, and disciplinary and other corrective actions. The VRPD's system *need not be computerized*, but shall contain triggers set to detect behavior which raises concerns and requires supervisory review. The VRPD shall require supervisors to review the data regarding officers under their command on a regular basis, and should establish guidelines regarding the specific events that require additional supervisory review and consideration of corrective action.⁸ (Emphasis added.)

While early intervention can succeed with or without sophisticated computerized systems, technology does provide the benefit of allowing supervisors to access large volumes of organized data by automating certain processes. For example, supervisors' direct observations of and interactions with officers may be augmented by reference to an early intervention database. In addition, department personnel may set specific criteria by which the database automatically indicates an individual officer as exhibiting potentially problematic behavior.

3. Effective early intervention requires strong and effective supervisory review.

Early intervention succeeds as thoughtful and thorough supervisors make appropriate use of the data at their command. Early intervention systems are only a tool, not a substitute, for strong and effective supervisors. The critical importance of supervision to successful early intervention efforts is emphasized in many department policies as well as in federal consent decrees and MOAs. The Rock Hill (South Carolina) Police Department explicitly identifies supervisors' responsibilities within its Personnel Early Warning System:

1. First and second level supervisors will familiarize themselves with their subordinates and routinely observe their demeanor, appearance, and conduct.
2. Supervisors will remain alert for indications of behavioral changes or stressors that may affect a Department member's performance.
3. When supervisors perceive or determine that a Department member has problems or is causing problems, they will assess the situation and take appropriate action in accordance with this general order and the other policies and procedures of the Department, including referral to the City Employee Assistance Program or a police chaplain, informal counseling by a supervisor, and other remedial action.

Source: Rock Hill (South Carolina) Police Department General Orders Manual
Agency Profile: Population 50,000; Officers 107

Under the consent decree of the Detroit Police Department, the department is required to develop a "Review Protocol" for commanders and supervisors using the department's Risk Management System. The consent decree requires that commanders and supervisors "promptly review records of all officers recently transferred to their sections and units" and further stipulates that commanders and supervisors "be evaluated on their ability to use the risk management system."⁹

Law enforcement executives can increase the likelihood that these systems will be effective and accepted if they ensure that early intervention occurs in a preventive, timely, and problem-oriented (versus reactive) manner that it is data-driven and is seen as a tool (rather than a substitute) for good supervision.

Basic Components of Early Intervention Systems

The fact that the scope and complexity of early intervention systems and their associated administrative features vary widely by agency and the fact that these systems are constantly evolving make a thorough review of early intervention systems challenging. Nevertheless, the basic components of these systems are identifiable. These components receive detailed discussion in the early intervention policies of individual police departments, the language of the consent decrees and MOAs, and the professional and academic literature describing these systems.

The following discussion presents the basic components of early intervention systems and provides an overview of these components as documented by agencies and in the language of consent decrees and MOAs.

Indicators: The Foundation of Early Interventions Systems

Early intervention systems are built on a foundation of performance indicators that are believed to be indicative of potentially problematic behavior. While early intervention systems vary widely because of the number and scope of performance indicators used, the most commonly included indicators are citizen complaints, use-of-force reports, and firearm discharges. Although performance indicators are the foundation of early intervention systems, very little assessment of the relative strengths and weaknesses of the various indicators in predicting risk have occurred. To date, there is little standardization of which indicators should be used, but there is growing interests among agencies to share experiences as the use of these systems continues to evolve.

As early intervention systems become more prevalent and more sophisticated, the number of indicators is growing. Today, early intervention systems commonly include incidents of resisting arrest, instances of civil litigation, vehicle pursuits, accidents/vehicle damage, sick days, and secondary employment as performance indicators. Some early intervention systems are even incorporating more particularized indicators to predict risk. For instance, while many departments simply specify use-of-force incidents as an indicator, others count only use-of-force incidents that exceed a certain level of force or consider use-of-force ratios that statistically account for variations in arrest activity. Similarly, while many departments merely tabulate sick days and then assess them against fixed-threshold or department-wide standards, others specifically flag sick days that are contiguous to vacations or holidays for greater scrutiny.

The following text box lists the performance indicators used in the Phoenix Police Department's Personnel Assessment System (PAS) and the Pittsburgh Police Bureau's Performance Assessment Review System (PARS). The performance indicators used in these systems are among the most comprehensive in the nation. Both systems can be used to identify officers exhibiting behaviors indicative of risk. Both systems can also be used to identify officers who are exemplary performers because their performance indicators include commendations and citizen compliments. Finally, it is important to note that, for both systems, many of these performance indicators are not indicators per se, but sources of information that are used for contextual reference. For instance, both the Phoenix and Pittsburgh systems track arrests as an indicator although a mere count of arrests is not indicative of any risk. Rather, the number of arrests can be used to put other indicators in context (e.g., use-of-force ratios relative to activity such as arrests, field interrogations, or citations).

Indicators Tracked by the Phoenix Police Department's PAS¹⁰

- Assignment history
- Discipline
- Employee use of force
- Firearms qualification data
- Suspect use of force
- All O.T. worked and % paid & held
- All citizens, supervisory, & PSB employee requested notes
- Complaints
- Police accidents
- Refer to driving analysis
- Interrogations
- Significant event radio codes from CAD
- Industrial Injuries
- Use-of-force ratios
- Industrial exposures
- Department reports
- Training records
- Employee summary report
- Leave time history & balances
- PAS contact information
- Police Shootings
- Employee photo
- Work-hour summary
- Threshold summary report
- Arrests
- Employee assistance options
- Discretionary arrest codes
- Peer support
- Citations, traffic & criminal
- Critical Incident Stress Team
- Pursuits
- Chaplains
- Internal audits
- Mental health professionals
- Off-duty work data
- 24/7 crisis lines
- Commendations, awards, & letters of appreciation

Indicators Tracked by the Pittsburgh Police Bureau's PARS¹¹

- Accidents
- Arrests
- Counseling
- Civil claims
- Complaints
- Criminal investigations
- Discipline
- Lawsuits
- Missed court dates
- Traffic stops
- Weapons discharge
- Search and seizure
- Use of force
- Sick time
- Other absences (e.g., suspensions)
- Grievances
- Secondary employment
- Injuries
- Citations, traffic and criminal
- Pursuits
- Off-duty work data
- Discretionary arrest codes (false information, escape, resisting arrest, disorderly conduct, no identification)

When departments rely on more comprehensive performance indicators, their ability to predict risk and identify exemplary performers may be enhanced, but there may also be an increased tendency for individual officers to be indicated as exhibiting potentially problematic behavior. As these data-driven systems expand, it is increasingly imperative to ensure strong and effective supervision. The existence of “indicated” behavior does not necessarily mean that potentially problematic behavior exists. Managers and supervisors must not fall into the trap of assuming that a complicated risk-indicator system, based on a sophisticated statistical algorithm, represents a magic formula that automatically and precisely determines risk. Both the Phoenix Police Department’s PAS and the Pittsburgh Police Bureau’s PARS rely on standardized statistical reports that are regularly reviewed by supervisors, but that also allow for ad hoc reporting and analysis. The need for the careful review of performance indicators by experienced and well-trained supervisors who assess information within the context of the precipitating event and the individual officer’s career cannot be overstated.

Acting on Indicators: The Workings of Early Intervention Systems

Having established a foundation of performance indicators, early intervention systems succeed as supervisors respond to indications that officers may benefit from intervention. This process generally occurs in four steps. First, early intervention identifies officers who may require intervention. Second, early intervention requires a mandatory supervisory review to determine if intervention should occur. Third, early intervention requires supervisors to identify and implement the most appropriate form of intervention. Fourth, early intervention recommends post-intervention monitoring. Drawing, again, on consent decrees, MOAs, successful early intervention systems, and professional literature, the following discussion reviews the means by which various early intervention systems accomplish these steps.

Step One: Identifying Officers Who May Require Intervention

The first step for successful early intervention is to identify officers who may require intervention. Standard management practices across all agencies should ensure that supervisors remain continually aware of officers’ behavior. Frequent—ideally daily—contact and periodic reviews of officer performance on a systematic basis should enable superiors to identify and direct increased attention to officers who are exhibiting potentially problematic behaviors or whose behavior does not appear to comply with agency expectations or standards maintained by their peers.

Early intervention offers the added advantage of augmenting supervisors’ direct interactions and observations based on reference to an objective set of performance indicators. An individual department typically will organize these performance indicators according to a specified threshold. Whenever officers’ behaviors reach this department-established threshold, supervisors review their records and assess officer performance to determine whether intervention is appropriate. A variety of thresholds are currently in use. For example, a threshold may be reached once a certain number of indicators—such as use-of-force incidents—occur over a certain period, such as 3 months. Other methods of using statistical thresholds may involve calculations that are more complex. This section will review the most prevalent types of early intervention thresholds.

Fixed Threshold Alerts

Fixed thresholds are the most straightforward. Fixed thresholds are reached whenever a certain number of indicators occur over a specified period. Below is a hypothetical version of text adapted from several early intervention system policy directives (which have since been updated).

Early Intervention System Criteria

Officers will be targeted for review by the early Intervention system if he or she is found to have an accumulated total of *four incidents* from the following categories *within a 6-month period* the officer's name will be placed on the early warning system review list for attention.

1. Vehicle pursuits initiated by officer.
2. Preventable vehicle accidents.
3. Uses of force determined NOT to be in compliance.
4. Citizen complaints filed.
5. Any instance of department discipline.

Most departments that implement these thresholds require that officers who meet a fixed threshold receive required mandatory supervisory review to determine if intervention is warranted.¹²

Point System Threshold Alerts

Compared to fixed thresholds, point system thresholds are a slightly more complex method of triggering mandatory supervisory review. In point systems, different performance indicators are given different point values. Officers are indicated for review when they reach a certain number of points within a specified period. The Greenville (South Carolina) Police Department uses a point system for specific performance indicators in its Personnel Early Warning System, as follows:

Complaint = 2 points
Disciplinary action = 2 points
Use of force = 1 point
Vehicle pursuit = 1 point
Vehicle collision = 1 point

Source: Greenville (South Carolina) Police Department's policy manual
Profile: Population 56,000; Officers 184

Department thresholds are reached if an officer receives six points in a 3-month period or 20 points in a year.

Peer-Based Threshold Alerts

Peer-based thresholds acknowledge the reality that different officers are more or less likely to reach a fixed threshold or a point system threshold given their assignment. Officers working on a specialized gang or drug unit or in a high-crime district, for instance, are more likely to be the subjects of citizen complaints or experience more situations where use of force is warranted. Accordingly, peer-based thresholds are adjusted to acknowledge the risk inherent in officers' various assignments. Officers who are being assessed relative to a peer-based threshold, for instance, may be indicated if they are one standard deviation above the mean of their peers for specified performance indicators. Peers are defined by a variety of criteria. For example, an officer's peers may be defined as those working the same zone and same shift. As a result, these thresholds adjust for different risk levels associated with different assignments.

The Pittsburgh Police Bureau pioneered the use of early intervention peer-based thresholds when developing its *Performance Assessment and Review System* in response to the 1997 consent decree with the Department of Justice. In developing this peer-based threshold, Pittsburgh actually went well beyond the scope of requirements specified in the consent decree. Today, that system is a model for other departments, including many under federal consent decrees and MOAs. A Prince George's County (Maryland) Police Department *Consent Decree Status Report* specifically credits Pittsburgh's system as exerting a major influence over its system.¹³

Single-Event Threshold Alerts

As various thresholds become increasingly sophisticated, many departments still recognize that certain incidents should automatically indicate an officer for review. A mandatory supervisory review is in order whenever a death, whether of a suspect, bystander, or fellow officer, results from the actions of a police officer or whenever an officer uses force defined as deadly. The implication of such a review is not that the officer's behavior was necessarily problematic. Instead, a review is performed in recognition of the fact that deaths, injuries, or shootings that result from officers' actions are traumatic experiences for which counseling or other forms of intervention may be advisable.

Alerts not Based on Automated Threshold

The use of thresholds, which provide crucial alerts for mandatory supervisory review, is a key feature of early intervention systems. Departments that use early intervention, however, quickly recognize that intervention sometimes may be warranted before a threshold is reached. Supervisors should act when they observe signs of potential problems rather than waiting for a problem to manifest itself in statistically indicated behavior. Supervisors may be aware of stresses in officers' personal lives such as marital discord, illness, or problems with children. Supervisors may observe sudden changes in personality, such as when a normally quiet and reserved officer suddenly seeks out attention or when an outspoken officer appears unusually quiet. Such behavioral cues should be heeded as signs of problems that may affect an officer's performance or judgment on the job. These may be signs that the officer might later "act out," on or off the job, in career-ending ways. Department thresholds—no matter how extensive or nuanced—will not always alert supervisors to the myriad problems that officers may experience. Alert, conscientious, and diligent supervisors are the critical component in even the most technologically sophisticated early intervention strategy.

In the experience of the Phoenix (Arizona) Police Department, nonthreshold alerts have come from supervisors, peers, family members, and officers themselves. Supervisors in Phoenix see this as an encouraging trend suggesting that officers and their families recognize the Phoenix Police Department's PAS as a genuine effort to assist employees.¹⁴

Benefits of Timely Indicators

Early intervention can be most effective if it is administered in a timely manner. Thus, it deserves note that computerized early intervention systems can offer the additional advantage of generating an automatic notification whenever an officer has crossed a department-defined threshold. The sooner supervisors learn of potentially problematic behavior, the sooner they can review this behavior and take steps, if necessary, to prevent escalation. In many manual and some automated systems, agencies tabulate performance indicator data on a quarterly basis. This standard compromises the timeliness of early intervention efforts. Data recorded and reviewed in real time is the most useful. Departments with fully automated systems may alert supervisors as soon as an officer crosses a threshold. These automated alerts may take the form of briefing reports submitted to appropriate supervisors or automated e-mail notifications.

Step Two: Mandatory Supervisor Review for Indicated Officers

Once an early intervention system "indicates" an individual officer, most departments require a mandatory supervisory review to determine whether the indicated officer is, indeed, in need of intervention.

It is important to emphasize again that supervisors are making a critical decision at this point. The fact that an officer is indicated does *not* automatically mean that he or she is in need of intervention. While early intervention systems are an effective tool to indicate officers in need of intervention, legitimate police activity can and does indicate officers who do not require intervention. Indicated officers should not be projected in a prejudicial or negative light. Instead, supervisors must remember that indication is the first step in a multistep process and is not in itself determinative of the need for intervention. Supervisors must play the critical role in determining whether intervention is warranted.

Understandably, supervisors may prefer to err on the side of caution. Early intervention exists to identify and address potentially problematic behavior before escalation. Departments, however, must rely on a supervisor's experience and insight in determining if, in fact, there is need for intervention. Being indicated does not mean that intervention is imminent. Indeed, in certain circumstances, the decision not to intervene may be the appropriate decision.

While the review requirement is almost universal, there are no widely established criteria or precise protocols for performing this review. There should be absolute consensus, however, that supervisors play *the* critical role in the decision process. The computerized alert is simply a tool.

Text from the Colorado Springs (Colorado) Police Department manual suggests the breadth of information and experience on which supervisors will need to draw:

The analysis of the facts should include consideration of the totality of circumstances surrounding each incident and/or complaint, drawing on knowledge of human behavior, department policies and procedures, and the insight of the involved supervisors and managers.

Source: Colorado Springs (Colorado) Police Department manual
Agency Profile: Population 315,000; Officers 501

Indeed, supervisors' experience, training, and direct working knowledge of their officers at this stage of the process are especially critical. By considering the context in which the indicating events occurred, supervisors are best able to use their personal knowledge of the officer and his or her professional judgment of the officer's behavior to determine whether intervention is required. Department policies should identify factors that reviewing supervisors should consider in their decision regarding intervention. The following discussion investigates these factors.

Supervisors should ascertain whether the indicating events reflect a pattern or an isolated incident or incidents. Behaviors that reflect a pattern may require intervention where isolated incidents may not. For instance, an officer may have been indicated because of four citizen complaints within a 1-week period. Upon assessment, the supervisor may determine that all the complaints were generated by members of a family alleging that the officer was rude to a specific person in the family, a person that the officer lawfully arrested. Noting that the officer has never had a citizen complaint for rudeness or for any other reason in his 5-year career, the supervisor may decide that no intervention is needed even though the indicator threshold was met.

Supervisors should determine whether there are links between the indicating events. Similar events may be indicative of underlying problems. A string of complaints in which an officer is alleged to have been using foul and discourteous language, may be related to personal problems the officer is experiencing. Seemingly dissimilar indicators may also have a common link. For instance, a supervisor may need to determine whether an inordinate use of sick days or missed courts dates are related to an officer's secondary employment.

Supervisors should consider the full context in which indicating events occur. In supervisors' efforts to assess an officer's behavior and performance, context is critical. Supervisors should always seek to determine if there are factors, including factors outside the department, contributing to an officer's behavior. For instance, an officer may be experiencing marital problems, a death in the family, or problems with children that influence work performance. Understanding the critical factors, both on and off the job, will help supervisors decide when to intervene and to tailor needed interventions to individual officers' needs.

Supervisors should ascertain whether deficiencies in policies or training might have contributed to indicating events. In a thorough assessment of indicating events, a supervisor may determine that unclear policies or inadequate training contributed, in part or in whole, to the problem. Police work is remarkably complex; policies and training cannot anticipate every situation. If novel situations expose problems with existing policies or training, supervisors should respond by providing feedback to appropriate department personnel. If either unclear policies or inadequate training is a major contributing factor in indicating an officer, the supervisor may well decide that no intervention for that officer is needed.

Supervisors should determine what, if anything, should or could have been done differently to prevent the indicating events. Supervisors may prevent unfortunate events in the future by fully understanding how officers might have acted differently in the past. For instance, if an officer is indicated for crossing a use-of-force threshold or a single event threshold for excessive use of force, the supervisor should review how these situations might have been handled differently. If intervention is needed, discussing different ways of handling the situations may become an important part of that intervention.

Supervisors should document their reviews of indicated officers. Just as there are no widely established criteria or precise protocols for performing mandatory supervisory reviews, there are no hard and fast guidelines governing the documentation of these reviews. Some departments require formal written reports in which supervisors are required to respond with highly specific detail. Other departments are much less formal. Departments should determine what purposes the required documentation of reviews would serve. The requirements for the highly detailed, formally written reports used in the Early Intervention Program at the Colorado Springs Police Department follow:

The report of the [Early Intervention Program] analysis will include a brief summary of the facts of each incident and/or complaint that qualified the employee for the EIP. This report should include the findings and conclusions based on the supervisor's analysis, as well as a recommended assistance. Suggested assistance may include, but is not limited to:

1. Assessment that no problem behavior exists.
2. Need for remediation or training.
3. Referral to the department psychologist for counseling or further referral to Employee Assistance Program [EAP].
4. Peer training/assistance.
5. Change of working environment.
6. Documentation of an approved performance plan.

This performance plan will be designed to assess further and correct any identified performance concerns, and may include any or all of the above corrective measures. This performance plan may include progressive discipline for any failure to meet the stated requirements. In reference to use of force incidents, supervisors should address the following when documenting their review of the initial investigation:

1. Supervisor notification.
2. Photos taken of the suspect.
3. Detailed description of the suspect's actions.
4. Detailed description of the employee's actions.

5. Documentation of all employees involved.
6. Listing of all officers and witnesses present.
7. City of Colorado Springs listed as the victim in all resisting, interference, and obstructing cases.
8. Employee listed as the victim in all Assaults on a Peace Officer cases.
9. Statement of when/if resistance stops.
10. The employee's job assignment(s) during the reporting period.
11. The employee's Internal Affairs and Staff Resources Section records.
12. The number of arrests made during the reporting period.
13. Any other information or statistics that may be pertinent.

Final Review of EIP Analysis Report

The report, with the recommended assistance, will be completed by the officer's supervisor and presented to the involved Lieutenant. The Lieutenant will review the recommendation and provide any necessary insight and/or recommendation(s). The Division Commander will then review the summaries and provide any necessary insight and/or recommendation(s). The Division Commander will make the final decision on any recommended action as a result of an EIP Analysis Report. The original EIP Analysis Report will be delivered and maintained by the Office of Professional Standards, Internal Affairs Section, and a copy placed in the employee's EIP file. The completed EIP Analysis Report will be delivered to the Internal Affairs Section within thirty days of the initial notification that an employee has qualified for the EIP. The Division Commander of the affected employee will ensure that:

1. The employee is fully informed of the findings and disposition of this analysis.
2. All final recommendations are fully implemented.
3. A copy of this analysis may be retained in the employee's evaluation file.

Source: Colorado Springs Police Department Manual
Agency Profile: Population 315,000; Officers 501

Step Three: Selecting and Implementing Appropriate Intervention

When supervisors determine that intervention is warranted, they are given considerable leeway in deciding what form that intervention should take. Intervention ranges from the very informal, such as a discussion of the indicating event with a supervisor, to the more formal, such as a referral to psychological counseling, stress management, or substance abuse programs through a department's employee assistance program (EAP). The most common intervention options available for officers include the following:

- Training/retraining in specific problem area
- Transfer/reassignment
- Counseling
 - By supervisors
 - By peers
 - By mental health professional
- Alcohol/substance abuse counseling
- Referral to EAP.

While intervention options may vary from department to department, all interventions should share two characteristics. First, interventions should be designed to assist the officer in correcting the problem. Intervention must be undertaken with the goal of creating a response that will benefit the officer, the department, and the community in a proactive, not punitive, way. Second, interventions should be tailored to the needs of the individual. In contrast to the disciplinary process, early intervention is not intended to be a quid pro quo system. Two officers indicated for similar events (e.g., an inordinate number of use-of-force incidents when compared with their peers) may be experiencing different underlying problems. While retraining may be an appropriate intervention for one, the other may require retraining and counseling. Supervisors should expect that interventions could vary widely.

Step Four: Post-Intervention Monitoring

Precise protocols for post-intervention monitoring are as uncommon as they are for intervention itself. In this step, supervisors benefit from flexibility and informality as they monitor their officers. As with intervention, the success of post-intervention monitoring depends on the experience and skill of supervisors who may tailor their monitoring to the needs of the individual officer. During post-intervention monitoring, the supervisor's efforts should focus on the officer. For instance, if an officer is indicated because of three use-of-force incidents in a year, any subsequent use-of-force incident should be reviewed thoroughly. Increased supervision, including random roll-bys to observe the officer's performance in the field may also be warranted.

In addition to monitoring individual officers, supervisors must monitor their own success in managing early intervention efforts alongside disciplinary procedures and in sustaining the viability of the early intervention system in the minds of their officers.

Supervisors should clearly understand the difference between early intervention strategies and disciplinary strategies and distinguish between the two. Supervisors should also expect monitoring of these efforts by their superiors. Early intervention is meant to identify and address problematic behavior at its first appearance rather than waiting until disciplinary action is required. Wisely and increasingly, police executives are adopting early intervention

strategies because of their preventive benefits. Early intervention can ensure that officers are not punished for effective, active, and appropriately aggressive policing. It can also ensure that disciplinary action remains a tool of last resort. Still, early intervention does not supplant the appropriate use of discipline. Departments' policies must remain clear in recognizing that some behaviors require discipline and are best handled through the standard disciplinary process.

Departments using early intervention alongside their traditional disciplinary system are likely to see disciplinary proceedings take place for at least two reasons. First, disciplinary systems remain necessary in cases of alleged official misconduct and in instances when officers allegedly violate criminal law. This is the case in departments with or without early intervention. Second, disciplinary systems are necessary in cases in which early intervention was attempted but unsuccessful because an officer refused or was unable to comply. Ideally, the effective use of early intervention strategies will result in a corresponding decrease in disciplinary measures.

Police executives are ultimately responsible for ensuring that their departments achieve the proper balance between early intervention and traditional disciplinary protocols. The discretion granted to first-line supervisors under early intervention strategies is critical. It necessitates a heightened level of review by command staff to guard against misapplication, either intentional or unintentional. Supervisory decisions should be reviewed frequently and systematically by the chain of command to ensure that early intervention is not used in cases where discipline is mandated by a department's policies. Review procedures should also guard against the opposite: instances in which disciplinary procedures are used where early intervention is more appropriate.

Supervisors should monitor their efforts to preserve the credibility of early intervention.

Although it is now common practice for a department to keep early intervention strategies conceptually and operationally distinct from its disciplinary system, this does not obviate the need for employee safeguards when implementing early intervention. In keeping with ethical and professional personnel management practices, many departments adhere to standards of confidentiality and policies that promote employee access. Not only are these standards ethical, but they also can contribute to officers' confidence in early intervention.

Maintaining Confidentiality

Departments commonly specify that early intervention data files, whether electronic or manual, be held in confidence. Data is shared only with immediate supervisors and the chain of command directly involved in decisions regarding intervention. Supervisors should only be permitted to view data regarding officers serving beneath them in the chain of command. When formal reports or memorandums are issued as a result of supervisory review, departments generally treat these documents as confidential. The chief, however, may exercise discretion and make reports or memorandums available to appropriate supervisors for further review or when it serves the interests of the department.

Allowing Employee Access

Increasingly, departments also specify that officers' early intervention data be accessible to them. Accessibility offers several benefits. First, open access policies increase the transparency of the system and underscore the message that early intervention exists to assist

employees. Second, open access offers officers the opportunity to challenge or amend critical information used in early intervention, thereby providing an additional layer of checks and balances. Access may be given to both individuals who have been indicated and those who have not. The latter individuals may simply wish to know how close they are in coming to a threshold in order to take self-directed action to avoid being indicated.

Integration of Early Intervention Systems into Comprehensive Personnel Assessment Systems

Increasingly, law enforcement agencies are turning to personnel assessment or risk-management systems instead of more narrowly focused early intervention systems. These more comprehensive systems typically contain the elements of early intervention systems, but provide other personnel management functions as well. These systems track officer performance data (e.g., responses to calls for service, arrests, and citations issues) including indicators of positive, neutral, and negative connotation. Through standardized report procedures and ad hoc queries, such systems yield consistent and reliable measures of performance. Increasingly, departments are using these systems to inform and support a wide range of personnel issues. Many departments routinely and systematically will assess performance indicators anytime an officer is transferred, promoted, or reassigned. Such indicators can be of invaluable assistance to supervisors when they receive transferred officers. Also, broadly focused personnel assessment systems can be useful tools for annual performance assessments and promotional decisions. The fact that these systems are broad enough to capture positive, neutral, and negative data means that these systems are more likely to be accepted by rank-and-file officers. The fact that they are now often used to manage both sworn and nonsworn personnel may contribute to a sense that the system is more evenly applied and inherently fairer.

The Challenges of Complex Personnel Management Systems: Dealing with Data

The growth of early intervention systems and the development of more comprehensive personnel management systems require departments to manage increasing amounts of data. Fortunately, the need for effective data management parallels a greater reliance on data-driven strategies in policing generally. Data technology throughout law enforcement is increasingly comprehensive and sophisticated. More and more agencies are developing enterprisewide or gateway data solutions that make them more efficient in data-collection efforts while avoiding needless duplication.

In simple terms, a gateway data system draws information from discrete data systems in ways that are transparent to the user. For instance, rather than storing all indicator data on a database system dedicated exclusively to early intervention, a gateway system pulls relevant data from systems designed for other purposes. For instance, an early intervention system that tracks sick days and use-of-force incidents may rely on a gateway system that pulls sick day information from a centralized city database that keeps track of city employee timesheets and use-of-force data from a police department database maintained on an internal server.

This same early intervention system may also pull data from the agency's records management system to determine the ratio of use-of-force incidents to felony arrests for a particular officer.

Consistent with this data integration approach, many departments treat their early intervention data as part of their broader data-collection system. For instance, the Pittsburgh Bureau of Police and the Phoenix Police Department both rely on gateway data systems for their early intervention efforts.

Identifying Exemplary Performers

Departments that capture positive, neutral, and negative data in their early intervention or personnel assessment systems have begun to rely on these indicators not only to identify officers in possible need of intervention, but also to identify exemplary performers. Recognizing and rewarding officers for exemplary performance can serve as an incentive for others, provide opportunities for peer mentoring, and reinforce the message that early intervention truly assists officers. The Pittsburgh Bureau of Police relies on PARS to assess which officers are worthy of promotions as well as to decide whether to accommodate officer-initiated requests for duty transfers or outside training. For instance, if a patrol officer requests a transfer to the traffic division, PARS can be queried to determine whether that officer made traffic stops a priority as a patrol officer and whether the officer performed satisfactorily in these duties (e.g., did the officer routinely show up in traffic court?). PARS is effectively used as part of broad personnel performance assessments.

Moving Beyond Individual Assessment

While early intervention systems and even more comprehensive personnel management systems have been advocated mainly as a tool to assess individual performance, prudent managers have realized that these systems allow analysis of entire units, entire agencies, and of individual, unit, and agency performance over time.

Unit and Agencywide Assessment

Just as early intervention and personnel management systems allow for the analysis of individual officers' behavior, these systems allow for the analysis of unit and agency activity. For instance, although precincts 1 and 2 may have similar demographics, crime problems, and land-use profiles, an early intervention or personnel management system might reveal that precinct 1 has far more citizen-generated complaints and use-of-force incidents than precinct 2. Once in possession of these facts, managers will want to determine whether these disparities require action. Is one unit managed more effectively than the other? Are there differences in staffing levels? Are the relatively high levels of complaints and use-of-force incidents in precinct 1 evenly distributed or are these levels more attributable to a particular shift or even a particular officer or group of officers? Early intervention and personnel management systems enable agencies to answer such performance questions.

Assessment over Time

Similarly, early intervention systems and personnel management systems can be used to assess trends over time. For instance, managers may use simple line charts to compare use-of-force incidents across months or quarters. Through such analysis, they may assess whether the introduction of a new technology or procedure had an impact on use-of-force incidents and whether that impact varied across units. Similarly, managers who invite citizens to file complaints or commendations over the agency's web site may rely on data from an early intervention or personnel management system to determine whether this policy change had an impact on the volume of complaints and commendations as well as whether this impact was more or less pronounced for some geographic units compared to others. Managers might even compare performance indicators across different generations of academy graduates or determine whether trends in use-of-force incidents correlate with periodic refresher courses. These managers might decide to readjust a 3-year training cycle if indicators reveal dramatic increase in incidents 2 years after training.

While early intervention systems and more comprehensive personnel management systems allow managers to address these questions effectively, they must remain vigilant in their management of data and their supervisory efforts. As with individual assessments, unit and agencywide assessments and assessments made over time must be made in context. For instance, a department that publicizes its complaint process in a series of public forums and then begins to allow community members to file complaints on the agency web site should expect a rise in complaints. Rather than perceiving an agencywide surge in complaints as a problem, the department may well point to this as an indicator of the effectiveness of its strategy. Only after such a change is in effect for some time would tracking of complaints once again become a meaningful indicator of public perception and officer performance.

Recommendations

Based on assessment of federal consent decrees and MOAs, as well as the preceding discussion, the IACP offers the following recommendations. The International Association of Chiefs of Police (IACP) reminds readers that these recommendations may require periodic revision because early intervention systems and related management strategies are evolving rapidly. The IACP also reminds readers that any department's ability to implement early intervention strategies may be affected by local laws and collective bargaining agreements.

The recommendations below correspond sequentially with the goals of creating an early intervention system, implementing the system, and promoting the system to relevant stakeholders.

1. Organize a working committee that involves a broad cross-section of participants in the planning, development, and implementation of early intervention.

Executives, managers at all levels, line officers, and administrative staff will have a vested interest in early intervention strategies. The performance of sworn and nonsworn personnel may be monitored by the early intervention system and many individuals and units will be

required to contribute data to or use the data within the early intervention system. As a result, departments planning, developing, and implementing an early intervention system should organize a broadly representative working committee. Even after the early intervention system is implemented, this working committee should remain intact to monitor the system, make necessary adjustments to the system, and assess the impact of new or revised policies on the system.

2. Involve relevant government bodies in the planning and implementation processes.

Municipal, county, and state governments have a clearly vested interest in early intervention systems that are used in their law enforcement agencies. The reputation of these government entities depends in large degree on the performance and reputation of their law agencies. Prudent government leaders will recognize the benefits that can come with meaningful early intervention strategies and will understand that an investment in early intervention strategies can reduce liability and costs in the long run. Government bodies fund these systems and stand to benefit from them. They should be involved in their planning and implementation.

3. Involve police unions, whenever possible, in the planning and development of early intervention.

Unions have a keen interest in any system that has a potential impact on their members. To date, union reaction to early intervention has been mixed. This is the result of the vast diversity of early intervention systems now in operation. Differences also exist because some departments developed early intervention systems reactively, such as under the requirement of federal consent decrees or MOAs, while other departments developed early intervention on their own initiative. At a minimum, police unions should be informed about the planning and development of early intervention. Whenever possible, union representatives should be brought into the planning and development process as active participants. Departments should emphasize the differences between an early intervention system and the disciplinary system as well as the potential benefits of early intervention to officers.

4. Inform the community about the planning and development of early intervention and involve them in planning, when appropriate.

Departments should inform community stakeholders about the development of early intervention. Departments may even choose to involve community stakeholders in the development process. Community involvement may range from a simple review to active participation in the working committee. Involvement of community stakeholders may be warranted if similar processes had already been successfully completed. For instance, if the department has successfully used community input in designing its citizen complaint process, they may invite involvement again. Departments may consider developing community surveys to determine which indicators are of most concern to the community. The survey results may help department personnel decide which indicators should be included in the system or what thresholds the department should use for various indicators.

5. Determine the scope of early intervention that is most appropriate for a department.

Early intervention requires that an agency engage in a regular review of officers' performance along a defined set of indicators. Each agency should determine the scope of the system that best serves its needs. Many smaller departments with reasonable ratios of first-line supervisors to rank-and-file officers may already engage in early intervention strategies without a formal program or model. For some of these departments, the formalization of these efforts into policies or directives may be all that is needed. Many larger departments, however, may realize that their early intervention should be developed as part of a more comprehensive and automated personnel management system that draws on existing data systems. The decision regarding the scope of early intervention should be based on the size, function, and existing data technology of the individual agency. Design of early intervention systems should take advantage of what similar agencies have already experienced.

6. Involve information technology (IT) staff, data systems operators, and end users of existing data systems in the planning, development, and implementation of early intervention.

Any early intervention system that involves computerized data must involve representatives from the IT staff, data systems operators, and end users of existing data systems that may feed into the early intervention system. Whether designing a dedicated early intervention data system or deploying a gateway system that draws from a variety of existing data systems, IT staff will need to create appropriate query and report capabilities that meet end users' needs. End users of other data systems (e.g., the records management system or the personnel system) will be able to provide critical input on the quality of that data and can help assess whether existing data collection practices will be sufficient for the early intervention system. Data input operators can provide critical information about current data quality issues, particularly as they relate to paper forms generated in the field.

The development of early intervention is likely to occur while improvements are being made in data management systems. IT staff and data systems operators will be critical in considering compatibility issues as they update computer-aided dispatch systems, web sites, records management system, and other data systems.

7. Carefully assess other agencies' early intervention systems and experiences.

Although there is no such thing as one-size-fits-all early intervention, there is no reason that a department should start from scratch when designing its early intervention system. Agencies that have developed large-scale early intervention systems have charted new territory in policy, data system design, data management, and changes to supervisory practices. Managers should learn from the challenges that had been faced by peers in other departments rather than learning through trial and error.

Departments, regardless of size or function, should familiarize themselves with model early intervention systems. These include the following:

- Pittsburgh Bureau of Police—Performance Assessment Review System, www.city.pittsburgh.pa.us/police
- Miami-Dade Police Department—Employee Identification System, formerly Employee Profile System, www.mdpc.com
- Los Angeles Sheriffs' Department—Personnel Performance Index, www.lasd.org
- Phoenix Police Department—Personnel Assessment System, www.phoenix.gov/police/pas.html
- Charlotte-Mecklenburg Police Department—Early Intervention System, www.charmeck.org/Departments/Police/Services+A-Z/Home.htm (select “directives” then select “300-018 Performance Review and Development.PDF”).

Departments should also use other agencies' web sites as well as published material to explore the variety of systems in operation. Departments may solicit input from colleagues across the nation through IACPNet or web-based list-serves. At a minimum, departments should consider what early intervention systems are in use in neighboring jurisdictions.

Although departments tend to borrow best practices from early intervention systems in other departments, they seldom adopt other systems in their entirety. Early intervention systems generally rely on indicators driven by local supervisory practices that vary across departments. As a result, few commercial off-the-shelf (COTS) systems are available. While it is doubtful that any department could simply use another department's early intervention database, there may be portions of a software program that could be modified to meet the needs of another department. In such an instance, the agency's IT staff or qualified software development consultants should play a role. Any consideration of standard software, including COTS software, should carefully assess the extent to which that system conforms to the agency's data collection efforts and the extent to which the software can be customized to meet the agency's particular needs.

8. Ensure that supervisors have the appropriate experiences, skills, and training to perform their early intervention responsibilities.

Supervisors must be qualified to perform their early intervention responsibilities. In departments with a strong history of close supervision and ongoing feedback, the need for additional training for supervisors may be negligible. If these are not in place, however, considerable support and training of supervisory personnel may be warranted. Depending on the complexity and sophistication of the early intervention system, supervisors may require training in collecting data, querying the system, assessing early-indicator data in context, writing reports to document decision-making processes, and intervention, intervening, and follow-up monitoring. Departments planning and implementing an early intervention strategy should be aware that it might warrant reassessment of the way supervisory personnel are selected, trained, and evaluated.

9. Ensure that early performance indicators are well-established, clearly understood, and fair.

Using performance indicators that are not collected consistently and reliably can be counterproductive and may compromise early intervention system efficacy and fairness. This is a particular area of concern for highly discretionary police actions. For instance, some early intervention systems use field interviews (sometimes called field interrogations) as an early intervention system indicator. Use of indicators such as these would be advisable only if there was a consistent definition of the term and only if supervisors are assured that all officers consistently fill out these forms. If officers conduct field interviews but can avoid recording them so they can fly under the radar screen, it compromises both the fairness and utility of the early intervention system

10. Ensure that early intervention data are collected and entered in a timely manner.

In addition to being reliable, early intervention data must be timely if the system is to identify potentially problematic behavior and intervene as needed. Implementing an early intervention system may require an agency to commit resources for timely data collection and entry as well as take measures to assure data quality.

11. Carefully consider how to best document supervisors' early intervention decisions and selection of interventions.

While selection of performance indicators and mechanisms for tracking indicators and setting thresholds for mandatory supervisory review have received ample attention in policing literature, far less attention has been paid to early intervention review processes and documentation of those reviews. Some departments with early intervention systems require early intervention review reports that follow a specific protocol while others are entirely silent on the issue of reports.

Departments that require periodic review using early intervention performance data (e.g., quarterly reviews) typically will require specific report formats to ensure compliance by supervisors and to ensure consistency in the review process. Recognize that these reviews should be used address exemplary behavior as well as indicate the need for intervention.

The department should consider that heavy reliance on formal protocols and stringent reporting requirements that deal only with indicators of problem performance may lead some to believe that the early intervention process is just another format of the disciplinary process. While individual departments may differ in organizational culture and the documentation processes, documentation processes should in no way compromise the benefits of a truly nonpunitive early intervention program and inhibit informal intervention options being used when appropriate.

12. Continually review and refine early intervention indicators and thresholds.

To work effectively, early intervention must respond to changing conditions within the department and community. Managers must regularly review and refine early intervention indicators and thresholds. Departments that introduce new use-of-force options may need

use-of-force thresholds. Similarly, departments that make their citizen complaint process more accessible and more transparent may need to adjust their citizen complaint thresholds.

13. Ensure that early intervention policies and practices do not conflict with other department policies and practices.

Early intervention systems and personnel management systems may be far-reaching and complex. As a result, early intervention policies and practices must be carefully reviewed to ensure that they do not conflict with other policies and practices. For instance, departments that rely on a point system to quantify their officer productivity should handle high-discretion arrests (e.g., resisting arrest or disorderly conduct without other charges) appropriately. It would be confusing and contradictory, for instance, if high-discretion arrests are treated positively for accumulating productivity points but are used as an indicator of risk in early intervention.

14. Establish the differences between early intervention and the disciplinary process through a separate written policy for early intervention systems.

To distinguish early intervention from the disciplinary system, departments should have a formal written policy. Departments may consult neighboring jurisdictions' written policies, relevant standards published at the state level, Commission on Accreditation for Law Enforcement Agencies (CALEA) standards (standard 35.1.15), or the IACP Model Policy on Early Warning Systems (volume 5, number 82).

15. Clearly articulate the differences between early intervention and the disciplinary process in day-to-day communications and operations by making early intervention an integral part of the standard supervisory process.

Departments deploying early intervention must understand and clearly articulate the differences between the two systems, both in policy and day-to-day practice. The proactive and preventive nature of early intervention should never be confused with the reactive, punitive measures of the disciplinary system. If early intervention is perceived as an extension of the disciplinary system, it will be resisted by the officers and steadfastly opposed by the union. While the disciplinary system may be administered by a special unit, often the internal affairs unit, early intervention strategies are best administered through the normal chain of command, with first-line supervisors assuming primary responsibility. Emphasizing the facts that individual officers can access the system and that data will be made available only to the officer's immediate chain of command will help to establish the differences between early intervention and the disciplinary system. It must always be recognized, however, that early intervention efforts may be used alongside disciplinary actions in certain circumstances. In cases where discipline is warranted or required as a matter of policy, individuals may still benefit from assistance provided through the early intervention process.

16. Educate rank-and-file officers about early intervention.

Early intervention is designed to promote and protect the well-being of individual officers. The introduction of early intervention to a department, however, can be challenging. The introduction of early intervention can be perceived as a change to the department's organizational culture and viewed as a threat to the status quo. Managers must educate rank-and-file officers about the purpose and workings of the early intervention system, making sure to emphasize its intent to assist officers.

17. Educate community groups and community leaders about early intervention.

When properly designed, implemented, and managed, early intervention can be an effective public relations tool and can enhance public confidence in the police. Community groups and community leaders should be educated about early intervention.

One of the most effective and economical means of educating the community is to present information about early intervention on the department web site. The web site should articulate the differences between early intervention and the disciplinary system. The web site should explain the general purposes of the early intervention system and discuss specifically how it relates to citizen-generated complaints and excessive force allegations. The web site should identify the ways in which early intervention benefits the community, the department, and the individual officer.

The Phoenix (Arizona) Police Department uses its web site to offer a comprehensive and clear introduction to its PAS. The following is an excerpt from its web page:

Early Intervention and Personnel Assessment System FAQs

The Personnel Assessment System, (PAS), is the Phoenix Police Department's Early Identification and Intervention System. PAS was originally created to make our employees more successful. It is a non-disciplinary system designed to identify possible problematic behaviors with employees, and to offer assistance using intervention options to modify those behaviors before discipline is required.

This program will also assist in reducing future police department liability using risk management programs and techniques already in place. The department also found that by using an extensive case management system within PAS, supervisor accountability is being held to a higher standard.

On January 1, 2004, the Phoenix Police Department fully implemented PAS and began to send out Intervention Reviews. Many department employees have received training, which is an ongoing process and crucial to the success of this program. PAS is available for review to all departmental employees.¹⁶

Source: Phoenix (Arizona) Police Department Manual
Agency Profile: Population 1,321,045; Officers 2,626

Conclusion

Early intervention is a management strategy, not just a technological solution. The concepts of early intervention must be seen primarily as a supervisory strategy and not as a technologically driven panacea. Early intervention strategies and technological solutions are evolving rapidly and the experiences of several agencies suggest that they have tremendous potential. They can save individual careers, help safeguard a department's investment in training and career development, help personnel get the services they need, reduce agency liability, and identify and reinforce exemplary performance. While tech-savvy agencies may benefit from sophisticated data-driven early intervention alerts, smaller agencies can benefit from incorporating similar concepts into their supervisory routines. Law enforcement executives should look to what other agencies of similar size are doing in this area and determine how those practices might be adapted to their departments.

Suggestions for Further Reading

As early intervention systems and related supervisory practice are becoming more prevalent, a growing number of publications and resources are becoming available. This is a partial list.

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Endnotes

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- ² Violanti, John M., John Vena, and James Marshal. "Suicides, Homicides, and Accidental Deaths: A Comparative Risk Assessment of Police Officers and Municipal Workers." American Journal of Independent Medicine 1996: 99-104.
- ³ Walker, Samuel. The New World of Police Accountability. Thousand Oaks (California): Sage Publications, 2005.
- ⁴ "Interview of Samuel Walker." Best Practices Review (Publication of the Police Assessment Resources Center) October 2002: 14-17.
- ⁵ Walker, Samuel. The New World of Police Accountability. Thousand Oaks (California): Sage Publications, 2005.
- ⁶ The full text of the relevant question on the LEMAS survey is, "Does your agency have a currently operational computer-based personnel performance monitoring/assessment system (e.g., early warning or early intervention system) for monitoring or responding to officer behavior patterns before they become problematic?"
- ⁷ There is slight anomaly in this pattern for municipal departments: 52 percent (20 of 38) of the largest municipal agencies (>= 1000 sworn officers with arrest power) responding to the survey versus 62 percent (21 of 34) of the next largest category. In addition, the 82 percent figure for the largest sheriff's office is based on a limited number of respondents. There were only 11 sheriffs' offices of that size among the respondents and nine reported having an early intervention system.
- ⁸ *United States v. City of Steubenville, Ohio* Consent Decree (09/03/97) Available on the web at www.usdoj.gov/crt/split/documents/steubensa.htm.
- ⁹ *United States of America v. City of Detroit, Michigan and the Detroit Police Department* Consent Decree (06/12/03). www.usdoj.gov/crt/split/documents/dpd/detroitpd_uofwdcd_613.pdf.
- ¹⁰ "Early Intervention and Personnel Assessment System FAQ's." Phoenix Police Department. Retrieved February 01, 2006 from www.phoenix.gov/POLICE/pas1.html.
- ¹¹ Information obtained from site visit to Pittsburgh Bureau of Police on February 22, 2005.
- ¹² Correspondence with several departments that had previously used fixed thresholds, reveal that they have replaced them with what they consider more flexible methods that rely more heavily on supervisory skills.
- ¹³ Third Quarter Status Report. Prince George's County Police Department & the U.S. Department of Justice, 2005. www.goprincegeorgescounty.com/Government/PublicSafety/Police/pdfs/Consent_Decree_1-7-05.pdf.
- ¹⁴ Comments made by Detective Toye Nash of the Phoenix Arizona Police Department at May 10, 2005. Symposium on Early Intervention System Workshop at the Police Executive Research Forum in Washington, DC.
- ¹⁵ Vaughn, Michael S., Tab W. Hunter, and Rolando V. del Carmen. "Assessing Legal Liabilities in Law Enforcement: Police Chiefs' Views." Crime and Delinquency 2001, 3-27.
- ¹⁶ "The Personal Assessment System." Phoenix Police Department. Retrieved October 10, 2005 from www.phoenix.gov/POLICE/pas.html.

IV. *Managing the Complaint*

Process



MANAGING THE COMPLAINT PROCESS

A simple declaration that all complaints against any member of the police department will be received and investigated leaves little room for dispute. It also prevents the age-old problem of certain complaints being discounted or rejected for purely subjective reasons. It is difficult to explain to a citizen why one complaint was accepted and one rejected for basically the same offense. It puts supervisors in awkward positions when a peer has accepted a complaint that they have rejected in the past.¹

Chief Beau Thurnauer, Coventry (Massachusetts) Police Department

Introduction

An accessible, fair, and transparent complaint process is a hallmark of police responsiveness to the community and is consistent with the goals of community policing. In addition, a thorough assessment of all allegations of police misconduct—whether these allegations are initiated externally by civilians or internally by other department personnel—offers police managers an opportunity to proactively address concerns from a problem-solving perspective. Too often, the processing of complaints has been viewed simply as an adjudicative process in which complaints are investigated and in which dispositions and disciplinary sanctions are applied. Under this traditional approach, the principal parties are the aggrieved person making the allegation and the officer whose behavior is in question. An emerging perspective, however, recognizes that the community and the department as a whole are important stakeholders in the complaint process. Under this more comprehensive view, the civilian complaint process serves not only to redress grievances; it also serves as a management tool, a forum to address public concerns and to enhance public relations, and an opportunity to refine policies and training.

Chapter Overview and Objectives

Drawing on federal consent decrees and memorandums of agreement (MOA) as well as on promising and innovative efforts from police departments across the nation, this chapter explores the benefits and challenges of civilian complaint processes. In its introductory paragraphs, the chapter offers a working definition of the civilian complaint process. This definition is followed by an analysis of the ways in which the civilian complaint process is evolving as well as an overview of the prevalence of civilian complaint processes currently in use in law enforcement agencies.

Moving beyond these introductory materials, the chapter explores the core principles of the civilian complaint process. The chapter asserts that the civilian complaint process succeeds to the extent that it is—and is perceived as being—comprehensive, accessible, fair, and transparent. To the extent that civilians feel able to file a complaint with reasonable convenience, feel sure that every complaint receives a fair investigation resulting in a timely

resolution, and feel aware of the workings and rulings of the civilian complaint process, this process will build community confidence in the police department's determination to serve ethically and efficiently.

From its exploration of core principles, the chapter turns to a consideration of the basic components of the civilian complaint process from the initial filing of complaints to their final adjudication. It explores the standards that emerged from the federal agreements regarding the handling of complaints, as well as those that have been enacted proactively in different departments across the nation.

Finally, this chapter offers a series of recommendations to police departments establishing and implementing a civilian complaint process. Like the chapter's discussion of the civilian complaint process itself, these recommendations result from the careful consideration of federal consent decrees and MOAs, as well as practices from police departments across the nation.

A Definition of the Civilian Complaint Process

The civilian complaint process is the series of steps by which law enforcement agencies accept, investigate, and adjudicate allegations of misconduct or incompetence on the part of police personnel.² In the language of the consent decrees and MOAs, such complaints may address "any action or inaction by [agency] personnel which the source considers to be contrary to law, proper procedure, good order, or in some manner prejudicial to the individual, the [agency], or to the community."³ While such complaints are, in fact, filed mostly by civilians, complainants may also arise from agency personnel or anonymous sources.

The Evolution of the Civilian Complaint Process

Residents, business persons, and other civilians are consumers of police services. When they perceive that they have been aggrieved by acts ranging from discourteous treatment to criminal misconduct on the part of police personnel, they have the right to be heard and to seek remedy. In recognition of this right, police executives have facilitated the acceptance and timely resolution of individual grievances. When warranted, they have acknowledged the mistakes of their agency personnel.

While this civilian complaint process has long existed, police executives' attitudes toward the process are changing. Although police executives once tended to focus narrowly on the adjudication of alleged misconduct and, as a result, to view civilian complaints entirely in a negative light, many are now using civilian complaints as a barometer of public satisfaction and as a general management tool. By engaging in a comprehensive, accessible, fair, and transparent civilian complaint process, police executives are enhancing their agencies' image as professional and ethical organizations while underscoring their commitment to addressing community concerns. By regarding civilian complaints as critical pieces of a data-driven management strategy, police executives are gauging the performance of individual officers, seizing important opportunities to modify policies and procedures, and better guarding against future misconduct on the part of police personnel.

On the level of the individual officer, many police executives rely on civilian complaints as an important indicator by which to gauge officer performance in early intervention systems. For instance, an inordinate number of civilian complaints about an individual officer can alert supervisors to potentially problematic behavior that could benefit from nondisciplinary intervention. Serious and substantiated civilian complaints may also identify instances in which disciplinary action is required.

At aggregate levels, an analysis of civilian complaint trends can be used to determine whether the agency as a whole or particular units within the department are moving in the right direction. If, for instance, one precinct's civilian complaints are trending up while all others are dropping, the police chief and commanders may want to determine what factors are contributing to such an anomaly and what actions, if any, need to be taken. Conversely, if one precinct's civilian complaints are trending down while all others are holding steady or rising, police executives would want to determine the reason for the precinct's apparent success and take steps to assure that similar successful management practices could be transferred to other precincts.

Police executives who proactively use civilian complaint data from a management perspective can use the process to fine-tune agency performance and enhance community trust. An open and constructive approach to handling civilian complaints, instead of a reactive and defensive approach, casts that agency in a positive light.

Publicizing a Positive Attitude About Civilian Complaints

Increasingly, police departments rely on effective complaint processes to inspire public confidence and reinforce community relations. While many of these departments recognize that discouraging civilian complaints can seriously undermine community relations—particularly in minority and other communities that historically have felt disenfranchised—others recognize that their departments actually benefit by publicizing their openness to the complaint process. Police departments of varying sizes and types across the nation are realizing the benefits of comprehensive, accessible, fair, and transparent complaint processes on their web sites and in their official policies. The following three examples from departments of different sizes are illustrative of this type of approach.

Example 1

Many employees view the internal affairs function as strictly negative. Quite the opposite is true. When properly run, the internal affairs function will protect the innocent employee from untrue allegations while maintaining citizen confidence and trust. To ignore or treat citizen complaints with anything less than the utmost of concern will increase the number of complaints, cause a loss of trust and result in demands for citizen review boards.

Source: Midvale (Utah) Police Department's Policy Manual
Agency Profile: Population 28,000; Officers 45

Example 2

Citizen Complaint Process: The mission of the Portland Police Bureau is to maintain and improve community livability by working with all citizens to preserve life, maintain human rights, protect property, and promote individual responsibility and community commitment. Our goals state that our employees must be guided by the principles that every individual has infinite dignity and worth and that we must show respect for the citizens we serve and for the men and women of the Bureau.

A citizen complaint, and its subsequent investigation, causes police to examine the service that we provide to our community and to make necessary improvements in the way we provide services.

Source: Portland (Oregon) Police Bureau web site (www.portlandonline.com/police)
Agency Profile: Population 509,610; Officers 1,028

Purpose and Intent: It is the guiding principle of the Waite Park Police Department that *all* allegations of employee misconduct or criticism of its services be acknowledged and addressed. To succeed in this endeavor, this order establishes a comprehensive departmental process to respond to such inquiries and complaints. Its purpose is to provide citizens with a fair and effective avenue to voice their legitimate grievances against the actions of the Police Department, yet to protect departmental employees from false charges of misconduct and wrongdoing.

OBJECTIVES:

- a) To maintain the community's support and confidence in its Police Department by providing a process that assures responsiveness to citizen's inquiries and complaints.
- b) To create a process for dealing with inquiries and complaints, whether originating internally or externally, that permits police managers to monitor departmental compliance with established departmental rules, procedures, and norms.
- c) To clarify employee rights and the due process protection that will be afforded departmental employees in the investigation of inquiries and complaints.

Source: Waite Park (Minnesota) Police Department's Policy Manual
Agency Profile: Population 7,562; Officers 12

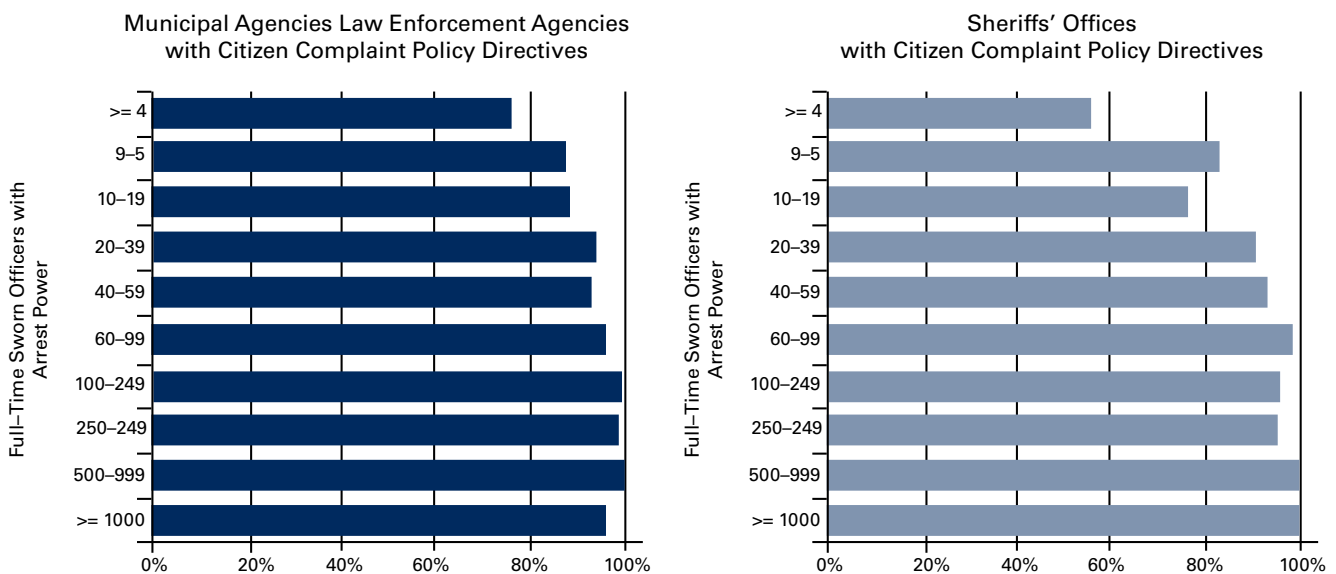
The Prevalence of the Civilian Complaint Process

Major benchmarks for police standards, including the Commission on Accreditation for Law Enforcement Agencies (CALEA) and International Association of Chiefs of Police (IACP) Model Policies, call for policies and procedures for the civilian complaint processes. CALEA standards for complaint processes, for instance, are imbedded with its section on Internal Affairs (52), recognizing that larger departments may have specific internal affairs units, whereas a smaller agency may have to designate this responsibility to an individual officer.⁴ As is discussed in subsequent sections, some agencies rely, if full or in part, on civilian review boards to review civilian-generated complaints.

Without exception, all the federal pattern or practice agreements related to law enforcement agencies address the complaint process. The language within the consent decrees and MOAs related to the complaint process is extensive and addresses both civilian complaints and internal complaints.

The foundation of any complaint process, whether conducted by internal affairs, designated personnel within the department, or by civilian boards is the establishment of clear policy directives. Results from the 2003 Sample Survey of Law Enforcement Agencies (LEMAS) conducted by the Bureau of Justice Statistics (BJS) provided an opportunity to assess the prevalence of policy directives on civilian complaints by department size and type. Details about LEMAS methodology and data are available in the text box on page 31 in Chapter 2.

As the LEMAS results below indicate, across agencies of all sizes, the vast majority of municipal departments and sheriffs' offices reported having civilian complaint policies. While the likelihood of having such a policy was higher in larger departments, these policies are still the norm even in the smallest departments. Among agencies surveyed, about three in four municipal departments with four or fewer full-time officers had such a policy. Based on the LEMAS survey data, all state police agencies, all county police agencies, and all regional police agencies had civilian complaint policy directives.⁵



The Benefits of the Civilian Complaint Process

When police executives recognize that the civilian complaint process may serve as an important management tool and a critical component to creating community trust, they begin to realize the following benefits:

- Enhancing the investigative process to assess officer culpability and to assess the agency need to enhance policies and training
- Rendering clear findings in individual cases
- Identifying individual officers who may be in need of intervention, either nondisciplinary or disciplinary, as appropriate
- Identifying pockets of risk within the department
- Providing opportunities to modify and improve policies and training
- Developing strategies to reduce or prevent misconduct
- Enhancing organizational efficiency
- Ensuring accountability within the agency
- Ensuring responsiveness and accountability to the community
- Enhancing community trust as well as building and sustaining community relations.

The Core Principles of the Complaint Process

Effective policing depends on the trust and confidence of the community. Police rely on individuals within the community to report crimes, serve as witnesses, and occasionally offer assistance. From a community policing and service-oriented perspective, the community's satisfaction with police services is of paramount importance. This satisfaction is the result, in part, of how police handle the discrete instances of dissatisfaction that are brought to their attention through civilian complaints. The civilian complaint process may turn dissatisfaction into confidence as police adhere to four core principles that underlie an effective complaint process.

1. An effective complaint process must be comprehensive. It must accept and act on all civilian complaints. The system should also integrate complaints from other sources, including internal complaints as well as alleged acts of misconduct that arise in the context of civil or criminal proceedings against agency personnel.

Across departments, the preponderance of misconduct allegations are made by civilians—nonpolice personnel—who have had contact with the police. These contacts may involve individuals who seek police assistance; are crime victims; are crime suspects; are witnesses, or potential witnesses; and those who have been stopped for traffic violations. While an agency's complaint process must treat these civilian complaints seriously, it must not discourage or ignore the complaints that arise from other sources.

Another significant source of misconduct complaints is department personnel themselves. Historically, some observers have argued that police maintain a "blue wall of silence" and that officers who observe misconduct among their fellow officers are reluctant to report it. Many departments, however, have implemented strict stipulations that hold police officers

accountable for knowingly failing to report misconduct of fellow officers. By expanding the scope of their complaint process to address not only civilian complaints but also the complaints of officers themselves, departments underscore their commitment to ethical policing and strict accountability.

The language of federal consent decrees and MOAs expresses an unwavering commitment to addressing internal complaints. These agreements stipulate that officers are required to report other officers' misconduct. For instance, the consent decree with the Pittsburgh Bureau of Police underscored the department's existing policies and practice: "the City shall continue to require officers to report misconduct by other officers. Misconduct by fellow officers shall be reported directly to OMI [Office of Municipal Investigations] or through an officer's chain of command."⁶

The MOA of the Buffalo Police Department expresses a similar requirement and, although it acknowledges the limitations imposed by the local collective bargaining agreement, enjoins the department to attempt to surmount these limitations:

*To the extent allowed under the applicable collective bargaining agreement in force on the effective date of this Agreement, the City shall require officers to report misconduct by other officers. To the extent not already allowed under the applicable collective bargaining agreement in force on the effective date of this Agreement, the City shall initiate negotiations and shall bargain in good faith for the right to require officers to report misconduct by other officers.*⁷

While the most common sources of misconduct allegations are civilian complaints and the reports or allegations of other officers, there is a growing recognition that a comprehensive complaint process should address complaints arising from other, nontraditional sources. For example, allegations of misconduct may emerge during internal investigations, or instances of alleged misconduct may come to light through civil or criminal suits filed against officers or through media reports. Federal consent decrees and MOAs stress the importance of investigating all misconduct complaints, regardless of source. For instance, the Los Angeles Police Department (LAPD) consent decree requires that the city inform the police department whenever "a person serves a civil lawsuit on or files a claim against the City alleging misconduct by an LAPD officer or other employee of the LAPD."⁸ This consent decree also stipulates that the department will "require all officers to notify without delay the LAPD whenever the officer is arrested or criminally charged for any conduct, or the officer is named as a party in any civil suit involving his or her conduct while on duty (or otherwise while acting in an official capacity)." Other federal agreements go further to stipulate that such notifications are required regardless of whether this behavior occurs while the officer is on or off duty.

This comprehensive approach is advocated not only in federal consent decrees and MOAs, but also in the language of individual police agency policies, in state standards, and in professional standards such as CALEA and IACP model policies. The IACP Model Policy on Standards of Conduct, for instance, requires that "officers who are arrested, cited, or come under investigation for any criminal offense in this or another jurisdiction shall report this fact to a superior as soon as possible."⁹

2. An effective civilian complaint process must be accessible. Civilians must understand, have easy access to, and feel comfortable with complaint filing procedures.

In addressing the civilian complaint process, federal consent decrees and MOAs are consistent and unequivocal on the need for accessibility. In general, these consent decrees and MOAs require that filing a complaint be reasonably convenient. They also set a tone of inclusiveness rather than exclusiveness by requiring that, at a minimum, all complaints must be accepted and afforded some level of investigatory review.

In many of the pattern or practice investigations leading up to consent decrees and MOAs, the access to civilian complaint processes were found to be inadequate. Several of these investigations found that police were taking actions to actively discourage or effectively preempt certain civilian complaints. Some disincentives to reporting complaints are inherent within complaint forms themselves. For instance, language on complaint forms sometimes stipulates that a civilian complaint will not be accepted unless notarized. When followed by language stating that knowingly making false, untrue, or malicious complaints will be subject to criminal prosecution, some would-be complainants may be intimidated.

In response to these conditions, the language of consent decrees and MOAs seeks to establish civilian complaint policies, procedures, and actions that ensure that no civilian is intimidated, discouraged, or impeded from making a complaint and that *all* complaints are taken seriously.

When considered together, the federal consent decrees and MOAs, recommendations from professional organizations such as CALEA standards and IACP Model Policies, and policies of individual departments provide a clear picture of the evolving standard. It is not enough that civilians who come in contact with the police merely be given an opportunity to file complaints. Departments under federal agreements were required to develop proactive public outreach strategies to inform the community of their right to file complaints. The general intent of these strategies is to enhance accessibility by creating greater awareness regarding the complaint process. The specific public outreach requirements stipulated in the federal consent decrees and MOAs include the following:

- Establish public information campaigns about complaint filing procedures
- Establish methods for filing complaints other than formal written complaints including:
 - o Telephone hotlines
 - o Web-based filings
 - o E-mail filings
 - o Fax submissions
- Post information about complaint filing procedures on the agency's web site
- Provide complaint notifications, complaint filing instructions, and complaint forms in multiple languages, as appropriate, considering the particular jurisdiction's population.

While the common thread through federal consent decrees and MOAs is that the complaint filing process should be accessible, these agreements vary substantially because they are responsive to individual investigations and are tailored to the specific circumstances and organizational capacities of different departments. The following sections of the MOA between

the Washington, D.C., Metropolitan Police Department (MPD) and the U.S. Department of Justice provide an illustrative example of the specific requirements made on the department to ensure open and broad access to file civilian complaints.

92. Within 90 days from the effective date of this Agreement, MPD shall make it possible for persons to initiate complaints with MPD in writing or verbally, in person, by mail, by telephone (or TDD), facsimile transmission, or by electronic mail. MPD shall accept and investigate anonymous complaints and complaints filed by persons other than the alleged victim of misconduct. MPD shall ask anonymous and third-party complainants for corroborating evidence. MPD shall not require that a complaint be submitted in writing or on an official complaint form to initiate an investigation.

93. Within 120 days from the effective date of this Agreement, the City shall institute a 24-hour toll-free telephone hotline for persons to call to make a complaint regarding officer conduct. The hotline shall be operated by OCCR. The City and MPD shall publicize the hotline telephone number on informational materials and complaint forms. The City shall tape record all conversations on this hotline and shall notify all persons calling the hotline of the tape recording. The City shall develop an auditing procedure to assure that callers are being treated with appropriate courtesy and respect, that complainants are not being discouraged from making complaints, and that all necessary information about each complaint is being obtained. This procedure shall include monthly reviews of a random sample of the tape recordings.¹⁰

3. An effective civilian complaint process must be fair and thorough. The investigation of civilian complaints must proceed according to high standards.

In their discussion of the investigation of civilian complaints, federal consent decrees and MOAs consider a broad range of issues including standards of proof, thoroughness of investigations, supervisory roles, and quality of data. While these agreements impose specific requirements on specific departments as a result of findings from individual investigations, a standard of fairness is common across the agreements. In general, federal consent decrees and MOAs require that departments give civilian complaints thorough, rigorous, unbiased, and timely investigation. Indeed, in many ways, federal consent decrees and MOAs call for investigatory procedures that parallel criminal investigations.

4. An effective civilian complaint process must be transparent. Departments should keep complainants apprised of specific complaint proceedings and the community apprised of summary information regarding the civilian complaint process.

The federal consent decrees and MOAs are resolute in requiring that the civilian complaint process be transparent both at the level of the individual complainant and of the community as a whole. In general, consent decrees and MOAs require that complainants be periodically informed of the progress of the complaint investigation. They also require that complainants

be notified of the outcome at the conclusion of this process. These requirements are in keeping with standards established by professional organizations including the CALEA policy on internal affairs standards:

The agency keeps the complainant informed concerning the status of the complaint, to include at a minimum: (a) verification of receipt that the complaint has been received for processing; (b) periodic status reports; and (c) notification of the results of the investigation upon conclusion.¹¹

Federal consent decrees and MOAs establish the transparency of the civilian complaint process at the community level by requiring monitoring of the process by independent auditors and by requiring departments to “maintain and periodically disseminate to the public a statistical summary report regarding complaints files and resolution of those complaints.” Many departments routinely include this summary information in their annual reports or on their web sites. Ensuring the transparency of the civilian complaint process by providing summary information is sound public policy.

Variations in the Civilian Complaint Process

The nature of the civilian complaint process varies considerably by department. This is the result, in part, of the varying roles that civilians play in overseeing the process. In some departments, civilian complaint review boards are composed entirely of civilians and are empowered to conduct investigations and issue subpoenas independently. In many departments, particularly smaller departments, the responsibility for overseeing the civilian complaint process is internal. Many departments have civilian complaint processes that fall somewhere in between independent civilian review boards and strictly internal processes.

The following discussion considers, first, the varying levels of civilian involvement in the civilian complaint process; second, the basic components of the process—filing, investigation, and resolution—that occur whether civilians or police department personnel oversee the handling of civilian complaints; and third, the actions taken by departments to ensure both internal accountability and accountability to the public they serve.

Assessing Civilian Involvement in the Complaint Process

Increasingly, police executives recognize the advantages of taking proactive steps to establish civilian complaint processes that are comprehensive, accessible, fair, and transparent. Historically, the impetus for establishing a civilian complaint process has emerged both from within and without departments. Law enforcement leaders continually must balance pressures from within the department and police unions versus outside the department—through politicians, activists, and community groups—in assessing how involved civilians should be in the processing of complaints.

In the absence of meaningful internal oversight, or in response to processes that were perceived as ineffectual, civilian groups and advocacy organizations have felt compelled to call for an external complaint process and demand an active role in its oversight. Prudent

police executives understand that taking the initiative—rather than reacting to others’ dissatisfaction—offers them the best opportunity to design and implement an effective civilian complaint process. In particular, making decisions regarding civilian involvement in that process provides police executives with the opportunity to address important matters of public concern in a proactive, forthright manner, rather than in reaction to some crisis or in response to adverse public sentiment.

Making decisions regarding the structure of civilian complaint processes and the degree of civilian involvement is remarkably complex. While numerous arguments exist both for and against civilian involvement in the civilian complaint process, it is beyond the scope of this guide to examine these arguments in depth or make recommendations. Instead, readers should consult the IACP Ethics Toolkit article, “Police Accountability and Citizen Review: A Leadership Opportunity for Police Chiefs,” which offers several critical tools for department decision makers.¹²

As a brief overview, the article offers essential action steps for assessing a department’s need for civilian involvement in the complaint and misconduct resolution process:

- Assess whether a problem exists
- Examine existing literature and practice regarding forms of citizen review and their impacts
- Confer with constituencies that must be involved in the decision to establish a citizen review device
- Work with citizens and government officials to understand how the review process may affect them
- Understand possible/probable outcomes of citizen review
- Complete a preliminary cost analysis to determine the financial impact on the department and the city.

A Typology of Complaint Processes Based on Citizen Involvement

In many jurisdictions, complaint procedures arise out of complex political processes and sometimes in response to publicized incidents of police misconduct. Not surprisingly, there are countless variations of the theme. Again, it is beyond the scope of this chapter to review all of these; however, the following classification from the IACP Ethics Toolkit helps put the range of options in perspective.

Class I: Citizen Review Board. Citizen complaints are reviewed and investigated, and recommendations for disciplinary or policy action are made by a board comprised wholly of citizens. The board may or may not have subpoena power. Under this model, a citizen review board handles each step on the continuum from original complaint through review, investigation and recommendations for sanctions. This is the most independent citizen review model.

Class II: Police Review/Citizen Oversight. Complaints are reviewed and investigated, and recommendations for disciplinary or policy action are made by law enforcement officers, with oversight of each case by a citizen or board of citizens.

Under this model, the steps on the complaint continuum are handled by the police. A board of citizen reviewers, or a single individual, reviews those actions/determinations. Since law enforcement conducts the initial fact-finding investigation, the Class II model is considered less independent than Class I.

Class III: Police Review/Citizen-Police Appeal Board. Complaints are reviewed and investigated by law enforcement officers in the Internal Affairs Unit, which recommends disciplinary action to the chief. Complainants who are not satisfied with outcomes of investigations can appeal for review to a board composed of both citizens and sworn officers.

Under this model, the complaint process is handled by the police. In the event a complainant is not satisfied with the outcome of his or her case, a board that includes police officers undertakes review of how the case was originally investigated. Citizen participation is limited to appeal review only.

Class IV: Independent Citizen Auditor. An independent citizen auditor or auditor system reviews the law enforcement agency's internal complaint review process (IA) and makes recommendations as needed.

Under this model, the complaint process is fully in the hands of the police. However, an auditor or audit team has access to that process and reviews it for effectiveness and accuracy of findings, making recommendations to improve the process as needed. The auditor reviews completed complaint cases and contacts complainants to assess satisfaction with outcome.

Considerations for Civilian Review in Complaint Processing

Law enforcement leaders must weigh carefully both the advantages and disadvantages of civilian review, considering factors such as the local political climate. Demands by the public, by special-interest groups, and by politicians can often put the police executive in a difficult position. Calls for civilian involvement in the process often will have to be weighed against the opposition of the rank-and-file and the police union. If civilian review is seen as a viable option, determining the level of civilian involvement—from far-reaching investigatory and subpoena power to a limited advisory function—is a decision that police executives will want to consider carefully.

Decisions about civilian review must be made in consideration of many factors. The article mentioned above from the IACP Ethics Toolkit addresses multiple considerations in this process, particularly as they relate to department size and existing police-community relations.

Not all police departments need or would derive substantial value from formalized citizen review. In jurisdictions where community trust is solid and durable, strong police-community bonds exist, community access is institutionalized, and misconduct is not frequent nor egregious, citizen oversight is neither likely to emerge as an issue nor to have a profound impact on existing conditions. Smaller departments, in particular, have the advantage of constant informal interaction with citizens to maintain close ties and receive information and guidance. As communities and police agencies grow in size, lines of citizen/police contact may need strengthening through formality. Community leaders may suggest a citizen review mechanism to ensure involvement in problem resolution at the officer and/or department level. Even in these cases, alternative interventions may satisfy needs.¹³

Statistical Snapshot of Civilian Involvement in the Complaint Review Processes

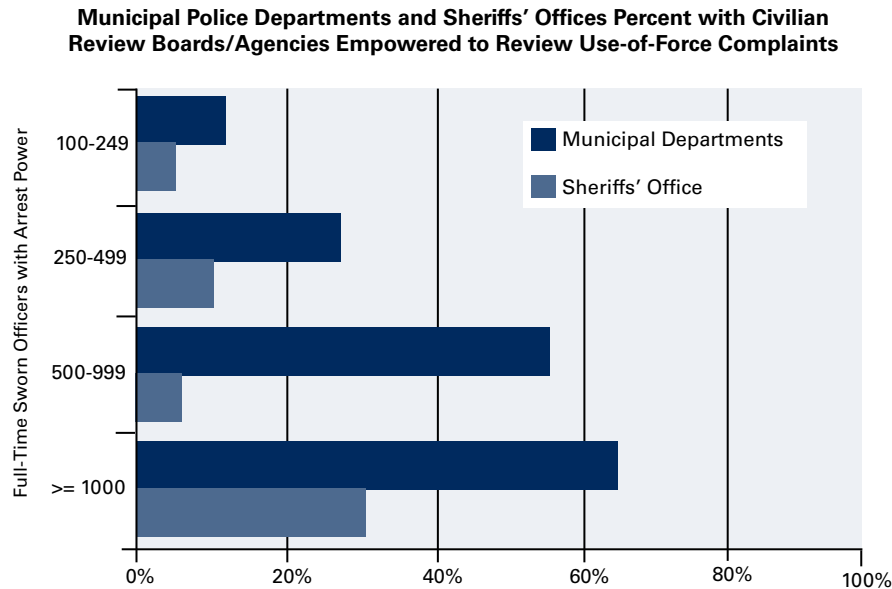
Given the variations in local practice, it is difficult to assess the level of civilian involvement in the complaint process; however, greater civilian involvement tends to be associated with larger departments.

The 2003 Sample Survey of Law Enforcement Agencies (LEMAS) addresses the question of whether law enforcement agencies with 100 or more full-time sworn officers with arrest powers have within their jurisdictions a civilian complaint review board or agency that is empowered to investigate use of force complaints. (The LEMAS survey contains no corresponding questions about whether civilian review boards/agencies exist for other types of civilian complaints.)

Considering the specificity of this question, the LEMAS survey reveals that approximately 19 percent of municipal law enforcement agencies with 100 more sworn officers with arrest power use some form of civilian review in which civilians are empowered to review use-of-

force complaints. The comparable figure for county police departments is 25 percent and for sheriffs’ departments is 6 percent. None of the 49 state police agencies indicated they had such civilian review process for use-of-force complaints.

As the charts below indicate, for municipal police departments and sheriffs’ offices, the likelihood of civilian review for use of force generally increases with agency size. Based on these data, it would appear that in municipal departments some level of civilian involvement occurs in the slight majority of departments with more than 500 sworn officers with arrest powers.



The LEMAS survey further revealed that, overall, about one in four of these civilian review boards had independent investigative authority with subpoena powers.

The Basic Steps in Handling Civilian and Internal Complaints

Whatever level of civilian involvement a department may establish, the basic steps necessary for the handling of complaints remain the same. These include the filing of complaints, the investigation of complaints, and the resolution of complaints. While different departments may handle these basic operations differently, the following discussion offers an overview of important commonalities.

Step One: The Complaint Receipt and Filing Process

Although federal consent decrees and MOAs impose specific requirements on specific departments, they enjoin all departments to establish an accessible civilian complaint process. Making the civilian complaint process accessible depends on a number of organizational, community, and public relations considerations. The single most important factor, though, may well be the demeanor and behavior of officers on the streets. Notifying civilians about

their right to file a complaint is the critical gate-keeping event. The willingness of officers to meet this requirement, therefore, is critical to an open and successful civilian complaint process.

To ensure accessibility, the federal consent decrees and MOAs consistently issue the following requirements regarding officer conduct in the complaint filing process:

- Officers are to provide their name and badge number to civilians on request.
- Officers are required to provide complaint procedure information to civilians on request.
- Officers are required to have complaint forms available for civilians on request.

To underscore the importance of an accessible complaint process, consent decrees and MOAs stipulate that departments must hold officers accountable when they fail to provide notification of complaint filing procedures or when they, in any way, inhibit the civilian complaint process:

- The agency should have policies and procedures for disciplining officers who fail to notify a civilian of the complaint process when the civilian indicates a desire to file a complaint.
- The agency should have policies and procedures prohibiting any act that impedes or intimidates a civilian from making a complaint; these policies should contain disciplinary actions.

Such policy requires many departments to initiate separate investigations against officers who fail to notify civilians of their right to file a complaint. The LAPD consent decree is clear on this point:

The LAPD shall initiate a Complaint Form 1.28 investigation against (i) any officer who allegedly fails to inform any civilian who indicates a desire to file a complaint of the means by which a complaint may be filed; (ii) any officer who allegedly attempts to dissuade a civilian from filing a complaint; or (iii) any officer who is authorized to accept a complaint who allegedly refuses to do so.¹⁴

As noted in the discussion of core principles, entire departments as well as individual officers must accept the responsibility of ensuring accessible civilian complaint processes. Federal consent decrees and MOAs consistently urge departments to take the following measures:

- Departments should have an open and accessible process by which they accept complaints in multiple formats (e.g., in person, by mail, and by e-mail).
- Departments should allow complaints to be filed in different public or private facilities and should specifically assure that complainants have options other than having to go to a police facility to file a complaint.

In addition to offering directives to officers and departments regarding the filing of complaints, the federal consent decrees and MOAs also stipulate a number of conditions and behaviors by personnel that are aimed at making the initiation process open and unbiased. Specifically, the consent decrees and MOAs set a tone of inclusiveness rather than exclusiveness regarding complaints. They insist that all complaints be taken seriously. Among the measures regarding the intake of complaints that ensure that the complaints are treated seriously are the following:

- Officers who perform complaint intake are prohibited from making assessments about the complainant's mental capacity or about the veracity of the allegations (they may, however, make factual comments about the complainant's demeanor or physical condition).
- Third-party complaints (e.g., those by witnesses) are allowed.
- Anonymous complaints are allowed.

While the consent decrees and MOAs thus work toward inclusiveness, they do not stipulate that certain complaints, such as anonymous complaints, should necessarily have the same weight as other complaints throughout the process. For instance, while the LAPD consent decree stipulates that anonymous complaints must be received and investigated, it also stipulates that an anonymous complaint that is not substantiated should not be used against an officer as a basis for discipline or to deny promotion.

Beyond merely making the complaint process accessible, some department policies expressly acknowledge the right of individuals to file complaints and contain language that helps facilitate complaints. The following excerpt illustrates this approach.

If the complainant needs assistance completing the form, offer whatever assistance is required. Refusing to provide an initial complaint form is a violation of state law and of department guiding principle and procedure.

Attempting to screen or discourage those who ask for forms is not an option. As soon as a form is requested, it needs to be provided. Contacts do not have to justify their request for a form.

Source: Waite Park (Minnesota) Police Department Guiding Principles
Agency Profile: Population 7,562; Officers 12

Step Two: The Complaint Investigation Process

The federal consent decrees and MOAs require that departments give complaints—specifically civilian complaints—full and rigorous investigatory attention. To do this effectively and appropriately, complaints first must be categorized.

Categorization of Complaints

Police executives, administrators, and civilian reviewers have long recognized that not all civilian complaints are of the same gravity or require the same type of investigation or

intervention. Civilian complaints range from gripes to allegations of felony offenses. To be clear, this does not mean that certain types of low-level complaints can be summarily dismissed.

Because the procedures for investigating complaints depend on the nature and seriousness of the allegation, many departments define multiple categories of complaints. These categories often will determine, particularly in larger departments, the administrative processes type of misconduct hearing that will take place.

Complaints usually are categorized according to the seriousness of the allegation. For instance, the Boise (Idaho) Police Department identifies less serious allegations as Class II complaints, which are defined as “those involving allegations of driving violations, demeanor complaints, and minor enforcement complaints.” Class I complaints are defined as those that allege more egregious behaviors. They are specifically defined as “all other allegations including serious allegations of policy or criminal conduct.” In addition to these classes, the Boise Police Department also categorizes some complaints as “Citizen Inquiries.”¹⁵ Although civilian inquiries may be generated like other complaints, they are commonly questions about whether procedures were followed or generalized comments that are not directed at an individual officer or employee.

Other departments use similar classification schemes. For instance, the Missouri City (Texas) Police Department categorizes complaints into two classes quite like to those of the Boise Police Department. In Missouri City, Class I allegations refer to “violations of federal, state or local laws, use of force, or incidents of potential public concern/outcry.” Class II allegations involve other types of complaints, including complaints of rudeness/discourtesy, inadequate/incomplete case investigation, and improper tactics/procedures.¹⁶

Some departments opt for more detailed classification schemes. For instance, the Tempe (Arizona) Police Department and the Prince George’s County (Maryland) Citizen Complaint Oversight Panel each rely on multiple category schemes. These are illustrated below.

Complaints received will generally fall into one of the following categories:

- (1) **Serious Misconduct**—allegations which may constitute a violation of criminal law or conduct that could result in suspension, disciplinary pay reduction, demotion, or termination.
- (2) **Minor Misconduct**—allegations which do not appear to be a violation of criminal law and which would not result in suspension, demotion, disciplinary pay reduction, or termination.
- (3) **Policy Infraction**—allegations which are not of a serious nature, but involve some infraction of department policy.
- (4) **Inquiry**—those complaints against department policy.

(5) **Administrative Investigation**—initiated at the direction of the Chief of Police and conducted by the Internal Affairs component.

Source: Tempe (Arizona) Police Department's Policy Manual Agency
Profile: Population 165,000; Officers 327

COMPLAINT CLASSIFICATION

All incoming complaints are assigned to the following investigative categories based on the most serious allegation in the complaint:

Special Investigations (SI): Complaints that allege a criminal act or could result in a criminal charge or investigation, such as domestic violence, DWI/DUI, theft, unauthorized access to a criminal data base, uses of force that result in injury and all discharges of firearms. A special investigation team within the police department investigates these complaints.

Internal Affairs Investigations (IA): Complaints alleging use of abusive, derogatory or inappropriate language, most uses of force that do not result in injury, and certain types of misconduct.

Field Cases Investigations (FC): Complaints alleging offenses such as unbecoming conduct, unreported misconduct, process violations, minor uses of force, and failure to attend to duty. These complaints are referred directly to district commanders for investigation.

Police Supervisory Investigations (PS): Complaints initiated by police supervisory staff regarding an officer's performance of or failure to perform his assigned duties.

Source: Prince George's County (Maryland) Citizen Complaint Oversight Panel: 2003 Annual Report¹⁷
Agency Profile: Population 795,000; Officers 1,400

Investigatory Procedures for Categorized Complaints

As discussed, legitimate complaints are most often categorized according to their level of seriousness. Not surprisingly, complaints of differing levels of seriousness are handled through different investigatory procedures. Commonly, less serious complaints are reviewed by the chain of command while more serious complaints are reviewed by specialized units within the department or external boards or commissions that have various degrees of independence from the department. For instance, the policy of the Tempe Police Department calls for supervisory and command personnel to resolve complaint allegations involving minor incidents or inquiries. The policy, however, requires that more serious allegations be recorded on the department's Employee Complaint/Commendation Report and be brought to the attention of the chief of police for further processing that may include referral to Internal Affairs.

While allowing for variation according to the needs of different departments, the federal consent decrees and MOAs nevertheless are firm in the requirement that all departments give all complaints—particularly civilian complaints—thorough, rigorous, unbiased, and timely investigation. In their discussion of the investigatory process, the agreements explore a wide range of issues including the thoroughness of investigation, standards of proof, quality of data, the role of supervisors, and timeliness of dispositions. In considering these issues, the agreements are deliberately prescriptive and proscriptive—addressing both what departments ought to do and ought not to do.

Thorough Investigations

The federal consent decrees and MOAs establish the following conventions to ensure the thoroughness of complaint investigations:

- Involved officers and witness officers are obligated to appear for investigative interviews.
- Supervisors and command staff who were at the scene of the relevant incident should be interviewed.
- Photographs of officers' and complainants' injuries should be taken, if applicable.
- All related audio and visual recordings (e.g., from in-car cameras) should be reviewed for evidentiary content.
- Investigators are required to canvas the scene for relevant evidence, if applicable.
- Investigators are required to actively seek out witnesses, if applicable.
- Investigatory processes should assess the consistency of information across statements by complainants, officers, and witnesses.
- Investigatory processes should be documented in standardized reports.

Rigorous Legal Standards

The federal consent decrees and MOAs establish the following conventions to ensure the integrity of complaint investigations from a legal perspective:

- The evidentiary standard for complaint resolution is preponderance of evidence.
- A finding or admission of guilt by the complainant on criminal charges related to the incident should not be considered evidence weighing against the complainant.

- Unavailability of the complainant or withdrawal of the complaint should not automatically result in the complaint investigation being dismissed.
- During the complaint filing and investigation process, no civilian can be required to waive his or her right to sue for police misconduct unless he or she has a lawyer present.

In many ways, the language of the consent decrees and MOAs calls for investigatory procedures that parallel the rigor and legal standards required in criminal investigations.

Unbiased Investigations

The federal consent decrees and MOAs establish several evidentiary and investigatory conventions to ensure that investigations are not conducted in a manner that allows biases in favor of the police. These are particularly germane to internal investigations.

- Officers' statements should never receive automatic preference over the complainants' statements.
- Group interviews of complainants, witnesses, and indicated officers are prohibited.
- Leading questions are prohibited during investigatory processes.
- Officers named in the complaint should not be materially involved in the investigation.
- Officers not named in the complaint but who nevertheless supervised, approved, or were directly involved in the conduct that is the subject of the alleged complaint should not be materially involved in the investigation.
- Officers not named in the complaint but who may be party to the complaint investigation (e.g., required to give an investigatory interview) should not be materially involved.

Timely Investigations

Although the federal consent decrees and MOAs establish the clear expectation that complaint investigations must be timely, the actual timelines established for the completion of complaint investigation differ across departments. The most common timeline for complaint investigation completion, stipulated in agreements with Buffalo, Cincinnati, Washington, D.C., and Montgomery County, was 90 days. The New Jersey State Police agreement, however, stipulated 45 days while the Steubenville, Ohio agreement stipulated 30 days. In the LAPD agreement, the "expected" timeline to complete complaint investigation was 5 months, but this directive was couched in the following language:

All investigations of complaints shall be completed in a timely manner, taking into account: (a) the investigation's complexity; (b) the availability of evidence; and (c) overriding or extenuating circumstances underlying exceptions or tolling doctrines that may be applied to the disciplinary limitations provisions (i) applicable to LAPD officers and (ii) applicable to many other law enforcement agencies in the State of California. The parties expect that, even after taking these circumstances into account, most investigations will be completed within five months.¹⁸

As the LAPD agreement makes clear, the timeliness of an investigation must be defined considering several factors, including the number of complaints a department must investigate, the resources it has to dedicate to investigations, and the complexity of each complaint. Departments should also consider the impact of state laws or collective bargaining agreements on their ability to investigate complaints in a timely manner. All departments should establish and adhere to a reasonable timeline. They also should stipulate that there may be exceptions to these timelines when exceptional circumstances arise. Certainly, the fairness and comprehensiveness of complex complaint investigations should not be compromised by time constraints.

Step Three: The Complaint Resolution Process

The federal consent decrees and MOAs stipulate that the resolution of any complaint must be based on an investigation that is thorough, rigorous, unbiased, and timely and that adheres to a preponderance of evidence standard. The agreements also address the appropriate methods by which the resolutions of complaint investigations are made known.

Disposition

All complaint investigations must be resolved with a disposition or “conclusion of fact.” Although the terminology varies slightly across consent decrees and MOAs, these dispositions range from full exoneration of the officer to the full substantiation of the complaint allegation. The dispositions most commonly stipulated in the consent decrees and MOAs fall into the following four categories with their accompanying definition:

- **Sustained:** Preponderance of the evidence shows that misconduct or inappropriate behavior occurred.
- **Unfounded:** Preponderance of the evidence shows that misconduct or inappropriate behavior did not occur.
- **Exonerated:** The conduct described by the complainant or other referral source occurred, but did not violate the agency’s policy and/or relevant laws.
- **Not Sustained/Not Resolved/Insufficient Evidence:** There is insufficient evidence to determine whether the alleged misconduct occurred.

Record of Disposition

The federal consent decrees and MOAs stipulate that complaints should be resolved in writing. While the agreements do not prescribe a particular format for these reports, they do stipulate that the reports should contain both the disposition of the complaint and the grounds for that decision. Some agreements further stipulate that the report identify any apparent inconsistencies among statements of complainants, witnesses, and officer interviews that became apparent during the investigation. All reports should explain any sanctions imposed on the officer who is the subject of the complaint, including disciplinary and nondisciplinary actions. Finally, the consent decrees and MOAs are resolute in requiring that complainants be notified of the outcome at the conclusion of the process.

Ensuring Accountability in the Complaint Process

Departments of all sizes and jurisdictions dedicate significant resources to establish and operate civilian complaint processes. The federal consent decrees and MOAs seek to ensure that these resources are expended productively by demanding accountability both within the department and for the benefit of the public the department serves.

Internal Accountability

The federal consent decrees and MOAs seek to ensure accountability for the civilian complaint process within departments through careful stipulations regarding supervisory roles. These stipulations govern the way individual supervisors handle individual complaints as well as they way departments as a whole supervise the complaint process in general. For instance, consent decrees and MOAs require that an officer's direct supervisor should be notified as soon as possible anytime an officer is named in a civilian complaint or is subject to an internal misconduct allegation. These agreements also clearly delineate supervisory authority in general. For instance, consent decrees and MOAs decree that the authority for resolving a complaint investigation—often dependent, as noted earlier, on the nature and seriousness of the allegation—generally rests with the supervisor or a specifically designated investigatory officer, such as one assigned to the department's internal affairs unit. In general, the federal consent decrees and MOAs stipulate that the chief and supervisor have an oversight role and may call for the involvement of specifically designated investigatory officers, as needed, to ensure a fair investigation.

In addition to these stipulations, which guarantee the careful handling of individual complaints, the consent decrees and MOAs stipulate a general monitoring of the overall progress, timeliness, and completeness of all complaint investigations. Depending on the agency size and the jurisdiction of complaint review (e.g., by chain of command or within internal affairs), managers are responsible for the overall monitoring. As a part of this monitoring process, some departments were required to engage external auditors or monitors to conduct audits of the complaint investigations. These audits should be designed to determine whether the complaint process is upholding standards of thoroughness, rigor, and timeliness. Similar internal auditing regimens, often under the auspices of a professional standards are common, particularly in larger departments.

The complaint process audit outlined in the Pittsburgh consent decree is representative of the substance and scope that the agreements seek to establish for departments' auditing processes generally:

71. The auditor shall perform quality assurance checks of OMI investigations. The City shall provide the auditor with full access to all OMI staff and records (including databases, files, and quarterly statistical summaries), the automated early warning system described in Paragraph 12, all information regarding officer use of force and searches and seizures (including the use of force reports required by Paragraph 15, and the search and seizure reports required by paragraph 15), all information required in Paragraph 16, and all relevant City manuals of policies and procedures that the auditor deems necessary to fulfill his or her duties, as defined

below. The auditor shall review and evaluate the following information, and issue a quarterly report to the parties and the Court describing the review and analysis: a. All OMI final reports as described in Paragraph 63, and all remedial training and disciplinary records described in Paragraphs 41 and 21(c). The City shall forward all OMI final reports and all disciplinary and training records to the auditor immediately upon their completion. b. The substance and timeliness of at least 50% of all OMI investigations completed during each quarter of the City's fiscal year. c. Statistical information on the number and types of complaints of PBP misconduct, the timeliness of the investigations, the disposition, and any remedial training, counseling, discipline, transfers, or reassignments. d. Discipline, remedial training, mandatory counseling, transfers, and reassignments actually imposed as a result of each complaint. e. Officer use of force, searches and seizures, and traffic stops.¹⁹

The Role of Internal Affairs

In most departments, internal affairs units play a role in the complaint investigation and resolution process. In some departments, particularly smaller departments, internal affairs units may play the primary role in investigating serious complaints or all complaints. While adjudicating complaints in a fair and equitable manner is a clear mandate, internal affairs units must attend to a broader range of concerns than just the adjudication on individual cases. As with external oversight bodies, they must demonstrate a commitment to enhance public trust and assess whether deficiencies in department policies, procedures, or training may have contributed to the problematic behavior. These objectives apply whether internal affairs plays the sole role in investigating complaints or works in tandem with civilian oversight.

Accountability Through Data Management

Federal agreements establish provisions that promote individual and departmental accountability for the civilian complaint process through the effective collection and management of complaint data. Provisions common across the consent decrees and MOAs include the following:

- The department is to assign a tracking number to each unique complaint.
- The department should establish a written protocol for use of the complaint information system.
- The department should take appropriate steps for linking and integrating complaint data with the early intervention (risk-management or personnel assessment) system.
- The department is required to maintain complaint data for a specified period of time for the purpose of maintaining complaint histories on individual employees or summary reports by agency or unit. (the period of time, which varies by department, may reflect the influence of factors such as state law or collective bargaining agreements).

Taken together, these provisions aid agency management in using complaint data to enhance accountability. Many agencies have proactively adopted similar data-management strategies, including integrating complaint data into their early intervention systems, and publishing summary data as a means of keeping their communities informed.

Public Accountability

The federal consent decrees and MOAs also seek to ensure accountability of the civilian complaint process by stipulating that departments make summary reports of misconduct complaints available to the public. The agreements impose the following requirements:

- The department is to maintain summary reporting ability, including the ability to create complaint history summaries by individual officer or by unit.
- The department is to maintain and periodically disseminate to the public a statistical summary report regarding complaints files and resolution of those complaints.

While the agreements impose the requirements across departments, departments share summarized information on the filing, investigation, and resolution of complaints with the public in various ways. Some departments routinely include this information in their annual reports. Other departments post this information on their web sites.

While the sophistication and level of detail of these summary reports vary considerably by department, providing such reports is sound public policy. The very availability of this summary information sends an important message of transparency and accountability to the public. With summary information in hand, the public can better understand the workings of the complaint process. If the summary report contains monthly, quarterly, or yearly comparisons, then the public is able to assess whether complaints are generally on the rise or dropping. If the summary report breaks down particular types of complaints, such as rudeness or excessive force, by time period, then the public is able to make similar assessments at a more detailed level.

Departments are holding themselves accountable to the communities they serve by offering these summary reports in clear and informative formats. For instance, the table below, available on the web site of the Seattle (Washington) Police Department (SPD), provides information regarding trends of complaint allegations during 6 years.

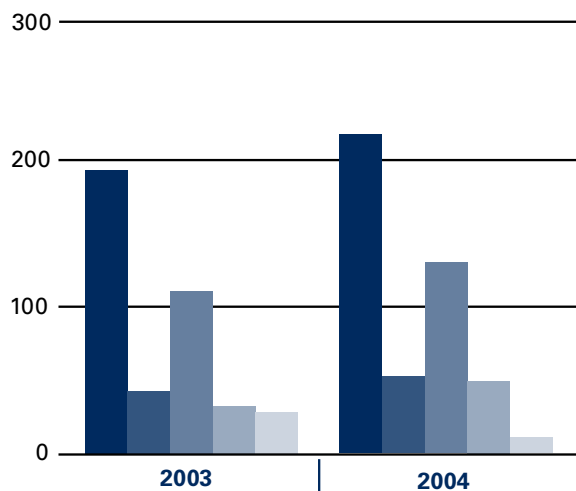
Type of Allegation	1997	1998	1999	2000	2001	2003
Unnecessary Force	79	64	61	94	105	80
Conduct Unbecoming on Officer	39	35	50	65	85	105
Violation of Rules	42	48	36	21	71	82
Misuse of Authority	39	39	21	20	19	20
Improper Language	45	34	8	5	6	5
Failure to Take Appropriate Action	23	29	20	12	12	14
Violation of Law	7	5	15	12	15	8

Source: Seattle Police Department Office of Professional Accountability
Annual Report Fall 2003

www.ci.seattle.wa.us/police/OPA/Docs/OPA_AR_03.pdf

In another example, the Charlotte-Mecklenburg police rely on their *Internal Affairs 2004 Annual Report* to inform the public about trends in civilian complaints against department employees. Below are just two of the many illustrations included in that report.

Complaints Events Received/Sustained			
	2003	2004	Change
Citizens Complaint Events Sustained Portion and % of Total	144 39 (27%)	162 30 (18%)	11% -9%
Department Complaint Events Sustained Portion and % of Total	237 200 (84%)	243 297 (81%)	2.5% -3%
Total Complaint Events Sustained Portion and % of Total	381 239 (53%)	405 227 (55%)	5.9% -7%



	2003	2004
Total Employees Receiving Complaints	192	216
Sustained	39	35
Not Sustained	115	138
Exonerated	20	34
Unfounded	18	9

Source: Charlotte-Mecklenburg Police Department Internal Affairs
2004 Annual Report
www.charmeck.org/Departments/Police/Home.htm

Recommendations

On the basis of its assessment of federal consent decrees and MOAs as well as the preceding discussion, the IACP offers the following recommendations. The IACP reminds readers that the complaint process may be affected by the local laws and collective bargaining agreements under which a department operates.

The recommendations correspond sequentially with the goals of establishing a civilian complaint process, implementing the process, and remaining accountable to the community served and officers within the department.

Establishing a Clear Policy and Process

1. Establish clear policies and procedures for addressing civilian and internal complaints about officer misconduct.

These policies and procedures for handling civilian and internal complaints may be treated as a standalone section of the department's policy manual or may be embedded within other appropriate policy sections (e.g., internal affairs unit policy).

2. Establish, through policies and procedures, a clear central authority or authorities responsible for the investigation and resolution of misconduct allegations.

Depending on the size of the department, authority to investigate and resolve a complaint may be vested in an individual such as the chief, in the normal chain of command, in a specialized unit such as the internal affairs unit, or in some combination of the above. Depending on the size and organizational capacities of the department, different authorities and investigator processes may be in order for different classes of complaints. This authority or authorities should be clearly articulated in policy.

3. Classify complaints into different categories to ensure appropriate investigatory procedures.

Departments must clearly define the behaviors that constitute misconduct and must categorize these behaviors according to severity to ensure that an appropriate investigation of alleged misconduct occurs.

4. Establish open and accessible complaint filing processes.

Departments' complaint filing processes should not be so burdensome or complicated as to make civilians reluctant to file complaints. Departments should establish multiple means for filing complaints. These might include filing complaints in person, by phone, by fax, by mail, by e-mail, and via the Internet. Instructions and forms should be available in a clear format and in languages commonly in use by the population served.

5. Accept all allegations of misconduct by police officers from all available sources.

Although most allegations of officer misconduct will arise through civilian or internal complaints, departments should actively seek out and require reporting of information about officer misconduct from other sources including arrests of officers (particularly those that occur in other jurisdictions); criminal proceedings against officers; and private civil actions related to official conduct, whether on or off-duty. Officers should be required to report such information about themselves. Departments should establish agreements with local prosecutors and state attorneys who may provide notification of such proceedings. Departments should also be prepared to respond to misconduct allegations brought to light exclusively through the media.

Investigative Processes

6. Establish fair, thorough, and transparent investigatory processes.

Departments must establish processes that ensure a thorough, rigorous, unbiased, and timely investigation of every complaint. To implement such investigations, departments must devote adequate resources to the complaint process and specify reporting protocols and dispositional outcomes to be used at the conclusion of investigations.

7. Select and train investigators based on specific knowledge and skills that are necessary to conduct misconduct investigations.

Departments should not assume that persons who are skilled and experienced in criminal investigations are automatically qualified to conduct misconduct investigations. Although some skills may be transferable, other skills are unique to the misconduct investigation process. Officers investigating civilian complaints should be selected and trained based on skills and knowledge relevant to the specific duties associated with complaint investigations.

8. Policies and investigative practices should stress fairness and balance, both ensuring public confidence in thorough, unbiased investigations and a commitment to protecting officers against false complaints.

To maintain the trust and confidence of both the public department and personnel, investigations must be rigorous yet must protect their officers against false or fabricated allegations. Departments must take great care in distinguishing between fabricated allegations and those that could arise out of confusion or misunderstanding by the complainant. At a minimum, false accusations should be stricken from an officer's record and deleted from any early intervention or personnel assessment management system.

Accountability

9. Track and analyze complaints for the purposes of assessing overall performance and improving policies, procedures, and training.

Departments should fully integrate complaint data into a comprehensive data management strategy. For purposes of assessment, departments should consider complaint data, alongside citizen satisfaction surveys, community group meeting feedback, and ongoing dialogue with a wide cross-section of community leaders, as an indicator of citizen satisfaction with the department. Civilian complaint data must always be analyzed in context. For instance, departments might expect and even welcome a spike in complaints when policies or procedures are changed in order to make the complaint process more open and accessible to civilians. When comparing the number and type of complaints generated across units and across time, police managers must acknowledge and factor in such policy changes. Analyses of complaint data should continually inform department policies and community outreach efforts.

10. Make summary reports available to the public of complaint data analyzed by type, by disposition, and by time period.

By making such information available on web sites and/or through annual reports, departments will demonstrate the transparency of the civilian complaint process to their communities.

Conclusion

Given the nature of law enforcement interactions, complaints by civilians in the communities they serve and internal complaints raised by personnel within the department are a familiar occurrence in all agencies. Law enforcement leaders have a critical choice to make on how best to handle complaints. They may treat them as isolated events which need to be adjudicated. They may also assess complaint data from a broader problem-solving perspective by using complaint data to assess individual performance, unit performance, and as a barometer of the department's success in carrying out its customer-oriented mission. Sweeping complaints under the rug is not only an unethical practice; it also deprives managers of potentially useful information.

Many departments are incorporating complaint data into early intervention strategies or as part of a broader personnel management system. While paying careful attention to providing individuals unfettered access to the complaint process, departments must also ensure that they provide a process by which civilians can file formal commendations about police officers. Data on both complaints and commendations should be used for assessment purposes.

Suggestions for Further Reading

Law enforcement agencies respond to and process civilian and internally generated complaints in a wide variety of ways. The breadth and complexity of this issue extends beyond the issues addressed in this chapter. The following publications are recommended for further reading.

Bobb, Merrick. "Internal and External Police Oversight in the United States." Presentation from an international conference of police oversight at The Hague in October 2005. Police Assessment Resource Center, Los Angeles.
www.parc.info/pubs/index.html#issues

International Association of Chiefs of Police. Police Accountability and Citizen Review: A Leadership Opportunity for Police Chiefs. Alexandria (Virginia): 2000. www.theiacp.org/documents/pdfs/Publications/policeaccountability.pdf

Walker, Samuel, Carol Archbold, and Leigh Herbst. Mediating Citizen Complaints Against Police Officers: A Guide for Police and Community Leaders. Police Executive Research Forum, Washington, DC; 2002. www.cops.usdoj.gov/mime/open.pdf?Item=452

Walker Samuel. The New World of Police Accountability. Sage Publications Inc., Thousand Oaks (California): 2005

Endnotes

- ¹ Thurnauer, Beau. "Best Practices Guide for Internal Affairs: A Strategy for Smaller Departments." Big Ideas for Smaller Departments. Winter 2004. Chief Thurnauer, a 22-year veteran of the Manchester, Connecticut, Police Department, retired with the rank of captain in 1998. He currently serves as the chief of police in Coventry, Connecticut with a staff of 13 sworn officers.
- ² For the purposes of this chapter, discussion of law enforcement employment discrimination allegations are excluded. This should not be interpreted to mean that equal employment opportunity is not an important civil rights issue. Having personnel who are representative of the community they serve is a critical consideration addressed in Chapter 7 of this guide. This topic is omitted because it is an internal civil rights issue and not within the main purview of this document, protecting civil rights of community members.
- ³ Memorandum of Agreement Between the United States Department of Justice and the City of Cincinnati, Ohio and Cincinnati Police Department. (4/12/02). www.usdoj.gov/crt/split/Cincmoafinal.htm.
- ⁴ Commission on Accreditation for Law Enforcement Agencies (CALEA) standard 52.1.1.
- ⁵ The 2003 LEMAS survey did not break out university police, railroad police, and other special jurisdictional police as distinct types. Of the tribal police agencies included in the survey, 12 of 15 indicated that they did have a policy directive of citizen complaints, but the sample size for tribal police is not large enough to make reliable projections to all tribal police agencies or to compare across agency size.
- ⁶ *United States v. City of Pittsburgh* Consent Decree. (02/26/97). www.usdoj.gov/crt/split/documents/pittscomp.htm.
- ⁷ Agreement Between the United States Department of Justice and Buffalo City Police Department, the Police Benevolent Association, Inc., and the American Federation of State, County, and Municipal Employees Local 264 (9/19/02). www.usdoj.gov/crt/split/documents/buffalo_police_agreement.htm.
- ⁸ *United States v. City of Los Angeles* (6/15/2001). Available on the Web at www.usdoj.gov/crt/split/documents/laconsent.htm.
- ⁹ International Association of Chiefs of Police Model Policies. Standards of Conduct, August 1997.
- ¹⁰ Memorandum of Agreement Between the United States Department of Justice and the District of Columbia and the District of Columbia Metropolitan Police Department (06/13/2000). www.usdoj.gov/crt/split/documents/dcmoa.htm.
- ¹¹ Commission on Accreditation for Law Enforcement Agencies (CALEA) standard 52.1.5
- ¹² International Association of Chiefs of Police. Police Accountability and Citizen Review: A Leadership Opportunity for Police Chiefs. Alexandria (Virginia): 2000. www.theiacp.org/documents/pdfs/Publications/policeaccountability.pdf.
- ¹³ International Association of Chiefs of Police. Police Accountability and Citizen Review: A Leadership Opportunity for Police Chiefs. Alexandria (Virginia): 2000. www.theiacp.org/profassist/ethics/police_accountability.htm.
- ¹⁴ *United States v. City of Los Angeles* Consent Decree. (6/15/2001). www.usdoj.gov/crt/split/documents/laconsent.htm.

- ¹⁵ International Association of Chiefs of Police. Police Accountability and Citizen Review: A Leadership Opportunity for Police Chiefs. Alexandria (Virginia): 2000. Boise Police Department reference available at www.theiacp.org/profassist/ethics/police_accountability.htm.
- ¹⁶ Missouri City (Texas) Police Department, Professional Standards. Last updated on 08/06/2002 Retrieved from www.iacpnet.com.
- ¹⁷ www.co.pg.md.us/Government/BoardsCommissions/pdfs/CCOP_2003-FY2004_Report.pdf
- ¹⁸ *United States v. City of Los Angeles* Consent Decree (6/15/2001). www.usdoj.gov/crt/split/documents/laconsent.htm.
- ¹⁹ *United States v. City of Pittsburgh* Consent Decree (02/26/97). www.usdoj.gov/crt/split/documents/pittscomp.htm.

V. *Managing Use of Force*



MANAGING USE OF FORCE

Police departments everywhere have no greater responsibility than to ensure that our officers, who are entrusted by the public to use force in the performance of their duties, use that force prudently and appropriately. In addition, when deadly force is used, police departments have a solemn obligation—to the public and to the officers involved—to investigate these cases thoroughly, accurately and expeditiously.¹

Chief Charles Ramsey, Washington, DC Metropolitan Police Department

Introduction

Occasionally, a use-of-force incident can catapult an individual officer, a whole department, or the entire law enforcement profession into headline news. The mere mention of Rodney King, Amadou Diallo, or Abner Louima, for instance, illustrates the serious concerns that these events can raise in the public forum. Highly visible incidents such as these have an enormous impact not only on the individuals involved, but also on their departments and on law enforcement in general. The unjustified use of force or the use of force that fails to comply with established policy standards damages lives, erodes confidence in the police, destroys careers, and exposes individual officers, departments, and municipalities to substantial civil liability. Individual officers also may be held criminally liable. If excessive force appears to be systemic, it may expose the department to a federal *pattern or practice* investigation.

The law enforcement profession may feel confident, however, in the fact that the use of force—let alone the misuse of force—among police officers is a remarkably rare occurrence. Two large-scale prevalence studies—one based on voluntary submission of police data² and one based on a representative national sample survey of the public³—found that the use of physical force on the part of officers occurred in less than 1 percent of police and citizen encounters.

Given the fact that most routine police encounters are not confrontational, some suggest that the ratio of use of force to arrests is a more appropriate and revealing standard. A study examining 7 years of data from the Montgomery County (Maryland) police departments found a rate of 6.4 force incidents per 100 adult custody arrests, which, as the authors note, is infrequent considering the context.^{4,5}

In his review of research on use of force, University of Central Florida Professor Kenneth Adams observes, “whether measured by use-of-force reports, citizen complaints, victim surveys, or observational methods, the data consistently indicates that only a small percentage of police-public interactions involve the use of force.”⁶ Thus, data collected by police departments and backed by scholarly research make clear that the overwhelming majority of police-citizen contacts are carried out routinely with no use of physical force.

Still, police executives have the responsibility—both to their communities and to their officers—to effectively handle the small, but serious number of instances in which force is

misused. A small percentage of police encounters with the public involve excessive use of force or force without cause. Some officers occasionally stumble into a misuse of force. A small number of officers repeatedly exercise poor judgment or willful disregard for use-of-force policies. Police executives must work to limit such incidents. They must ensure that use of force is kept to a minimum, that excessive force is not tolerated, and that any allegation of excessive or unlawful force is thoroughly investigated.

To this end, a police executive's ability to manage use of force through clear policies, effective training, and sound management is of paramount importance. Through these tools, police executives must require officers to limit their use of force to that which is reasonably necessary for effective law enforcement and for the protection of officers and civilians. As a result, the public should be able to expect that police officers will use force only to the extent necessary to achieve lawful law enforcement objectives and never as a method of retaliation or as an outlet for frustration. Police executives are also responsible for assuring that proper accountability mechanisms are in place. Police executives, appropriately, should track agency patterns in use of force and offer proper intervention or disciplinary action for officers found to have engaged in unlawful use of force.

Finally, police executives must be prepared to respond in highly visible moments when officers have been accused of excessive use of force or force without cause. What police leaders say and do in these moments has a tremendous effect on the public's response as well as on the morale of rank-and-file police officers. In response to any incident involving an excessive use-of-force allegation, a police executive must balance concern for the public with concern for officers. The chief must ensure that the incident will be investigated thoroughly and fairly while avoiding pressure from either side to rush to judgment. Only in this way will the chief sustain the confidence of the department and the community that the department serves.

Chapter Overview and Objectives

This chapter addresses law enforcement leaders' management of the use of force within their departments. Although teaching officers to use force to ensure their own and others' safety and to respond to resistance is an ongoing and critical responsibility, this chapter is not meant to be a primer on use-of-force techniques. Instead, it focuses on the tremendous responsibility that law enforcement officers bear as a result of their authority to use force. Law enforcement leaders must remain vigilant in assisting officers to manage this awesome responsibility if citizens' civil rights are to be protected.

Accordingly, this chapter begins with an investigation of the way in which force is discussed and defined in law enforcement agencies. It explores various levels of force—from the implied force of an officer's presence to deadly force—as well as the reliance on use-of-force continuums to aid officers in their efforts to know when and with what level of force to respond to any given circumstance.

The chapter proceeds from this groundwork to explore four core components of effective use-of-force management. The chapter asserts that every law enforcement leader must design a clear and comprehensive use-of-force policy, implement training that both hones officers' skills in using force and offers them alternatives to this use, maintain accountability mechanisms to ensure that excessive force or force without cause is not tolerated, and establish media and public relations outreach strategies before any critical use-of-force incident threatens to distance the department from the community it is sworn to serve. By combining proper use-of-force policies, training, accountability mechanisms, community outreach, and public relations strategies, law enforcement leaders can effectively limit individual, departmental, and municipal liability while promoting confidence and trust among their own rank-and-file officers and community members. To promote these ends, the chapter concludes with a series of recommendations.

Issues in Defining Use of Force

Discussions of the use and misuse of force revolve around common phrases that are consistently used but not always uniformly defined. The following discussion is intended to clarify these terms for the purposes of this guide.

Use-of-Force Definitions in Context

While use of force is a common phrase in law enforcement and in scholarly research such as the studies mentioned in the chapter introduction, the meaning of the term can be ambiguous. It is best understood in the particular contexts in which it is used.

In the context of departmental policy directives, use of force as a general term is rarely defined. Instead, these policies define at least two classes of force: deadly force (often referred to as lethal force) and nondeadly force (sometimes called nonlethal or less-lethal force). These policies then stipulate the use of various weapons, equipment, and techniques that fall under these two general headings.

In the context of training, departments often do define use of force; generally, they define the phrase rather broadly. Many departments expressly stipulate that all police encounters or at least involuntary police contacts such as traffic stops, pedestrian stops, and arrests imply some sense of force. Under this broad conceptualization of the issue for purposes of training, use of force is seen as a graduated continuum that ranges from the mere presence of an officer—implied force—to the use of deadly force options. This use-of-force continuum as a training tool will be discussed in greater detail below.

Outside the training room, however, the use of force generally is defined more narrowly to refer to specific actions that are over and above an agency defined threshold and excludes the type of routine activities that occur during arrest and other encounters. In this sense, force is seen as a response to subject resistance. The following excerpt from the memorandum of agreement between the Department of Justice and the Detroit Police Department provides a summary of the term as it commonly is understood from an operational law enforcement perspective:

The term “force” means the following actions by an officer: any physical strike or instrumental contact with a person; any intentional attempted physical strike or instrumental contact that does not take effect; or any significant physical contact that restricts the movement of a person. The term includes the discharge of firearms; the use of chemical spray, choke holds, or hard hands; the taking of a subject to the ground; or the deployment of a canine. The term does not include escorting or handcuffing a person with no or minimal resistance. Use of force is lawful if it is objectively reasonable under the circumstances and the minimum amount of force necessary to effect an arrest or protect the officer or other person.⁷

Deadly and Nondeadly Force

Virtually all policy directives focused on the use of force draw distinctions between deadly and other types force. Deadly—or lethal—force generally is construed as any action that is readily capable of causing death or serious physical injury. According to a federal memorandum of agreement in effect in Washington, D.C., “the term ‘deadly force’ means any use of force likely to cause death or serious physical injury, including but not limited to the use of a firearm or a strike to the head with a hard object.”⁸ Other federal agreements use very similar definitions. It is important to note that the implication of many of these definitions is that death or serious injury need not be the intended outcome, just a possible outcome of the force used. For instance, some departments define warning shots and choke holds as deadly force.

By definition, all other uses of force are considered nondeadly—or less-lethal—uses of force. Some departments define nondeadly force by specifying the instruments, weapons, and techniques that fall under this category. These might include specific references to batons, flashlights, chemical agents, conducted energy device (CED) and canine deployments. A CED is sometimes referred to as an electronic control weapon (ECW) or a Taser™, a name of one well-known manufacturer.

Debates regarding distinctions between deadly and nondeadly uses of force certainly exist. Differences of opinion exist on terminology to describe the general types of force, and departments struggle to determine where certain techniques should be placed. The use-of-force continuum is useful in this context. A graphic teaching tool, it can be used to illustrate the distinctions between deadly and nondeadly force options.

A Note on Terminology Used in this Guide

In policies, training, and general discussions, various terminologies are used in distinguishing between two categories of force. Consistent with IACP's model policy on use of force,⁹ this guide uses the terms *deadly* and *nondeadly* force, except when using specific terms from quoted or referenced sources. One article suggests this distinction is more consistent with legal standards and less ambiguous than others. "Fourth Amendment law speaks of two categories of force: deadly and nondeadly. The term 'less-lethal' potentially confuses the fact that electronic control weapons, appropriately used, are by definition nondeadly force devices. It also suggests that the use of electronic control weapons is questionable in anything but deadly force situations."¹⁰

The term "Taser" refers to one particular manufacturer. Besides Taser, however, there are other manufactures such as StingerTM. Although generic terms are being used in lieu of common brand names, these have varied and perhaps add to the confusion. Generic terms include conducted energy devices (CEDs), electro-muscular-disruption-technology (EMDT), and occasionally stun guns. Taking the lead from a recent publication of training guidelines that were developed by the Police Executive Research Forum (PERF) in consultation with law enforcement professionals this guide uses the term conducted energy device or CED.¹¹ Other terms are used when directly referencing or quoting terms used by other sources.

Reasonableness of Force

In general, legitimate force is described as those "reasonable" actions that are necessary to protect persons or property from illegal harm or to bring about obedience to a valid police order. Stemming from the Fourth Amendment, reasonableness is the legal standard that must guide the decision to use force and the amount of force used. This standard of reasonableness has several implications. One is that an officer is permitted to use the amount of force necessary only to overcome the resistance or aggression that is presented by the subject. In addition, when the resistance or the aggression of the subject is reduced, the officer(s) must reduce his or her force correspondingly. The consent judgment between the Department of Justice and the Detroit Police Department invokes the reasonable-force standard in describing

legitimate uses of force: “Use of force is lawful if it is objectively reasonable under the circumstances and the minimum amount of force necessary to effect an arrest or protect the officer or other person.”¹²

Understanding two additional legal inferences about the standard of reasonable force is important. First, reasonableness is not assessed from hindsight, but is based on “careful attention to the facts and circumstances of each particular case” and as would be seen from the perspective of a reasonable officer responding to the particular case.¹³ Second, in assessing reasonableness, courts have been deferential to the reality that officers are making split-second decisions under difficult circumstances.¹⁴

Excessive Force

In general, excessive force is defined as being unlawful force or force that exceeds the appropriate thresholds defined by a department’s policy directives. The standard for distinguishing excessive force from allowable force is, as discussed above, the standard of reasonableness. Policy directives generally note that the standard of reasonableness is based on the perspective of the officer on the scene at the time the force decision is being made. The following excerpt from a sample policy from the Virginia Department of Criminal Justice Services is representative of an excessive-force definition based on this legal standard and helps ground the legal terminology in a clear operational context.

Force is excessive when its application is inappropriate to the circumstances, resulting in serious physical injury or death to a suspect. In determining whether force has been excessively applied, the primary concern is whether the on-scene officer reasonably believes that its application was necessary and appropriate. Based on the reasonableness standard, excessive force may be determined based on:

1. The severity of the crime.
2. The nature and extent of the threat posed by the suspect.
3. The degree to which the suspect resists arrest or detention.
4. Any attempts by the suspect to evade arrest by flight or fight.

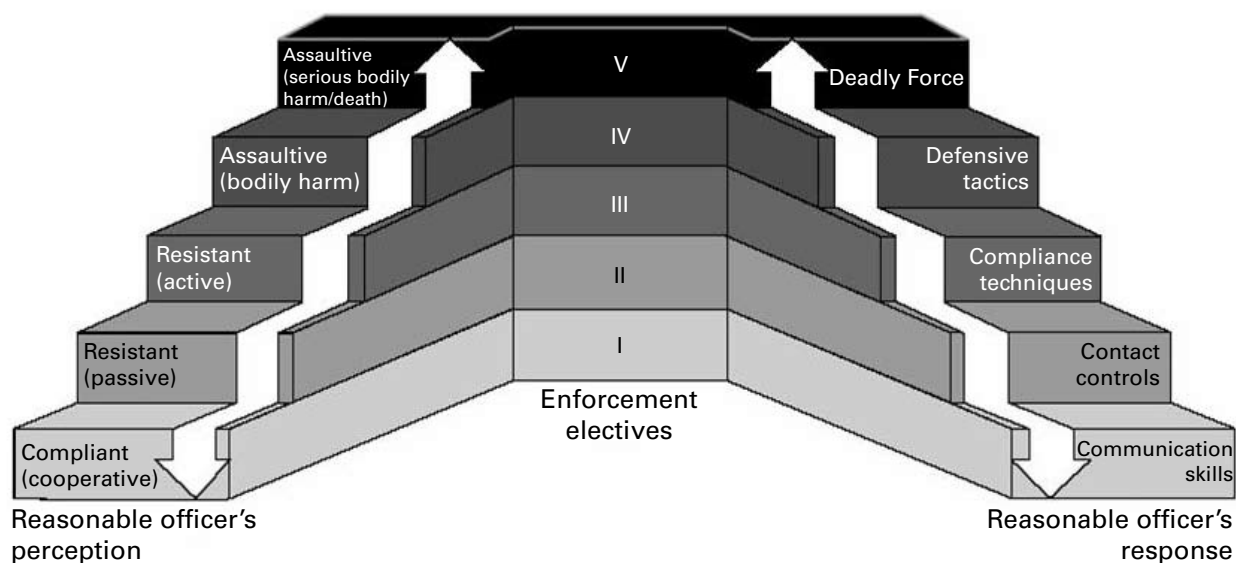
In evaluating the reasonable application of force, officers must consider their own age, size, strength, skill level with department weapons, state of health, and the number of officers relative to the number of suspects.

This and other similar directives are necessary for providing context and establishing parameters for proper conduct. It would be impractical, however, for officers to perform the detailed mental checklist suggested in the language when dealing with exigent circumstances in the field. The use-of-force continuum is offered in many departments as a practical way to train officers to assess situations and from which to make force decisions in the field.¹⁵

Use-of-Force Continuum

In their day-to-day work, police officers must make difficult, split-second decisions about whether to use force and what level of force to use. These decisions must be consistent with departmental policy and legal standards. Written departmental policies taken by themselves can be vague and difficult for officers to apply in the field. As a result, many departments have used a use-of-force continuum—a tool that helps officers visualize variations in levels of force—as a means of clarifying written policies. Indeed, most departments use a use-of-force continuum in training, and many departments now explicitly incorporate a use-of-force continuum into their departmental policy.

Several examples of use-of-force continuums/matrices are presented below:



Level of Threat	Corresponding Force
(1) Compliant (blue level)	Communication, such as verbal commands
(2) Passive resistance (green level)	Low-level physical tactics, such as grabbing a suspect's arm
(3) Active resistance (yellow level)	Use of come-along holds, pressure points, and chemical sprays
(4) Assaultive with the potential for bodily harm (orange level)	Defensive tactics, such as striking maneuvers with the hands or a baton
(5) Assaultive with the potential for serious bodily harm or death (red level)	Deadly force

Image of Federal Law Enforcement Training Center (FLETC) Use-of-Force Model.
From GAO/GGD=96-17 ATF Use of Force, page 39



RECOMMENDED
RESPONSE TO RESISTANCE MATRIX



R
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C
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L
E
V
E
L
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6 Aggressive Physical
5 Aggressive Physical
4 Active Physical
3 Passive Physical
2 Verbal
1 Presence

✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	
✓	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓		
✓	✓	✓	✓	✓	✓	✓	✓					
✓	✓	✓	✓	✓	✓							
✓	✓	✓	✓	✓	✓							

Arrival Interview Dialogue Verbal Direction Touch Restraint Devices Transporters Take Downs Compliance Pain Counter Moves Intermediate Weapons Incapacitation Deadly Force

Checked areas represent authorized, acceptable beginning response levels. Any response in an unchecked area requires explanation. [Refer to definitions for each level of resistance and response.](#)

Officer Presence 1 Communication 2 Physical Control 3 Intermediate Weapons 4 Incapacitating Control 5 Deadly Force 6

RESPONSE LEVELS

Image from the Florida Department of Law Enforcement, Criminal Justice Professionalism Program, Criminal Justice Standards and Training Commission Defensive Tactics Curriculum, Legal and Medical Risk Summary June 2002, Page 4 (supplied by the Tallahassee Police Department).

DPSST Force Continuum					
Level of Force		Method of Force		Level of Resistance	Threat
VI	Deadly	Any force readily capable of causing death or serious physical injury		Lethal	R E S I S T I V E
V	Serious Physical Control	Neck Restraint Impact Weapon Focused Blows Mace (CN/CS)	O C R E S T R A I N T S	Ominous	
IV	Physical Control	Hair Takedown Joint Takedown Digital Control Joint Come-along Pressure Points Electronic Stun Device Temp. Restraints		Active Static	
III	Physical Contact	Escort Position Directional Contact		Verbal	
II	Verbal Communication	Direct Order Questioning Persuasion			
I	Presence	Display of Force Option Body Language/Demeanor Identification of Authority		None	Complying

Image from the Oregon Department of Public Safety and Training Standard (DPSST).
 Obtained from Portland State University Public Safety Office web site
www.cpsso.pdx.edu/html/forcepolicy.htm

Origins and Evolution of Use-of-Force Continuums

The use-of-force continuum originated in the early 1980s. The first continuum was a line with officer presence or verbal commands at one end and deadly force at the other. The continuum has now seen countless revisions and adaptations. While no single use-of-force continuum has been universally accepted, some states such as Florida and Oregon have either adopted or recommended a continuum for statewide use. This tool is not without its detractors, but while its effectiveness in various forms has been debated, and will continue to be debated, it is a widely used training tool and the foundation of many—if not most—departments' use-of-force policies.

Several Department of Justice investigations, consent decrees, and memorandums of agreement (MOA) address the use-of-force continuum. The federal MOA for the Washington, D.C., police, for instance, requires that that department continue to use its continuum and incorporate it as part of its academy and annual training. In its consent decree, the Detroit Police Department is required to revise its use-of-force policy and continuum to meet the following stipulations:

The use-of-force policy shall incorporate a use-of-force continuum that:

- a. identifies when and in what manner the use of lethal and less than lethal force are permitted
- b. relates the force options available to officers to the types of conduct by individuals that would justify the use of such force
- c. states that de-escalation, disengagement, area containment, surveillance, waiting out a subject, summoning reinforcements, or calling in specialized units are often the appropriate response to a situation.¹⁶

Benefits and Drawbacks of the Use-of-Force Continuum

Proponents of the use-of-force continuum maintain that it is a practical training tool that helps officers make decisions that effectively balance safety considerations with individual rights. Proponents argue that in conjunction with proper training—scenario training and shoot-don't-shoot training—the use-of-force continuum enables officers to make sound decisions quickly. They also argue that the use-of-force continuum is a useful tool during post-incident reviews and investigatory interviews where it can help the officer and investigators articulate what level of force was used and why that level of force was necessary under the circumstances. Proponents also note that the continuum has proven to be a useful tool in court where it can help juries understand the standards by which officers operate in making use-of-force decisions.

While many feel that the continuum's advantages are clear and obvious, others have questioned its usefulness in real-life situations. Some have voiced concerns, for instance, that training and responses based on a rigid matrix, in which lower level force options must be ruled out before higher level options can be used, are unrealistic.¹⁷ These critics contend

that in real-life encounters where serious threats or levels of resistance must be met with suitable force in a timely manner, the use-of-force continuum can cause officers to hesitate and thus put the officer, fellow officers, and by-standers in jeopardy. Critics also contend that real-life encounters are far more complex than the continuum implies and that use-of-force continuums too often fail to incorporate adequately important issues such as disengagement, de-escalation, or other cooling-off strategies.

An alternative to the use-of-force continuum is the circular situation force model that is common in the United Kingdom and Canada, and gaining popularity in the United States. In a glossary included in a publication on policy and training guidelines relevant to conductive energy device guidelines by the PERF Center on Force and Accountability, this model is described as follows:

A circular force training model that promotes continuous critical assessment and evaluation of a force incident in which the level of response is based upon the situation encountered and level of resistance offered by a subject. The situational assessment helps officers determine the appropriate force option, ranging from physical presence to deadly force.¹⁸

Selecting a Use-of-Force Continuum

With so many use-of-force continuums—ranging from the very simple to the complex—available for adoption or modification, law enforcement executives must make careful and deliberate decisions. While law enforcement leaders may find it tempting to simply adopt another agency’s continuum or a model continuum, they must take the steps to ensure that the selected use-of-force continuum is tailored to their agency. In the process of developing a continuum or adopting and then tailoring a continuum to their own needs, several considerations are especially important from a civil rights perspective.

- The use-of-force continuum should match the department’s actual use-of-force options. It should include all techniques, nondeadly weapons, and deadly weapons available to department personnel. It should include standard-issue weapons that are made available to all officers, as well as weapons that are made available only to specialized units like the SWAT team.
- The use-of-force continuum should clearly demonstrate where each weapon and technique fits onto the continuum’s graduated scale and match this scale to levels of subject resistance and actions.
- If an agency uses canines in any effort to control or apprehend suspects or other subjects, that canine deployment should be placed on the continuum. Distinctions should be made about whether a department uses a “find-and-bark” strategy, a “find-and-bite” strategy, or both. Such distinctions may be important in accurately placing the use of canines on the use-of-force continuum.

- As departments adopt CEDs, beanbag guns, and other weapons being developed at a rapid pace and marketed as nondeadly options by vendors, they must make careful and deliberate decisions regarding where to place these technologies on their use-of-force continuums. Placement must depend on the particular manner in which a tool will be deployed within the particular department. For instance, some departments have opted to allow CEDs to be used only when other forms of deadly force would be justified while other departments' policies stipulate that CEDs can be used as a nondeadly option, at a level similar to pepper spray.

CEDs: Decisions Regarding Deployment

The deployment of Conductive Energy Devices (CEDs) has become one of the most hotly debated topics in law enforcement. News regarding sudden and unexpected deaths following CED deployments has brought the issue to the public's attention.

The safety and viability of CEDs as a use-of-force option is fiercely contested. In a recent study, Amnesty International reported that 74 in-custody deaths have occurred since 2001 as a result of CED-related incidents (November 2004). That study recommended suspending the use of these devices until more information is provided on safety, standards, training, and medical protocols. On the other hand, many of the more than 5,000 police departments that have deployed CEDs have documented substantial drops in officer and subject injuries, thus reinforcing manufacturer claims that CEDs offer an effective nondeadly use of force when used within the context of proper policies, procedures, and training.

In response to the need for more definitive information on the use and management of these devices, the IACP has published an executive brief, *Electro-Muscular Disruption Technology: A Nine Step Strategy for Effective Deployment*. This brief offers a step-by-step guide to aid law enforcement agencies in selecting, acquiring, and using the technology. The full text of the report is available on IACP web site¹⁹ (www.theiacp.org/research/RCDCuttingEdgeTech.htm).

While the full report provides a comprehensive guide for law enforcement agencies to develop their own strategies for CED deployment, some basic considerations, especially regarding community relations and accountability, are important enough to review here.

The Nine Step Strategy

1. Building a leadership team with members who can address issues relative to acquisition, costs, policies, training, liability, and evaluation.
2. Placing CEDs on the use-of-force continuum.
3. Assessing the costs and benefits of using CEDs.
4. Identifying roles and responsibilities for CED deployment.
5. Engaging in community outreach.
6. Developing policies and procedure for CEDs.
7. Creating a comprehensive training program for CED deployment.
8. Using a phased deployment approach for CEDs.
9. Assessing CED use.

Community Relations

Departments must consider the potential impact on community relations in its cost-benefit analysis. An agency decision to include CEDs as a force option will elicit a reaction in many communities, even if they concur that the devices falls under the category of nondeadly force. If the community believes that a department has a history of using excessive force or is racially biased in its use of force, it would behoove that department to seek input from community stakeholders as part the decision-making process. Proactive outreach on the part of the department and regular meetings with the community can build mutual trust and respect.

Accountability

Departments must consider any CED deployment as a use of force that is both reportable and reviewable by the chain of command. CED use should be documented and assessed as part of the agency's early intervention strategy. CED usage should also be part of a data-driven management strategy in which both the pluses and minuses of the tool and of the manner of deployment are continually evaluated.

Evaluation

Departments evaluating their deployment of conducted energy devices must ask the following key questions:

- Does the deployment of CEDs correspond to decreases in officer and suspect injuries, or the extent of injuries?
- Does deployment result in greater or lesser overall use-of-force incidents within the department? Is there any evidence to suggest the CEDs are being used in instances where no physical use of force would have been used before this tool became available?
- Does deployment result in increases or decrease in use-of-force complaints?

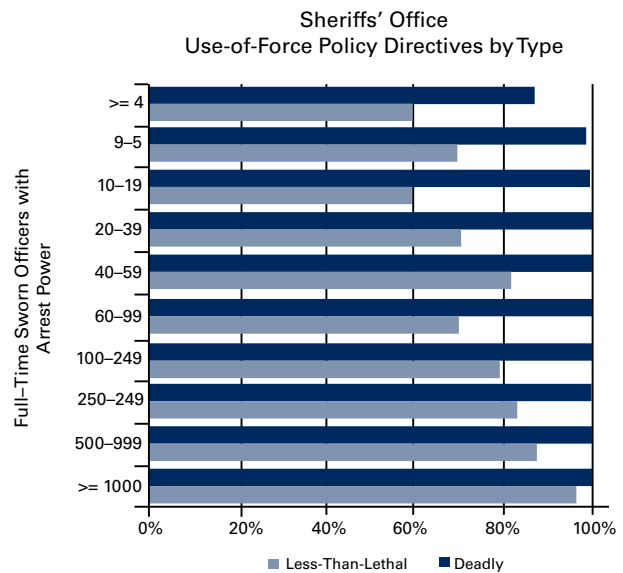
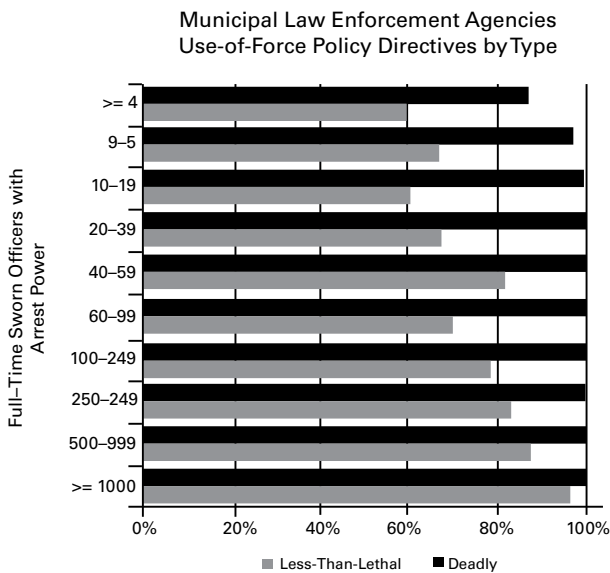
Although answers to these questions are beginning to emerge from analyses within individual departments, no systematic research has yet been conducted. Law enforcement leaders should note that the results of departmental evaluations will depend on the particular policies, strategies, and types of deployments unique to particular departments rather than on the qualities inherent in the CED tool itself. Considering that these tools are relatively new, are controversial in the public forum, and that no consensus yet exists about the best methods of deployment, law enforcement leaders must remain vigilant and continually assess their departments' deployments of CEDs in light of evolving standards.

Near Universal Prevalence of Use-of-Force Policies

The need for use-of-force policies in law enforcement is widely accepted. The Commission on Accreditation for Law Enforcement Agencies (CALEA) has promulgated accreditation standards as part 1.3 of its Law Enforcement Role and Authority Chapter. In 1989, the IACP issued its first model policy and concept paper on use of force. That policy was last updated in February 2005.²⁰ Other professional agencies and associations, as well as numerous state organizations, also have developed model policies.

Based on 2003 Law Enforcement Management and Administrative Statistics (LEMAS) census data (and reflecting terminology from a data-collection instrument), the vast majority of municipal police departments and sheriffs' offices have policies on the use of *deadly force and less-than-lethal force* (specific terminology from LEMAS questionnaire). Details about LEMAS methodology and data are available in the text box on page 31 in Chapter 2.

As the charts below reveal, although a smaller percentage of municipal departments and sheriffs' offices have "a written policy directive on *less-than-lethal force* than have a policy on *deadly force*, the clear majority of all agencies, regardless of size, have policies for both categories of force. These charts use the terminology for force categories that are used in the LEMAS survey instrument.



Evolutions in Use-of-Force Policies

While almost universally implemented, specific use-of-force policies still vary by jurisdiction and continue to change over time. As noted above, use-of-force policies evolved to incorporate use-of-force continuums in the 1980s. More recently, federal consent decrees and memorandums of agreement (MOA) have required departments to modify their policies, training, and accountability mechanisms to better ensure the protection of civil rights. Departments have also adjusted use-of-force policies in response to other factors, including civil suits and court settlements. Many departments have adjusted, and continue to adjust, their policies to conform to evolving professional standards or in direct response to particular incidents that have raised legal issues or heightened public concern.

Core Components of Effective Management of Use-of-Force

The authorization to use force is an awesome power that carries with it a tremendous amount of responsibility. For all the variability in the tone and language of use-of-force policies, departments have discovered that certain core components within these policies will result in the effective limitation of use of force, strict accountability, and the effective response to incidents in which force is misused.

As noted above, police officers must use force only when reasonably necessary and must use only the amount of force necessary to overcome resistance or to achieve compliance with the law. As clear as this imperative is, the decision to use force and the judgment of the proper level of force can be difficult and complex. When making use-of-force decisions, officers must simultaneously address their own safety, the safety of surrounding persons, and the well-being and civil rights of the subject.

Of course, the difficult and delicate nature of these decisions makes the need for clear policies, effective training, strong supervision, and strict accountability absolutely paramount. When officers are involved in emotionally charged and potentially violent encounters, the combined influence of policies, training, and accountability are critical. Indeed, assurance must be made that these elements must be integrated and consistent to best ensure that officers respond in a reasoned and disciplined manner.

This chapter asserts that use of force can be managed as a law enforcement strategy, while still protecting civil rights, if law enforcement leaders take care to establish policies and practices (1) that are comprehensive; (2) that carefully consider and alternatives to use of force and consideration of special circumstances and persons; (3) that incorporate strong accountability mechanisms; and (4) that are attentive to public and media relations. The following sections discuss each of these components in more detail and lay out some of the key elements that have been addressed in the consent decrees and MOAs as key issues relating to civil rights.

Component One: Comprehensiveness

To effectively manage the use of force, departments must establish use-of-force policies that clearly address all force techniques and technologies available to their officers. They must also consider the broad range of issues related to those deployments.

Use-of-force policies succeed as they clearly establish their departments' expectations regarding each and every force option available to officers. This is especially critical as departmental policies evolve in response to civil rights concerns. The following paragraphs address several use-of-force options and issues that have direct implication on civil rights concerns. Where relevant, these paragraphs include language from federal consent decrees and MOAs and department policies.

Verbal Warnings

Use-of-force policies increasingly incorporate a discussion of verbal warnings. Encouraging the use of verbal warnings before the deployment of force reinforces the commitment to ensuring that the use of force is no greater than necessary to ensure public and officer safety. Policies generally stipulate that verbal warnings should be issued when appropriate and possible, but should never compromise the safety of officers or of the public. Several federal agreements stipulate the use of verbal warnings prior to the deployment of particular use-of-force options. The MOA with the Cincinnati Police Department requires using a verbal warning, when feasible, before beanbag shotguns or foam rounds are used. This MOA also requires that a "loud and clear announcement" be made before canines are released. The federal agreements with the Cincinnati, District of Columbia, Detroit, and Prince George's County (Maryland) Police Departments require, with limited exceptions, that verbal warnings be issued before the deployment of chemical or Oleoresin Capsicum (OC) spray. The excerpt from the agreement with the District of Columbia's Metropolitan Police Department is illustrative:

The policy shall require officers to issue a verbal warning to the subject unless a warning would endanger the officer or others. The warning shall advise the subject that OC spray shall be used unless resistance ends. The policy shall require that prior to discharging the OC spray, officers permit a reasonable period of time to allow compliance with the warning, when feasible.²¹

When verbal warnings are issued, it is also imperative that they be appropriate to the circumstances. They must be delivered with clarity and forcefulness. Although these types of warning typically are made during exigent circumstances, officers should maintain their professional demeanor to the extent possible. They should avoid profanity or language that is disrespectful or demeaning to the subject.

Warning Shots

Use-of-force policies also are increasingly addressing warning shots. A search of policies submitted to IACPNet revealed 15 departments that address “warning shots” in their policy directives. All but two of these departments prohibited warning shots under any circumstances. Increasingly, agencies are prohibiting warning shots altogether or narrowly limiting the circumstances in which they are allowed. The policy of the Savannah-Chatham (Georgia) Metropolitan Police Department is illustrative of a narrowly defined exception for allowing the use of warning shots:

Warning shots are forbidden with the only exception being the Marine Patrol Unit and under the following circumstances:

- Warning shots may be used for mission accomplishment (e.g., to compel a non-compliant vessel to stop as a security measure in Homeland Security defense).
- Warning shots are a signal to a vessel to stop, for waterway security zone incidents involving terrorist attacks and may be fired only by Marine Patrol personnel who are trained in the use of rifles. The use of warning shots will not endanger any person or property, including persons aboard a suspect vessel and warning shots shall not be fired over land.

Source: Savannah-Chatham (Georgia) Metropolitan Police Department
Agency Profile: Population 198,000; Officers 575

Choke Holds

Federal agreements and use-of-force policies that address choke holds acknowledge the seriousness of this use-of-force option. The use of choke holds—or similar procedures such as carotid control holds—has long been a topic of debate. The purpose of the technique is to incapacitate an aggressive subject temporarily to gain control of the situation. But because of the risk involved with these techniques—they are intended to restrict the airflow through the windpipe or flow of blood to the brain—some departments have prohibited them outright, while others have narrowly defined the circumstances under which they can be used. Most departments that allow this option classify the choke hold as deadly force. Federal agreements underscore this definition and advocate the restrictive use of choke holds. In relevant consent decrees and MOAs, the Department of Justice states that departments’ policies should “explicitly prohibit the use of choke holds and similar carotid holds except where deadly force is authorized.”²² The policy of the Des Moines (Washington) Police Department, for instance, underscores the seriousness of this use-of-force option:

The choke hold shall be considered deadly force and officers will use this hold only in defense of human life. Anytime this hold is used, an officer’s report will be submitted.

Source: Des Moines (Washington) Police Department
Agency Profile: Population 29,267; Officers 43

Canine Deployments

Use-of-force policies address canine deployments in detail. Some departments use dogs to help establish subject compliance as well as to apprehend dangerous or fleeing suspects or escapees. As with other uses of force, canine deployments must be based on balancing the risks inherent in their use against the risks that arise in the absence of their use. In all instances, canine deployments should be attended by strict selection, training, and accountability measures that apply to both handlers/trainers and dogs. The Manchester (Connecticut) Police Department policy explicitly addresses canine deployments:

Use of Force

1. The use of specially trained police canines for law enforcement responsibilities constitutes a real or implied use of force. The police officer/handler may only use that degree of force that is reasonable to apprehend or secure a suspect, protect him/herself, protect another officer and/or a civilian as governed by General Order 1-6 Use of Force. The police officer/handler shall file the appropriate reports documenting the use of force as required by General Order 1-6 Use of Force.

2. The police officer/handler and other officers shall adhere to the following levels of force when protecting the canine.

a. The use of Less Lethal Force may be used to protect the canine from an assault or attempted assault.

b. The use of Lethal Force shall not be used to protect the life of the canine. The canine is a piece of equipment utilized by the police officer/handler.

c. The police officer/handler may use the canine in preventing the infliction of less lethal and lethal force against him/herself, another officer and/or civilian.

3. Canine warning

a. The canine warning should consist of the following or similar announcement:

“This is the Manchester Police Canine team, speak to me now/stop now or I will send the dog.”

b. The police officer/handler shall deliver a series of warnings to ensure that the suspect has had ample warning, that the canine shall be used to apprehend him/her.

c. A warning allows the suspect time to surrender and shall also alert any innocent persons in the same area of the canine’s teams’ presence and intention.

d. The canine warning should not be given when, in the opinion of the handler, doing so would cause undue risk to the canine team's presence and intention.

e. At NO time shall the canine team's police officer/handler use his/her canine to affect the arrest of a person(s), who cannot escape or resist the officer, nor to intimidate, coerce or frighten the suspect(s).

Source: Manchester (Connecticut) Police Department
Agency Profile: Pop. 52,500; Officers 119

Discharging Firearms at or from Moving Vehicles

Increasingly, use-of-force policies specifically address the issue of shooting at or from moving vehicles. Most policies prohibit these acts altogether or strictly limit the circumstances in which such shooting is justified. A sample directive from the Virginia Department of Criminal Justice Services addresses this issue:

Firing at a moving vehicle is prohibited except where the officer reasonably believes that:

(1) An occupant of the other vehicle is using, or threatening to use, deadly force by a means other than the vehicle; OR (2) A vehicle is operated in a manner deliberately intended to strike an officer or a citizen and all other reasonable means of defense have been exhausted (or are not present), including moving out of the path of the vehicle, and the safety of innocent persons would not be unduly jeopardized by the officer's action.²³

Police training must stress that one clear option in response to moving vehicles is for the officer to evade the car. Courts have used the criterion of whether the officer had an opportunity to move out of the way as a factor in determining the reasonableness of force.²⁴

Pursuits

Departments have been increasingly careful to consider the advisability of pursuits from a cost-benefit perspective. A variety of broad concerns including public safety, officer safety, fiscal liability, and civil rights, have refined the circumstances in which departments will deploy this use-of-force option. Indeed, pursuit policies and practices have evolved tremendously over the last several decades. Pursuits that would have been initiated years ago based on so-called "contempt of cop" motivations have been significantly curtailed by recent policies and training that stress alternative responses. While curtailing pursuits is often seen as a safety and civil liability issue, the topic raises issues of reasonableness as well as equal protection. Pursuits have been specifically addressed in several of the federal consent decrees and MOAs.

Vehicle Pursuits

The most recent data available from the Bureau of Justice Statistics (BJS) reveals that approximately 95 percent of law enforcement agencies have policies on vehicle pursuits. Law enforcement agencies have long recognized that vehicle pursuits are dangerous, high-liability events. A substantial percentage of police pursuits end in crashes.²⁵ High-visibility pursuits that end with injuries or property damage can undermine public trust and confidence. Vehicle pursuits also raise considerable risks of fiscal liability. Officers in car chases may experience the phenomena of “adrenaline rush” that clouds their judgment. Additionally, when pursuits within a particular jurisdiction overwhelmingly involve minority drivers, they can also heighten the perception that racial profiling is taking place.

The BJS survey revealed that 59 percent of law enforcement agencies have “restrictive” policies. These policies limit officers from using pursuit unless specific criteria such as seriousness of offense, safety, or fleeing-vehicle speed are met. The following policy excerpt from the Illinois State Police is representative of those that would be described as restrictive in the BJS survey terminology:

[The Illinois State Police] will initiate a motor vehicle pursuit *only* [emphasis added] when an officer has an articulable reason to believe the occupant(s) of a fleeing vehicle has committed or attempted a forcible felony which involves the infliction or threatened infliction of great bodily harm or is attempting to escape by use of a deadly weapon, or otherwise indicates they will endanger human life or inflict great bodily harm unless apprehended without delay. All officers involved in a pursuit must, at all times, be able to justify their reasons for the pursuit.

Source: Illinois State Police Directives Manual
Agency Profile: Pop. 12,713,634; Officers 2,089

Other agencies that have not developed restrictive policies are nevertheless increasingly attentive to the need to balance the capture of suspects fleeing in vehicles with the need to protect both the public and police officers from unnecessary risks. The BJS survey cited above revealed that 27 percent of agencies have “judgmental” policies that leave the decision up to the discretion of the officer. In BJS survey terminology, the IACP’s model policy would be described as a judgmental or discretionary policy. It explicitly recognizes that vehicle pursuits are inherently dangerous and that the risks of pursuit must be weighed against the risks of not apprehending the subject:

The decision to initiate pursuit must be based on the pursuing officer’s conclusion that the immediate danger to the officer and the public created by the pursuit is less than the immediate or potential danger to the public should the suspect remain at large.²⁶

Foot Pursuits

Foot pursuits appear less frequently in use-of-force policies than vehicle pursuits. Although the risk of collateral damage may not be as high, foot pursuits do have attendant risks and civil rights implications. Officers are often injured during foot pursuits and, at the time of capture, can experience the phenomena of “adrenaline rush” which can cloud their judgment and diminish their capacity to react with appropriate restraint. Thus, foot pursuits require careful consideration as a policy and training issue.

As a result of pattern and practice investigations, the Cincinnati Memorandum of Agreement and the Detroit Consent Judgment each enjoined the departments to develop policies specific to foot pursuits. The Cincinnati MOA required the following:

The CPD will develop and adopt a foot pursuit policy. This policy will require officers to consider particular factors in determining whether a foot pursuit is appropriate. These factors will include, inter alia, the offense committed by the subject, whether the subject is armed, the location (i.e., lighting, officer familiarity), and the ability to apprehend the subject at a later date. The policy will emphasize alternatives to foot pursuits, including area containment, surveillance, and obtaining reinforcements.²⁷

Accordingly, the Cincinnati Police Department enacted a specific policy directive on foot pursuits, which includes the following excerpt:

Whenever an officer decides to engage, or continue to engage, in a foot pursuit a quick risk assessment must take place. They must evaluate the risk involved to themselves, to other officers, the suspect, and the community versus what would be gained from pursuing the suspect.²⁸

Component Two: A Focus on Alternatives to Force

To effectively manage the use of force and limit its application to situations in which it is warranted, departments should stress alternatives to force, incorporate these into their policies, and offer specific training in these alternatives in ways that complement traditional training in force techniques.

Policy guidelines, instructional literature, and training programs on the use of force—focused, specifically, on issues such as the proper use of firearms, other weapons, and policing equipment; proper physical restraint and handcuffing techniques; and officer safety—are commonplace. Such instruction often includes detailed information regarding the characteristics of armed persons and officer survival techniques. An officer’s use-of-force knowledge base, gained through academy training and subsequent field training, must be continually honed and reinforced through roll-call training and yearly in-service training. It must also be continually tested through qualification tests and simulations.

While this training is absolutely necessary—indeed, vital—to ensuring effective policing as well as the safety of the officers and public, it must be balanced with training that provides viable alternatives to the use of force. Some police executives have expressed concern about the balance of training and instruction directed to “how to use force” as opposed to “how not to use force.” As one police chief noted:

For every hour we spend training our officers in the skills necessary to de-escalate conflict and to avoid the use of force, we spend many more hours teaching officers use-of-force tactics. The message is clear to our officers: use of force is not only appropriate but it is the favored tool for controlling subjects and situations.²⁹

Many departments are attempting to achieve more balance by adding training in de-escalation options, as well as training in recognizing and handling situations in which use-of-force decisions may be particularly critical, such as encounters with the mentally ill.

Verbal De-escalation

Acting on the realization that many violent encounters between a police officer and a subject begin as verbal confrontation, departments have adopted verbal de-escalation training to help officers prevent the need for use of force and to enhance officer safety. Verbal judo, one popular form of de-escalation, is also known as tactical communication. Much like physical judo, verbal judo stresses the use of deliberate verbal response rather than reflexive reaction to others’ words and deeds. Officers are also instructed in the use of conflict management tactics to check their impulse to respond on the basis of personal feeling. The following excerpt from the Pittsburgh Bureau of Police Consent Decree illustrates the purpose of these techniques:

The PBP shall train all officers in the use of verbal de-escalation techniques as an alternative to the use of force, and shall incorporate such techniques into all other training that implicates the use of force. Such training shall include specific examples of situations that do not require the use of force, but may be commonly mishandled, resulting in force being used (for example, individuals verbally challenging an officer’s authority or asking for an officer’s identifying information).³⁰

Recognizing and Responding to the Mentally Ill

Many police departments proactively are enacting policies and providing training that equips officers with basic skills for recognizing mental health issues and responding to them appropriately. Police officers are often called into situations where they are required to confront persons with known mental illness or other debilitating conditions. In other cases, a person's mental illness or temporary mental incapacitation may first become apparent during the encounter. Departmental policies and training prepare the officers to handle the situation at hand, to recognize symptoms of mental impairment, and to obtain those services that the subject needs. The policy of the North Royalton (Ohio) Police Department describes the special attention and consideration that a mentally ill subject should receive:

Intervention Approach

1. Incidents dealing with a mentally ill person require tactful, patient responses. To the extent possible an officer should:
 - a. Attempt to learn about the person [and] the situation by talking with the mentally ill, his family, friends, [and] witnesses.
 - b. Regardless of the person's conduct, respond to them in an objective, non-abusive, non-threatening manner to calm [and] control the person.
 - c. Not deceive the mentally ill person. (Deception thwarts the chance for trust. Trust enhances the opportunity for controlling the subject in a non-violent manner.)
2. If it appears a situation involving a mentally ill person requires police action, a minimum of two officers will be dispatched. A lone officer who encounters such a person will request backup [and] wait for it to arrive unless a life threatening circumstance is occurring.

Source: North Royalton (Ohio) Police Department
Agency Profile: Population 28,000; Officers 39

Departments that do not have specific policies for dealing with the mentally impaired should develop these policies. The IACP has two model policies: “Dealing with the Mentally Ill”³¹ and “Encounters with the Developmentally Disabled.”³² Also, CALEA recently promulgated new standards for police encounters with persons suffering from mental illness.³³

A growing number of departments have established designated units, often called crisis intervention teams (CITs) that are specifically trained to respond to mentally ill subjects and to attend to their unique needs. The Department of Justice MOA with the Cincinnati Police Department (CPD) specifies the core elements of such a unit to be developed in that city.

The CPD will create a cadre of specially trained officers available at all times to respond to incidents involving persons who are mentally ill. These specially trained officers will assume primary responsibility for responding to incidents involving persons who are mentally ill. They will be called to the scene of any incident involving a person who is mentally ill, unless the need for fast action makes this impossible. These officers will respond to any radio run known to involve a person who is mentally ill (including escapes from facilities or institutions). The officers selected for this training should be highly motivated volunteers and should receive high level, multi-disciplinary intervention training, with a particular emphasis on de-escalation strategies. This training will include instruction by mental health practitioners and alcohol and substance abuse counselors. The CPD will develop and implement a plan to form a partnership with mental health care professionals that makes such professionals available to assist the CPD on-site with interactions with persons who are mentally ill.³⁴

Component Three: Assuring Accountability in the Use of Force

To effectively manage the use of force, departments must establish strong accountability mechanisms to ensure that use-of-force incidents are reported, reviewed, and, as necessary, investigated, and that the results of these processes are used to enhance department management.

As previously noted, the authorization to use force is an awesome power that carries with it a tremendous amount of responsibility. Departments fulfill this responsibility, in part, by implementing strong supervision and strict accountability mechanisms. Use-of-force policies commonly require systematic reports, reviews, and, as necessary, investigations, of use-of-force incidents involving physical force. The need for these systematic steps cannot be overstated. They are the subject of extensive discussion in federal consent decrees and MOAs.

Use-of-Force Reporting

Although use-of-force policies typically do not require reporting for low levels of force (i.e., when handcuffs are applied in a routine manner or with soft-hands control), these policies increasingly require that use-of-force incidents be reported if the level of force meets or exceeds an agency defined threshold. While this level varies by department, it is most often

set at some less-lethal force level (e.g., “anything above soft-hands control”). Typically, these policies specify the format and required elements of use-of-force reports. The following policy of the Colorado Springs (Colorado) Police Department illustrates such reporting requirements:

NON-LETHAL FORCE [REPORTING]: When a chemical agent, the baton, or any other non-lethal instrument of physical force has been used against any person, the officer(s) involved shall document the incident by inclusion either in a case report or incident report. In all instances, a copy of the report shall be sent through channels to the Division Commander. A cover memorandum containing supplementary or explanatory information may be attached at the officer’s discretion or if necessary to complete the required information. Details of the memorandum and/or report shall include:

- Circumstances surrounding the action
- Type of force used
- Reasons for the use of force
- Extent of injury to the officer or other person
- Medical treatment required
- The name of the medical facility used
- Other pertinent information the officer wishes to include.

Source: Colorado Springs (Colorado) Police Department
Agency Profile: Population 315,000; Officers 501

Reporting Medical Intervention and Follow-up

In addition to requiring reports whenever a use-of-force incident exceeds a certain level of force, policies generally require medical follow-up in the event that a use-of-force incident results in an apparent injury or claim of injury involving the subject, bystanders, or officers. Additionally, policies mandate medical follow-up when certain force options are exercised (e.g., CEDs or chemical sprays) even when injury is not apparent or there is no claim of injury. Typically, all apparent injuries, complaints of injuries, and medical attention must be documented and reported, even when the level of force used was below the agency defined threshold for reporting. The following policies from the Marietta (Georgia) Police Department and the Oregon State Police are representative of such requirements:

Medical Care [after use of Oleoresin Capsicum Spray/Foam]

A. Police officers and Civilian Transport Officers shall notify communications as soon as possible after the use of O.C. spray/foam. Police officers and Civilian Transport Officers shall request fire rescue, an ambulance, and a supervisor. A police officer or Civilian Transport Officer shall accompany the individual to the hospital and shall remain there until properly relieved, or until the individual is released from medical care by hospital personnel.

B. Should the individual resist attempts to decontaminate by medical personnel, the police officer or Civilian Transport Officer will document this refusal to cooperate in the departmental incident report, and monitor the individual closely while at the hospital and during all phases of transport. The police officer or Civilian Transport Officer will then notify detention personnel of the individual's resistance to treatment so the detention personnel can closely monitor the individual.

Source: Marietta (Georgia) Police Department
Agency Profile: Population 45,856; Officers 135

In all use-of-force incidents, including those in which a person is injured, or an employee becomes aware that a person has reported to have sustained an injury during the course of action taken by the sworn employee, a supervisor will be notified as soon as practicable. The supervisor will review the specific circumstances of the respective case and determine if a report to General Headquarters through the chain of command is needed.

Source: Oregon State Police (www.egov.oregon.gov/osp)
Agency Profile: Population 3,480,000; Officers 871

Reviewing Use of Force

Policies often require formal review of use-of-force incidents, generally when such incidents exceed an agency specified level of force. In some departments, the threshold for *reviewable* force is consistent with the threshold for *reportable* force. Typically, reviewable use-of-force incidents include any use of force involving a weapon, whether deadly or nondeadly, and any use of force involving apparent or alleged injury or death. In virtually all departments, the discharge of a firearm must be reviewed.

In many departments, the type of review depends on the level of force used. Some departments draw a distinction between review required with relatively low levels of force and higher levels. Lower level use of force will result in an initial supervisory review that may be followed by reviews up the chain of command. Higher levels of force often result in automatic review by specialized units (e.g., internal affairs or critical incident units) and/or independent bodies (civilian review boards). The following policy of the Des Moines (Washington) Police Department lays out a protocol for reviewing standard use-of-force reports:

Review Of Use Of Force Reports: Team sergeants are responsible for reviewing case reports and the department "Use-of-Force" report form. Sergeants will forward all reports to the Operations Commander for review and submittal to the Chief of Police.

Appropriate reports will be prepared for each incident in which a Use-of-Force Report is necessary by the end of the shift on which the incident occurred. It must include the facts that made the use of force necessary and shall explain in detail the nature and amount of force used. It is the responsibility of the supervisor reviewing the report to insure that thorough and accurate documentation is provided.

Source: Des Moines (Washington) Police Department
Agency Profile: Population 29,267; Officers 43

First-line supervisors should be held accountable for assessing both individual cases and overall use-of-force patterns by their subordinates. Individual officers who show more frequent use of force or a tendency to use higher levels of force when compared to peers in similar assignments should be assessed more closely for possible intervention. Ideally, this function should be integrated into a broader early intervention strategy, as discussed in Chapter 3 of this guide.

Use-of-Force Investigations

Going beyond report reviewing, many departments have recognized the value of thoroughly investigating all serious use-of-force incidents. To limit liability and assure accountability, these departments require thorough, open, and fair investigations by qualified investigators whenever an officer discharges a firearm, deploys other deadly force, or whenever the deployment of force results in death or serious injury. While investigation protocols may differ, the following elements are a vital part of an investigatory process that will ensure accountability within the department and confidence within the community:

- The investigation should include a full chronology of events that occurred before, during, and immediately following the use of force.
- The investigation should be fair, thorough, and conducted with the same rigor as is afforded to major crime investigations. Although many use-of-force investigations will reveal that the use of force is justified, the transparent and rigorous nature of these investigations can shore up public confidence.
- The investigator should be selected and trained specifically to fulfill this task. Efforts should be made by police leaders to identify particular persons who are well suited to this role because not all individuals have the aptitude or commitment to perform these types of investigations. The ability of individual investigators to conduct thorough investigations should be continually assessed. The systematic review of investigatory reports and taped investigatory interviews should be part of the overall assessment.
- The investigation should apply the consequences for willful and blatant use of excessive force clearly and uniformly. They should result in the appropriate level of discipline to re-enforce the message that unlawful force will not be tolerated.

While all investigations share the above-mentioned elements, departments will vary in how the investigatory processes are organized. Large police departments may have sufficient resources to support specific units that investigate incidents of serious nondeadly and deadly force deployment. Smaller agencies, however, may have neither the resources nor the staff to support these units. Indeed, the incidence of deadly force deployments may be so rare in smaller agencies that specific investigatory units may not make sense even if resources could be made available. Many smaller police agencies will turn to outside agencies, often the state police, to conduct these investigations. Other innovative approaches also exist. The investigatory processes identified in the text boxes—one adopted in the Boston (Massachusetts) Police Department and another in Champaign County, Illinois, where several local police agencies have pooled their resources and established the Multi-Jurisdictional Investigation Team—demonstrate two different approaches.

The Boston “Team Model” of Force Investigations

The Boston Police Department has a Firearms Discharge Investigation Team (FDIT) divided into two units, a “red” team and a “blue” team. Despite the name, the FDIT investigates other types of force besides firearms discharges. The red team responds to deaths or major injuries, while the blue team investigates non-lethal discharges, less-lethal, and animal dispatches. The FDIT protocol divides components of investigation, assigning responsibilities to squads that provide distinct and uniform information, without overlap, to the team commander. Investigators are divided into four teams—Crime Scene, Interview, Intelligence, and Organizational—each headed by a team leader. In addition to the teams, an incident coordinator assists the lead investigator/incident commander in procuring personnel and equipment, obtaining logistical support, and keeping a record of who did what and when. Each team has specific responsibilities as outlined in the protocol; for example the responsibilities for the Crime Scene Team include: Securing the scene and setting an access point; obtaining information needed for search warrant application, if applicable; logging all persons and equipment entering the scene; and relevant photography and videotaping at the scene. The scene team is also responsible for obtaining crime scene evidence and seeking out other relevant evidence (e.g., bank surveillance tapes).

Source: Boston (Massachusetts) Police Department, Firearms Discharge Investigation Team Agency Profile: Population 604,000; Officers 2050

Champaign County Multi-Jurisdictional Team Approach to Investigations :

The Champaign County (Illinois) Serious Use of Force Investigation Team is composed of five agencies (combined sworn 370), representatives from the Illinois State Police and the local district attorney. The team serves as the primary response and investigation unit to an officer-involved shooting in the county (pop. 175,000). Each agency has two response personnel assigned to the team. For any incident the representative for the agency being investigated may not be the lead case investigator, but can serve as a facilitator of information for the lead agent.

The team came about in response to a controversial shooting in mid-1990s and has evolved since. One issue that arose frequently was that officers involved were often unsure of what was going to happen in the investigation, so the team came up with a guide for line officers that delineates the step in the investigation process and the role of the officer being investigated in that process. This guide has proven effective and is now utilized in yearly in-service trainings of all officers in the five agencies. The team recently developed an updated field investigation manual that every investigator has and serves as the guide for conducting the inquiry. The manual includes the county-wide use of force policy and the memorandum of understanding that was used to establish the teams. Administrative forms such as a team-leader assignment sheets, as well as checklists for interview teams, crime scene technicians, and other involved parties. Also included are neighborhood canvass forms and photo evidence forms.

Source: Sgt. Bryant Seraphin, Urbana (Illinois) Police Department Team Coordinator

Concurrent Criminal Investigations

Occasionally, use-of-force investigations will reveal that the officer's actions constitute potential criminal behavior. While internal procedures—including supervisory reviews, internal affairs division reviews, and department-based critical incident team reviews—are suitable for addressing alleged or apparent use-of-force violations, criminal behavior must be addressed through appropriate criminal procedures. Federal agreements are unequivocal on this point. As an excerpt from the MOA with the Metropolitan Police Department in Washington, D.C., makes clear, “[the] MPD shall consult with the USAO [United States Attorney’s Office] regarding the investigation of an incident involving deadly force, a serious use of force, or any other force indicating potential criminal misconduct by an officer.”³⁵

Department policies and practices may vary as to whether the department's internal use-of-force investigation would be ongoing at the same time as the prosecuting attorney's criminal investigation. If investigations are simultaneous, all reasonable attempts should be made by both the department and the prosecutor's office to coordinate efforts. However, there may be certain circumstances under which it might not be advisable to share information or under which the department may need to suspend its investigation, or parts of its investigation, in deference to the prosecutor. As the following excerpt from the MOA with the Metropolitan Police Department in Washington, D.C., states:

If the USAO [United States Attorney’s Office] indicates a desire to proceed criminally based on the on-going consultations with MPD, or MPD requests criminal prosecutions in these incidents, any compelled interview of the subject officers shall be delayed, as described in paragraph 60. However, in order to ensure the collection of all relevant information, all other aspects of the investigation shall proceed. The USAO shall respond to a written request by MPD for charges, declination, or prosecutorial opinion within three business days, by either filing charges, providing a letter of declination, or indicating the USAO's intention to continue further criminal investigation.³⁶

Use-of-Force Reports, Reviews, and Investigations as Management Tools

Many departments have found value in using aggregated use-of-force data to assess trends and patterns and to help make informed management decisions. Current policies often require agencies to conduct some form of aggregate analysis to detect patterns and trends in the use of force across the department. Aggregate analyses at the individual or unit level allow for comparisons against normative standards consistent with early intervention management strategies discussed in Chapter 3. For instance, do particular officers or units have inordinately high reportable or reviewable use-of-force incidents relative to similar officers or units? Aggregate analyses at the agency level can serve a critical feedback and accountability function. For instance, does analysis reveal that reportable use-of-force incidents increase when particular force options are introduced, removed, or replaced? Such analyses can

identify the need to change policies, to revisit training, to update a department's use of force options, or to redefine weapon deployment practices. The Pittsburgh Bureau of Police relies on use of force analyses to improve agency management:

The Pittsburgh Bureau of Police issues what it calls "Subject Resistance Reports" for reportable uses of force.³⁷ These reports serve the purpose of allowing a mechanism for standardized review of cases and also provide valuable information that can be used in quantitative analyses. Information from these reports is tracked and maintained as part of the Bureau's Personnel Performance System (PARS) and reviewed quarterly at COMPSTAR. Trends and patterns of subject resistance incidents (use of force) are reviewed by managers. Analysis includes comparisons across police sectors; precipitating circumstances (e.g., warrant arrests, prisoner transports, etc); how use-of-force incidents trend alongside monthly calls for service and arrest data. From a managerial perspective, data analysis allows department leaders to spot trends and take effective action to mitigate issues.³⁸

Component Four: Maintaining Public and Media Relations

To effectively manage the use of force, departments must handle media and public relations proactively rather than reactively.

Use-of-force incidents that make headline news or appear as the lead story on the local evening news present both a challenge and an opportunity for police executives. In high-profile cases, police executives face the potential challenge of serving two constituencies—the rank-and-file officers and the local residents—who are sometimes at odds regarding use-of-force incidents. Whether holding a press conference or responding to the media on such volatile issues, police executives should maintain a posture of neutrality, fairness, and transparency. In maintaining this posture, police executives may realize opportunities to communicate effectively with the community. The media is the primary vehicle through which agencies communicate with the public. Police executives should establish a media relations strategy that makes proactive use of this outlet for communication rather than dealing solely in a reactive mode during moments of crisis.

Establishing Community Support Prior to Critical Use-of-Force Incidents

Police executives must proactively build relationships of trust with community leaders, community members, and the local media before critical incidents occur. Developing and sustaining such contacts through community meetings, participation in community events, citizen academies, public awareness campaigns, and the department web site is an essential part of any community outreach strategy. Establishing and maintaining strong ties with political, religious, and business leaders within the community will benefit the department. Developing a foundation of trust with the community can be thought of as putting "money in the bank," so that community support can be drawn on when needed. Police executives should be particularly attentive to proactively informing community stakeholders about the department's use-of-force policies, practices, and accountability mechanisms. It is better that the public is informed of these details before a critical use-of-force incident occurs than after.

Departments should avail themselves of the resources that will help them establish good community and public relations and that promote education regarding use-of-force policies and practices. The U.S. Department of Justice Community Relations Service (CRS) provides several resources that can help police establish good relations with key community stakeholders and community members before critical incidents occur as well as guidelines that executives can use to assist in mediation with community members after an incident.

Police executives should consider CRS's practical handbooks including *Principles of Good Policing: Avoiding Violence Between Police and Citizens* (September 2003), *Responding to Incidents Involving Allegations of Excessive Use of Force: A Checklist to Guide Police Executives* (Revised September 2003), *Distant Early Warning Signs (DEWS) System* (November 2001), and *Community Dialogue Guide* (September 2003). These and other publications are available for download at www.usdoj.gov/cr.

Police executives, or designees such as public information officers, are often expected to make statements immediately following critical and often controversial use-of-force incidents. When doing so, police executives must remain objective and neutral. It is never advisable to express premature judgments about incidents before investigations are completed. While initial evidence may seem to point in a certain direction, it is a disservice to the purported victim of excessive force, the community, and the officer(s) involved to make premature statements. The message police executives should strive to convey as soon after a controversial use-of-force incident as possible is that the incident is under investigation and that the investigation will be thorough. Police executives should underscore this message by discouraging any speculation by the media, the public, or other police personnel before the investigation is complete. A police executive may express empathy for the subject who may have been harmed and for the officers involved, as appropriate, but in doing so should avoid any suggestion of bias toward either side.

Sharing Use-of-Force Data with the Public

Many departments elect to share aggregate information about use of force with the public through web sites or annual reports. Using the department web site to publish use-of-force reports sends an important message of accessibility and transparency. In some instances, federal agreements have stipulated providing aggregate use-of-force data to the public. The MOA between the Department of Justice and the Metropolitan Police Department in Washington, D.C., establishes such a requirement:

MPD shall prepare quarterly public reports that include aggregate statistics of MPD use-of-force incidents broken down by MPD districts covering each of the geographic areas of the City, indicating the race/ethnicity of the subject of force. These aggregate numbers shall include the number of use-of-force incidents broken down by weapon used and enforcement actions taken in connection with the use of force. The report shall include statistical information regarding use-of-force investigations conducted, including the outcome. The report shall also include the total number of complaints of excessive force received, broken down by MPD Districts, and the number of complaints held exonerated, sustained, insufficient facts, and unfounded.³⁹

While the Metropolitan Police Department in Washington, D.C, does publish detailed statistical summary reports on a quarterly basis,⁴⁰ other agencies report data at the case level, describing them with short synopses. The Iowa City (Iowa) Police Department, for instance, provides monthly reports with brief narrative descriptions on its web site.⁴¹ A portion of the web site is depicted below:

**IOWA CITY POLICE DEPARTMENT
USE OF FORCE REPORT
October 2005**

OFFICER	DATE	INC#	INCIDENT	FORCE USED
20,44	100105	49648	Open Container	Subject was placed under arrest and resisted handcuffing efforts. Officers attempts to use control techniques were unsuccessful. Officers than exposed the subject to a chemical irritant and used control techniques to place handcuffs on the subject.
95,09	100205	49892	Public Intoxication	Subject was placed under arrest and resisted handcuffing efforts. Officers used control techniques to place handcuffs on the subject.
31	100305	50091	Vehicle Pursuits	Officers attempted to stop a vehicle reference a welfare check on the driver. The driver failed to yield and a pursuit began. After a short distance the pursuit was discontinued.
36	100605	50573	OWI	Subject to assault officers. Officers used control techniques to place handcuffs on the subject.

In many departments, internal policies or collective bargaining agreements with police unions may affect the type of information that can be publicly posted. If information is posted at the incident level, data must be “sanitized” to not to allow any civilian subject or officer to be personally identified.

Recommendations

On the basis of its assessment of federal consent decrees and MOAs as well as the preceding discussion, the IACP offers the following recommendations on use-of-force policies and practices. Because use-of-force options—techniques and technologies—continue to evolve, these recommendations should not be considered static. The recommendations below correspond sequentially to the goals of creating clear and comprehensive use-of-force policies, effective use-of-force training, robust accountability mechanisms, and fair and transparent media and public relations.

1. Implement a clear use-of-force policy that specifically addresses both deadly and nondeadly use of force and that is consistent with all legal and professional standards.

Regardless of size or function, all agencies should have a use-of-force policy with directives on deadly and nondeadly force. These policies, which must be clear and easy to interpret, should not be less restrictive than applicable state laws or professional standards.

2. Implement a comprehensive use-of-force policy that addresses all available use-of-force options, clearly places these options within a force continuum or a force model, and associates these options with corresponding levels of subject resistance.

Special care should be taken to assure that the department's use-of-force policy is comprehensive. The policy must cover all use-of-force deployment options—techniques and technologies—authorized within the department. It should include the use-of-force options available to all sworn officers as well as options available only to specialized units (e.g., canine units or SWAT teams). The following two recommendations provide more detail that may be applicable to certain departments.

3. Address canine deployment as a use-of-force option in policies and develop detailed directives regarding its use.

Departments should make clear that canine deployment for pursuit purposes or to establish subject compliance is a use-of-force option. Use-of-force policies should articulate whether a department relies on a “find-and-bark” and/or “find-and-bite” strategy. Policies should require that, whenever feasible, a clear verbal warning be issued and a reasonable allowance of time made for subjects to comply before canines are released.

4. Address CEDs (conducted energy devices)—often referred to by the brand name Taser™—as a use-of-force option in policies and develop detailed directives regarding its use.

Although no clear consensus yet exists regarding the relative benefits and risks of CEDs, these devices are clearly a use-of-force option and must be included on the use-of-force continuum in every department where they are in use. Determining where CEDs should appear in the use-of-force continuum should depend on the specific manner of deployment allowed by the agency's policy directive. The consensus opinion of advisors to this project is that CEDs should

be placed no lower than irritant spray. Regarding Tasers™, the Police Executive Research Forum recently announced its recommendation that these weapons should be used only on people who are aggressively resisting arrest.⁴²

Policies should require that, whenever feasible, a clear verbal warning be issued and a reasonable allowance of time made for subjects to comply before a CED is deployed. Agencies should also carefully consider including provisions, special-risk considerations, or restrictions regarding the use of CEDs on particular subjects including the young, the elderly, the mentally disturbed, persons with known medical conditions, and persons on drugs. Finally, a department's CED policy should address the duration of electrical charges and the number of charges that may be applied to a subject. These types of limitations on CED deployment are likely to evolve as more departments consider their use, fine-tune their policies and training, and as more data become available about potential risks of this technology

5. Review and update use-of-force policies to reflect changes in use-of-force options, laws, and standards.

Whenever techniques or technologies that are used as use-of-force options are acquired or upgraded, relevant policies should be reviewed and updated as necessary. In addition to monitoring the development of new techniques and technologies that may affect use-of-force options, department personnel should monitor relevant legal cases, medical research, and professional research that may necessitate use-of-force policy revisions.

6. Provide specialized and comprehensive training and testing for the department's full range of use-of-force options.

Departments should provide training to ensure competency in all use-of-force options used within the department. Specific performance and competency testing criteria should be used and requalification should occur on a regular basis. The steps that officers who fail to requalify must take should be fully articulated. Training and competency testing should be kept current with changes in the use-of-force options available within the department or as officers are assigned to specialized assignments or units with access to different force options.

7. Provide specialized training on verbal de-escalation techniques and other appropriate alternatives to the use of force.

To minimize use of force by preventing escalation, use-of-force policies should expressly encourage verbal de-escalation techniques and provide the necessary training. Training should be of the highest standards and officers should receive periodic refresher courses.

8. Specify the circumstances under which supervising officers, or specialized units such as force investigation teams (FIT), must report to the scene of a use-of-force incident.

Use-of-force policies must define what is meant by a "serious" use-of-force incident and must require supervisors to report to the scene of all serious use of force incidents, including all incidents in which deadly force is deployed and all incidents resulting in serious injury to or death of an officer, subject, or bystander. Use-of-force policies should also, to the extent practical, require supervisors or FITs to report to the scene of any incident in which excessive

force is alleged. The presence of supervisors or FITs provides support to officers at the scene and enhances accountability.

9. Clearly stipulate the level of force at which a written use-of-force report is required.

Use-of-force policies should clearly stipulate the level of force at which written use-of-force report is required. 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. If the department does not use a use-of-force continuum, then the force options, the circumstances of deployment, and the outcomes that result in a reportable use of force must be explicitly articulated. Policies should require a use-of-force report any time there is an apparent injury or a complaint of injury, even if the force used otherwise would have been below the reportable force threshold. Policies should require a use-of-force report any time there is a complaint about the level of force deployed. These reports must be initiated whether the complaint is filed by the subject or by a third party who witnessed the use of force. Reports aid supervisors and investigators in resolving such complaints.

10. Clearly stipulate the level of force at which a use-of-force review is required.

Use-of-force policies should clearly stipulate the level of force at which use-of-force review is required. The consensus recommendation of the advisors to this project was that, as with reportable force, any instance of force above “soft-hands control” should be considered a reviewable use of force.

11. Ensure that accountability mechanisms including use-of-force investigations for allegations of excessive force or force without cause are fair, thorough, rigorous, and transparent.

Unlawful or excessive use of force is contrary to the ethics of policing, creates tremendous liabilities, and undermines the credibility of the department in the eyes of the public and the department members themselves. In response, law enforcement leaders must hold themselves, their supervisors, and their officers to the highest levels of accountability. Investigatory processes must be fair, thorough, rigorous, and transparent. They must be staffed with investigators who are appropriately motivated, skilled, and trained for these duties. Disciplinary actions should be fair, while making it explicit that no unlawful or willfully excessive force will be tolerated.

12. Collect and analyze use-of-force data for organizational management and assessment purposes.

Departments should collect data that will allow them to analyze the frequency of use-of-force incidents over time and across units. Data collection should be frequent enough to enable analysis on a monthly or quarterly basis. Analyses should assess the impact of changes in policy, training, or force options. Analyses should assess trends in use-of-force complaints and use-of-force-related injuries to officers and subjects. Use-of-force data should be routinely reviewed by supervisors and, ideally, incorporated into the data-management system as part of early intervention. Ultimately, police executives should assess whether they are moving

in the right direction with use of force, whether use-of-force standards are equally applied across the department (with appropriate consideration of difference in risk across units and assignments), and whether the trends reflect professional standards and a commitment to the community and civil rights.

13. Establish proactive media and public relations strategies regarding department use-of-force policies and practices.

Departments should not wait for a critical use-of-force incident to occur before beginning to educate the media, public officials, and the general public regarding use-of-force policies and practices. Establishing community outreach strategies will build the social capital on which departments may draw in the event of a critical use-of-force incident.

Conclusion

The use force in police-citizen encounters is one of the most complex and emotionally charged issues in law enforcement. Officers must make decisions that are compliant with applicable laws, professional standards, and departmental policies, often in the context of split-second life-or-death circumstances. While the safety of officers and civilians remain a paramount concern, law enforcement leaders must create accountability mechanisms to ensure that the application of force remain within legal strictures or “reasonableness.” As force tools and techniques continually evolve, departments must carefully consider their use-of-force options. Maintaining public relations and respect for civil rights must continually be part of the decision-making equation.

Suggestions for Further Reading

Because use of force—and the proper deployment of associated weapons and techniques—remain a complex and often debated issue, much has been written on the topic, particularly from an operational and legal perspective. As can be seen from the forgoing discussion, use of force raises civil rights and community outreach implication as well. Recent publications on use of force that address these issues include the following.

Alpert, Geoffrey P., and Roger G. Dunham. *Understanding Police Use of Force: Officers, Suspects, and Reciprocity*. Cambridge University Press, New York; 2004.

U.S. Department of Justice Community Relations Service. *Police Use of Force: Addressing Community Racial Tensions*. August 2002. www.usdoj.gov/crs/pubs/pubbullpoliceuseofforcedraftrevision72002.htm

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Endnotes

- ¹ Ramsey, Charles H. in a letter to Deputy Attorney General of the United States Available on January 6, 1999. Available on the web at www.dcwatch.com/police/990106.htm.
- ² Police Use of Force in America. Alexandria (Virginia): International Association of Chiefs of Police, 2001.
- ³ Langan, Patrick A., Lawrence Greenfeld, Steven K. Smith, Matthew R. Durose, and David J. Leven. *Contacts between Police and the Public—Findings from the 1999 National Survey*. United States Department of Justice, Bureau of Justice Statistics (February 2001) NCJ-184957.
- ⁴ Hickey, Edward R.; Garner, Joel H., *The Rate of Force Used by the Police in Montgomery County, Maryland, Executive Summary [and Final Report]: A Report to the Montgomery County Department of the Police and the National Institute of Justice*. Washington, D.C.: United States Department of Justice, National Institute of Justice (March 2002) NCJ-199877.
- ⁵ It is also relevant to note, that departments with expansive early intervention systems, such as Pittsburgh and Phoenix discussed in Chapter 3, collect the basic data (reportable use of force and arrest data) that allow for routine calculation of rates per arrest.
- ⁶ Adams, K. (1996). Measuring the Prevalence of Police Abuse of Force. In W. A. Geller, and Toch, H. (Eds.), *Police Violence: Understanding and Controlling Police Abuse of Force* (pp. 52-93). New Haven (Connecticut): Yale University Press. Adams maintains that the proportion of encounters that involve use of force can vary as definitions of “use of force” vary. In the cited studies, for instance, the routine application of handcuffs was not considered a use of force. Defining routine handcuffing as use of force would certainly drive the rate of using force much higher. The rate of use of force is also influenced by the types of police citizen contact that are examined. Studies that focus on exclusively on arrests rather than traffic stops tend to identify considerably higher rates of use of force since arrests are more likely to involve resistance, confrontation, and retaliation than traffic stops. Still, even considering these measurement issues, the use of force remains a rare event.
- ⁷ *United States v. City of Detroit, Michigan, and the Detroit Police Department*, Consent Judgment. (June, 12, 2003) Available on web at www.usdoj.gov/crt/split/documents/dpd/detroitpd_uofwdcd_613.pdf.
- ⁸ United States Department of Justice and the Metropolitan Police Department of the District of Columbia. (June 13, 2001) Available on web at www.usdoj.gov/crt/split/documents/dcmoa.htm.
- ⁹ International Association of Chiefs of Police Model Policies. Use of Force. February 2005.
- ¹⁰ Means, Randy, and Eric Edwards. “Chief’s Counsel: Electronic Control Weapons: Liability Issues.” *The Police Chief*, November 2005: 10-11.
- ¹¹ See Police Executive Research Forum, Center on Force & Accountability. *PERF Conducted Energy Device Policy and Training Guidelines for Consideration* and the associated document Conducted Energy Device (CED) Glossary of Terms. October 2005.
- ¹² *United States v. City of Detroit, Michigan and the Detroit Police Department* Consent Judgment (06/12/03). Available on the web at www.usdoj.gov/crt/split/documents/dpd/detroitpd_uofwdcd_613.pdf.
- ¹³ *Bell v. Wolfish*, 441 U.S. 520 (1979).
- ¹⁴ *Graham v. Connor*, 490 U.S. 386 (1989)

- ¹⁵ "Sample Directives for Virginia Law Enforcement Agencies." Use of Force Directive. Effective Date: July 1, 1999. Virginia Division of Criminal Justice Services. Available on web at www.dcjs.virginia.gov/cple/sampleDirectives/manual/pdf/2-6.pdf.
- ¹⁶ *United States of America v. City of Detroit, Michigan and the Detroit Police Department* Consent Decree (06/12/03). Available on web at www.usdoj.gov/crt/split/documents/dpd/detroitpd_uofwdcd_613.pdf.
- ¹⁷ Petrowski, Thomas D. "Use-of-force Policies and Training: a Reasoned Approach - Legal Digest" *The FBI Law Enforcement Bulletin*, October 2002. Available on the web at www.fbi.gov/publications/leb/2002/oct02leb.pdf.
- ¹⁸ Police Executive Research Forum, Center on Force & Accountability. *Conducted Energy Device (CED) Glossary of Terms*. October 2005
- ¹⁹ Electro-Muscular Disruption Technology 'A Nine-Step Strategy for Effective Deployment'. Alexandria (Virginia): International Association of Chiefs of Police, 2005. Available on the web at www.theiacp.org/research/RCDCuttingEdgeTech.htm.
- ²⁰ International Association of Chiefs of Police Model Policies. Use of Force. February 2005.
- ²¹ Memorandum of Agreement Between the United States Department of Justice and the District of Columbia and the District of Columbia Metropolitan Police Department. (06/13/2001) Available on the web at www.usdoj.gov/crt/split/documents/dcmoa.htm.
- ²² Memorandum of Agreement Between the United States Department of Justice and the City of Cincinnati, Ohio and Cincinnati Police Department. (4/12/2002) Available on the web at www.usdoj.gov/crt/split/Cincmoafinal.htm.
- ²³ *Sample Directives for Virginia Law Enforcement Agencies*. Use of Force Directive. Effective Date: 1 July 1999. Virginia Division of Criminal Justice Services. 17 Nov. 2005 Available on the web at www.dcjs.virginia.gov/cple/sampleDirectives/manual/pdf/2-6.pdf.
- ²⁴ *Acosta v. City and County of San Francisco* 83 F.3d 1143, 1147 (9th Cir. 1996)
- ²⁵ Alpert, Geoffrey, Dennis Kenney, Roger Dunham, William Smith and Michael Cosgrove. "Police Pursuit and the Use of Force, Final Report." Washington, D.C.: U.S. Department of Justice, National Institute of Justice, 1996, NCJ-64833.
- ²⁶ International Association of Chiefs of Police Model Policies. Use of Force. February 2005.
- ²⁷ Memorandum of Agreement Between the United States Department of Justice and the City of Cincinnati, Ohio and Cincinnati Police Department. (4/12/02). Available on the web at www.usdoj.gov/crt/split/Cincmoafinal.htm.
- ²⁸ Streicher, Thomas H. "Staff Notes." May, 20 2003. Cincinnati Police Department. Available on 10 October. 2005 from www.cincinnati-oh.gov/police/downloads/police_pdf5988.pdf.
- ²⁹ Gruber, Charles. "A Chief's Role in Prioritizing Civil Rights." *The Police Chief International Association of Chiefs of Police*. November 2004. Available on the web at www.policechiefmagazine.org/magazine select "Archive."
- ³⁰ *United States v. City of Pittsburgh* Consent Decree. (02/26/97) Available on web at www.usdoj.gov/crt/split/documents/pittscomp.htm.
- ³¹ International Association of Chiefs of Police Model Policies. *Dealing with the Mentally Ill*. February 2005.
- ³² International Association of Chiefs of Police. Model Policies. *Encounters with the Developmentally Disabled*. March 2003.
- ³³ Commission on Accreditation for Law Enforcement Agencies (CALEA) standard 41.2.8.

- ³⁴ Memorandum of Agreement Between the United States Department of Justice and the City of Cincinnati, Ohio and Cincinnati Police Department. (4/12/2002) Available on the web at www.usdoj.gov/crt/split/Cincmoafinal.htm.
- ³⁵ Memorandum of Agreement Between the United States Department of Justice and the District of Columbia and the District of Columbia Metropolitan Police Department. (06/13/2003) www.usdoj.gov/crt/split/documents/dcmoa.htm. Note: Operating in a federal jurisdiction, the U.S. Attorney's Office (USAO) in the District of Columbia holds the same responsibilities that local prosecutors hold in other jurisdictions.
- ³⁶ Memorandum of Agreement Between the United States Department of Justice and the District of Columbia and the District of Columbia Metropolitan Police Department. (06/13/2003) www.usdoj.gov/crt/split/documents/dcmoa.htm.
- ³⁷ By policy, the Pittsburgh Police Bureau Subject Resistance Report Form **must** be completed for any use of force with the exception of: (1) mere presence of police officers and canines, (2) verbal commands, (3) handcuffing with no or minimal resistance when transporting, (4) come along holds, (5) physical removal of peacefully resisting demonstrators, and (6) displaying or unholstering of a firearm.
- ³⁸ Davis, Robert C., Christopher W. Ortiz, Nicole J. Henderson, Joel Miller, and Michelle K. Massie. *Turning Necessity into Virtue: Pittsburgh's Experience with a Federal Consent Decree*. New York: Vera Institute of Justice, 2002.
- ³⁹ Memorandum of Agreement Between the United States Department of Justice and the District of Columbia and the District of Columbia Metropolitan Police Department. (06/13/2003) www.usdoj.gov/crt/split/documents/dcmoa.htm.
- ⁴⁰ *Metropolitan Police Department Use of Force Statistics 2005* (Quarter 2). Force Investigation Team. September 29, 2005. Available on the web at: www.mpdc.dc.gov/mpdc/frames.asp?doc=/mpdc/lib/mpdc/publications/useofforce/FIT_2005_Q1.pdf.
- ⁴¹ *Use of Force Report: October 2005*. Iowa City Police Department. Available on web at www.icgov.org/police/useofforce.asp.
- ⁴² Crowe, Robert. "Police Think Tank Urges Rules for Taser Use." *Houston Chronicle*. October 20 2005 (Internet). See also: Police Executive Research Forum, Center on Force & Accountability. PERF Conducted Energy Device Policy and Training Guidelines for Consideration. October 2005.

VI. *Addressing Racial
Profiling: Creating a
Comprehensive Commitment
to Bias-Free Policing*



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

The practice of racial profiling has no place in law enforcement. It is an activity that undermines the public trust vital for an effective community policing organization. Police must be perceived as both providers of public safety and deferential to the civil liberties of those they have sworn to protect and serve. While the majority of police officers serve their communities in a professional and ethical manner, the debate over the reality of racial profiling as a practice in law enforcement is loudest on the side of its existence on a national level.¹

Chief Russ Leach, Riverside (California) Police Department

Introduction

Questions regarding the existence of and the extent to which racial profiling is practiced among police officers are subject to fervent debate in the media, in academia, and in law enforcement agencies themselves. In this debate, perspectives vary broadly. Some observers suggest that the extent of racial profiling is wildly exaggerated and go so far as to call racial profiling a myth. Others consider racial profiling to be a widespread and systematic problem in law enforcement agencies across the country. Still others, however, fall in between these views. Some of these latter observers feel that racial profiling may be endemic to particular departments or particular units within departments, but not generally widespread. Others acknowledge the existence of racial profiling and express their grave concerns but assert that it is a rare practice invoked by only a few officers. In his 2001 address before a Joint Session of Congress, President George W. Bush put the problem of racial profiling in the following context:

“[Racial profiling] is wrong, and we will end it in America. In so doing, we will not hinder the work of our Nation’s brave police officers. They protect us every day, often at great risk. But by stopping the abuses of a few, we will add to the public confidence our police officers earn and deserve.”²

Public opinion polls reveal that racial profiling is a concern to a clear majority of Americans. A recent Gallup Poll found that 81 percent of Americans thought racial profiling to be wrong and that 59 percent felt that racial profiling was widespread.³ While the poll revealed expected differences between the perceptions of Whites and African-Americans, a solid majority of White (56 percent), and more than three out of four African-American (77 percent) survey respondents indicated they believed the practice was widespread. However prevalent racial profiling actually is, public perceptions implore police executives to address it.

Many law enforcement executives deserve credit for their proactive approaches to bias free policing. Their earnest attempts at preventing racial profiling—through issuing strong policy directives, providing comprehensive training, requiring supervisory review and accountability, and collecting and reviewing stop and search data—are impressive. These efforts are especially remarkable because they are often complex, resource intensive, and politically thorny. Data collection, in particular, is a complicated undertaking. Currently, civil rights groups, the media, and state and federal government officials are making increased demands for racial profiling data collection. Many agencies are required to collect data on racial profiling as part of their mandated statewide data collection or as a result of legal decisions or settlements including federal consent decrees and memorandums of understanding. No law enforcement agency— including an agency that has not been singled out for engaging in racial profiling or that has a racially or ethnically homogeneous population—is immune to the potential of confronting the complexities of racial profiling data collection. Indeed, as more agencies collect data—whether mandated or voluntarily—it may become increasingly difficult for other agencies to withstand the pressure to do so. As a result, enforcement leaders are increasingly looking for guidance regarding this multifaceted and volatile issue.

Chapter Overview and Objectives

Racial profiling is a remarkably complex topic. Beginning with an in-depth consideration of the various and differing definitions of racial profiling, this chapter acknowledges that complexity. It still strives, however, to offer law enforcement leaders clear and compelling directives on steps they can take to address and prevent problems within their individual agencies. To this end, the chapter explores the five core responsibilities that every department has (1) to design policies prohibiting the practice of racial profiling, (2) to implement a sound training regimen that reinforces departmental policies, (3) to sustain accountability mechanisms that measure adherence to professional, legal, and ethical standards as well as the specific effectiveness of training, (4) to communicate with the community, and (5) to establish consistency and continuity in the pursuit of all of these efforts.

Having offered these directives, the chapter turns to the consideration of racial profiling data collection and analysis. While this practice appears to be increasingly prevalent, the standards guiding it are still evolving. Law enforcement leaders struggle with questions ranging from whether to collect data, to what data to collect, to how that data should be analyzed to yield definitive conclusions. This chapter does not recommend that every department pursue racial profiling data collection and analysis. Instead, it is intended to help police make informed decisions and navigate the complex statistical, political, and public relations issues related to this practice.

The chapter concludes with a series of recommendations for law enforcement leaders working to prevent racial profiling within their departments. Still, the chapter is not intended to provide exhaustive coverage or even definitive conclusions regarding all facets of racial profiling. Readers interested in exploring the issues surrounding racial profiling in greater detail should reference the documents listed under Suggestions for Further Reading at the end of this chapter.

Differing Definitions of Racial Profiling

As law enforcement agencies work to address perceptions of racial profiling in the community and to self-assess agency performance in this area, it is vital that they understand what racial profiling is. Regrettably, no single, standard definition of racial profiling exists. Differing definitions reflect the differing perspectives of attorneys, police officers, civil rights activists, and researchers. Although few among them would condone racial profiling as a legitimate law enforcement technique, there is only limited consensus on what particular behaviors actually constitute racial profiling. Police leaders must concern themselves not just with their own departments' definitions of racial profiling; they must be able to articulate and explain these definitions in operational terms to representatives from media and the public who may have entirely different perspectives on what constitutes racial profiling and how the term is defined.

An Evolving and Broadening Concept

What is clear to all observers, however, is that the issue of racial profiling has expanded in the public consciousness and that the categories of persons who may be “racially profiled” have expanded beyond those that existed when the term first became popular. Racial profiling initially emerged out of concerns that African-Americans and Hispanics were more likely to be stopped by police and were being treated differently by police during those stops than other citizens. In the 1980s, some drug interdiction efforts targeted African-American and Hispanic drivers on the presumption that they were more likely to be involved in drug trafficking. Thus, the terms “driving while black” and “driving while brown” were among the earliest expressions of racial profiling.

Now, however, some observers more broadly construe racial profiling to include any police action—not merely traffic stops—that targets an individual based on a variety of group statuses other than race. Concerns over racial profiling extend beyond the African-American and Hispanic race categories. For instance, “flying while Arab” and “flying while Muslim” are now considered part of the racial profiling lexicon. In fact, the focus on “racial” profiling actually extends well beyond race. In addition to considering the race, ethnicity, color, national origin, or ancestry of an individual that is subject to police action, the term is often extended to address groups of individuals defined by gender, sexual orientation, religion, age, occupational status, socioeconomic status, immigrant status, or ability to speak English.

Although alternative terms such as “bias policing” have been used to convey this broader focus, for the purposes of this chapter we will continue to use the term “racial profiling” with the understanding that it applies to broadly defined police actions on the basis of broadly defined group statuses. Through constant attention by the media, the term “racial profiling” has become a household word that, as most people understand, addresses a spectrum of groups beyond just those defined by race.

Sorting Through Definitions

Given this broader understanding, it is critical to consider the more common definitions of racial profiling and briefly assess the implications of each. In general terms, definitions often vary in the degree to which they allow for race—or another group status—to be a factor in police action. Differing definitions of racial profiling hold that race should:

- Not be considered the **sole** factor in a police action.
- Not be the **primary** or **motivating** factor in a police action.
- Not be a factor in a police action **except** in the manner that hair color, weight, or other physical descriptors are used in instances of identifying a suspect for a specific crime. Commonly referred to as the “be on the lookout” or BOLO exception, this definition is often used in combination with or as an elaboration of the above definitions.
- Not be a factor in a police action under any circumstances.

Factor-Based Definitions

The basic difference in racial profiling definitions is how much of a role race can, or should, play as a factor in those decisions. These definitions consider the circumstances under which race may be considered in deciding whom to target as well as how restrictive those circumstances must be. As evidence of the existence of various definitions of racial profiling, consider the following passages, drawn from a variety of sources including police policy directives, that carry different implications about the degree to which race, ethnicity, national origin, or other group status can be used in police decisions.

The Texas American Civil Liberties Union (ACLU) report cited, but did not endorse, the following definition of racial profiling as common in a number of Texas law enforcement agencies:

Acts initiating law enforcement action, such as a traffic stop, a detention, a search, issuance of a citation, or an arrest based solely upon an individual’s race, ethnicity, or national origin or on the basis of racial or ethnic stereotypes rather than upon the individual’s behavior.⁴

The following definition, published on the Fairborn (Ohio) Police Department web site, prohibits police actions that rely on race as a primary or motivating factor:

Except as provided in this policy, race/ethnicity/human diversity shall not be *motivating factors* in making law enforcement decisions.⁵ (Emphasis added.)

Source: Fairborn (Ohio) Police Department
Agency Profile: Population 33,000; Officers 45

The following definition, an excerpt from a U.S. District Court case, prohibits police actions other than the BOLO exception:

The term ‘racial profiling’ means the consideration by an officer in any fashion or to any degree, of the race or ethnicity of any civilian in deciding whether to surveil, stop, detain, interrogate, request consent to search, or search any civilian; except when officers are seeking to detain, apprehend or otherwise *be on the lookout* for a specific suspect sought in connection with a specific crime who has been identified or described, in part, by race or ethnicity and the officer relies, in part, on race or ethnicity in determining whether reasonable suspicion exists that a given individual is the person being sought.⁶ (Emphasis added.)

These directives, which capture the sole factor, primary or motivating factor, and BOLO exception prohibitions regarding racial profiling, are representative of those definitions that most commonly appear in police policy directives and training curriculum. As is evident, in order of presentation, the definitions range from narrow prohibitions to broad prohibitions of using race (or other status) as a basis for police action. None of the definitions prohibit the consideration of race altogether.

Few individuals inside or outside of law enforcement would argue that race should never be used as a factor in police action. Within the context of all of the above examples, race can and should be considered a factor when police are responding to the description of a suspect for a particular crime. In such a context, race is merely a descriptor of the suspect in the same sense as hair color, weight, age, and gender. Indeed, many agency policies stipulate that the BOLO exception is the only exception under which race may be used in police decisions to stop or search a person.

Clarification of the Term Profiling

The term *profiling* has a long history in law enforcement. It is important to distinguish the practice of *racial profiling*, which is unlawful, from other types of profiling—such as *criminal*, *psychological*, and *geographic profiling*—that have useful and lawful roles in policing. Criminal profiling, for instance, is used to discern investigative leads when suspect information is sketchy, such as was the case in the Washington, D.C.-area sniper case in 2002. Criminal profiling involves using evidence gathered from crime scenes, coupled with information about subject modus operandi and suspect behavior obtained from victims and witnesses, to develop an offender description based on psychological and other scientific principles. The goal of criminal profiling is to provide a description of the probable suspect or suspects based on scientific principles. The suspect description often comprises psychological traits—behavioral tendencies, personality traits, or psychopathologies—and demographic descriptors such as expected gender, age, race, or geographic location.

Race-based versus Behavior-based Definitions

The above definitions addressed how much of a role race could play as a factor in police decisions. An alternative approach stresses that behavior rather than race should be the operative factor. The definition below from the U.S. Department of Justice publication, "A Resource Guide on Racial Profiling Data Collection Systems: Promising Practices and Lessons Learned," defines the prohibited act of racial profiling as based on the person rather than behavior.

Any police-initiated action that relies on the race, ethnicity or national origin rather than the behavior of an individual or information that leads the police to a particular individual who has been identified as being, or having been, engaged in criminal activity.⁷

Another approach is illustrated in the definition from the U.S. Department of Justice's "Guidance Regarding the Use of Race by Federal Law Enforcement Agencies," dated June 2003, which describes the unlawful practice in the following terms:

"Racial profiling" at its core concerns the invidious use of race or ethnicity as a criterion in conducting stops, searches and other law enforcement investigative procedures. It is premised on the erroneous assumption that any particular individual of one race or ethnicity is more likely to engage in misconduct than any particular individual of another race or ethnicity.

Criticism of Sole-Factor Definitions

Sole-factor definitions of racial profiling attract frequent criticism because they are perceived as too narrow with regard to the behavior they prohibit. Critics believe that the sole-factor definition of racial profiling is operationally too easily exploited. Specifically, critics contend that if an officer can articulate any reason for his or her action other than race or other group status, then the real underlying reason is masked and the legal onus of racial profiling is lifted.

This argument is sometimes broached by referring to the term 'pretext stops.' Although the precise meaning of the term may be debated, pretext stops are those in which an officer can cite a reason or reasons for the stop other than the actual reason. As the Supreme Court has stated, pretext stops are generally legal and permissible.

The decision in *Whren v. U.S.* provides the legal precedent that most observers agree effectively permits pretext stops. In this case, Washington, D.C. Metropolitan police officers who had identified a suspicious vehicle in a known drug area used the violation of traffic laws as the stated basis of the stop. Drugs were found as a result of the stop and the officers did not deny that the traffic violation was a pretext for general drug related suspicion. In its decision, the U.S. Supreme Court ruled that "subjective intentions" were not relevant to establishing probable cause. In other words, the fact that the suspects were stopped on the "pretext" of a traffic violation was determined by the court not to matter. In the language of the federal appeals court ruling, which was upheld by the U.S. Supreme Court, "a traffic stop is permissible as long as a reasonable officer in the same circumstances *could have* stopped the car for the suspected traffic violation." [emphasis added]⁸

However, as critics of the sole factor definition contend, pretext stops are problematic if the real reason for the stop is race. Under the sole factor definition, a police officer intent on stopping someone on the basis of race merely needs to wait for some violation to occur to use it as the stated reason for the stop. Even if the officer concedes that race played a role in the stop, it isn't the sole reason for the stop.

In short, critics argue that under the sole-factor definition, a hypothetical officer who routinely stops African-Americans for rolling stops or obscured license plates but does not stop Whites for the same infractions is not technically engaging in racial profiling because a reason other than race can be used to justify the stops. Critics of the sole-factor definition argue that the real question should be whether race influenced the officer's decision to stop the individual.

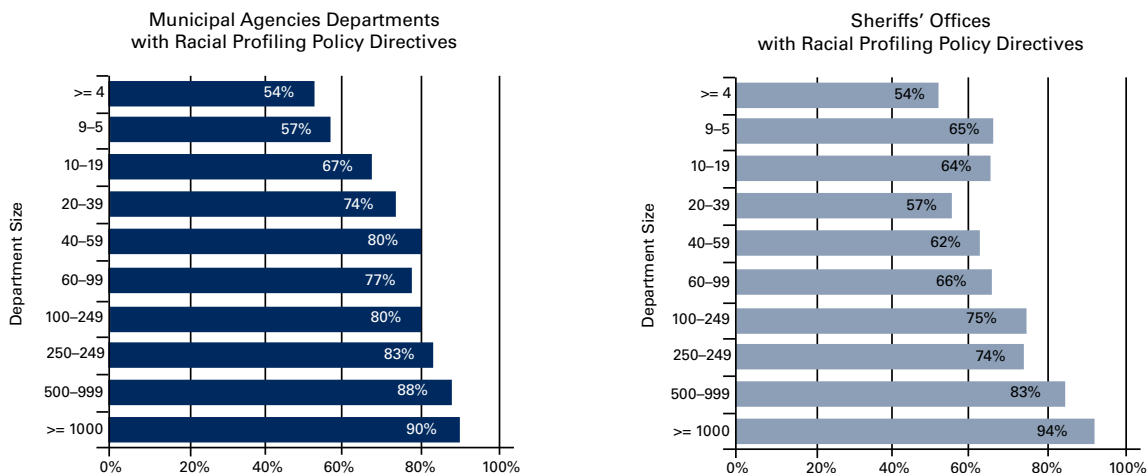
Through the efforts both within and outside of law enforcement—including local chapters of the ACLU, civilian review boards, as well as organizations like the National Organization of Black Law Enforcement Executives and the National Latino Peace Officers Association—so-called sole-factor definitions are increasingly being abandoned in favor of definitions which are seen as clearer and broader in their definitions of unlawful stop activity, and more effective in protecting civil rights.

The Prevalence of Efforts to Address Racial Profiling

Whether racial profiling is perceived as an isolated practice or a widespread problem, every agency must work toward the goal of bias-free policing. To this end, many agencies have already begun to address racial profiling through developing sound policies, training, and adequate supervision and accountability mechanisms.

Prevalence of Policies

Policies on racial profiling and bias-free policing are now commonplace in most law enforcement agencies, particularly larger agencies. Results from the 2003 Sample Survey of Law Enforcement Agencies (LEMAS), conducted by BJS, reveals that 43 of 48 (90 percent) state police agencies responding to the survey reported having policy directives on racial profiling. Based on the survey, 62 percent of municipal police departments and 63 percent of sheriffs' offices reported having racial profiling policies. As is evident in the graphs below, the prevalence of racial profiling policy directives generally increases with department size. Details about LEMAS methodology and data are available in the text box on page 31 in Chapter 2.



Prevalence of Racial Profiling Training and Accountability

The LEMAS survey did not address the presence of training or accountability with respect to racial profiling. No national data was available to address this issue. As we have discussed in other chapters, however, the collection of racial and ethnic data is central to many accountability strategies now being used in police departments. For instance, to help ensure accountability, agencies are increasingly relying on their existing early intervention systems (see Chapter 3) and incorporating traffic stop data as a way to assess the performance of individual officers. Through the reliance on citizen complaint processes and related data analysis (see Chapter 4), law enforcement leaders and supervisors can assess which communities are experiencing problems with the department, including complaints that specify biased treatment. In addition to these efforts, many agencies have begun to collect and analyze racial profiling data either voluntarily or by mandate as a result of state regulation or individual lawsuits. This chapter will address the prevalence of data collection in a later section.

Multiple Motivations for Addressing Racial Profiling

Law enforcement leaders must make every effort to prevent acts of racial profiling. The foremost reason to take an unequivocal position against the practice and deal with the issues in a forthright manner is because it is the right thing to do. Racial profiling is unlawful and unconstitutional. The use of race by law enforcement agencies is strictly limited by the Equal Protection Clause of the 14th Amendment and Title VI of the Civil Rights Act of 1964 which prohibits agencies that receive federal funding from engaging in racially discriminatory practices. Increasingly, through legislation or executive orders, states have mandated that law enforcement agencies establish policies banning racial profiling.

Other motivations for taking steps to prevent racial profiling, and proactively addressing community perceptions of racial profiling, include the following:

- **Sustaining the equality that is fundamental to ethical policing in a democratic society:** The fundamental focus on equal protection under the law is an established hallmark of policing in democratic societies. During the last 2 decades, growing commitments to community policing and service-oriented approaches in the United States has served to extend the concept of equal protection to one of equal service. All consumers of police services—whether they are living, working, or visiting the jurisdiction—expect and deserve both equal protection and equal service under the law. Bias policing, in any form, undermines this fundamental right.
- **Enhancing trust and confidence in the police:** To the extent that racial profiling is allowed to exist or that perceptions of racial profiling persist, the legitimacy of police authority is diminished. This may be felt most strongly among historically disadvantaged and disenfranchised communities that ironically are often most dependent on police services for public safety. A community's trust and confidence in the police is directly related to the extent to which a department takes a proactive approach to prevent racial profiling and address alleged racial profiling in a forthright manner.

- **Enhancing the philosophy and practices of community policing:** Racial profiling reinforces a negative us-versus-them mentality within communities and law enforcement agencies. Communities that feel they are racially profiled are less likely to report crime, less likely to cooperate as witnesses, and less willing to form constructive problem-solving partnerships with police. Members of these communities who come into contact with the police may act with more hostility because of real or perceived biased treatment. As Lorie Fridell (2005) suggests in a publication issued by the Police Executive Research Forum, “Decades of profound reform reflected in community policing are threatened by perceptions of racially biased policing and its practice.”⁹ By addressing the communities’ concerns about racial profiling, law enforcement agencies realize the full benefits of community policing.
- **Building capacity to recruit minorities and other qualified individuals to work in law enforcement:** Many agencies work toward the ideal of mirroring the demographic composition of the jurisdictions they serve. Real or perceived racial profiling directly undermines efforts to recruit minorities and other qualified individuals who may perceive an agency—or the entire law enforcement profession—as being fundamentally biased against certain groups. This is a particularly pressing concern for departments that struggle with shortages of recruits. Meaningful efforts to address racial profiling can reduce feelings of disenfranchisement and make law enforcement careers more desirable. Moreover, a proactive approach to addressing racial profiling will help draw candidates of all backgrounds who share a commitment to bias-free policing and are motivated by public service ideals.
- **Limiting financial liability:** Allegations of racial profiling may result directly in payouts associated with civil lawsuits and settlements. An ounce of prevention may be worth a pound of cure. Agencies that take proactive steps to prevent racial profiling can reduce the costs associated with these payouts.

Core Components for Addressing and Preventing Racial Profiling

Police departments benefit as they succeed in addressing and preventing the perception, as well as the actual occurrence, of racial profiling. Although departments’ efforts to address and prevent racial profiling may differ according to management priorities and legal mandates, the enactment of five core components will offer all departments the best possibility of success.

Component One: Clear and Compelling Policies

To address and prevent racial profiling, departments must establish clear and comprehensive policies against it and agency missions that promote equal protection and equal service to all.

The first step in preventing racial profiling is the development of a clear departmental policy banning the practice. This policy directive must unambiguously define and denounce racial profiling. Ambiguous policy definitions and directives are of no assistance to officers on the street and have no value for developing relationships of trust between the department and the community.

Departmental policies should clearly convey that behavior and evidentiary standards—not race—should guide police stop-and-search decisions. To this end, departmental policies should specify that race should play no role in decisions of whom to stop or search except under very

narrow circumstances where race descriptors are linked to a suspect for a particular crime (the BOLO exception). Finally, departmental policies should reinforce the legal standards for stops, searches, and other police actions. These policies should deter officers from making racially discriminatory pretext stops by stipulating that officers must be able to articulate how they established reasonable suspicion or probable cause for every stop or search.

Departmental policies to address and prevent racial profiling should move beyond a focus only on equal protection. In most departments, the majority of police activity revolves around service rather than enforcement of the law. Departments' commitment to fair and equitable policing and to the tenets of community policing should ensure that all persons, groups, and communities within a jurisdiction are afforded equal service.

Many such policies are already in place and successfully allow departments to address and prevent racial profiling. The policy of the Dearborn Heights (Michigan) Police Department, for example, addresses racial profiling and unequivocally prohibits the practice, yet contains language that does not compromise on aggressive enforcement:

I. PURPOSE

The purpose of this policy is to explicitly state that racial and ethnic profiling in law enforcement are totally unacceptable; to provide guidelines for officers to prevent such occurrences; and to protect our officers from unwarranted accusation when they act within the directives of the law and policy.

II. POLICY

It is the policy of the Dearborn Heights Police Department to patrol in a proactive manner, to aggressively investigate suspicious persons and circumstances, and to actively enforce the motor vehicle laws, while insisting that citizens will only be stopped or detained when there exists reasonable suspicion to believe they have committed or are committing an infraction of the law.

Discussion

A fundamental right that is guaranteed by the Constitution of the United States to all who live in this nation is the equal protection under the law. Along with this right to equal protection is the fundamental right to be free from unreasonable searches and seizures by governmental agents. Citizens are free to walk and drive our streets, highways and other public places without police interference so long as they obey the law. They also are entitled to be free from crime and from the depredations of criminals, and to drive and walk our public ways safe from the actions of reckless and careless drivers.

The Dearborn Heights Police Department is charged with protecting these rights for all, regardless of race, color, ethnicity, sex, sexual orientation, physical handicap, religion or other belief system.

Because of the nature of our business, police officers are required to be observant, to identify unusual occurrences and law violations and to act upon them. It is this proactive enforcement that keeps our citizens free from crime, our streets and highways safe to drive upon, and detects and apprehends criminals.

This policy is intended to assist our police officers in accomplishing this total mission in a way that respects the dignity of all persons and yet sends a strong deterrent message to actual and potential lawbreakers that if they break the law, they are likely to encounter the police. This policy is to address the agency accepted protocols for conducting all motor vehicle stops with the exception of “high risk” stops.

Source: Dearborn Heights (Michigan) Police Department¹⁰
Agency Profile: Population 60,000; Officers 88

Departments that successfully establish clear and comprehensive policies denouncing racial profiling and expressing a commitment to equal protection should underscore this message in their mission statement. Below are several examples of the countless law enforcement agency mission statements that embrace these ideals.

Our mission, collectively as a department and as individual officers, is to provide an exemplary level of service and protection to the residents and businesses of the City of Town & Country and to all those who may visit, work in, or travel through our community.

We will serve the community through professional conduct at all times and the enforcement of criminal and traffic laws without prejudice or bias, with respect for the rights of all people, to assure a safe and secure environment for all.

Source: Town and Country (Missouri) Police Department
Agency Profile: Population 10,894; Officers 34

It is the mission of the Hamden Department of Police Services to protect the rights and integrity of all persons without prejudice or bias against race, religion, ethnic and national origin or sexual orientation within its jurisdiction; to safeguard the diversities of our communities and its citizens, to be free from criminal attack, threats of violence and persecution, secure in their possessions, and vigilant that together we can enjoy peace and harmony.

Source: Hamden (Connecticut) Police Department web site
Agency Profile: Population 55,000; Officers 107

Component Two: Meaningful Training

To address and prevent racial profiling, departments must move beyond rote training and standard lectures. Training should inculcate attitudes of bias-free policing.

Departmental policies that define, prohibit, and denounce racial profiling form a critical foundation, but the existence of even the best policy is not, by itself, enough. Training officers to avoid racial profiling and to practice bias-free policing is a critical responsibility for all departments. Police executives must ensure that all training strategies are coordinated, free of internal contradictions, and clearly and consistently communicated across the command structure. To this end, police executives must be vigilant in ensuring that training about racial profiling policies in the academy is not subverted by field training officers (FTO) or front-line supervisors who tell their officers to forget what they learned in the academy. FTOs and departmental culture must not be allowed to contradict explicit department policies and clear messages communicated through training. Training at every level must send the clear message that department policies are to be taken seriously.

The scope and content of racial profiling training will necessarily depend on the specific programs in effect in a particular department. For instance, if an agency is involved in racial profiling data collection, specific instruction on data-collection protocols should be included. Racial profiling training for all departments, however, should include instruction on relevant legal and ethical standards, instruction on handling stops effectively, and instruction on diversity and cultural awareness.

As departments offer training in these critical areas, many are discovering that particular training techniques are especially effective. Many departments have found that to engage officers, the use of active, scenario-based trainings are more effective than passive, lecture-based training. Many departments have also found that to instill a commitment to bias-free policing in officers, positive, nonaccusatory trainings are more effective than those that stress compliance based on negative sanctions or fear.

Understanding the Legal and Ethical Rationale for Bias-Free Policing

Racial profiling training should stress adherence to the constitutional protections afforded every citizen as well as to the state and local laws that prohibit racial profiling. Based on clear definitions and scenario training, officers should be taught to apply these standards in real-life settings. Officers must understand that all citizens are guaranteed equal protection under the law. Officers should also understand that preventing racial profiling is an ethical as well as a legal imperative. Training should alert officers to the detrimental effects of racial profiling on effective policing and community relations.

Developing an Understanding of Cultural Diversity

To prevent racial profiling, departments commonly offer training in diversity and cultural awareness. Diversity and cultural awareness training sensitizes officers to the multicultural communities in which they work. This training often encourages officers to acknowledge and come to terms with any biases they may have as a first step in overcoming them. It also encourages officers to build respect for the diverse cultures among which they work. It accomplishes this by encouraging officers to develop a fuller understanding and appreciation

of different ethnic or cultural groups within their jurisdiction. This training addresses the different value systems that may define various cultural groups. It offers officers practical instruction on interpreting such value systems and the behaviors that may result from them. Such training may focus specifically on how officers ought to treat members of major cultural groups within the jurisdiction in day-to-day encounters.

Police Chief Gary R. Coderoni of the Muscatine (Iowa) Police Department acknowledges the power of diversity and cultural awareness training to build on officers' understanding of multiple cultures to incorporate them into the community they police. In an *FBI Law Bulletin* article, "The Relationship between Multicultural Training for Police and Effective Law Enforcement," Coderoni writes:

Cultural diversity training helps police break free from their traditional stance of being "apart from" the community to a more inclusive philosophy of being "a part of" the community. Realizing the difficulty of becoming a part of something that they do not understand causes a desperate need for an intense and ongoing educational process for developing an understanding of cultural differences and how those differences affect policing a free and culturally diverse society....With appropriate, well-developed training, law enforcement agencies can provide their officers with the tools to understand, appreciate, and deal with the cultural differences that impact their daily interactions with the citizens they are sworn to protect.¹¹

Departments' ability to prevent racial profiling is enhanced through continual diversity and cultural awareness training. Changes in community demographics, such as the emergence of new immigrant groups within a department's jurisdiction, make continual training a necessity. Similarly, changes in the political climate, such as a potential backlash crimes against Arab, Muslim, and Sikh populations following September 11, 2001, also necessitate continual review and adjustments of diversity and cultural awareness training. Officers who better understand the cultures with which they are surrounded provide better services to individuals within these cultures.

The Community Relations Service (CRS) of the U.S. Department of Justice has developed training material to promote awareness of Arab, Muslim, and Sikh cultures. This outreach has resulted in various regional train-the-trainer seminars. In addition, CRS sponsored the development of *The First Three to Five Seconds*, a video on Arab and Muslim cultural awareness suitable for play at roll call.¹²

Courtesy and Respect in Stops

From a technical standpoint, racial profiling occurs when race or other group status is an inappropriate factor in an officer's decision to stop an individual or to take action (i.e., search or arrest) subsequent to that stop. Perceptions of racial profiling, however, may arise as a result of the way in which even an appropriate stop is handled. Departments that train and supervise officers in handling stops with courtesy, professionalism, and respect may diminish perceptions of racial profiling.

All departments should train officers to handle stops effectively by doing the following:

- Introducing themselves at the time of encounter
- Stating the reason for contact as soon as possible even if the civilian does not ask
- Keeping detention time as short as possible
- Answering all relevant questions posed by the civilian to the fullest extent possible
- Referring the civilian to an appropriate source within the department if unable to answer all questions
- Providing the civilian with complete name and badge number upon request
- Remaining respectful and polite
- Thanking any civilian who turns out to be cleared of any wrongdoing for his or her time and apologizing for the inconvenience.

The motorist who is approached with courtesy, professionalism, and respect; told the reason for the stop; and detained for a minimal amount of time is less likely to perceive bias—be it racial, gender, etc.—as the reason for the stop than an individual treated disrespectfully. Officers' behavior can have a beneficial effect on diminishing community perceptions of racial profiling.

Component Three: Maintaining a Culture of Accountability

To address and prevent racial profiling, departments must maintain a culture of accountability by establishing the proper accountability mechanisms and developing a culture of accountability.

Departments that have established policies against racial profiling and have instituted ongoing training should then monitor officers' responsiveness to these policies and training. Establishing and maintaining external and internal accountability mechanisms should be a critical piece of every department's efforts to address and prevent racial profiling. Externally, departments should ensure the open receipt and thorough assessment of citizen complaints regarding racial profiling. Internally, departments should ensure that early intervention systems or personnel performance systems are fully operational, used effectively by supervisors, and contain quality data that are complete and up-to-date.

As an external accountability mechanism, citizen complaints can provide valuable information regarding racial profiling for at least three reasons. First, the citizen complaints may expose isolated incidents of racial profiling that would otherwise remain hidden within aggregate statistics. For instance, racial profiling by a few officers might be masked by overall patterns of equal enforcement within a department's stop-and-search data. Second, citizen complaints will allow law enforcement officials to assess the extent to which perceptions of racial bias exist in different communities or geographic sectors. The more that officials know about where perceptions of racial bias exist, the better they can use this information to inform internal training, community outreach, and community education programs. Finally, citizen complaints can be tracked alongside stop-and-search data as a way of validating or cross-checking trends. While citizen complaint data serve this useful role, it is important to remember that merely counting complaints of racial profiling is not necessarily a statistically reliable gauge of racial profiling itself. Not all persons complain and complaint activity is affected by how open and accessible a department's complaint process is to the community.

As an internal accountability mechanism, departments operating early intervention or personnel performance systems should incorporate stop-and-search data into these systems, which will allow law enforcement supervisors to compare individual officers with their peers. If an officer exhibits inordinately high ratios of minority stops compared with peers serving in similar duties and geographic areas, intervention may be warranted. Supervisors must first review the circumstances that may have given rise to any statistical disparity based on race or ethnicity. When appropriate, supervisors should provide training and counseling to officers for whom data suggest racial profiling patterns in enforcement activity or delivery of services and for whom the behavior is determined to be unintentional. When supervisors detect a pattern of willful and blatant racial profiling, they must use appropriate disciplinary processes. The proper selection and training of supervisors clearly is key to the success of this approach.

Departmental hiring and promotion processes should be designed with these commitments to bias-free policing in mind. To the extent possible, departmental hiring processes should seek out individuals who demonstrate conscientious attitudes about equal protection and equal service. These processes should screen out persons who demonstrate racial bias or animus. Similarly, departmental processes should seek to retain and promote persons who demonstrate effective law enforcement practices while upholding the ideals of unbiased enforcement and equitable provision of services.

Component Four: Maintaining Broad-based Community Relations

To address and mitigate community groups' perceptions of racial profiling, departments must communicate regularly with the communities they serve.

Having established clear and comprehensive policies against racial profiling, training strategies, and accountability mechanisms, departments should avail themselves of every opportunity to communicate these efforts with their communities. At the level of individual street encounters, officers should demonstrate the effectiveness of departmental training by ensuring that every subject who is stopped understands the reason for the stop as well as the subject's right to complain if he or she feels that the police action was racially based or the subject feels mistreated in any way. On a departmental level, police executives should publicize departmental policies and mission statements that advocate bias-free policing through agency web sites, annual reports, and other vital forums for communicating with the public. Additionally, police executives should be willing to meet with concerned community groups and leaders to discuss racial profiling and to develop collaborative solutions to this problem. Finally, a department's commitment to equal protection and service and bias-free policing should be a central tenet of the department's community policing strategy.

Component Five: Sustaining a Systemic Approach

To address and prevent racial profiling, departments must ensure the ongoing consistency of the policies, training, accountability mechanisms, and community outreach that they establish.

Departments will succeed in addressing and preventing racial profiling to the extent that they recognize that their efforts to establish policies, offer training, maintain accountability, and communicate with their communities do not exist in isolation from each other. Each department must ensure, on a continuing basis, that these efforts are consistent with each other as well as with all departmental policies. To the extent that departments succeed in this

regard, the existence of racial profiling policies, training, accountability mechanisms, and means of communicating with their communities will enable them to detect early on any trends in behavior that might result in negative perceptions among community members or in violations of the standards of bias-free and community policing.

Beyond the Basic Components: Considering Racial Profiling Data Collection and Analysis

In addition to the above-mentioned efforts to prevent racial profiling that the International Association of Chiefs of Police (IACP) recommends to all departments, there currently is a marked trend toward the collection and analysis of racial profiling data. A growing number of states are mandating collection of traffic stop data to assess patterns of potential racial bias. In addition, local agencies may be required to collect racial profiling data as a result of lawsuits, court settlements, consent decrees, and memorandums of understanding. Finally, a growing number of local agencies are collecting data voluntarily to proactively respond to public concerns.

At this point, the IACP believes that a blanket recommendation that all departments should engage in the collection and analysis of racial profiling data is premature. Although the IACP does not offer a general recommendation, it acknowledges that officers' behavior is being increasingly scrutinized and that, as increasing numbers of agencies collect stop-and-search data, pressure to collect data will increase. Against this backdrop, the issue of whether and how best to collect racial profiling data will need to be continually reassessed by law enforcement leaders. A basic understanding of data collection and analyses processes and controversies is critical, even for those executives who are not currently facing the challenges of racial profiling allegations or data collection.

Many departments have found value in partnering with universities to enhance research and evaluation across a wide spectrum of policing practices and strategies. A recent publication by the IACP, *Improving Partnerships Between Law Enforcement Leaders and University Based Researchers*, addresses these issues.¹³ University researchers can also provide valuable assistance with methodology, analysis, and drawing conclusions from data collected on racial profiling, and can enhance credibility. It is also important, however, that the researchers are able to approach the problem from a practical, rather than "ivory tower" perspective. They should have an appreciation of police work as it is experienced in the streets.

Assessing the Prevalence of Racial Profiling Data Collection and Analysis

Although racial profiling data collection is becoming increasingly prevalent, there is no precise count of the number of police agencies engaged in these efforts. The fact that more agencies are collecting data as mandated or voluntarily is obvious. For instance, the collection of data on traffic stops was required for 8 of 14 law enforcement agencies that currently are, or have been, under federal agreements (consent decrees or memorandums of agreement [MOA]) with the Civil Rights Division of the Department of Justice. In other agreements, for instance

with the Cincinnati Police Department, the MOA required the department to videotape traffic stops. Additionally, several recent statewide assessments of racial profiling data collection and analysis efforts recently released their findings:

- In May 2004, the Institute on Race and Justice at Northeastern University released a study of racial profiling in Massachusetts, addressing data on approximately 250 law enforcement agencies.¹⁴
- In February 2005, a report by the Steward Research Group and the Texas Criminal Justice Coalition analyzed data from more than 1,000 law enforcement agencies in Texas. The data on which the report was based had been mandated by Texas Senate Bill 1074, which required law enforcement agencies across the state to collect data and report detailed statistical summaries of traffic stop data. This particular report, rather than focusing on stop rates, addressed disparities in search rates and rates at which contraband was found.¹⁵
- On July 1, 2005, Illinois released its racial profiling report, *The Illinois Traffic Stop Study*. The analysis, conducted by the Northwestern University Center for Public Safety, addressed data from nearly 1,000 municipal, county, and state police, and special jurisdiction agencies for the calendar year 2004.¹⁶

As is evident from these three recent statewide efforts, data collection has become the norm in some areas of the nation. Despite this, however, it is rather difficult to assess national trends. Individual states have their own policies, data-collection protocols, and other idiosyncrasies. The same holds true for departments that have initiated data collection on their own.

The Data Collection Resource Center, part of the Institute on Race and Justice at Northeastern University, maintains a web site that assesses a complex array of information about mandatory and voluntary data-collection efforts on a state-by-state basis. Data available on this site underscores how each state's approach to racial profiling data collection (as well as requirements about policies, training, and the processing of complaints) is unique. Some states have enacted legislation requiring data collection while others have enacted legislation that encourages collection. Still, other states require data collection only from certain departments. Most states that require data collection have stipulated a limited window of time under which data collection is required. Colorado House Bill 1114 enacted in 2001, for instance, mandated data collection for all traffic stops occurring between July 1, 2001 and December 31, 2004. Other states have similar provisions. As a result, classification of states into a simple dichotomy of *requires data collection* and *does not require data collection* would be extremely difficult because the conditions vary and the time frames are dynamic.

States also vary in the type of events for which data collection is required. Some require data to be collected for all traffic stops, while others require data collection only for traffic stops resulting in defined actions (e.g., citations, arrests, or use of force). Some expressly include pedestrian stops, and others do not. In some states, mandatory data collection is required by *all* agencies, while in other states only specified agencies are mandated to collect data. Northeastern University's Data Collection Resource Center provides a valuable resource for keeping up with the status of state legislation and executive orders. It is also links to information about data collection and other efforts of state legislatures and executives to promote bias-free policing.

The Benefits and Limitations of Racial Profiling Data Collection and Analysis

In determining whether or not to collect and analyze racial profiling data, individual departments must consider the benefits and limitations of the process. Departments should weigh not only financial considerations, but also considerations of department morale, community relations, public perceptions, and the potential use—or misuse—of collected data. While departments may realize benefits in addition to those they realize as they work to prevent racial profiling through other means (policies, training, and an internal accountability mechanism), they may expose themselves to additional risks if they elect to collect data. The potential benefits and risks, presented below, underscore why individual agencies must consider this choice carefully. Decisions about data collection can have a profound effect on the department and the community it serves, particularly in those communities where perceptions of a problem exist.

Benefits

Racial profiling data collection may result in specific benefits in addition to those benefits that agencies gain through other efforts, such as clear policies and training, to promote bias-free policing. Potential benefits include the following:

- **Creating an effective management tool that is consistent with evolving data-driven management standards:** Analyses comparing racial profiling data on officers who perform similar duties in similar neighborhoods may enable agencies to identify officers who may be engaging in racial profiling and to determine in what instances intervention or discipline may be appropriate.
- **Sending a clear message to the community:** The fact that an agency collects racial profiling data may have an important symbolic value. Data collection sends the message to the community that the department is willing to assess itself. Denying that there is a problem and refusing to address the issue can result in substantial community resentment.
- **Establishing a foundation for constructive dialogue with the community:** Agencies that collect racial profiling data can use the results to establish an important foundation for constructive dialogue with the community, particularly when data collection and analysis is approached from a perspective of partnership and in the context of genuine community policing.
- **Ensuring control and flexibility to meet particular agency needs:** Agencies that take proactive steps to collect data ensure their own control and maintain more flexibility in instituting a process that meets their needs. Failure to take proactive steps can result in a mandated data collection process that may be inflexible and out of the agency's control.

Limitations and Drawbacks of Data Collection and Analysis

Although the collection of racial profiling data collection and analysis can potentially provide the benefits discussed above, specific risks are also associated. Potential risks include the following:

- **Draining agency resources:** Data collection efforts often are costly and time-consuming. They can take resources away from other areas of priority. Absent concerns articulated by citizen groups or problematic histories involving allegations of racial profiling, agencies may find little need to collect these data. Collecting data proactively when there is no

pattern of past behavior that would warrant these efforts could cause undue financial burdens, particularly in times of budgetary shortfalls or when staffing levels are below target.

- **Effect on agency morale:** Data-collection requirements that appear to be imposed unilaterally by a chief, by state law, or by court mandate can cause morale problems. In particular, mandated collection may drive a wedge of distrust between first-line supervisors and front-line officers. (If the department is required to collect data or determines that data collection is warranted, efforts should be made to mediate these problems through effective leadership, communication, and supervisory practices.)
- **Inconclusive results:** Analyses of racial profiling data seldom yields unequivocal results. Although analyses may reveal disproportionalities in stop rates, data seldom definitively reveal whether or not an agency is engaged in systematic racial profiling. Given methodological challenges, such as benchmarking, alternative interpretations will exist even when racial disparities in stops appear pronounced. Even when disparities are not evident, some may feel that that racial profiling still exists and that the data either mask the problem or are misleading. While racial profiling data collection presents the hope that a complex problem can be adequately understood by being measured, some observers feel that the analysis of these data generates more confusion rather than helping resolve a problem. (Most proponents of data collection concede that data collection and analysis problems exist, but counter that the effort is a step in the right direction.)
- **Arming critics with data:** Related to the previous limitation, some observers contend that collecting racial profiling data, which is inevitably open to interpretation, arms those who may be predisposed to believe that racial profiling exists with data to challenge and critique the police. Law enforcement agencies are being asked to bear the burden and cost of collecting information that ultimately may be used against them.
- **Depolicing:** At the individual level, fear of being implicated as a racial profiler could result in officers avoiding activity that might expose them to this label. In an effort to avoid accusations of profiling, the number of traffic stops or pedestrian stops individual officers make may decline. At the department level, this depolicing may result in diminished public safety and less effective law enforcement. Again, however, if the agency deems that racial profiling data collection is necessary or is required by state mandate, these concerns should be mediated with effective leadership, supervision, and accountability mechanisms.
- **Potential of encouraging spurious stops:** Some have argued that the imposition of traffic stop data collection may result in spurious stops of nonminority drivers as officers attempt to offset statistical disparities that might otherwise exist. Again, however, these concerns can be abated by imposing proper supervisory and accountability mechanisms.

Assessing Benefits and Limitations of Data Collection and Analysis

When not required to do so by state law or agency mandates specific to the agency (e.g., consent decrees, litigation settlements, or judgments), a police executive's decision about racial profiling data collection is complex and will often be made in a politically charged environment. Decisions about data collection also entail legitimate and highly practical concerns about resource allocation and the potential complexities of data analysis and

interpretation. As a result, chief executives must consider the problem of whether or not to voluntarily collect racial profiling data in the broadest context. This process, however, must include a forthright appraisal of an agency's past history and its reputation across the entire community. Absent a specific problem, some chiefs and sheriffs may feel completely confident in their decisions not to collect data, particularly when they already benefit from widespread community support.

In short, this guide does not offer a blanket recommendation about the advisability of collecting data to assess racial profiling. Clearly, the perception or actual practice of racial profiling is an issue with which all law enforcement executives must concern themselves. Because of differences in demographics, in police functions, and historical circumstances, each executive will have to address this critical issue from his or her agency's own perspective. Whether or not a department collects racial profiling data, however, it should be prepared to confront the issue through clear and compelling policies, training, and accountability mechanisms. Departments must also demonstrate to the community, through mission statements and targeted outreach where necessary, that they are committed to bias-free policing.

Basic Questions Addressed by Racial Profiling Data Collection and Analysis

If agencies decide to collect data, racial profiling data collection and analysis can serve as an accountability mechanism to ensure that a department's policies against and training about racial profiling are effective. Departments that collect and analyze racial profiling data generally try to determine whether minority groups are stopped more often than other groups and whether they are treated differently during those stops.

To answer the first part of this question, analysis is first directed at establishing whether minorities are stopped in proportion to—or disproportionately to—their representation in the population. For instance, results from *The Illinois Traffic Stop Study* found that minority drivers accounted for 32.77 percent of traffic stops while they made up 28.48 percent of the estimated driving population. Expressed as a ratio, the minority stop ratio was 1.15 (32.77/28.48), compared against a theoretical baseline ratio of 1.0 (28.48/28.48), which would be the situation if minorities were stopped in equal proportion to their representation in the estimated driving age population. Individual department ratios varied around the statewide average. For instance, ratios in the three largest cities were 1.15 for Chicago, 2.07 for Rockford, and 1.71 for Peoria. The ratio for the Illinois State Police was determined to be 0.6, meaning that the state police stop fewer minorities than are estimated to be in the Illinois driving population.

In the Illinois study, and in nearly every study of racial profiling data, the first analytical step is to establish whether disproportionality in stops exists. It is important to note, however, that the mere existence of disproportionality does not necessarily mean that racial profiling is taking place.

The collection of stop data is also necessary to address two key questions: (1) whether minorities are searched more or less often when stopped; and (2) whether minorities are more or less often found to possess contraband as a result of those searches.

Steps in Data Collection and Analysis Process

To help illustrate the complex data collection and analysis process, the following sections break the process into a sequence of steps. These sections are not intended to provide an exhaustive discussion of the myriad issues related to data collection and analysis. Readers should also recognize that this is a rapidly evolving area of studying terms of policy, data collection, and research methodology.

Step One: Collecting Racial Profiling Data

Any agency that decides to collect and analyze racial profiling data confronts the critical decision of what data to collect. Agencies may collect information regarding drivers, legal and procedural variables, passengers, and the officers themselves. While the scope of data collection varies widely across agencies, language from federal consent decrees and MOAs helps bring clarity to this complicated issue. The consent decree of the Pittsburgh Bureau of Police (PBP), for instance, includes the following requirements:

The City shall develop, and require all officers to complete, a written report each time a PBP officer makes a traffic stop. The record shall include the officer's name and badge number; the race and gender of the individual searched or stopped; approximate time and location; whether the stop involved a frisk or pat-down search; any weapons, evidence, contraband found during the search; whether the individual involved was arrested or cited, and if so, the charges.¹⁷

Differences of opinion exist about the advisability of collecting various data. For instance, controversy still exists as to whether information should be collected about officers involved in stops and how that information may be used. To varying extents, this is affected by local bargaining agreements, policies, or state law.

Drawing on data from the federal agreements, related literature, and individual agency practice, the IACP staff identified the following data elements that are often collected and analyzed. Individual consent decrees and MOAs between police agencies and the U.S. Department of Justice stipulated different data elements, depending on the particular circumstances that existed at each locale.

The list of the broad range of data elements in the subsections below does not imply that these are the scope of data that the IACP recommends to collect across all agencies engaged in data collection. Other resources, including the Department of Justice Office of Community Oriented Policing Services publication on *How to Correctly Collect and Analyze Racial Profiling Data: Your Reputation Depends on It!*, should also be referenced as a resource.¹⁸ Clearly, each agency should make its own decisions based on available resources and the issues that it feels need to be analyzed. The data elements are organized under general categories and are meant to serve as reference points to aid agency personnel in assessing what data should be collected. The potential relevance and analytic function of each data element is discussed briefly.

Driver Characteristic Data

- Race/Ethnicity of Driver

The officer should record the race/ethnicity of the driver. Clearly a critical data element, this is a remarkably challenging one to collect and analyze. The officer may not know what the driver's race/ethnicity is and may not find this information on a driver's license. In such circumstances, most departments encourage officers themselves to identify, to the best of their ability, the race/ethnicity of the driver. Although this remains a contentious topic, departments offer two justifications for this approach over having officers ask the driver to identify his or her race/ethnicity. First, the officer's own perception of the driver's race/ethnicity is what really matters given that racial profiling is focused on potential police bias.¹⁹ Second, asking individuals to identify their race/ethnicity is awkward and potentially offensive even in routine conversation. The potential for offense is heightened in a traffic stop situation.

Classifying this information to analyze it effectively presents additional challenges. Currently, there is no definitive classification scheme. Data systems vary not only in their categorization of race/ethnicity, but in their treatment of these as single or separate dimensions. Many departments, through forms and data systems, for example, require officers to determine whether a driver is White, Black, Hispanic, Asian, or Native American. In some departments, this may be sufficient. In others, it will not be sufficient. For instance, allegations of racial profiling rose sharply after September 11, 2001 in areas with high concentrations of Arabs, Muslims, and persons of Middle Eastern origin. Appropriate analysis of racial profiling data can occur only to the extent that appropriate categories of race/ethnicity are used. Similarly, departments must ensure that their categories of race/ethnicity correspond to the categories of the population groups to which they will be compared. For instance, if departments intend to use census data to measure the proportions of minority populations in their jurisdictions, they will have to convert this census data—with its more complicated race/ethnicity categories—to be consistent with their own terminology.²⁰

- Gender of Driver

The officer should record the gender of the driver. Racial profiling has often been identified as particularly problematic for gender subgroups such as African-American and Hispanic males. Recording the gender of the driver allows departments to analyze these subgroups separately.

- Age of Driver

The officer should record the age of the driver. Racial profiling may be statistically confounded by issues of age. For instance, community demographics may be such that the age composition of African-Americans is substantially different from that of Whites. Because young drivers are stopped more often than older drivers, if one demographic group contains proportionally more young drivers than the other, the analysis ought to address this. Date of birth may be obtained from driver's license information. If not, an approximation of the age is usually sufficient.

Legal and Procedural Data

- Reason for Stop

The officer should record the reason for the stop, whether it is a violation of a traffic law or suspicious behavior. In the case of a traffic violation, the specific violation should be recorded. In the case of suspicious behavior, a description of the behavior—in greater detail

than “appeared suspicious” —should be recorded. Standard forms that include checkboxes—equipment violation, moving violation, BOLO, etc.—should be extensive enough to cover and distinguish between high-discretion stops (e.g., minor equipment violations or driving a few miles above the speed limit) and low-discretion stops (e.g., reckless driving, DUI, or excessive speeding).

- Methods Used in Detection

The officer should record the method used in detecting the alleged violation or suspicion. For instance, in the case of speeding, the officer should note whether the stop was based on use of radar, by pacing, or some other method. In the case of a stop based on suspicious behavior, the officer should record the nature of the suspicion, including whether the stop was in response to a BOLO notification or specific articulable behavioral factors of the subject.

- Disposition

The officer should record the way in which the stop was disposed. Typical checkbox categories should include verbal warning, written warning, citation issued, custody arrest, or field interview card completed.

- Search

The officer should record whether a search was conducted.

- Basis of Search/Type of Search

The officer should record whether the search was consensual or based on other factors such as incident to arrest, probable cause, or inventory search. The officer should also record whether the search was of the driver, a passenger, and/or the vehicle.

- Consent Search

Some departments require officers to indicate whether the officer attempted to make a consent search and record whether or not the subject consented to be searched.

- Contraband Found/Seized

The officer should record whether contraband was found, of what type (e.g., drugs or weapons), and, if applicable, the amount seized.

- Other Items Found/Seized

The officer should record whether other items, such as instruments of crime (e.g., burglary tools) or fruits of crime were found.

- Location of Stop

The officer should record the location of the stop by reference to cross streets, the street address in front of which the stop occurred, or the highway milepost. In departments with appropriate technology, the data may be mapped and compared to maps of other activities such as crimes, police calls for service, etc. This may be a particularly useful data element in that it can be used to assess whether stops are geographically correlated with the location of other police events (e.g., calls for service, crime incident sites, or sites of frequent traffic accidents). It may be useful to know, for instance, how traffic stop locations relate to accident locations and how these patterns may be related to the demographics of neighborhoods.

- Vehicle Information

The officer should record standard information about the vehicle including make, model, year, color, license plate number, and state of issue. Officers should also report on the status of the vehicle in the event that the driver was not allowed to drive away (e.g., vehicle towed or vehicle left parked at location).

- Duration of Stop

The officer should record the duration of the stop, by noting either the beginning and ending times of the stop or by noting the duration of the stop in minutes.

- Passenger Data

- Number of passengers in car
- Race/ethnicity of passengers
- Gender of passengers
- Age of passengers.

- Officer Data

- Name of officer
- Badge/ID number of officer
- Duty status of officer (on duty/off duty).

Many departments collect officer data to ensure that their data collection and analysis efforts will result in an understanding of racial profiling at the agency level, the unit level, and the individual level. Collecting the officer's name and/or badge/ID number is critical if the agency is attempting to identify individuals who may be engaged in racial profiling. In this event, stop data can become a critical element in early intervention efforts. If supervisors determine that profiling was unintentional or based on a misunderstanding of policies and procedures, they may attempt to work with these officers through counseling and/or retraining. If profiling is determined to be blatant and intentional, disciplinary proceedings are warranted.

In other departments, however, collective bargaining agreements discourage or prohibit the collection of officer data. A compromise position between these two options exists. Some departments allow the collection of data about officers with the assurance that the data will be used only within the department. Under such provision, the identity of individual officers is not revealed. The St. Paul (Minnesota) Police Department uses an approach similar to this.

Step Two: Posing the Questions that Racial Profiling Data Can Answer

To determine whether particular groups are stopped more often or treated differently during those stops than other groups, departments ask four fundamental questions based on the data collected.

(1) Are some groups stopped disproportionately based on race, ethnicity, or other status?

To establish whether any given group is stopped in proportion to—or disproportionately to—its population, a department must first analyze the data it collects to determine what percentage of stops involve a particular status group and then compare this number with the

percentage of the population that the status group comprises. Determining that latter number is a complicated statistical problem that will be discussed at length below. In *The Illinois Traffic Stop Study*, the data on minority stops collected by departments was compared to the estimated percentage of minority drivers in the population. Based on that comparison, the study revealed that minorities were 15 percent more likely to be stopped than their proportion in the *estimated driving population* would suggest.

(2) Following stops, are different groups issued citations, written warnings, or verbal warnings at different rates?

This question of disposition seeks to understand whether different groups are treated differently once a stop has occurred. A traffic stop can involve one or more of several outcomes. Departments interested in evaluating the possible presence of racial profiling seek to determine how many citations or verbal warnings a particular status group receives when compared to other groups. Answering this question is more statistically straightforward than determining whether a group is stopped disproportionately because there is no need to establish baseline *estimated driving populations*. Departments can simply compare the outcomes for a particular group to the outcomes of other groups. For instance, *The Illinois Traffic Stop Study* determined, on the basis of statewide data, that minority drivers were issued citations in 68.00 percent of stops, written warnings in 16.50 percent of stops, and verbal warnings/stop cards in 15.48 percent of stops while the comparable rates for Caucasian drivers were 60.51 percent, 24.77 percent, and 14.71 percent, respectively.

(3) Following stops, are different groups searched at different rates?

Departments interested in evaluating the possible presence of racial profiling also seek to determine how many times a particular status group is subject to searches when compared to other groups. The central concern is whether minorities are more often subjected to searches subsequent to stops than other groups. On the basis of statewide data, the Illinois study found that 2.27 percent of stops of minorities resulted in consent searches while 0.88 percent of stops of Caucasians resulted in consent searches.

(4) Following searches, do rates of finding contraband vary across the different groups?

By asking this “hit rate” question, departments seek to determine what proportions of searches for different status groups result in contraband. *The Illinois Traffic Stop Study* did not address contraband hit rates. A 2002 Missouri study that posed this question revealed that contraband hit rates varied across drivers’ race/ethnicity.²¹ Based on the specific categories used in that analysis, hit rates varied from 22.60 percent for Whites to 17.47 percent for Blacks, 17.26 percent for Hispanics, 14.76 percent for Asians, and 7.90 percent for Native Americans.

Findings that show variation in contraband hit rates often spur debate among observers. Some contend that the lower contraband hit rate for minorities, such as illustrated in the Missouri study, are suggestive of the fact that minorities are more often stopped at lower levels of suspicion. Relatively high hit rates for Whites suggest that they are stopped only for higher levels of suspicion that may be more consistent with reasonable suspicion standards.

Step Three: Analyzing Racial Profiling Data

Having collected data and having posed the critical questions that these data can answer, departments face the responsibility of analyzing the data to provide those answers. As the discussion of the questions implied, answering the question of whether groups are stopped in proportion—or disproportionately—to their presence in the population requires more complicated analyses than answering the remaining questions regarding disposition, searches, and contraband hit rates.

To answer this question of proportionality, departments must compare their own stop data against the percentage of the population that the defined minority group or groups comprise. Establishing this comparison or baseline index, while complicated and methodologically challenging, is critical to analysis. For instance, the Illinois study measured its stop rate against an *estimated* minority percentage of the driving population *likely* to have driven in the jurisdiction. Clearly, this is not a straightforward and unambiguous measure.

Different studies have relied on a variety of baseline comparisons. For instance, in attempting to determine whether African-Americans are disproportionately stopped for speeding, traffic stop studies have calculated the stop rate by dividing the number of African-Americans stopped by the number of African-Americans who reside in the jurisdiction (census data), by the number of African-Americans in the driving age population (refined census data), or by the number of African-American persons with driver's licenses in the jurisdiction. The question of which comparison method will yield the most accurate assessment of profiling is present often is referred to as the benchmark issue.

A Conceptual Overview of Benchmarking

Benchmarking refers to the process of measuring data against an established standard for the purpose of evaluation or judgment. In a field such as land surveying, for example, the term benchmark connotes a precise measurement (e.g., of elevation) that is established against a fixed reference point (e.g., sea level). Ideally, a benchmark provides an objective and unambiguous standard against which to judge data.

As analysts have attempted to define these baseline populations for purpose of assessing racial profiling, however, they have inevitably fallen short of this ideal. The reasons they have fallen short, however, are not due to any limitations of the analysts. Rather, there are a host of methodological and practical challenges to benchmarking that are difficult and expensive to overcome. As a result, establishing proportionality—or disproportionality—in an effort to determine whether racial profiling occurs, often falls short of the ideal notion of benchmarking that may exist in other disciplines.

A Simplified Example of Benchmarking

To illustrate the challenges that benchmarking presents, consider a simplified municipal police department with only two groups of drivers. If the department's study finds that 25 percent of a municipal police department's traffic stops involve African-American drivers and that 75 percent involve White drivers, the department can make no inference about racial profiling unless they are able to compare these data with the percentages of African-Americans and Whites in the population. Suppose that 20 percent of the population in that municipality (based on census data) are African-American and that 80 percent are White. Clearly, African-Americans are over-represented among the traffic stop population relative to the residential

population. Expressed in the statistical terms used in *The Illinois Traffic Stop Study*, the ratio of African-American drivers stopped to their population percentage is 1.25, meaning that African-Americans are 25 percent more likely to be stopped than their representation in the population would suggest. This simplified hypothetical example raises critical questions. Does this disproportionality in and of itself indicate racial profiling? Is it based on the correct comparison population?

As the analysis of racial profiling data has progressed, more sophisticated methods of benchmarking have been developed as analysts attempt to better answer these questions. For instance, in response to early analyses of racial profiling data, many observers were quick to note that the residential population may not represent the driving age population. Now, benchmarks based on residential population are generally deemed inadequate. Alternatives have been offered, each with advantages and disadvantages of its own. To a large extent, the choice of benchmarks must be dependent on the population data available in a particular jurisdiction as well as the resources available to support racial profiling analysis. In any event, there is not yet a fixed method of benchmarking population.

Common Benchmarking Methods

Different departments and different analysts rely on different benchmarks, depending on the data available to them and on the resources they have to collect benchmark data. The text that follows below provides synopses of common benchmarking options as well as the benefits and limitations associated with each as they relate to traffic stop data.

Alternative Benchmarks for Traffic Stop Data: Pros and Cons

Alternative benchmarks, as presented below, represent a sequential progression in the sophistication of benchmarking methods. Most analysts agree that observational methods are preferable, but they are extremely resource intensive. New methods for benchmarking that use sophisticated driving population estimates (DPE) are being lauded as a major step forward to using standard census data. These methods are complex, but do not require the costs and time commitments necessary for observational approaches.

Simple Census Breakdown by Race/Ethnic Groups: The earliest and most basic method of benchmarking is to use the census data collected every 10 years. From these data, an agency can compare the racial and ethnic breakdown of persons stopped to corresponding population breakdowns based on census data. This information can be easily obtained for just about any jurisdiction whose boundaries correspond with a municipality, county, or state. If precinct or district boundaries correspond to census tracts, data can be aggregated and comparisons can be made across geographic regions within a department.

While census data are a practical and free source of information, numerous limitations have been associated with using basic census data as a benchmark.

- A law enforcement agency's categories of race and ethnicity may not match those used in the census. This may be a minor problem because census categories could potentially be converted to match the department's categories. Appendix B of the book, *By the Numbers: A Guide for Analyzing Race Data from Vehicle Stops*, provides a detailed explanation and examples of this process.

- In addition, census data may not be truly representative at the time of the profiling analysis. Full census data are collected every 10 years, although some population estimates can be obtained between censuses, but these are estimates based on samples and usually are not reliable for smaller jurisdictions or areas with small population bases.
- Also limiting the value of census data is the fact that minority populations in some areas tend to be undercounted in the census. This applies to areas with concentrations of immigrants, particularly areas with high numbers of illegal immigrants. Given that counts based on “official” minority populations (the denominator) will tend to be undercounted, stop rates for these groups have the potential for being inflated.
- The racial and ethnic proportion in the general population breakdowns may not mirror the respective proportions in the driving population. Differences in age distributions between the racial and ethnic groups, for instance, may contribute to differences in the real proportion of driving age persons in the different groups. In addition, economic factors may vary between groups and contribute to different rates of car ownership, in driving patterns, or time behind the wheel.
- Perhaps the most problematic limitation of using census data about residential populations, however, is that the drivers on the road at risk of being stopped in any jurisdiction include both residents and nonresidents. The real at-risk population may be quite different from the residential population counts obtained from the census. For instance, if a predominately White suburb has a shopping mall that draws many minorities from a neighboring jurisdiction, the residential population base of driving-age individuals clearly would not be representative of persons using the roads, particularly during hours when the mall is in operation.

Driving Age Population Breakdowns: A better alternative to the simple population proportion is the use of driving-age population data for respective racial and ethnic groups. This corrects for the possibility of different age distributions among these groups. Most often, this is based on counting only persons above the minimum driving age (e.g., 16 years old). This requires a bit more sophistication in extracting data from publicly available census data, but is an improvement over the simple, unadjusted breakdowns discussed above. This method, however, is still subject to many of the limitations noted above (undercounting of minorities, immigrants, and not accounting for drivers who are not residents of the jurisdiction).

Observational methods: As an alternative and an improvement over the above two benchmarks, some researchers have sought to create an estimate of the racial and ethnic composition of drivers within the jurisdiction through observational methods. In general, this method involves using independent observers to determine a racial breakdown of drivers by establishing a statistically representative comparison sample. Since observers cannot be everywhere and cannot observe at all times, analysts typically use some type of representative sampling. While this method avoids many of the limitations of the benchmarks described above, obtaining statistically representative samples of drivers tends to be costly, time-consuming, and is not without its own limitations.

One of the often-cited limitations of observational methods is that the race/ethnicity of drivers on the road is difficult to determine reliably, particularly on high-speed highways and particularly at night. Another limitation often cited is that an estimate of drivers on the road

based on race and ethnicity categories may not account for differences in driving habits. In other words, this method assumes that the racial and ethnic groups are all equal in terms of the behaviors (e.g., speeding) and conditions (e.g., clearly visible equipment violations or expired vehicle tags) that might give rise to legitimate traffic stops.

Racial/ethnic breakdown of drivers on the road who are violating the traffic laws: To overcome the last limitation, some analysts have attempted to assess the racial breakdown of persons on the road who are in violation of the law. In essence, analysts assess both the race/ethnicity of the driver and the behavior of the driver. A study by John Lamberth, for instance, focused on the New Jersey Turnpike and compared the racial make-up of drivers who were observed driving at least 6 miles over the speed limit to the proportions stopped for traffic violations.²² He found that African-Americans accounted for 14 percent of the drivers on the road and 15 percent of the drivers who were observed by researchers to be driving at least 6 miles over the speed limit. Depending on the section of highway and using only cases where police noted the race/ethnicity of the driver, at least 35 percent of those stopped were African-American.

This study is noteworthy for its attempt to control for differences in the risk of being stopped based on specific driving behavior that violates the law. It was limited, however, by the fact that it did not take into account other types of violations (e.g., equipment violations or erratic driving). Some critics also question how realistic this criterion was. Would the 6 mile-per-hour over the speed limit criteria used to define the comparison (or baseline group) actually result in many stops by the police in real-life circumstances? Critics contend that analysis based on a different threshold (i.e., a presumably more realistic 10 or 15 miles per hour over the speed limit), or analysis that included other reasons for traffic stops besides speeding might have yielded markedly different findings.

Driving Population Estimates Accounting for Resident Mobility between Jurisdictions: New methods being developed are based on sophisticated travel models that attempt to estimate the racial and ethnic breakdown of drivers. These models address the shortcomings associated with the previous methods, most notably the problem of not accounting for the presence of nonresident drivers. To date, the most ambitious of such efforts is a DPE developed at the Institute on Race and Justice at Northeastern University. The model relies on census data for establishing a benchmark, but adjusts the census data to account for persons who come into or leave a particular jurisdiction.²³ This model has been called the push-pull model because it statistically attempts to account for factors that push people to drive into surrounding areas or pulls people in from outside jurisdictions. The census data used in the model are more refined than the driving-age population discussed above. The DPE model includes several relevant jurisdiction-level statistics, such as the percent of car ownership and information about the number of persons commuting to and from work.

As with any statistical model, the DPE model is a simplification of highly complex human behavior; however, it has been cited as being highly promising and is a clear improvement on other nonobservational methods. While the model was developed for analysis of data from Rhode Island and Massachusetts, it may not be as well-suited for use in areas with different population characteristics or road networks. Indeed, the developers themselves caution that the model should be further refined and would have to be adapted to suit other types of jurisdictions.²⁴ Readers can refer to the original study for a more detailed explanation.

Comparison to Accident Data: Some agencies and consultants have attempted to use accident data as a reasonable proxy for a benchmark for drivers on the road. In some cases, the benchmark has been set against those drivers involved in accidents who were not at fault or to those not involved in hit-and-run accidents. The presumption is that these groupings of drivers are less likely to be statistically biased in racial/ethnic composition. While this may be a convenient source of information (not as difficult to obtain as observational methods or statistically complex driving population estimates), they are problematic in several ways. Notably, they may reflect variations in accident reporting (for instance, certain population groups such as the uninsured and illegal immigrants may under-report accidents) and geographically based risk (in some areas minority populations are concentrated in areas with heavier concentrations of traffic and accidents). Some of this bias can be addressed by comparing the relevant populations (stopped persons versus not-at-fault accident drivers) within specific geographic areas such as a stretch of highway known for being dangerous and where accidents are unlikely to go unreported. Some analysts see such a geographically specific approach as a potential proxy for observational methods that can be cheaper and less time-consuming to collect. While expressing some caution, for instance, the Alpert Group believes that not-at-fault accident data holds promise as a benchmark:

[A]ccident data will not necessarily reflect the driving population for an entire city, county, or state, but rather will reflect the driving population in those areas where accidents are most likely to occur. Nonetheless, in the context of a racial profiling study, the effect of this bias is minimized because police traffic stops tend to be concentrated on the same roadways on which accidents occur. Consequently, *if they can be validated* as an approximation of the driving population through traffic observation or other means, then not-at-fault accident data should provide an excellent benchmark against which to compare police traffic stop activity, most of which occurs conjointly with traffic accidents [emphasis added].²⁵

Step Four: Drawing Inferences from Proportionality Findings

Some observers suggest that the proof of racial profiling is in the outcome and that findings of disproportionality in traffic stop data automatically imply that racial profiling exists. As the above discussion of data analysis reveals, however, the questions about how disproportionality is determined and whether disproportionality can be equated with racial profiling are subject to intense debate. Does the fact that *The Illinois Traffic Stop Study* revealed some level of disproportionality in the cities of Chicago, Rockford, and Peoria mean that racial profiling is necessarily taking place in those cities? In addition to the difficulties of establishing an objective and unambiguous population benchmark, alternative explanations may exist for disproportionalities. Such explanations may include the following:

- The differences in stop rates may reflect differences in behavior. Minorities might be stopped more because they more often engage in traffic violations or drive older vehicles more likely to have visually apparent equipment violations.
- The differences in stop rates may reflect differences in police deployment. Minorities, particularly African-Americans and Hispanics, are more apt to be poor and live in areas

where crime is high and police presence is greater. Their higher stop rates might be attributable to a greater police presence in their neighborhoods.

- With respect to search rates, differences between groups might be attributable to variations in educational levels and in knowledge that consent search requests can be denied.

Pedestrian Stops: The Unique Challenges of Street Encounters

Much discussion and debate surrounding racial profiling focuses on traffic stops. In many urban areas where car ownership rates are low and where reliance on public transportation is high, the issue of racial profiling frequently arises in the context of pedestrian stops. Indeed, the Los Angeles Police Department Consent Decree requires the collection of data on pedestrian stops that parallels data collected on traffic stops. Pedestrian stops raise concerns about racial profiling that are similar to traffic stops. Data collection and analysis for pedestrian stops is probably even more challenging, controversial, and convoluted than for traffic stop data.

Pedestrian stops present at least two unique challenges for departments determined to collect and analyze racial profiling data. First, police officers stop pedestrians for reasons that may not appear as straightforward as their reasons for traffic stops. The Austin (Texas) Police Department presents both traffic and pedestrian stop data on its web site. As the selected portions of text below indicate, differences in the factors that affect the traffic stop and pedestrian stop rates are clearly noted.²⁶

Traffic and Pedestrian Stops, 2003

	Traffic		Pedestrian		Total Stops		Austin Demographics
White	91,663	52%	9,108	46%	100,771	51%	53%
Hispanic	56,025	32%	5,254	26%	61,279	31%	31%
Black	23,069	13%	5,477	27%	28,546	14%	10%
Asian	4,062	2%	107	1%	4,169	2%	5%
Other	2,375	1%	67	0%	2,442	1%	1%
Grand Total	177,194	100%	20,013	100%	197,207	100%	100%

“Traffic stops make up 90 percent of all stops and the background of the drivers closely mirrors the demographics of Austin. The primary reason for making a traffic stop is a violation of the transportation code (speeding, illegal turn, etc.) Pedestrian stops make up 10 percent of all stops and reflect the neighborhoods where walking beat officers patrol: downtown and east 11th and 12th Streets. The primary reason for a pedestrian stop is when someone is acting suspicious.”

Source: Austin (Texas) Police Department
Population 623,327; Officers 1,189

Where the primary reason for most traffic stops is relatively concrete—a perceived violation—the primary reason for pedestrian stops is more subjective—generalized suspicion. This challenge, noted by the Austin Police Department, is likely to apply to other urban departments as well.

A second challenge is that traffic stops are easy to identify and count, whereas perceptions of what constitutes a pedestrian stop can be more ambiguous. Police encounters with pedestrians include a wide range of interactions that police might call “consensual contacts,” “walk and talks,” “field interviews,” and “stop and frisks.” Although civilians may not always be cognizant of the legal distinctions among these types of encounters, police officers are. From the police officer’s perspective, the critical and operative distinction among these interactions is the occurrence or absence of detention. For instance, Texas Senate Bill 1074 stipulates the following definition for use throughout the state.

“Pedestrian stop” means an interaction between a peace officer and an individual who is being detained for the purpose of a criminal investigation in which the individual is not under arrest.

Similarly, beginning in 2003, the Chicago Police Department started encouraging the collection of “Contact Cards” containing demographic data about persons whom officers encounter and who are not necessarily considered suspicious persons.²⁷ These stops are discretionary, but detailed information about the stopped person’s address, aliases, and gang affiliations may be noted. Persons who are subjected to these discretionary contacts may feel they are being singled out or even racially profiled and may never be cognizant of whether the encounter was a street detention or not. The question about disproportionality in nondetention stops has received scant attention relative to questions about traffic stops and street encounters that are considered detentions.

Thus, potential problems exist to the extent that the police officers’ and civilians’ perceptions of their street interactions differ. While it is relatively easy to ensure that all traffic stops are recorded, this might not be the case with pedestrian stops. Officers may fail to perceive or record instances of detention, or some officers may wittingly decide that they can get away with not recording them. Courts have generally defined the difference between a detention and other types of contact as lying within the reasonable civilian’s perception. If a “reasonable person” would feel free to leave after such an encounter, even if the civilian in the encounter claims to have felt differently, then the encounter is considered consensual. If a “reasonable person” would not feel free to leave, then the civilian is, by definition, detained. A detention need not be explicitly stated. Rather, it can be implicit in the officer’s words and deeds. As a result, pedestrian stop data may be incomplete.²⁸

One solution to such a problem is to treat pedestrian stops as equivalent to traffic stops. Rather than leaving the distinction between a street detention and other street encounters unarticulated—and therefore within the perception of a “reasonable person” whose perspectives may differ—department policy and training should require that the officer articulate when a detention stop is being made. This requirement could help ensure that data collection related to pedestrian stops would be completed.

Recommendations

On the basis of its assessment of federal consent decrees and memorandums of agreement as well as the preceding discussion, the IACP offers the following recommendations. These recommendations correspond to the imperatives of creating clear departmental policies prohibiting racial profiling, implementing sound training, and sustaining accountability mechanisms. Specific recommendations are also offered to agencies engaged in racial profiling data collection and analysis.

1. Develop a clear and unequivocal departmental policy prohibiting racial profiling.

This policy directive should include a clear and unambiguous departmental definition of racial profiling and related terminology. The policy should clearly convey that behavior and evidentiary standards—not race or ethnicity—should guide police stop-and-search decisions. In writing policies, departments should be aware of the potential message conveyed by clauses such as “solely on the bases of race, ethnicity....” The consensus opinion of advisors to this project is that such language is to be avoided. The policy should specify that the only circumstances where the consideration of race (or other group status) is permissible is in “be on the look-out” (BOLO) situations.

2. Ensure that the departmental policy is, at the very least, consistent with all laws and professional standards applicable to its jurisdiction.

Many states have specific legislation or Police Officer Standards Training (POST) standards that prohibit racial profiling. Any local departmental policy should be consistent with these standards or more exacting than these standards.

3. Ensure that departmental policies and practices designed to promote bias-free policing are designed to protect all relevant groups within the jurisdiction.

Departments vary in the extent to which they specify which groups should be protected from profiling and are entitled to equal service. Department policies should be written to be as inclusive as possible. If the department makes reference to a specific list of group statuses, it would be advisable to include a “but not limited to” clause to assure that other groups are not by implication excluded from these protections. For the purposes of training and outreach, an agency must make efforts to remain aware of the relevant demographic groups within its jurisdiction. Given expanded concerns about racial profiling in the post-September 11 world, agencies should make certain that their policies and training address fair and equal treatment of persons of Middle Eastern, Arab, Muslim, and Sikh backgrounds.

4. Develop comprehensive and effective training programs to reduce racial biases among all personnel engaged in stop-and-search activity.

The departmental commitment to preventing racial profiling must be reinforced with officer training that focuses on legal and ethical standards, handling stops, and cultural awareness.

5. Ensure that training is ongoing, comprehensive, relevant, and compelling.

Training on issues of racial profiling should include all relevant topics including operational definitions, legal considerations, accountability mechanisms, and (if applicable) data-collection requirements. This training should be ongoing and addressed in all instructional settings, i.e., in the academy, during field training, and as part of in-service training. Training should address the complexities of racial profiling in a forthright manner. The best way to achieve meaningful and memorable training is by incorporating realistic examples, scenario-based training, and active discussion among participants.

6. Reinforce bias-free policing throughout agency culture.

While racial profiling training should begin in the academy, as part of field training, and be regularly updated through in-service training, the message should be routinely reinforced in a variety of settings. Any changes in policies or procedures should be routinely addressed in roll calls and any apparent problems identified through early intervention systems or citizen complaints should be clearly communicated. Executives must periodically reinforce this message as part of comprehensive and coordinated community outreach strategies.

7. Embed the ideals of bias-free policing within the department's mission statement.

The department's commitment to bias-free policing should be reinforced in the agency's mission statement. Often appearing on agency web sites or in annual reports, the mission statement provides the department with a critical medium for communicating its commitment to bias-free policing to the public as part of the agency's core values.

8. Ensure that the departmental commitment to bias-free policing is part of an ongoing community outreach program.

In addition to setting the tone with a clear policy directive against racial profiling and a mission statement advocating bias-free policing, departments should avail themselves of every opportunity to reinforce this message with community groups and through public service announcements.

9. Incorporate stop-and-search data as performance indicators in early intervention systems.

Early intervention systems that incorporate stop-and-search data will enable departments to identify and intervene on behalf of officers who seem to unwittingly demonstrate biased behaviors.

10. Use appropriate disciplinary mechanisms for officers who show a pattern of willful racial profiling.

Willful and blatant racial profiling is unethical and unlawful. Appropriate disciplinary processes should be use in response to any officer displaying such behavior.

11. Continually and systematically maintain organizational personnel practices that reinforce bias-free policing and a commitment to equal protection and service.

To the extent possible, department hiring and promotion processes should assess candidates and officers on their commitments to maintain bias-free policing and a service-oriented approach. Performance assessments should include measures addressing and rewarding these attributes.

12. Promote a diverse police force that is reflective of the community that the police department serves.

Racial profiling may arise out of misperceptions about other groups. Departments can help limit misperceptions by encouraging a diverse police force that reflects the demographics of the community. All personnel will be better informed about and more sensitive to issues of racial bias to the extent that they learn directly from their peers. A diverse and representative police force will also help bridge gaps between the police and the community and may help diminish perceptions of racial bias.

13. Rely on citizen complaints as a gauge of perceptions of racial profiling.

Departments that pay careful attention to, and that systematically assess, citizen complaints will better understand the perceptions of racial bias that exist in the community. Such an understanding will enable departments to refine racial profiling training and enhance related community outreach and public education efforts.

Recommendations to Agencies Engaged in Racial Profiling Data Collection and Analysis

14. Ensure the quality and accuracy of stop-and-search data.

Whether racial profiling data is collected voluntarily or by mandate, departments should ensure that the data are complete and accurate. Data auditing procedures should be conducted routinely to ensure that all stops and all searches are recorded. Officers who fail to complete stop-and-search data forms as stipulated in department policy should be held accountable through retraining or discipline. Auditing procedures also should ensure that the information officers record is accurate, recognizing that there may be some reasonable differences when officers are asked to determine race through their own observations.

15. Set the foundation for discussions with the community before the release of racial profiling data.

Once data are released, individuals and groups within the community inevitably will make their own assessments about the meaning of stop data. Law enforcement leaders will be in a better position to influence a productive discussion, however, if they have established cooperative and trustful relationships prior to the release of data. Toward that end, a police agency should make certain that the community is aware of the policies, training, and

accountability mechanisms that the agency uses to prevent racial profiling. Ideally, the community should be aware that disproportionality does not necessarily mean that profiling has occurred. Departments that already are thoroughly engaged in community policing efforts have a head start in these discussions and in maintaining a favorable image with the community.

16. Use racial profiling data-collection efforts and findings as a basis of dialogue with the community.

Police leaders should be prepared for a variety of opinions and viewpoints in response to release of data, including some respondents who automatically equate disparity with bias. Many members of the community, however, will realize that variations in the manner in which police are deployed across the community and variations in concentration of police may contribute to the disparity. Police leaders may find it useful to reenforce the message that stop data often relates to other indices such as calls for service and crime incidents. It so doing law enforcement executives must be careful not to be defensive or dismissive of community concerns. The inclusion of academics or outside experts in data analysis and presentation may prove helpful and can add credibility. These experts should be independent of the department so that they are perceived as credible.

Conclusion

This chapter has attempted to address the highly complex topic of racial profiling. It should be clear to police leaders that they must develop policies, training, and accountability practices to address the issue of racial profiling, both being attentive to community perceptions and committed to preventing its occurrence.

As to the formidable challenges of data collection, the foregoing discussion may have raised more new questions than it has answered. Some law enforcement agencies are required to collect data, and in many of those circumstances the methods of data collection are prescribed. Other law enforcement leaders need to be as aware of the complex issues as possible and assess voluntary data collection from a cost-benefit perspective. Major considerations in that analysis are the type and the extent of data to be collected as well as the sophistication of the benchmarking method to be used. Each of these considerations has implications affecting cost, data analysis, and conclusions that will be drawn from data. When presenting racial profiling data to the community, law enforcement leaders need to be aware of the limitations of analysis and the existence of various plausible explanations for disparities the data may reveal. In addition, they need to work carefully with the community to foster an understanding of the findings in the proper context.

Suggestions for Further Reading

For more information about some of the complex questions and issues raised in this chapter, the reader may want to refer to the following publications.

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VII. *Personnel Management
Issues in the Context of
Protecting Civil Rights and
Serving the Community*



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

The hiring of a law enforcement officer is the single most important function of any law enforcement agency. It is the officers whom we hire who provide service to our community members. The quality of all law enforcement service is reduced to the officers our community members are dealing with. No amount of organization or equipment will replace the human relation skill of the individual officer. Selecting the best candidates in the marketplace is paramount.¹

Chief Patrick Oliver (retired), Fairborn (Ohio) Police Department

Introduction

Among the most important steps that law enforcement leaders can take to ensure ethical policing and respect for civil rights is to maintain, protect, and preserve their agencies' most valued resource—their employees. Law enforcement leaders must develop targeted recruitment strategies, maintain careful selection processes, and retain experienced, high-quality officers. They must make their agencies places where officers want to establish and pursue long-term careers. Law enforcement leaders also must inspire their command staff and human resources personnel to be motivated by the goals of identifying, hiring, and keeping the best candidates. These candidates are those who possess not only the aptitudes and attributes to engage in traditional, action-oriented policing, but also those who will perform in increasingly multifaceted policing environments. Law enforcement leaders must establish and then sustain a cadre of officers who are dedicated to ethical service-oriented policing that is respectful of the civil rights of all community members while maintaining safety and public order.

Law enforcement leaders today face many challenges in recruiting, hiring, and retaining high-quality officers. With many departments facing a shortage of police applicants,² law enforcement leaders struggle to maintain targeted staffing levels while trying to attract the best candidates. Many factors have converged to contribute to the recruitment shortfalls that plague many departments. Low unemployment and a strong job market in the late 1990s meant that prospective candidates could approach agencies selectively or opt for higher paying jobs in the private sector. And, more recently, the military call-up in response to September 11 terrorist attacks has reduced the pool of potential candidates as well as the ranks of sworn officers who have been called to fulfill their commitments as military reservists.³ Together, these factors have contributed to record lows in the number of police applicants.

Law enforcement leaders also confront the challenge of retaining the officers they had successfully recruited, particularly young, college-educated recruits. These individuals are too often lured into private industry or other agencies. One study estimated that 14 percent of state and county officers in Florida and 20 percent of local police officers terminate within 18 months of their hire date.⁴ A recent study of North Carolina agencies found a 14.2 percent attrition rate overall, with smaller agencies experiencing a higher average attrition rate (18.2 percent) than larger agencies (10.2 percent). Officers leave the law enforcement profession entirely or seek employment in other agencies for many reasons including varied opportunities, better pay, and less stressful environments.

Regrettably, high turnover is costly and presents a significant challenge to law enforcement leaders. Training and recruiting are considerable expenses. This investment is lost when officers leave to join a neighboring jurisdiction or a different industry with better pay or better working conditions. Besides the recruitment and training costs, agencies confront an even higher cost when their experienced officers leave the force. Research in several departments has demonstrated that officers with more tenure are more judicious in their use of force⁶ and less likely to have complaints lodged against them.⁷ The benefits of having a good balance of experienced officers to complement and mentor new recruits cannot be underestimated. The retention of highly experienced, high-caliber officers committed to protecting the civil rights of the community they serve is critical for agency stability. Failure to select and retain exemplary officers can have devastating negative effects in the long run, including poor community relations and cooperation and increased fiscal liability through lawsuits and high turnover.

Chapter Overview and Objectives

This chapter offers a series of recommendations on how to handle the challenges that law enforcement leaders and personnel managers confront as they work to recruit, hire, and retain high-quality officers. The recommendations in this chapter are offered with the recognition that law enforcement agencies are continually being asked to do more with less and while many face shortages in applicants. This chapter urges law enforcement leaders and personnel managers to act with diligence and innovation. It also advocates that law enforcement leaders and personnel managers remain steadfast in their commitment to attracting and retaining qualified officers. The need to uphold the core values of community oriented policing, customer-service approaches, and civil rights protections—even in the face of significant recruitment and retention challenges—remains vitally important.

Recommendations

Recommendations for recruitment, selection, and hiring are provided under separate headings. Throughout this guide, community policing and protection of civil rights have been stressed as complementary themes. These recommendations are offered with this focus in mind and are not meant to be an exhaustive list of considerations for recruitment, selection, and hiring.

Recommendations for Recruitment and Hiring

In their efforts to recruit, select, and hire qualified officers committed to effective law enforcement while protecting the civil rights of all in the community, law enforcement agencies should do the following:

1. Undertake an agencywide self-assessment to determine the attractiveness of the agency as a workplace.

To meet current recruiting and hiring challenges, law enforcement leaders and their managers should undertake a serious assessment of their agencies then take the necessary steps to improve the attractiveness of their agencies as a workplace. Current officers are a vital source of information on workplace quality and satisfaction. Police management should rely on formal (e.g., focus groups or anonymous surveys) and informal methods to elicit officers' opinions on agency strengths and weaknesses.

First-line supervisors or designated personnel managers should also perform routine exit interviews with employees leaving the department to identify both the attributes that make the agency a good place to work and those that contribute to job dissatisfaction. In particular, exit interviews with officers leaving after a short tenure or through lateral transfers should focus on what specific benefits and changes in the organizational culture, if any, might have persuaded them to remain with the department.

Although police management may not be able to address all perceived agency workplace weaknesses—law enforcement leaders, for instance, have little influence over base salaries or standard benefits—they will enhance their ability to recruit and hire high-quality officers as they address deficiencies within their control.

Large agencies with sufficient financial resources may wish to hire outside consultants to perform management studies focused on recruitment, hiring, and retention issues. All agencies should continually strive to make themselves aware of the strengths and weaknesses of their departments as a place to work. This must remain a critical focus of law enforcement leaders and their personnel managers.

2. Build on the results of agency assessment to develop a recruiting and hiring strategy.

Given current shortages of potential police applicants, law enforcement leaders can no longer passively wait for applicants to come to them. To attract high-quality applicants, law enforcement leaders must develop proactive recruiting and hiring strategies that emphasize the strengths of their agencies when considered in contrast to private sector workplaces or other law enforcement agencies.

3. Capitalize on agency personnel for recruitment efforts.

Law enforcement leaders should use agency officers to recruit others. No one is better able to represent the strengths of a law enforcement agency than the officers who work within that agency. Two strategies are common.

The first is to offer incentives to existing personnel who refer successful candidates. Incentives can be monetary or something else of value such as days off. To ensure that staff are referring appropriate clients, the incentive should be tied to some achievement milestone for the referred recruit, such as qualifying for the academy or successfully completing academy training.

A second strategy is to identify particular officers who can be used specifically for recruitment and outreach, typically on a part-time basis. These officers will staff booths at job fairs or community functions and who can be identified as points of contact for interested persons.

Selecting which agency officers to use in recruiting efforts should be purposeful and result in putting forward those officers who most favorably represent the department, exhibit enthusiasm for the job, and are good ambassadors of the department. Leaders must carefully choose officers who represent the highest qualities of the agency and who will convey the agency's mission effectively and accurately. Police executives and senior officers should make certain that these recruitment positions are held in high esteem in the agency and are perceived as positions of status by those who fill them. Quality recruiting officers who exhibit the attributes most valued by the department are the most likely to draw recruits with similar characteristics.

4. Recognize police explorer troops, police athletic leagues, and other youth organizations as promising forums for future recruits.

Police agencies can succeed in attracting more recruits by beginning the recruiting process early. They can attract recruits of high quality and motivation by focusing on persons who are already predisposed to law enforcement careers. Hundreds of youth gain familiarity with agencies through explorer troops and police athletic leagues. Many law enforcement agencies recognize the potential of such programs to serve as pools of potential recruits. Agencies that currently do not support these programs should consider creating them. Developing these youth programs and actively encouraging program participation throughout the community can pay dividends once participants reach the age of eligibility.

Besides their recruitment benefit, these programs also provide the advantage of improving community outreach with youth. Involving youth from at-risk neighborhoods, may benefit the youth, the community, and the law enforcement agency. The structure and direction offered by these programs can steer individuals along the right path, while helping to draw recruits from the neighborhoods that are often under-represented within the ranks of policing.

5. Recognize civilians involved in community policing efforts as promising recruits.

Besides focusing on youth, law enforcement leaders and personnel managers also should recruit among the graduates of citizen police academies and persons involved in community policing efforts such as neighborhood watch groups or attendance at agency-community meetings. Among the individuals brought together by these activities are those already

familiar with law enforcement work and generally possess a strong commitment to law enforcement agencies and their missions. Appropriate individuals within these programs might be convinced to make law enforcement a second career. Agencies not currently engaged in these programs should consider creating them for recruitment and other benefits.

6. Consider changing maximum age restrictions.

Law enforcement leaders and personnel managers are increasingly looking to experienced adults as promising recruits. Many departments have increased the maximum age restrictions for recruits, while some departments have even done away with these restrictions altogether. Law enforcement agencies, such as the Hillsborough County Sheriff's Office discussed below, are realizing the benefits of hiring mature individuals with significant life experiences. Older recruits may handle stress more effectively and may be less prone to impulsive action than their younger counterparts with less life experience. Mature candidates with previous life experiences may be more attracted to community policing and the customer service facets of policing, on average, than young recruits who may be drawn by action-oriented facets.

Departments that have increased or done away with maximum age restrictions can expand their pool of potential recruits. Clearly, other considerations such as physical fitness and mental health must continue to be considered.

7. Develop recruitment strategies tailored to ethnic and minority communities.

Law enforcement leaders have long recognized the benefits of having agency personnel who mirror the communities they serve. While most agencies are dealing with overall recruiting and hiring challenges, many are experiencing even more acute challenges in recruiting and hiring minority and female candidates. The limited availability or hesitancy of minority group members to seek out careers in law enforcement is a reality in many jurisdictions. Research has consistently found that African-Americans and Hispanic-Americans have less favorable opinions of the police on average than do nonminorities. In addition, recruitment of candidates from within immigrant communities often is forestalled by requirements for U.S. citizenship. Recruitment remains difficult even among naturalized citizens or children of immigrants. Many children of immigrants may not perceive policing as a viable career, often because the police from their home parent's native countries are perceived as corrupt and as instruments of government repression. A text box on page 41 of Chapter 2, for instance, discusses how police in St. Paul, Minnesota, developed a citizens' academy specifically for the sizable Hmong population residing there. Similar outreach programs, geared toward educating immigrant populations about local policing practice and building trust, are becoming more commonplace in other jurisdictions.

The quality of relationships between individual departments and local minority communities varies widely. Some agencies still find themselves in the position of needing to overcome high levels of distrust within minority communities, yet many are making strides in minority recruitment. Certainly, the agency's wider approach to community outreach and record of

accomplishment in civil rights are important factors in building trust. The specific strategies discussed below should be considered when seeking to recruit more minority candidates. They are also consistent with the key tenets of community policing.

- ***When recruiting within ethnic and minority communities, work through existing community organizations, social and faith institutions, and media outlets particular to those communities.*** Particular attention should be focused on those organizations that have both stature in the relevant communities and a positive working relationship with the police.
- ***To enhance recruiting within ethnic and minority communities, develop and maintain good relations with key stakeholders including clergy, educators, business owners, and representatives of community organizations.*** A general commitment to reaching out to a wide cross-section of stakeholders across all communities in the jurisdiction creates a sense of equity and inclusion that can pay dividends in recruitment. Law enforcement leaders need to remain keenly aware of demographic changes and dynamics within all neighborhoods within their jurisdiction to identify new organizations and new leaders.
- ***When recruiting within ethnic and minority communities, select recruiters from within the department who have connections to these communities.*** Ultimately, the goal is to use high-caliber officers who can personally attest to the qualities of the department. Persons with a similar background as the potential recruits are able to relate more directly to the candidate.

The Farmington (Connecticut) Police Department applies several of these strategies in its efforts to attract minority and female recruits. A description of its recruiting efforts is posted on the department web site.

The department will work in conjunction with the Town Manager's office in establishing the recruitment efforts for the police department. Female and minority employees will participate in job fairs and other functions in area high schools to demonstrate a commitment to equal employment. Job fairs and similar community events will be a primary focus of the Town's effort to attract more minority candidates...The Department will send notification to community organizations with information for our website link to gather information on job openings. In addition, the consultant hired to do the testing process [will place] announcements in [multiple newspapers]. The department will update the website in conjunction with recruitment processes. The recruitment plan will be evaluated annually in October by the police department and Town Manager's Office.⁸

Source: Town of Farmington (Connecticut) and Police Department
Agency Profile: Population 23,641; Officers 411

11. Develop recruitment materials that accurately reflect agency interests in balancing traditional policing and community policing.

Departments that have adopted community policing approaches still retain traditional law enforcement functions. In an era of budget constraints, demands resulting from confronting the challenges of terrorism, and diminished federal funding for personnel, law enforcement agencies are required to do more with less. Consequently, today's officers are expected to be more well-rounded than ever before. Today's recruits need to meet the physical, cognitive, and moral standards that have long been the foundation of policing. They must possess the ability to cope with stressful situations. They must also possess other attributes that suit them to the unique demands of community policing and to work ethically, professionally, and effectively with culturally diverse communities. As one author states, "the model community policing officer must have the traits of kindness—not to be mistaken for weakness—and desire to serve as a potential mentor for young adults."⁹ While the need for officers with a wide array of attributes presents recruiting challenges, the call to hire officers on the basis of their commitment to service and their ability to interact with youth can actually expand the pool of potential recruits if police executives and their managers think outside of traditional policing.

When it comes to recruitment, many agencies still present themselves as largely paramilitary organizations with an emphasis on the action-oriented rather than service-oriented elements of the job. Some do this despite their concerted efforts to incorporate community policing alongside traditional policing in day-to-day operations. Recruitment materials should present an accurate and balanced image of all of the attributes expected of police officers. While agencies should continue to express the need for candidates who are physically fit and capable of reacting quickly to crisis situations, they must also communicate the need for candidates who possess considerable analytic ability, strong communication skills, a sense of diplomacy, and a commitment to community service. Agencies should make their allegiance to community policing evident in all recruitment materials. As they do so, they are more likely to target the right recruits. Edward J. Tully, a former FBI special agent and former director of the Major City Chiefs Association, summarized this approach well:

Do not use your limited resources pursuing individuals looking for the excitement in policing, as they will join anyway! Rather, look for those that believe and support the values of your organization. It is the part-time waiters or waitresses at your local restaurants, the tellers at your community financial institutions, the substitute teachers at your children's schools, or the salespersons at your favorite stores that can be the future of your agency.¹⁰

The textbox describing a program used by Hillsborough County Sheriff's Office in Florida outlines a comprehensive hiring strategy—including many of the elements contained in the recommendations above—that is grounded in a customer-service model of policing.

Hillsborough County Sheriff's Office: Hiring in the Spirit of Service

Building on their implementation of a community policing strategy that originated in the late 1980s, the Hillsborough (Florida) County Sheriff's Office developed a *Hiring in the Spirit of Service* program in August 2004. The comprehensive strategy addresses marketing, community involvement, job analysis, and candidate screening. The program integrates two mutually re-enforcing objectives; allowing the community to provide input on personality attributes that the sheriff's office should use in selecting recruits and hiring deputies who are devoted to community service. As a result of these efforts, the sheriff's office has devised a highly targeted marketing strategy to attract the officers who are committed to the agencies' mission and who strive to reflect the attributes that the community most desires.

After a series of meetings with community groups, the sheriff's office identified a set of desired traits for deputies: leadership, integrity, flexibility, interpersonal communication, and community service. This information obtained from the meetings led to the development of a questionnaire that was distributed to a cross-section of community group members. That questionnaire indicated that the top five skills desired were communications, admission of shortcomings, lack of procrastination, work patterns, and frustration tolerance.

As part of their recruitment strategy, the sheriff's office uses a cadre of deputies who convey to potential candidates their personal experiences and the reasons why they personally find their jobs rewarding. Printed testimonials from these deputies are used as part of the process and a high-quality printed recruitment packet, "*Courage, Integrity, Compassion: Could You Answer the Call?*," is widely distributed. The packet includes series of testimonials and basic information about the department, including agency mission, candidate requirements, and job benefits. The overall recruitment and outreach strategy is designed to achieve diversity within the department, not only demographically but also in terms of life experiences. The sheriff's office does not have a maximum age limit (but does require physical agility), which allows them to appeal to persons who may be looking for second careers.

Instead of just focusing on the paramilitary skills traditionally emphasized in law enforcement recruiting, the broad goal of recruitment is to attract persons with sound managerial, organizational, communication, and people skills. Recruitment strategies integrate the qualities of deputies valued by the community and incorporate them into the sheriff's office's pre-employment screening and testing processes.

The press release announcing the program is available at www.hcso.tampa.fl.us/Press_Releases/2004/August/04-326.htm.

Brochures and videos of "Hiring in the Spirit of Service" can be obtained from program manager, Lorelei Bowden, Hillsborough County Sheriffs Office (lbowden@acso.tampa.fl.us)

Source: Hillsborough County (Florida) Sheriff's Office
Agency Profile: Population 1,055,000; Officers 1,125

12. If necessary, recruit broadly beyond the jurisdictional boundaries.

Unfortunately, law enforcement agencies find themselves competing for scarce candidates. The New York City Police Department, the Los Angeles Police Department, and other large departments are engaged in ambitious national recruiting campaigns. As a result, small agencies and agencies whose salaries are below the regional norm face stiff competition. This not only affects their risk of losing qualified candidates but also puts them in the position of losing trained rookies and experienced officers through lateral transfers to other departments.

To remain competitive with agencies that recruit ambitiously at the national level, agencies must broaden their recruitment efforts while continuing to stress the benefits associated with working in their particular jurisdiction. Recruitment need not—and, indeed, should not—be limited to jurisdictional boundaries.

While potential recruits from smaller municipalities may be drawn to the big cities, the same big cities may contain potential recruits who may be lured by the benefits associated with smaller jurisdictions. Realistically, smaller departments may not have the power to draw candidates to the same degree that larger departments do, but they still should strive to recruit regionally. In addition, these departments could benefit by devoting some effort to assessing where current members of the force had been living when they applied and by comparing notes and strategies with nearby departments, particularly those of similar size.

13. Consider the benefit of using the Internet for recruiting and processing applicants.

Many departments are leveraging the Internet to inform the public about their agency and specifically to broaden their reach in recruiting candidates. While web sites can be an added resource for recruitment, they are not a panacea and may give rise to more work. For instance, a poorly designed web site may draw candidates who are not well suited for the agency's policing mission. This creates more candidates to process, many of which will be screened out. It is paramount for agencies to design their web sites so that they are consistent with their agency's mission and provide details about specific qualifications.

The following excerpts from San Antonio (Texas) Police Department, the Littleton (Colorado) Police Department, and the Phoenix (Arizona) Police Department demonstrate the ways in which web sites can become effective recruitment tools for hiring candidates committed to community service.

Our department is seeking men and women from all backgrounds who welcome a challenge, and share our philosophy of community service. To those who accept the challenge, we offer not only excellent training, great pay and benefits, and ample opportunities for advancement, but also the opportunity to provide a service to the community as San Antonio Police Officers.¹¹

Source: San Antonio (Texas) Police Department
Agency Profile: Population 1,144,646; Officers 2,054

The mission of the Littleton Police Department, in partnership with our community, is to protect life and property, safeguard constitutional rights, enhance the quality of life, and reduce fear through professionalism, problem solving, and personal commitment.¹²

Source: Littleton (Colorado) Police Department
Agency Profile: Population 43,000; Officers 72

"A great force in a great city"—The slogan used on recruiting billboards around Phoenix in 1955 really is as true today as it was back then. The main difference is that we don't refer to our department as a "police force", because we go beyond just being a "force" in the community. The Phoenix Police Department is a professional organization dedicated to providing unparalleled service to the community we represent. As such, one thing certain to never change is the fact that being a police officer is "A Job You Can Be Proud Of". This section of our web site is devoted to providing you with everything you need to know about becoming a police officer for our agency.¹³

Source: Phoenix (Arizona) Police Department
Agency Profile: Population 1,300,000; Officers 2,800

Using the Internet can reach a wider audience and, when carefully designed, can provide an opportunity to streamline a paperwork process. More departments are allowing applicants to provide basic information on line, which saves resources because department personnel do not have to enter information from pen-and-paper forms. In addition, more departments are following a strategy that now is widespread in the United Kingdom, using a “Do you have what it takes?” approach. These web pages can be effective ways to market the department, while providing an opportunity for prospective recruits to prescreen themselves.

Examples of interactive online application forms:

- Pennsylvania State Police (www.psp.state.pa.us)
- Philadelphia Police Department (www.ppdonline.org/career/career_apply.php).

The British approach to the online recruitment and applications can be found at the following sites:

- www.policecouldyou.co.uk/home
- www.policecouldyou.co.uk/apply.

As discussed above, these Internet approaches must meet “truth in advertising” standards. An attempt to lure persons with action-oriented narrative and graphics may attract the wrong balance of candidates. It will result in the need to screen out a significant number of applicants and may result in attrition when the action-oriented recruits find out what the job really entails.

Recommendations for Retention

Having worked hard to recruit and hire qualified officers committed to public safety and the protection of community members' civil rights, law enforcement leaders and personnel managers must continue to work to retain them. In their efforts to retain qualified officers, law enforcement agencies should do the following:

14. Provide opportunities for diverse and challenging work that is tailored to the specific interests of individual officers.

On a national level, the traditional commitment to establishing a career within a single organization is being replaced by a notion of serial employment. Law enforcement employment, however, continues to be presented as a career, with good reason. Law enforcement agencies can counteract the tendency of favoring serial employment by offering careers in which officers continually feel productive, valued, and challenged.

Law enforcement leaders and personnel managers should ensure that individual officers who exhibit aptitudes for particular types of work are recognized for special skill sets and are given opportunities to have exposure to or specialize in these areas. Agencies should offer training and educational opportunities to hone individual officers' skills and interests. For instance, individual officers could be encouraged to act as liaisons with particular communities, to perform outreach to schools, to engage in language immersion programs, or to become field training officers.

Law enforcement leaders should work particularly hard to establish recognition and esteem for all department positions. For instance, law enforcement leaders and personnel managers must recognize the critical role of patrol officers. In the event that opportunities for advancement within such roles are limited, they should create specialized positions, such as master patrol officers, to sustain the interest of their officers and create value and esteem for all positions.

15. Create an environment in which officers feel genuine ownership in the agency.

One of the most promising ways to retain high-quality officers is to ensure that they share in the agency's mission and act as vital contributors to that mission. Law enforcement leaders and personnel managers must empower their officers to become stakeholders in the organization. In many ways, community policing strategies are well designed to achieve this objective. Although community policing is implemented in a variety of ways in different jurisdictions, there is some evidence to suggest the community policing is associated with higher levels of job satisfaction.¹⁴ A genuine sense of joint ownership in the agency and the community is a promising strategy for retention.

16. Offer competitive compensation and benefits.

To the extent possible, law enforcement leaders and personnel managers should ensure that their officers are competitively paid and supported through job benefits. The level of pay itself is not the sole factor in retaining quality police officers. The total package of benefits as well as the quality and reputation of the department can be important considerations in drawing recruits.

The impact that law enforcement leaders can have on salary and benefit packages may be limited. At the very least, however, police executives should remain up to date about how surrounding jurisdictions compare in pay and benefits. They should also be prepared to make the case to potential recruits that some benefits may compensate for lower pay. Better health benefits or more opportunities for advancement and educational opportunities, for instance, may compensate for lower starting salaries.

17. Ensure that officers are given the support they need to handle the stresses of their occupation.

Law enforcement will always be a stressful occupation, but the varied expectations placed on today's officers heighten that stress. Today's officers are both crime fighters and engaged community problem-solvers. An officer may deal with a traumatic accident, put himself or herself in danger, handle a routine traffic stop, and respond empathically to a lost Alzheimer sufferer during the course of a single shift. The resulting stress manifests itself in higher-than-average rates of suicide, substance abuse, domestic violence, and symptoms such as post-traumatic stress disorder. Stress can reduce officer effectiveness as well as heighten the risk for verbal mistreatment of civilians and use of excessive force. Too many officers leave law enforcement prematurely because of stress. Stress can contribute to the need for disciplinary action and, ultimately, dismissal. Stress may shorten careers when officers feel compelled to leave because health concerns or concerns about relationships at home.

Law enforcement leaders and personnel managers must ensure that officers are given the support they need to deal with a stressful and demanding job. Law enforcement leaders may offer this support, in part, through the development of genuine early intervention systems and associated supervisory practices explored extensively in Chapter 3 of this guide. Early intervention strategies allow supervisors to identify problematic behavior and provide nondisciplinary intervention to help officers get back on track. In this sense, these systems aid law enforcement leaders in retaining officers by providing them with the support they need to deal with a stressful environment. Apart from or in conjunction with early intervention systems, many agencies also rely on employee assistance programs to provide support to personnel and their families in times of need. Law enforcement leaders and personnel managers must be steadfast in ensuring that these programs are perceived as aids to individual officers and not as parts of a punitive disciplinary system.

Conclusion

Recruiting, hiring, and retaining good officers who can simultaneously respond to the physical demands and stress of policing while maintaining a commitment to community service and respect for civil rights is a daunting task. This work is time-consuming and can be expensive. Careful recruitment and selection procedures should be thought of as a long-time investment. In responding to shortages, quick fixes such as lowering standards or hiring officers who have left other departments under questionable circumstances can have negative and costly repercussions, both in the short term and the long term. Lowering standards may result in higher rates of dismissal. Attempting to lure officers with flashy action-oriented recruitment drives with an emphasis on weaponry and high technology could result in attrition by officers once they discover that the job is not what was promised. Recruitment should not be treated as a process isolated from overall management. The image that the department projects to recruits must be consistent with the department's mission statement and reflective of its culture. Truth in advertising is critical for maintaining a department's credibility with the recruits, with existing staff, and with the community.

Suggestions for Further Reading

Police personnel issues evolve as the police profession evolves and society changes. Addressing current shortages in candidates for policing, while maintaining commitment to integrity, high standards, and sustaining a service-oriented mission, presents a formidable challenge to today's law enforcement executive. The two recent publications listed below speak to current challenges and efforts to overcome those challenges.

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VIII. *Data-Management
Issues in the Context of
Protecting Civil Rights and
Serving the Community*



DATA-MANAGEMENT ISSUES IN THE CONTEXT OF PROTECTING CIVIL RIGHTS AND SERVING THE COMMUNITY

To work effectively with the community law enforcement must be willing to share information. We must first have the ability to collect and manage information before we develop strategies to disseminate the information in ways that will inform and benefit the community. This openness will build trust.¹

Chief James Hussey, Cohasset (Massachusetts) Police Department

Introduction

To what extent can data-management strategies—particularly those that have been credited with helping police agencies improve efficiency in personnel management and public safety—be of help to police executives pursuing commitments to protecting civil rights and to policing from a customer-service perspective? Despite the fact that law enforcement agencies have made great strides in data management over the last decade, the answer to this question is still unfolding.

During the last decade, more agency leaders have asserted that data-driven strategies have played a major role improving the management of police agencies, perhaps even a direct role in crime reduction. Data-driven management is considered a cornerstone of the highly popular CompStat approach, which originated in the New York City Police Department (NYPD) and now is being emulated in scores of law enforcement agencies throughout the United States and the world.² According to Jack Maple, a former NYPD transit officer who later became a deputy superintendent, the success of CompStat relies on “accurate, timely intelligence clearly communicated to all.”³

The overall value of data for improving the functioning of law enforcement agencies has never been more clearly recognized and valued than in the present. Leaders have witnessed increases in the volume of data collected and the proliferation of CompStat-like data-driven strategies. The Chicago Police Department’s CLEAR (Citizen Law Enforcement Analysis and Reporting)⁴ program and the Tucson Police Department’s TOP (Targeted Operational Planning)⁵ program are two recent examples of ambitious data-driven management systems that are receiving acclaim for their comprehensiveness and sophistication.

Despite these broad and far-reaching advances, the new era of data-driven management still remains largely focused on *traditional* police data and missions. This traditional focus persists even though the mission of law enforcement agencies has expanded greatly over the

same decade in which technological advances have taken place. With proper organization and sound data-management policies, this chapter asserts that agency leaders can take action to ensure that data management strategies are used to enhance more contemporary (less traditional) agency missions, including the protection of civil rights, improving community outreach, and enhancing residents' engagement in the civil process.

Chapter Overview and Objectives

This chapter underscores the lessons addressed in previous chapters about the effective use and dissemination of data and highlights promising practices. This chapter stresses that the same benefits that have been derived from management and analysis of traditional police data can be achieved by using less-traditional data to improve contemporary police missions.

As policing has evolved from a reactive model to one that stresses proactive and preventive approaches, data collection has also evolved. As part of this process, some agencies are focusing more attention on indicators of police performance relevant to civil rights and community policing models that stress partnership, service orientations, and problem solving.

Prudent leaders are proactive in their use of both traditional and non-traditional data. Rather than waiting for crises to occur and potentially having their own data used against them, law enforcement leaders are taking proactive steps to use data to manage their performance and hone their public image. They are embracing data-driven management strategies not only to limit liability, but also to improve agency performance in the areas of civil rights and community policing. They are collecting data about issues such as use of force and citizen complaints to clarify their missions, enhance responsiveness to the community, measure progress, improve transparency, and to showcase their successes.

This chapter begins by briefly reviewing data-management issues raised in preceding chapters and then presents four core reasons why law enforcement executives should consider augmenting their collection of traditional data with nontraditional data. In addition, this chapter offers a series of recommendations consistent with this approach.

This chapter's recommendations regarding data collection, analysis, and dissemination focus specifically on nontraditional data. In many ways, however, these data create the same types of methodological questions and challenges raised by traditional measurements of police performance, data such as Uniform Crime Reports (UCR), calls for service, citations issued, arrests, and clearance rates.

Whether tracking crime or assessing officers' performance in respecting civil rights, law enforcement leaders must take the necessary steps to ensure optimal quality data and fully acknowledge the capacities and limitations of their data. Administrative data, no matter how carefully collected, will always carry inherent limitations. An intimate understanding of an agency's data-collection processes and data quality is critical. This is true whether conducting analysis solely for internal use or when sharing information with the public.

Data-Management Issues Raised in Preceding Chapters

The importance of data collection and analysis in the protection of civil rights is interwoven throughout the preceding chapters of this guide. As was discussed in Chapter 2, law enforcement agencies committed to community policing and community outreach often depend on data-driven management for problem-solving strategies and often rely on surveys of residents to assess performance from a customer service perspective. In departments of all sizes, successful early intervention strategies (Chapter 3) depend on systematically collected information that helps supervisors make informed decisions regarding interventions designed to address problematic behavior in officers before they escalate to misconduct that require disciplinary means. Early intervention strategies in a growing number of large departments are built around computerized data-management systems, some of which rely on very ambitious and comprehensive data-collection efforts. Data on civilian and internal complaints (Chapter 4) and on use of force (Chapter 5) are among the indicators most commonly used to assess officer performance in these early intervention systems. Through web sites and annual reports, more agencies are making aggregate-level data about the quality of police performance, in particular use of force and civilian complaint data, available to the public. Rather than treating civilian complaints and allegations of excessive force as isolated cases that need to be administratively adjudicated, departments are now recognizing they can treat these data as a barometer of citizen satisfaction and then analyze the data to spot patterns and craft solutions. The shift from adjudication of individual cases to a more comprehensive management perspective is consistent with the tenets of problem-solving approaches.

Law enforcement leaders are also facing pressing demands in response to allegations of racial profiling and are confronting decisions about whether or not to collect data on traffic and pedestrian stops (Chapter 6). Police leaders whose agencies have chosen to—or are being required to—collect racial profiling data remain in dire need of assistance in addressing complex issues of data collection, analysis, and interpretation. They confront significant challenges regarding how to best interpret and use findings to engage in constructive dialogue with their communities.

Finally, police leaders are facing challenges in recruiting, hiring, and retaining qualified personnel to meet the new challenges of law enforcement (Chapter 7). These challenges include additional responsibilities brought about by post-September 11 demands while striving to maintain commitments to community policing. Even as they try to do more with less, many leaders continue their efforts to make their agencies mirror the communities they serve. Given these realities, it would be difficult to overstate the importance of data collection, management, and analysis in assessing and managing civil rights protections and sustaining a commitment to community policing.

Rationales for Expanding Data Collection and Analysis by Including Nontraditional Data

Law enforcement leaders have heard the common adage that to manage effectively they must measure. Data collection and analysis are critical to effective policing, but these efforts can be daunting, time-consuming, and costly. The costs, however, of not adequately supporting data collection, maintenance, and analysis may be far greater. Quality data collection and analysis can improve law enforcement management and operational efficiency. Not having relevant data, or not having the ability to access and properly analyze the data, can increase an agency's liability risk and undermine its credibility.

In contrast, when a law enforcement agency engages in comprehensive data collection and analysis and shares that information with the public, it exhibits its ability to serve the community with fairness and transparency. Data collection and analysis can validate police performance and enhance public relations. Moreover, data can be most beneficial if managers treat data as a feedback mechanism and use it to retool policies, procedures, and practices for both traditional law-and-order missions and those defined from a customer-service perspective. As law enforcement leaders broaden their missions under the banners of community policing or improving quality of life, they must make every effort to spotlight their successes in these areas by using concrete measurement, systemic analysis, and public dissemination of findings in formats that the public can readily understand.

Police agencies benefit when they collect and analyze traditional crime data such as calls for service, traffic citations issues, crime incidents, arrests, and response times. Many of these are traditional measures that police executives use to focus on internal agency functions. Increasingly, police managers are recognizing the benefit of collecting and analyzing less traditional data, including indices such as community meeting attendance, citizen complaints, and satisfaction surveys, all of which help police gauge how well they are serving the community and protecting the rights of citizens.

Collecting and sharing nontraditional data relating to civil rights protections and community outreach can benefit law enforcement in at least four ways.

Benefit One: Data collection and analysis promote effective management and accountability

The first rationale for collecting and analyzing nontraditional data is the same as for collecting traditional data: data are critical to effective management. Even if law enforcement agencies collect these data only for internal uses (for some reason opting not to share data and analysis with the public), effective managers can capitalize on this information to assess officer performance, modify policies and training, fine-tune practices, develop new strategies, and hold individuals responsible. As has been discussed in the preceding chapters, leaders can readily track and analyze indices such as civilian complaints, civilian commendations, and use-of-force deployments with these objectives in mind. Fundamentally, this requires a commitment to collect and analyze these nontraditional indices with the same vigor and diligence that agencies routinely commit to collecting traditional police data.

Under CompStat-style management strategies, commanders may be held liable for spikes in crime or rewarded for crime reductions. They are reprimanded or rewarded based on their unit's ability to meet performance measures such as crime rates, activity levels, clearance rates, or reductions of overtime hours. If nontraditional data are collected, analyzed carefully, and understood in context, commanders can also be held responsible for upswings in civilian complaints or spikes in use-of-force incidents. At the same time, they could be rewarded when civilian complaint data show decreases or when citizen commendations attributed to unit personnel increase.

The Importance of Context in Analyzing Data Trends

As discussed with respect to early intervention systems in Chapter 3, contextual factors are always a critical consideration in the analysis of data. Increases in deployment of reportable use of force, for instance, may not necessarily be indicative of lapses in restraint among a department's officers. If analysis indicates that this trend corresponds to increases in subject resistance, the focus of attention could be directed to problematic groups or areas within the community rather than to officers. In a similar vein, use-of-force deployments and levels of civilian complaints will track statistically to some extent with levels of crime and arrest. Taken together, different work shifts and geographic assignments often correspond to different levels of risk exposure and different types of police-civilian encounters. Neighborhoods with higher densities of late-night liquor license establishments, for instance, may give rise to higher incidences of reportable use-of-force deployments and civilian complaints stemming from altercations with police. Managers and analysts always must gauge their interpretations of trends with these contextual factors in mind.

While it would be unwise to hold qualitatively different precincts or divisions to the same expectations, comparisons within units can be made over time. Each subdivision/shift can be assessed over time to determine whether it is moving in the right direction and in a manner that is consistent with the department's overall trends. A prototype for this type of analysis was illustrated clearly in the study "Can Effective Policing Also Be Respectful? Two Examples in the South Bronx."⁶ In that study, researchers found that while crime was dropping in New York City during a period in the 1990s, there was a corresponding citywide increase in civilian complaints. Although some observers would speculate that this indicated that increases in citizen complaints were an inevitable outcome of crime-control efforts, the researchers found evidence to refute that generalization. Specifically, they identified two precincts in the Bronx where both crime and citizen complaints dropped during the study period. On closer examination, the researchers were able to identify how the commanders in these precincts were able to oversee drops in both indices. Common contributing factors in both precincts were the strong leadership qualities of the commanders and their ability to identify and hold accountable those officers responsible for a disproportionate share of complaints. Although outside researchers conducted the analysis, similar analyses could be conducted by department analysts to assess internal trends and identify promising practices within a department that are worthy of emulation throughout the department.

Benefit Two: Data collection and sharing help enhance the credibility of the agency and contribute to building trust with the community.

A second rationale for law enforcement to engage in collection and analysis of nontraditional data is that these efforts can help engage the community and other important constituencies as allies, rather than as mere consumers of police services. Data presented in clear and compelling formats can go a long way toward informing the public, managing public relations, and actively engaging residents in community policing strategies. Agency leaders who strive to be proactive and deliberate in sharing data are in a better position to ensure that information is understood in context and will be better positioned to demonstrate their successes. In addition, law enforcement leaders can help cultivate common understandings of civil rights issues and remedies by routinely sharing outcome measures with the public. These proactive approaches clearly are better than those that are apt to be seen as reactive or defensive, such as responding *only* when critical incidents spark outside requests for data.

Sharing information with the public can facilitate two-way communication. Objective and clear data routinely made available to the public can help communities develop a fairer and more balanced perspective of the police and the actions that they take. At the same time, police will be in a better position to access accurately and realistically the public's reaction to the data and their general perception of the agency.

Benefit Three: Data collection and analysis support broadly defined problem-solving strategies and partnership building.

A third rationale for collecting and analyzing nontraditional data is closely related to the second. Collection of these types of data can expand police-community problem-solving efforts. While community members expect departments to keep them safe, they also expect departments to be responsive to their needs and treat them respectfully and fairly. In some jurisdictions, residents have come to rely on the police to help them become more engaged in civic processes. The same problem-solving strategies that have won favor in addressing crime and public disorder can be used to assess civil rights and community outreach problems and to craft joint solutions.

Analysts may uncover, for instance, that the police are responding to a flood of calls from an immigrant community but are not getting members of that community to attend local precinct meetings. When a police leader takes proactive measures to reach out to leaders within this community, the department can begin to develop broader community networks.

Discussions about the data and continued analysis of information with leaders from the immigrant community can be useful for developing collaborative approaches and building partnerships. Having cemented relationships with key community stakeholders, police can work collectively with leaders to help foster new relationships with the wider immigrant community and to cultivate long-term relationships. Several examples of just this approach were provided in the Chapter 2 on community policing. Data help the police and community to understand and define issues from a similar perspective; data form a foundation for constructive partnerships; and data provide the ability to measure progress. These are key components of the problem-solving process.

Benefit Four: Data collection and analysis efforts can be used to establish new allies and bring more resources to the table.

A fourth reason for expanding data collection and analysis efforts is that relevant outcomes, particularly successful ones, can be widely shared. When police inform journalists, legislators, and other government officials about what they do they take a proactive role managing their public image. Officials from other government agencies, such as the mayor's or governor's office, will want to associate themselves with successful practices and positive outcomes. This can result in positive exposure and the funding necessary to maintain effective practices.

Risks of Not Sharing Data with the Public

If the benefits of sharing data are not enough to convince leaders, considering what happens when agencies do not share data may be compelling. In the absence of adequate data sharing, the public, the media, and oversight agencies may be prone to draw their own conclusions. Without the proper context, they may be more apt to engage in knee-jerk responses to exceptional events like a highly publicized use of lethal force, or fall back into the politically expedient response of blaming the police.

Collecting and sharing relevant data can be invaluable to law enforcement leaders by helping put isolated incidents in a broader and more definitive context. A chief with reliable and compelling data about an overall downward trend in use-of-force deployments or civilian complaints, for instance, will be in a better position to quell public outcries when controversial incidents occur. Similarly, a sheriff who can readily demonstrate that his or her deputies' lethal-force deployment rates compare favorably to similar jurisdictions will be in a better position to manage public relations when isolated use-of-force deployments raise public concern.

Recommendations

Recognizing the benefits discussed above, this chapter's recommendations are focused on basic data-management issues that will promote data sharing and will optimize the value of the data shared, particularly data that relate to civil rights and community outreach.

These recommendations are not intended to be an all-inclusive treatise on data management. Presented in this manner, law enforcement executives need not be experts in data management or statistical analysis to find the recommendations useful. Recommendations appear under three categories: data collection, data analysis, and data dissemination.

Data Collection Recommendations

In their data collection efforts, all law enforcement agencies should do the following:

1. Capitalize on sources of data that already exist within the department.

To assess and manage their performance in protecting civil rights and promoting community policing, law enforcement agencies should make full use of data that they already routinely collect. As police agencies have expanded their mission beyond traditional policing, data other than those associated with reactive responses to crime have become increasingly relevant. As a result, a fair amount of data relevant to civil rights protection and community policing is already collected for routine administrative purposes.

Although these data are collected with increasing frequency, the data are not always fully used for purposes of management and evaluation. For instance, data on citizen complaints or reportable uses of force may be tracked to assess individual officers through an early intervention system. Partially as a result of alleged civil rights violations and the imposition of several consent decrees and memorandums of agreement, for example, more departments are tracking their deployment of canines as a force-control option. Departments and units are being held accountable for reducing the overall deployment of canines in this manner and for keeping their bite-to-release ratios to a minimum.

These types of data are being used in departments to assess the overall direction of the department or to compare whether all units are moving in the right direction. Prudent police executives and managers should make the best use of the following types of information and use it to assess and refine their protections of civil rights.

- Use-of-force incidents, ideally broken down by types of deployment/equipment use, by geographic unit, and by subject demographics
- Citizen complaint data, ideally broken down in the manner mentioned above
- Traffic stop and pedestrian stop data with sufficient detail to assess racial profiling
- A broad range of data used within early intervention or personnel performance management systems.

The public expects both equal protection and equal service from the police. Police also have at their disposal administrative data that can be used to assess whether they are serving the needs of the public and whether they are serving all constituent groups within their community effectively and equitably. Administrative data used to assess and refine community policing could include the following:

- Community participation at police-sponsored meetings (e.g., monthly precinct or beat meetings), for comparison purposes ideally broken down by the participants' gender, age, race/ethnicity, and area of residence
- Police attendance and involvement in community-sponsored meetings and activities, including those sponsored by churches, civic organization, or tenant associations
- Community participation in police-sponsored activities such as police athletic leagues, police explorer programs, or citizen academies, ideally broken down by the demographic categories listed above
- Community volunteer participation in the agency.

Police agencies should use such information to identify particular groups or neighborhoods for which additional outreach efforts may be warranted as well as to document agency successes such as improvement in minority participation.

2. Agencies should continually seek to expand nontraditional data-collection efforts

To assess and manage their performance in protecting civil rights and promoting community policing, law enforcement agencies should review and expand their data-collection efforts on a continuous basis. As police agencies have adopted community policing and customer-oriented approaches, many have successfully expanded their use of surveys and customer feedback. This enables agencies to compensate for limitations associated with administrative data. For instance, little research exists to shed light on the extent to which the volume of citizen complaints that an agency receives is a reflection of the behavior of its officers or its openness and willingness to receive and investigate complaints.⁷ Collecting data on citizens' opinions of police performance through systematic surveys is one way to offset some of the limitations associated with administrative data. Survey data can also serve as a method of cross-validating administrative data. If survey data indicate that satisfaction is increasing and that misconduct complaints against officers are also increasing, this may actually indicate that efforts to make the citizen complaint process more open have been effective.

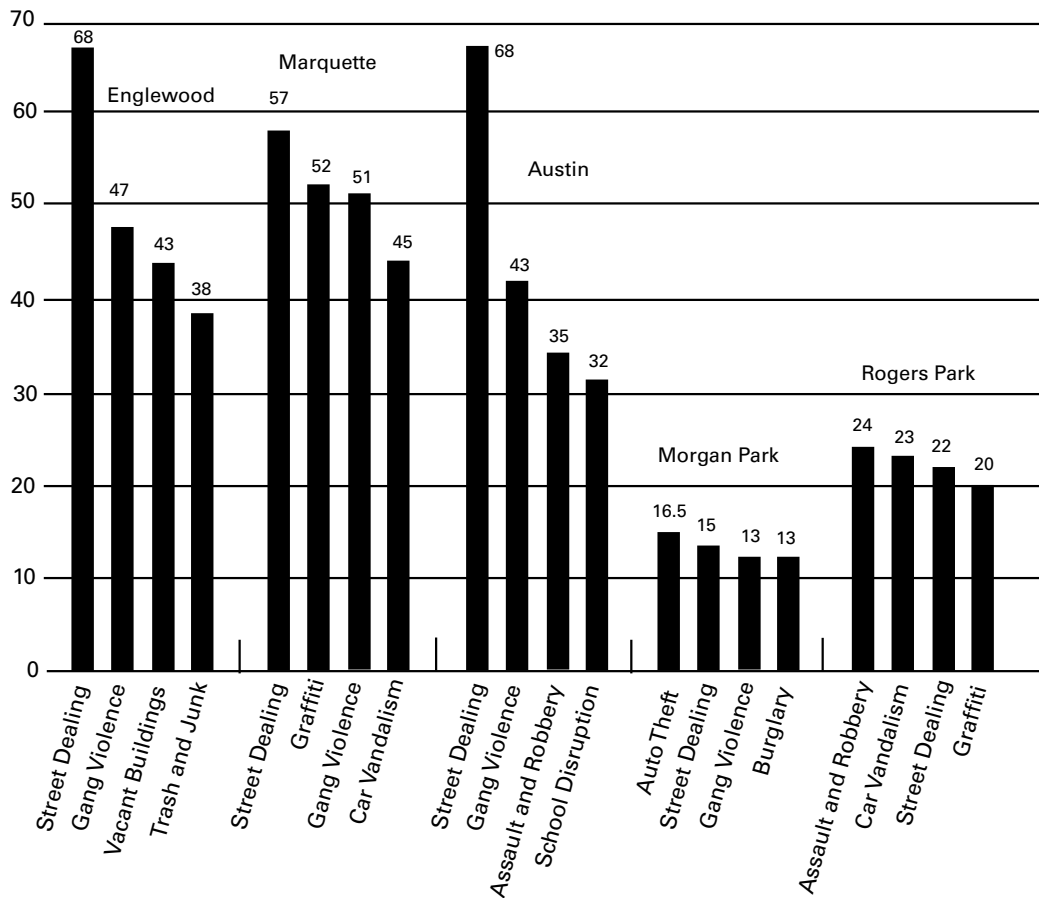
Using citizen complaints to assess police performance is critical, for instance, but it must be recognized that not all persons who have experienced negative encounters with the police will report them. Indeed, the willingness to complain (or to compliment) the police may vary considerably across the jurisdiction or by demographic groups. Surveys, whether sophisticated and scientific or more modest in design, can be of great benefit, as discussed below.

Agencies should consider two basic types of surveys and recognize the relative benefits and limitations of each.

- Use community surveys that strive to be representative of the jurisdiction at large and that can represent the view of distinct communities within the jurisdiction

Law enforcement agencies that embrace community policing often consider community surveys a core component of their data-collection strategy. Community surveys are very flexible. Questions on community surveys can be tailored to address issues that are of concern to police managers or issues that are of concern to community members. Questions also can be designed to identify and compare issues confronting different communities served by the police department. The communities may be defined geographically or by demographic traits.

Biggest Problems in Experimental Districts: Wave 1 Survey Results



The graph displayed here, for example, illustrates the responses elicited through a community survey conducted in five police districts in Chicago at a time when the police department was piloting its community policing program.⁸ These responses demonstrate quite clearly the types of problems that are shared across these communities as well as those

that are unique to particular communities. Such data can be valuable to district commanders when planning their community policing strategies and working with the community to establish neighborhood-specific problem-solving priorities.

While similar types of conclusions could possibly be gleaned from existing data sources, such calls to station houses or crime reports, these would be subject to a reporting bias because different communities may be more or less willing to call the police. A random scientific survey can compensate for some of these statistical biases and can help to validate inference drawn from administrative data.

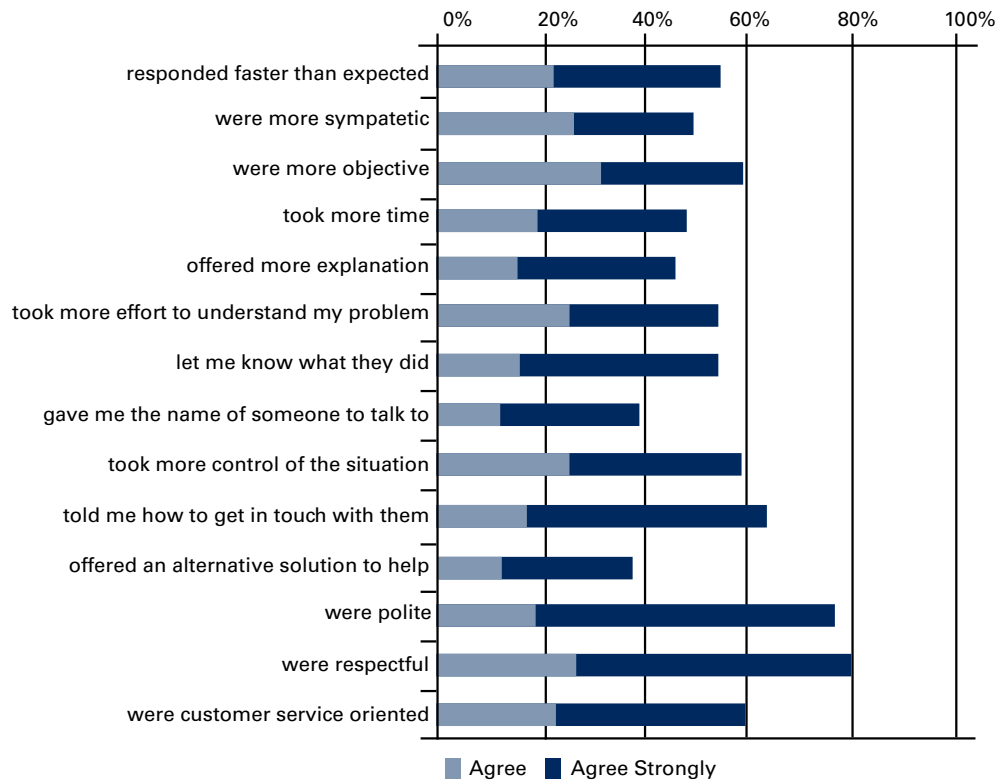
Community surveys, in particular, can be crafted to assess whether citizens are satisfied with different facets of police service. The graph titled “2004: Citizen Satisfaction with Police Responsiveness” illustrates how residents in Shoreline, Washington who reported having direct interactions with officers from the King County Sheriff’s Office—the agency with which the city contracts to provide police services—rated officer responsiveness in 2004.⁹

Citizen Survey Results Re: Officer Responsiveness

The City of Shoreline via Northwest Research Group administered the Police Satisfaction Survey in 2004. Shoreline anticipates surveys again in the fall of 2007.

Citizens of Shoreline *who interacted with the police* gave the following responses to survey questions about police officer responsiveness.

2004: Citizen Satisfaction with Police Responsiveness



Community satisfaction surveys can also assess whether levels of satisfaction vary across communities. Groups within a jurisdiction may vary in their satisfaction with police services. In larger jurisdictions, agencies may wish to collect survey data in sufficient sample sizes and with full demographic information about the respondents to make comparisons across different geographic areas and across different groups defined by variables such as race/ethnicity, age, gender, and home ownership status. A wide variety of studies and national opinion polls demonstrate that levels of citizen satisfaction are statistically related to these demographic factors.¹⁰ For assistance in conducting community surveys see the publication *Conducting Community Surveys: A Practical Guide for Law Enforcement Agencies*.¹¹

• **Use opportunistic (nonscientific) surveys.**

Police departments need not limit themselves to scientific surveys. Surveys that are designed to be scientifically representative can be expensive and time-consuming, in large part because of the rigorous procedures and standards required for obtaining random samples. Other options, such as short questionnaires distributed in neighborhoods, distributed on car windshields, or made available on an agency’s web site, can be collected more easily and cheaply. They can still be very useful, but must be interpreted with more caution than representative scientific surveys.

Increasingly, police departments are collecting data using consumer-based feedback approaches through the Internet. While similar in format to those discussed earlier, these surveys are considered *opportunistic* rather than *scientific* because participation is voluntary. The graphic represents a portion of an opportunistic survey form made available on the web from the Kent Police in England.¹²

Q4) In your opinion what priority should Kent Police give to each of the following? (Please tick the appropriate answers)				
	High Priority	Medium Priority	Low Priority	No Priority
Reducing serious crimes i.e. murder, rape	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Protecting children from abuse	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Fighting Drugs	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Reducing burglaries for peoples homes	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Providing information and advice to the public	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Answering 999 telephone calls	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Providing a visible Police presence	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Reassuring victims and witnesses of crime	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Reducing vehicle crime	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Responding to 999 calls for assistance	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Reducing public disturbances i.e. fights	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Protecting people from domestic violence	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Answering non-999 telephone calls	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Reducing crime against minority groups	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

While such data collection can be of real benefit to police departments, it is important to sound a clear note of caution regarding opportunistic sampling. The voluntary nature of these types of surveys makes them prone to statistical bias. Responses are likely skewed by the fact they are available only to persons with web access. Also, people with the strongest opinions—either for or against a given policy or practice—are most likely to respond to surveys such as these. No generalizations can be made about the wider community because the findings based on opportunity samples reflect only those opinions of persons responding to the survey or data-collection instrument. If data from opportunistic surveys are shared with the public, the information must include a disclaimer to the effect that the data reflect the results of a nonscientific survey.

Another example of an opportunistic data-collection effort is the Maryland State Police’s use of traffic stops as an occasion to get feedback from motorists. The form below provides a systematic way to collect both commendations and complaints of citizen-trooper interaction in traffic stops.

COMMENDATION/COMPLAINT FORM	
Please provide the following information if you wish to commend or express your concerns about the actions of a Maryland state trooper.	
YOUR NAME _____	or call 1-800-525-5555 In Maryland
YOUR ADDRESS _____	1-800-333-9890 Outside Maryland
DATE/TIME/LOCATION OF ENCOUNTER _____	TDD 1-410-486-0677
TROOPER’S NAME & ID _____	
DESCRIBE ENCOUNTER _____	

MSP 225(8-03) DETACH THIS CARD, PLACE IN ENVELOPE, APPLY POSTAGE AND MAIL TO ADDRESS ON REVERSE SIDE.	

In this particular example, the respondents are allowed to describe the nature of the contact in their own words. This narrative information is systematically reviewed by supervisors to assess the performance of individual officers and to assess aggregate patterns in the agency and across geographically defined troops.

This type of free-field response format does not limit the type of information a person may submit. Since the response is open-ended, the type of information submitted may be rich in content but may be more difficult to analyze statistically. Supervisors or analysts at the Maryland State Police first would have to code information from the text to tabulate how many complaints alleged rudeness, excessive force, or racial profiling.

Agencies are increasingly relying on their web sites to collect both complaint and commendation information. The Fairfax County (Virginia) Police Department¹³ (www.fairfaxva.gov/Police/inform.asp) and the Phoenix (Arizona) Police Department¹⁴ (www.phoenix.gov/EMAIL/emcommend.html) are two of many examples by which feedback can be submitted online.

3. Agencies must pay close attention to data quality and completeness.

All organizations collecting data confront data quality and completeness issues. Given the scope of administrative data collection occurring in law enforcement agencies, these concerns range from mundane issues such as mis-keyed data to major issues such as misclassifications of crimes.

In law enforcement agencies, data analysts and data consumers must also recognize that data frequently tell only a partial story. For instance, law enforcement leaders recognize that UCR data reflect only those crimes known to the police rather than all crimes occurring within a jurisdiction. In addressing data relevant to civil rights protection and the promotion of community policing, data quality concerns are critically important.

The following recommendations specify further law enforcement agencies' obligations to control the quality of the data they collect.

- **Collect data in a standardized and uniform manner.**

Law enforcement agencies must make every effort to ensure that data are collected in a standardized and uniform manner. This is true whether the agencies rely on existing administrative data, community surveys, or customer feedback forms. Even in the case of administrative data, the importance of quality assurance and consistency of data collection cannot be overstated. The collection of racial-profiling data, for instance, illustrates the complications that can arise in the process of standardization. The collection of racial-profiling data is an inherently subjective determination—officers must ascertain the race or ethnicity of a motorist based on their perceptions—and yet every effort must be made, through training and data instrument design, to assure as much consistency as possible. Agencies must train officers specifically on how to fill out traffic stop forms. If, for instance, a traffic stop form contains the options “Black,” “White,” and “Hispanic,” the agency must prepare an officer to record information about an individual he perceives to be Black and Hispanic. Perhaps the agency will change its form to include categories such as “White-Hispanic,” “White-non-Hispanic,” “Black-Hispanic,” “Black-non-Hispanic,” etc., or perhaps the agency will direct officers to record Hispanic ethnicity in a field separate from race. In any event, standardization is critical.

- **Offer clear operational policies on data collection.**

Just as agencies must ensure that officers collect data in a standardized and uniform manner, they must ensure that officers know when such data must be collected. Agencies must offer clear operational policies on data collection. For instance, an agency must specify whether or not it requires officers to collect racial profiling data for all traffic stops or only for those stops that result in a formal action. Alternatively, in the case of pedestrian stops, agencies must

draw clear distinctions between a street detention that requires the completion of a form from any other type of pedestrian-officer interaction that does not require data collection. Departmental policies and training must be consistent and clear. If they are not, officers will not complete data forms consistently and, as a result, missing observations will become a threat to the integrity of the agency's data collection and analysis efforts. Inconsistencies in data collection can skew results. Agencies must not collect incomplete or inconsistent data only to have analysis of these data result in misinformation.

- ***Engage in routine data auditing and validation.***

To maximize the collection of complete, consistent, and accurate administrative data, agencies should engage in routine data auditing and validation. Law enforcement supervisors routinely and rigorously review and approve traditional data-collection forms such as incident and arrest reports, as well as nontraditional data-collection forms, including use-of-force report forms and citizen complaint forms, which are used to assess civil rights protections and to promote community policing. In the case of racial profiling data forms, for instance, agency supervisors may check officers' designations of driver race/ethnicity against department of motor vehicle data to ensure accuracy. Routine data auditing may reveal whether particular individuals or units exhibit a greater-than-normal tendency to fall back on "unknown" or "not applicable" as a response. The same review and quality assurance measures that are undertaken for the purpose of assessing individual officers and to make sure that the forms are in compliance with policy also will enhance the reliability of aggregate statistical analyses.

To ensure compliance with operational policies governing data collection, agencies have been known to use sting audits. For instance, in its consent decree with the Los Angeles Police Department, the Department of Justice calls for sting audits to identify officers "who discourage the filing of a complaint or fail to report misconduct or complaints."¹⁵ While the main purpose of these audits is to ensure compliance with policies, procedures, and ethical requirements, such audits also help to enhance the reliability of the data collected and analyzed.

Data Analysis Recommendations

Once data have been collected, the data must be analyzed. Data analysis generally requires specialized skills, including a familiarity with statistics and research methodology. To respond productively to the results of data analysis, police executives, managers, and, when appropriate, the public, must understand the information. Law enforcement data analysts, therefore, must ensure that the results of their analyses are accessible, are presented in a straightforward manner, and are comprehensible. The following recommendations address such steps.

4. Acknowledge the limitations inherent in data.

An accurate understanding of data analysis and results depends on a keen awareness of the limitations often inherent in administrative data. Data analysts must make such limitations clear to their chief, supervisory personnel, and the public. In the analysis of traditional

crime data, for instance, when presenting a department's annual UCR crime counts or rates, analysts routinely make clear that they have analyzed "reported" crime or "incidents known to the police." It is important to distinguish between these known data and the total number of crimes (which includes an unknown number of unreported crimes).

The same caveats routinely applied to traditional data should be applied to nontraditional data. Analysts should make clear that indices such as citizen complaints, for example, are prone to similar underreporting. Not every citizen who has a grievance against an officer will file a formal complaint.

Analysts should also make clear that the implications of such underreporting could be affected by a host of factors. In the case of citizen complaints, for instance, it is important for analysts to communicate the fact that the number of citizen complaints filed can be affected by factors such as the openness of the complaint process and that, for this reason, making comparisons of the number of complaints filed across different law enforcement agencies is inadvisable.

5. Analyze and interpret data in context.

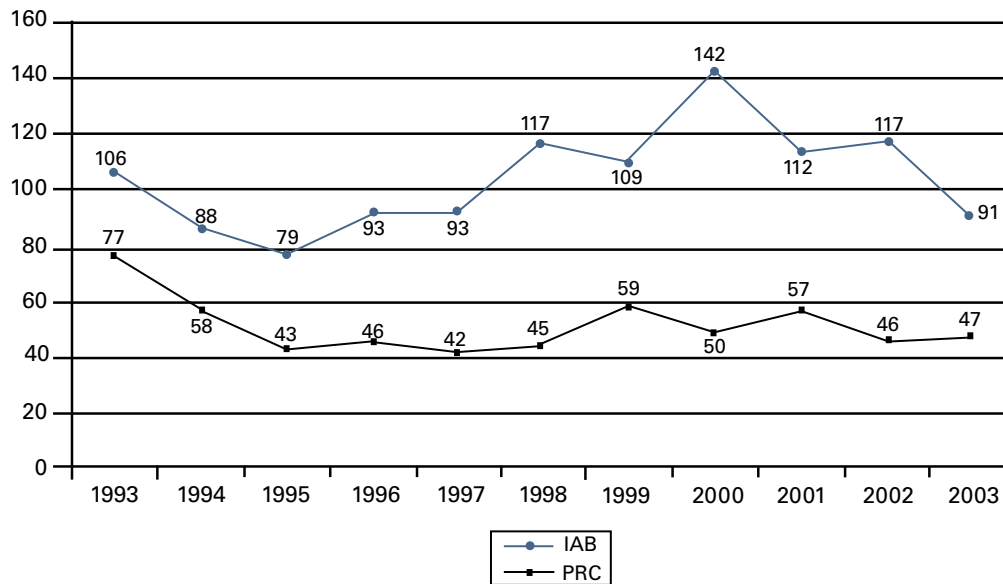
Analysts should make clear that the results of their data analysis must be placed in context to be understood correctly. The public—and sometimes even police executives and managers—may see rising and falling trends in crime incidents, use-of-force incidents, or citizen complaints and feel inclined to make inferences about these trends without considering context. For instance, community members may be alarmed to learn that the number of crimes in a jurisdiction rose 30 percent in a given year until they understand that the jurisdiction's population increased by 40 percent in the same year.

Similarly, community members may be concerned about a rising trend in citizen complaints. If this increase, however, is the result of policy changes dictated by a federal consent decree that required the agency to make its citizen complaint process more accessible and less burdensome, an apparently alarming spike in citizen complaints should be presented and interpreted in the proper context. Analysts, whether they are sworn officers or civilian employees, must be trained and proficient in data analysis and familiar with the capacities and limitations of agency data so that the information can be presented in the proper context.

The general term for putting one data measure in the context of another data measure—such as understanding the number of crimes in the context of a population shift—is called normalizing the data. Following the logic of data normalization, analysts should assess trends in citizen complaints or use-of-force incidents within the context of those police activities most likely to generate complaints or necessitate the use of force. For instance, if the number of traffic citations and arrests rise, a commensurate increase in the number of use-of-force incidents may not be alarming.

Analysts should regularly normalize data. In general, the number of citizen complaints should be presented in the context of the number of police-citizen contacts. Similarly, the number of use-of-force incidents should be presented in the context of the number of arrests. Analysts who establish ratios of such as these, allow police executives, managers, and, when appropriate, the public to understand trends in their proper context.

**Comparison of Numbers of Complaints Received –
PRC & IAB**



Analysts also facilitate understanding of data by establishing comparisons between data. Graphics should provide viewers with the opportunity to compare and contrast related indices. The graph included here illustrates trends of citizen complaints for the Berkley (California) Police Department by comparing those processed through the independent Police Review Commission (PRC) to those processed by the department’s Internal Affairs Bureau.¹⁶

6. Analyze data over sufficient periods of time.

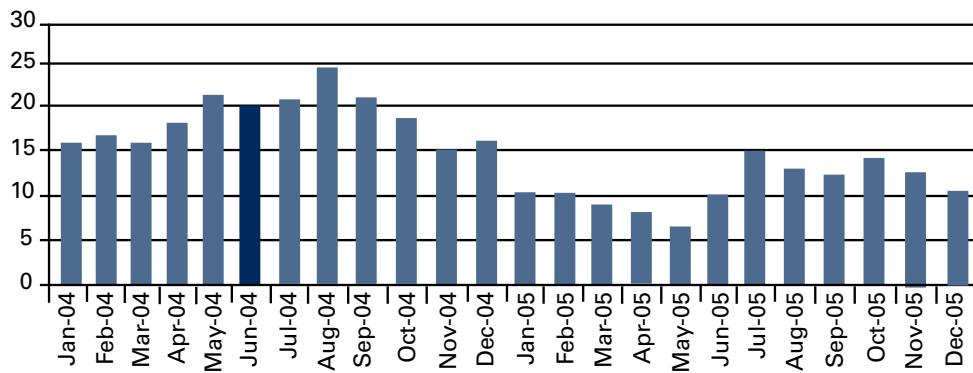
Of course, trends in data emerge over time. Analysts must assume responsibility for ensuring that law enforcement executives, managers, and, when appropriate, the public, understand trends accurately by presenting them over a sufficiently long period of observation.

Truncated periods of observation may yield inaccurate or misleading results. For instance, in the following hypothetical example, the first graph would seem to suggest that a department’s verbal judo training had no clear impact in the 6-month period following

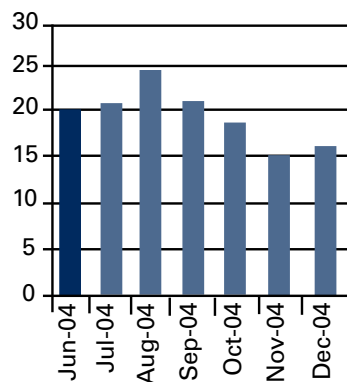
implementation. If the period of observation is extended to include a longer period both before and after the training, however, the implications about the effectiveness of the training are altogether different.

The second graph allows the viewer to recognize that use-of-force incidents are seasonal and that use-of-force deployments generally increase in the summer months. As a result, the viewer presented with the first graph may inaccurately conclude that the department's verbal judo training failed while the viewer presented with the second graph is likely to attribute the increase in use-of-force incidents immediately following the verbal judo training to the arrival of summer. As a result, while the viewer of the first graph may advocate discontinuing verbal judo training, the viewer of the second graph would recognize—accurately—that the number of monthly use-of-force incidents from January to May 2004 is substantially lower than that for January to May 2004 and recommend that the training be continued.

Use-of-Force Incidents: Before and After Verbal Judo Training in June 2004



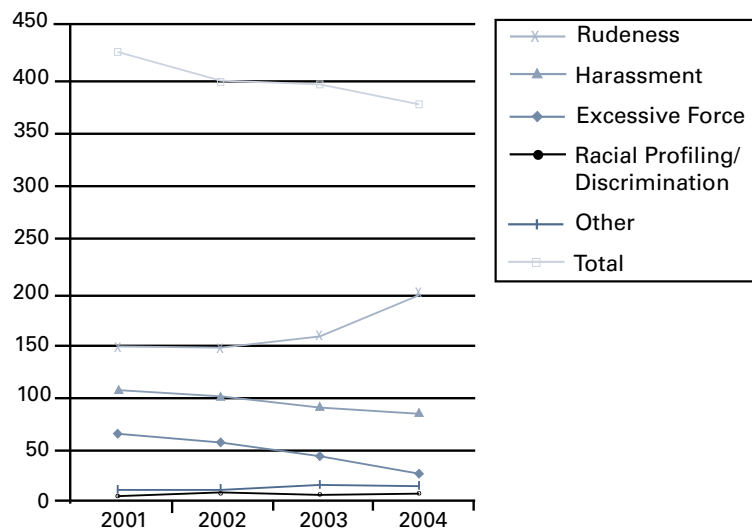
Use-of-Force Incidents: 6 Months Following Verbal Judo Training in June 2004



This hypothetical example illustrates a general truth: it is vitally important to assess trends over a sufficiently long period of observation. This is true when police executives are assessing the impact of a programmatic change, a change in policy, or assessing the impact of the introducing new equipment. Ensuring that a sufficiently long period of observation is established may be particularly critical following the introduction of practices or equipment that may be viewed as controversial. For instance, analyses regarding the introduction of conducted energy devices (CEDs or Tasers™) should track data for months before and after their introduction to provide an accurate appreciation for the effects of this new technology. Examining trends over the long term results in more meaningful, reliable analyses.

7. Break data down into meaningful categories (disaggregation).

Whenever possible, data should be broken down into discrete categories to make the analysis more meaningful. While it is useful to know, for instance, whether citizen complaints are rising or falling, it is even more meaningful to know more specifically whether citizen complaints regarding rudeness, racial profiling, and excessive force in particular are rising or falling.

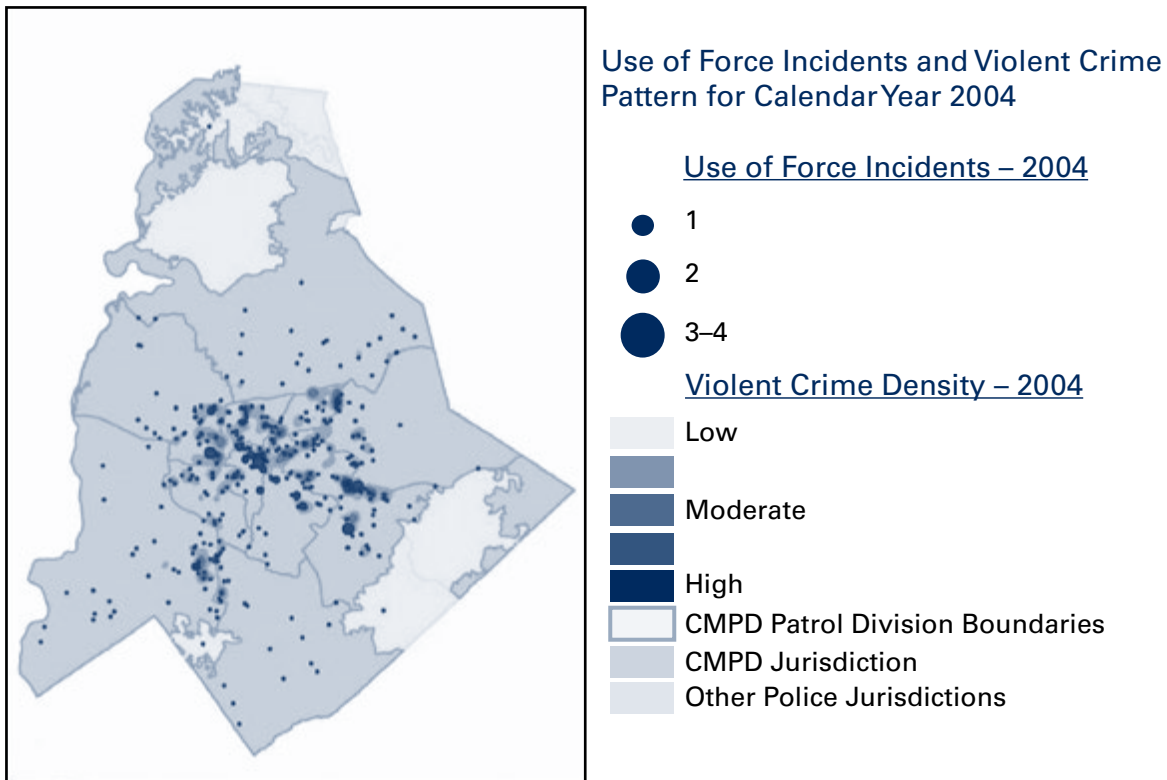


The hypothetical graph presented here demonstrates the usefulness of dividing total citizen complaints into discrete categories. Police executives and managers responsible for designing training initiatives would surely want to note that while the number of total complaints has fallen during 4 years, the number of complaints regarding officer rudeness has actually increased.

Data should also be presented with relevant contextual factors. Indicating the rate of complaint per officer would be particularly important, for instance, if the size of the department changes appreciably over time.

8. Map data and results when possible.

During the last decade, law enforcement analysts have embraced mapping as an effective way to understand the distribution of crime within their jurisdictions and to respond more effectively to public safety problems through tactical and strategic analysis. Agencies are now beginning to realize these same benefits as they work to protect civil rights and promote community policing. Analysts within the police and from community-based organizations now are beginning to map use-of-force incidents and citizen complaints to understand their geographic distribution, interpret the patterns, and to plan accordingly.



Analysts should be sure, when mapping nontraditional data such as use-of-force deployments or citizen complaints, to normalize the data or put it into its proper context. The graphic included here, from the Charlotte-Mecklenburg (North Carolina) Police Department's 2004 Internal Affairs Annual Report, illustrates the utility of such data normalization in mapping.¹⁷

The map clearly shows that the geographic concentrations of use-of-force incidents correspond to the concentrations of arrests. The department uses similar maps to illustrate that use-of-force incidents also geographically corresponded to other police activities such as violent crime incidents, citizen calls for service, and officer-initiated computer-aided dispatch calls. Such maps can be effective tools for guiding discussions with community leaders about the factors associated with the use of force.

9. If necessary, hire staff with data analysis skills and/or use consultants, including university based researchers.

Data analysis ranges from the basic, such as tracking crime levels or community meeting attendance over time, to the highly complex. Collecting, analyzing, and drawing inferences from racial profiling data or engaging in scientifically defensible evaluations of innovative agency programs, for instance, require expertise in statistics and research methodology. Executives in larger agencies sometimes have the luxury of hiring skilled analysts and researchers that smaller departments cannot afford. Leaders of agencies of any size occasionally may need to hire research experts.

A recent IACP publication on improving partnerships between police leaders and university based researchers provides practical solutions for making the most of these partnerships.¹⁸ Independent and objective assessment of agency performance is among the benefits of these partnerships. Openness to sharing data and being evaluated by outside experts also helps build community trust. Use of university based researchers can be more cost-effective than hiring private consultants, particularly when the data analysis meets the needs of both the police agency and the university researcher. The work of independent university researchers may be supported by grant funds and a department's willingness to engage outside researchers and evaluators can increase its opportunity to obtain grant funds. Under fiscal constraints and general tenets of accountability, federal and state funding agencies are being more selective in the programs they support. Increasingly, funding decisions are being made on an empirically based "what works" standard.

Data Dissemination Recommendations

In addition to the basic rules of data collection and data analysis, there are useful guidelines to follow when sharing data with the public. The following recommendations can help to ensure that law enforcement agency data will not be misinterpreted.

10. Assess carefully and continually what—and in what format—information should be shared with the public.

While most of the graphs and maps illustrating this chapter were drawn from publicly available annual reports or web sites, law enforcement leaders and their data management staff must carefully and continually assess what information to share with the public and in what format that information should appear. Although sharing data with the public can be a double-edged sword, law enforcement leaders should recognize the net benefits of data sharing. It is true that when trends are not favorable, data sharing creates the potential for public relations challenges. It is also true, however, that when trends are favorable, data may serve to enhance the image of the department.

Sharing both favorable and unfavorable data sends the message that the department is committed to transparency and has nothing to hide. When such transparency is coupled with sustained outreach to all communities within the jurisdiction, police executives will be well positioned to address any negative trends and work cooperatively with a community from a problem-solving perspective to address any concerns raised by the data.

With any commitment to data sharing, certain safeguards must be in place. Foremost among these is that all legal and administrative requirements regarding the privacy and confidentiality of the subject and of police officers must be upheld. Just as important, no data should be released if release would constitute a breach of public safety. Departments must also be sensitive to the restrictions on sharing certain types of data that may exist as a result of collective bargaining agreements.

11. Revisit data presentation strategies and formats to ensure optimal effectiveness in public information.

Consistency in reporting data is a hallmark of good analysis because it permits analysts and consumers of that data to compare performance over time. Departments, however, should not let commitments to consistency inhibit them from changing or enhancing formats when necessary. Clearly, if data report formats result in confusion or are not understood by the intended audiences, then alternative forms of presentation should be considered. Actively sharing data and seeking feedback from the public on a continuous basis, through public meetings or in the course of problem-solving, will help ensure that data are being presented meaningfully and clearly, in ways that both the police and the public can understand.

Changes in policies, procedures, or the addition of new units may affect reporting formats and trends. For instance, if a department switches from internal review of citizen complaints to the use of a citizen review board, new report data and outcome formats will be required. Likewise, if a department changes the level of force for which reports are required, adjustments should be made and noted in standardized reports. Similar modifications should be made if changes are made to geographic boundaries (e.g., new alignments or an existing unit being split in two).

Conclusion

This chapter addressed how law enforcement agencies can collect, analyze, and share data related to their missions to protect civil rights and to reach out to their constituents and partners in the community. Overall, this chapter stressed that law enforcement leaders should incorporate these outcomes, alongside traditional law enforcement measures, in their efforts to capitalize most effectively on data-management strategies. Several illustrative examples were provided. Examples, however, are becoming more prevalent and novel approaches, such as mapping civilian complaint and police use-of-force locations, continue to emerge. Data management should be considered a core component of any community outreach plan and as a tool to assess an agency's effectiveness in protecting and promoting the civil rights of all persons within the community it serves.

Suggestions for Further Reading

Data management and analysis affect all facets of law enforcement. Publications that address data collection from the perspective of protecting civil rights and promoting community partnerships and trust include the following.

Carter, David L. *Law Enforcement Intelligence: A Guide for State, Local, and Tribal Law Enforcement Agencies*. U.S. Department of Justice Office of Community Oriented Policing Services, Washington, D.C.: 2004. www.cops.usdoj.gov/Default.asp?Item=1439.

Skogan, Wesley G., Susan M. Hartnett, Jill DuBois, and Jason Bennis. *Policing Smarter Through IT: Lessons in Enterprise Implementation*. U.S. Department of Justice Office of Community Oriented Policing Services, Washington, D.C.: 2004. www.cops.usdoj.gov/Default.asp?Item=1331.

Fridell, Lorie A. *Understanding Race Data from Vehicle Stops: A Stakeholder's Guide*. U.S. Department of Justice Office of Community Oriented Policing Services, Washington, D.C.: 2005. www.cops.usdoj.gov/mime/open/pdf?Item=1577.

Weisel, Deborah. *Conducting Community Surveys: A Practical Guide for Law Enforcement Agencies*. U.S. Department of Justice Office of Justice Programs, Washington D.C.: 2003. www.ojp.usdoj.gov/bjs/pub/pdf/ccspglea.pdf.

Endnotes

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- ² Weisburd, David, Stephen D. Mastrofski, Rosann Greenspan, and James J. Willis. *The Growth of Compstat in American Policing*. Washington, DC: Police Foundation, 2004.
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- ⁴ Skogan, Wesley G., Susan M. Hartnett, Jill DuBois, Jason Bennis, So Young Kim, Dennis Rosenbaum, Lisa Graziano, and Cody Stephens. *Policing Smarter Through IT: Learning from Chicago's Citizen and Law Enforcement Analysis and Reporting (CLEAR) System*. U.S. Department of Justice Office of Community Oriented Policing Service, Washington, DC: 2003. www.cops.usdoj.gov/mime/open.pdf?Item=1264.
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- ⁶ Davis, Robert C., Pedro Mateu-Gelabert, and Joel Miller. "Can Effective Policing Also Be Respectful? Two Examples in the South Bronx." *Police Quarterly*, 2005: pp. 229-247.
- ⁷ Skogan, Wesley, and Kathleen Frydl, eds. *Fairness and Effectiveness in Policing: The Evidence*. The National Academy Press (National Research Council of the National Academies), Washington, D.C.: 2004. (See page 161).
- ⁸ Reproduced from: Skogan, Wesley G. "Measuring What Matters: Crime, Disorder, and Fear." *Measuring What Matters: Proceedings from the Policing Research Institute Meetings*. U.S. Department of Justice: National Institute of Justice and the Office of Community Oriented Policing Services, July 1999, pp 37-54. www.ncjrs.org/pdffiles1/170610-2.pdf.
- ⁹ *Service Efforts and Accomplishments 2004: Fifth Annual Report of Police Performance*. King County Sheriff's Department for the City of Shoreline, Washington: 2004. www.metrokc.gov/sheriff/downloads/partners/seasho04.pdf.
- ¹⁰ See for instance: *Satisfaction with Police—What Matters?* U.S. Department of Justice Office of Justice Programs, National Institute of Justice, Washington, D.C.: 2002. www.ncjrs.gov/pdffiles1/nij/194077.pdf.
- ¹¹ Weisel, Deborah. *Conducting Community Surveys: A Practical Guide for Law Enforcement Agencies*. U.S. Department of Justice Office of Justice Programs; Washington D.C.: 2003I. www.ojp.usdoj.gov/bjs/pub/pdf/ccspglea.pdf.
- ¹² *Your Police Service Survey*. Kent Police, United Kingdom. Retrieved on October 10, 2005 from www.kent.police.uk/sites/internetsurvey/questionnaire.php.
- ¹³ www.fairfaxva.gov/Police/inform.asp.
- ¹⁴ www.phoenix.gov/EMAIL/emcommend.html.
- ¹⁵ *United States v. City of Los Angeles Consent Decree* (June 15, 2001). www.usdoj.gov/crt/split/documents/laconsent.htm.
- ¹⁶ *City of Berkley Police Review Commission: 2003 Statistical Report*. www.ci.berkeley.ca.us/prc.

- ¹⁷ Internal Affairs 2004 Annual Report. Charlotte-Mecklenburg Police Department. www.charmeck.org/Departments/Police/Home.htm.
- ¹⁸ *Unresolved Problems & Powerful Potentials: Improving Partnerships Between Law Enforcement Agencies and University Based Researchers*. International Association of Chiefs of Police, Washington, D.C.: 2004.

Appendices A-E



APPENDIX A

IACP Civil Rights Committee

The following people either are current members of the IACP Civil Rights Committee or were members during the time that the *Protecting Civil Rights* project was in progress.

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APPENDIX C

Project Advisory Group

The following people participated in the Project Advisory Group meeting in Memphis, Tennessee in April 2004 to help launch the *Protecting Civil Rights* project. They provided feedback on the substantive outline of the project and helped define the scope of the *Leadership Guide*.

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The following people participated in the Project Focus Group in Pittsburgh in April 2005. They provided feedback on chapter content and helped hone recommendations for policies and practices that were included in the *Leadership Guide*.

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APPENDIX E

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September 2006
e06064100
ISBN: 1-932582-71-1

EMERGING USE OF FORCE ISSUES

Balancing Public and Officer Safety

Report from the International Association of Chiefs
of Police/COPS Office Use of Force Symposium



COPS
COMMUNITY ORIENTED POLICING SERVICES
U.S. DEPARTMENT OF JUSTICE





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This project was supported by Grant Number 2005-HS-WX-K016 awarded by the Office of Community Oriented Policing Services, U.S. Department of Justice. The opinions contained herein are those of the author(s) and do not necessarily represent the official position or policies of the U.S. Department of Justice. References to specific agencies, companies, products, or services should not be considered an endorsement by the author(s) or the U.S. Department of Justice. Rather, the references are illustrations to supplement discussion of the issues.

The Internet references cited in this publication were valid as of the date of this publication. Given that URLs and websites are in constant flux, neither the author(s) nor the COPS Office can vouch for their current validity.

ISBN 978-1-935676-56-0

March 2012

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COPS
COMMUNITY ORIENTED POLICING SERVICES
U.S. DEPARTMENT OF JUSTICE

Dear Colleagues:

Far too often the public's perception of the use of force by police is different from those who are in law enforcement. This perception is heavily influenced by a variety of factors, including depictions in the media, and exacerbated by the increasing power of social media. In today's age, incidents of use of force can create a false narrative for the public concerning the appropriateness of police actions, albeit one that is not statistically representative or supported by data.

In response to this complex environment impacting the critical relationship between police and the communities they serve, the International Association of Chiefs of Police (IACP) and the Office of Community Oriented Policing Services (COPS Office) recognize the importance of these issues, and the influence they can have on community trust. To further examine the intricacies surrounding police use of force, IACP and the COPS Office held a symposium to achieve consensus surrounding the core use of force issues, and to identify strategies that can be employed to address these issues.

We hope that these discussions and recommendations as presented in Emerging Use of Force Issues: Balancing Public and Officer Safety will help your agency and community to work together to successfully navigate these issues.

Sincerely,

A handwritten signature in black ink that reads "Bernard K. Melekian".

*Bernard K. Melekian, Director
Office of Community Oriented Policing Services*

About the COPS Office

The Office of Community Oriented Policing Services (COPS Office) is the component of the U.S. Department of Justice responsible for advancing the practice of community policing by the nation's state, local, territory, and tribal law enforcement agencies through information and grant resources.

Community policing is a philosophy that promotes organizational strategies that support the systematic use of partnerships and problem-solving techniques, to proactively address the immediate conditions that give rise to public safety issues such as crime, social disorder, and fear of crime.

Rather than simply responding to crimes once they have been committed, community policing concentrates on preventing crime and eliminating the atmosphere of fear it creates. Earning the trust of the community and making those individuals stakeholders in their own safety enables law enforcement to better understand and address both the needs of the community and the factors that contribute to crime.

- The COPS Office awards grants to state, local, territory, and tribal law enforcement agencies to hire and train community policing professionals, acquire and deploy cutting-edge crime fighting technologies, and develop and test innovative policing strategies. COPS Office funding also provides training and technical assistance to community members and local government leaders and all levels of law enforcement. The COPS Office has produced and compiled a broad range of information resources that can help law enforcement better address specific crime and operational issues, and help community leaders better understand how to work cooperatively with their law enforcement agency to reduce crime. Since 1994, the COPS Office has invested nearly \$14 billion to add community policing officers to the nation's streets, enhance crime fighting technology, support crime prevention initiatives, and provide training and technical assistance to help advance community policing.
- By the end of FY2011, the COPS Office has funded approximately 123,000 additional officers to more than 13,000 of the nation's 18,000 law enforcement agencies across the country in small and large jurisdictions alike.
- Nearly 600,000 law enforcement personnel, community members, and government leaders have been trained through COPS Office-funded training organizations.
- As of 2011, the COPS Office has distributed more than 6.6 million topic-specific publications, training curricula, white papers, and resource CDs.

COPS Office resources, covering a wide breath of community policing topics—from school and campus safety to gang violence—are available, at no cost, through its online Resource Information Center at www.cops.usdoj.gov. This easy-to-navigate website is also the grant application portal, providing access to online application forms.

About the IACP

The **International Association of Chiefs of Police** is the world's oldest, largest, and most innovative nonprofit membership organization of police executives, with more than 21,000 members in more than 100 countries. IACP's leadership consists of the operating chief executives of international, federal, state, and local agencies of all sizes.

Since 1893, the International Association of Chiefs of Police has been serving the needs of the law enforcement community. Throughout these past 100-plus years, IACP has continued to launch historically acclaimed programs, conducted ground-breaking research, and provided exemplary programs and services to our membership across the globe.

The association's goals are to advance the science and art of police services; to develop and disseminate improved administrative, technical, and operational practices and promote their use in police work; to foster police cooperation and the exchange of information and experience among police administrators throughout the world; to bring about recruitment and training in the police profession of qualified persons; and to encourage adherence of all police officers to high professional standards of performance and conduct.



Acknowledgments

The International Association of Chiefs of Police project staff would like to acknowledge the following individuals for their strong support of the development of this use of force report:

- The programmatic and financial support provided by the Office of Community Oriented Policing Services (COPS Office), in particular the guidance provided by Al Pearsall, Special Assistant to the Principal Deputy Director for the COPS Office. His in-depth understanding of use of force issues and his passion to see improvements made were critical factors in the success of this effort.
- The counsel and direction of the symposium planning group (see page 30 for complete list) who came together with the IACP and the COPS Office staff to design the symposium and identify achievable goals for that meeting.
- The subject matter expertise provided by the symposium participants (see page 31 for complete list). Their candid input and advice expressed at the symposium became the foundation for the content of this report. We are also in their debt for their subsequent review of the draft report to insure its completeness and accuracy.

The IACP thanks all of the above individuals for allowing us to explore the role of law enforcement leadership in the improvement of use of force policies, procedures, and training, and helping us arrive at the key observations and recommendations reported in this document.

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Executive Summary

According to the Bureau of Justice Statistics, 40 million persons had contact with police during the most recent year for which data was gathered (2008). An estimated 776,000 (1.9 percent) of the 40 million contacted respondents reported the use or threatened use of force at least once during these contacts.

These facts stand in stark contrast to the public perception of the frequency and appropriateness of force used by the police. In large part, the public perception of police use of force is framed and influenced by the media depictions, which present unrealistic and often outlandish representations of law enforcement and the policing profession. Nightly, police dramas and news programs show officer-involved shootings, high speed chases, and trips to the morgue to recover microscopic evidence. These myths are further reinforced in popular books and film.

Yet data produced regularly by government agencies and researchers who analyze the actions of law enforcement argue against this “made for television” or “ripped from the headlines” narrative that has skewed the public ideas of law enforcement. These reports describe a reality of law enforcement with regards to use of force that starkly contradicts the public perception. As a result of these misconceptions, the public has raised questions regarding police use of force practices. In turn, law enforcement has raised concerns about the public’s support of the public safety mission.

In response to this complex environment impacting the critical relationship between police and the communities they serve, the International Association of Chiefs of Police (IACP) in partnership with the Office of Community Oriented Policing Services (COPS Office) held a symposium that focused on police use of force. The primary goal of the meeting was to achieve consensus surrounding core use of force issues, identifying those topics of particular urgency, and proposing effective strategies that respond to the most critical areas of concern.

In preparation for the symposium law enforcement professionals, use of force experts, and use of force researchers were identified and told to expect they would examine a wide range of topics, to include:

- Current use of force issues and concerns of law enforcement leaders
- Use of force policy and training advancement over the past 5 years
- Recent use of force incidents or issues that have affected law enforcement approach
- Use of force litigation and risk management from a local agency perspective
- New and emerging research on use of force at the university and law enforcement level
- Concerns about use of force that merit further exploration and investigation

During the Use of Force symposium participant discussion clustered around topics that were grouped as pre-incident, point of incident, and post-incident variables (see Figure 1 on page 8).




Pre-Incident 	At Point of Incident 	Post-Incident 
<ul style="list-style-type: none"> ◆ Review of policy effectiveness ◆ Leadership role ◆ Review of training effectiveness ◆ Community education ◆ Citizen input ◆ Utilization of accountability software ◆ Research ◆ Existing standards/case law 	<ul style="list-style-type: none"> ◆ Internal Affairs investigation ◆ Press management ◆ Criminal investigation ◆ Community outreach ◆ Agency transparency 	<ul style="list-style-type: none"> ◆ Accountability ◆ Dissemination of information ◆ Adjustments/improvements ◆ Policy upgrades ◆ Training upgrades ◆ Public forums/meetings to address incident

Figure 1. Use of Force Incident Continuum

Source: IACP symposium advisory group, created at the January 5, 2011 planning meeting

Recommendations Summary

This publication presents a summary of discussions that took place during the Use of Force Symposium, key findings identified by the group, and recommendations for further action. The following suggested actions are systemic and would require funding support and collaboration between the IACP, the COPS Office, and any number of more private or public organizations to achieve successful completion. To further the good work done at the symposium, IACP and the COPS Office will be discussing the following recommendations shortly to determine possible courses of action to implement them:

- Develop a model communications strategy for law enforcement on the topic of use of force
- Develop a national media guide to inform the public regarding the necessity to use appropriate force in furtherance of public safety
- Develop a sustainable online resource library detailing programs and summaries of approaches that have proven to build better relationships between police and their communities
- Propose national use of force reporting standards
- Collect data and conduct annual national use of force analysis
- Conduct evaluation of use of force issues for the mid-size and small police agency
- Charge a single government sponsored entity with responsibility for disseminating real-time data describing violence directed at police
- Develop and fund a use of force management institute for police leaders
- Develop use of force management publication for city/town or municipal governance

- Survey to determine nationally the current spectrum of use of force training
- Develop model in-service use of force training
- Validate use of force in-service training in pilot departments
- Survey to evaluate the use of force mindset of police
- Support efforts such as the Department of Justice's Officer Safety and Wellness Group, IACP's National Center for the Prevention of Violence Against the Police (NCPVAP) and the FBI's Law Enforcement Officer Killed and Assaulted (LEOKA) program to collect, evaluate, discuss, and publish real-time, data that speaks to trends in violence directed against police



I. Introduction and Background

The Environment

Law enforcement faces innumerable challenges created by the current environment, particularly with regards to use of force. The public perception of the frequency and appropriateness of force used by the police is framed and influenced largely by the media depictions. Media has become saturated with unrealistic and outlandish representations of law enforcement and the policing profession. Nightly, police dramas and news programs depict officer-involved shootings, high speed chases, and trips to the morgue to recover microscopic evidence, while these myths are also reinforced in popular books and film. Data produced regularly by government agencies and researchers who analyze the actions of law enforcement argue against this “made for television” or “ripped from the headlines” narrative that has skewed the public ideas of law enforcement. These reports describe a reality of law enforcement with regards to use of force that starkly contradicts the public perception. As a result of these isolated incidents the public has raised questions regarding police use of force practices. In turn, law enforcement has raised concerns about the public’s support of the public safety mission.

In response to this complex environment impacting the critical relationship between police and the communities they serve the International Association of Chiefs of Police (IACP) in partnership with the Office of Community Oriented Policing Services (COPS Office) held a symposium that focused on police use of force. This publication summarizes key use of force issues identified by subject matter experts in the field who were invited to participate in the symposium, and proposes effective strategies that respond to the most critical areas of concern.

The Facts

According to the Department of Justice, Bureau of Justice Statistics (BJS) we know many facts about law enforcement, in particular police operations and use of force practices. The most recent *Census of State and Local Law Enforcement Agencies, 2008* reports that there are 765,000 sworn officers employed in the United States. BJS has also produced data in their publication *Contacts between Police and the Public, 2008*, which attempts to estimate the frequency by which police use force in furtherance of their duties. BJS determined that 40 million persons had contact with police during 2008. An estimated 776,000 (1.9 percent) of the 40 million contacted respondents reported the use or threatened use of force at least once during these contacts. This report reveals a striking disconnect between public perception and reality—the public is led to believe through the media that law enforcement uses force during every tour of duty, when the reality is most officers never use or threaten the use of force during an entire calendar year. These statistics suggest that use of force by police is infrequent and that inappropriate use of force or negative force related outcomes are relatively rare events.

Where there is little debate among police leadership and members of the community is in the fact that the use of force by police results in public attention. According to Robert K. Olsen, the former Minneapolis Police Chief, in the Police Executive Research Forum (PERF) press release titled “PERF to Identify Best Practices in Police Use of Force and Managing Mass Demonstrations” from February 12, 2004, the use of force is “the single most volatile issue facing police departments.” He noted that “just one use of force incident can dramatically alter the stability of a police department and its relationship with a community.” Today, in the age of internet communications, news of incidents instantly becomes viral with this rapid sharing of information. A department’s relationship with its community can easily be impacted by the actions of an officer in a department thousands of miles away.

The Purpose of a Symposium

The IACP recognizes the importance of continual research and evaluation of police use of force issues and believes findings from systematic and routine inquiry will inform model policies and procedures within the law enforcement community. As the risks to communities change, so do law enforcement responses to mitigate these threats. In recent years, technological advances in police equipment have provided additional use of force options for the front line officer while also generating the need for a new cycle of research and evaluation. Findings from extensive study and evaluation of use of force issues help law enforcement officials make fact-based decisions relating to use of force policy as well as improve communications with the public.

In an effort to focus future research and policy development, the IACP partnered with the COPS Office to organize a symposium of law enforcement and experts in the field to assess the current landscape of use of force issues. Subject matter experts representing diverse constituencies within the criminal justice system were invited to participate in a day-long meeting. An environment was created to foster open and frank discussion on a wide range of highly sensitive topics. The primary goals of the meeting were to learn core use of force issues, identify topics of particular urgency, document differences in opinion where they may exist, and propose effective strategies that respond to the most critical areas of concern.

In preparation for the symposium, law enforcement professionals, use of force experts, and use of force researchers were identified to participate, and asked to expect to examine a wide range of topics, including:

- Current use of force issues and concerns of law enforcement leaders
- Use of force policy and training advancement over the past 5 years
- Recent use of force incidents or issues that have affected law enforcement approach
- Use of force litigation and risk management from a local agency perspective
- New and emerging research on use of force at the university and law enforcement level
- Concerns about use of force that merit further exploration and investigation

This publication presents a summary of discussions that took place during the Use of Force Symposium, key findings identified by the group, and recommendations for further action.

Use of Force Incident Continuum

In examining police use of force issues it is advantageous to view the **incident** with a broad perspective rather than limiting the focus at the moment force is used. Actions taken or not taken **pre-incident** can have a significant influence on use of force decisions by the officer. Actions taken **post-incident** can also impact the future uses of force equally as those decisions prior to the event.

Pre-Incident variables are typified by a systematic approach by which leadership manages the use of force within an agency. Training, assessment, tracking, early-warning systems, community outreach, external relations, case law and research would be further examples of the categories of issues that may influence uses of force by officers within the **pre-incident** environment.

Incident variables include officer use of force decisions, suspect use of force decisions, and all relevant incident circumstances. Subsequent to the actual use of force and still part of the **incident** component of the continuum, a series of actions may be triggered, including agency transparency when discussing the incident, community outreach, press management, and internal or criminal investigative actions.

Post-Incident variables include systems of accountability and review that lead to changes in policy and training, or that may frequently be communicated via “after action” or “lessons learned” reports. Long-term and strategic communication to inform and influence the public reaction to incidents may be considered **post-incident**, as well as appropriate coordination with governing bodies with respect to liability and criminal culpability in those instances when excessive force was used.

During the Use of Force symposium, participant discussion clustered around topics that were identified as pre-incident, incident, and post-incident variables. Besides transparency with respect to details regarding actual use of force incidents, experts believed that actions taken prior to incidents and actions taken following incidents should be the focus of future IACP/COPS Office activities.

Use of Force 2001 to 2011

In 2001, the IACP, in collaboration with the Bureau of Justice Statistics and the National Institute of Justice, published *Police Use of Force in America*, which documented findings from the National Police Use of Force Database project initiated in 1995. The database was created in response to the Violent Crime Control and Law Enforcement Act of 1994 and represented the first substantial national aggregation of state, county, and local law enforcement use of force data. As a result of this landmark study 177,215 use of force incidents and 8,082 use of force complaints from 1991–2000 were examined.

Many guiding standards resulted from this systematic evaluation of use of force incidents. In order to ensure uniformity in reporting of incidents, IACP defined force as, **“that amount of effort required by police to compel compliance from an unwilling subject.”** Excessive force was defined as, **“the application of an amount and/or frequency of force greater than that required to compel compliance from a willing or unwilling subject.”** For the purposes of the 2001 publication, reports of excessive force that were investigated and sustained were considered excessive. Some organizations have rightfully commented that for some members of the public the mere presence of police can be construed as a use of force. Others may also argue that an internal departmental investigation of an officer’s use of force lacks the independence necessary to obtain an unbiased assessment of the level of force used.

The IACP study also attempted to characterize trends in the use of force, uncovering many interesting facts, especially with regard to the impact of new deadly or non deadly technologies on policing. In 1999, the most common force used by officers was physical force. The use of chemical force, primarily *Oleoresin Capsicum* (pepper spray) products, was greater than the totals for electronic, impact, and firearms force combined. Throughout the years of study it was determined that as the use of chemical force increased by police, the reliance by officers on the use of firearm force decreased. This clearly suggests that by providing police with an array of deadly and non-deadly technologies they can perform their duties effectively while limiting harm to members of the community.

By 2005, the IACP recognized that once again, breakthroughs in technology were significantly influencing the method by which police deploy non-lethal force in furtherance of their mission. *Electro-Muscular Disruption Technology*, an IACP publication funded through a grant by the National Institute of Justice (NIJ), outlined a nine-step deployment strategy for departments who had decided to arm officers with state of the art non-lethal weapons such as the TASER®. At the time, 5,000 police departments had already chosen to issue Electronic Control Weapon (ECW) devices to officers.

By 2010, researchers on behalf of NIJ reported in *A Multi-Method Evaluation of Police Use of Force Outcomes: Final Report to the National Institute of Justice* that based on current industry estimates, ECW devices could be found in more than 11,500 police agencies nationwide. Presently, a majority of law enforcement agencies have adopted Conducted Energy Device (CED) (formerly ECW) technology as a use of force option for their agencies.

Use of Force Symposium May 4, 2011

During a daylong exchange of ideas, interactive polling, and debate concerning present and future needs of the policing profession, participants spoke to a variety of topics. For ease of digesting the most significant points of discussion, the themes have been organized in five major areas.

- Public Perception
- Getting at the Facts
- Managing Use of Force: A Chief's Duty
- Officer Training: After the Academy
- Officer Mindset




II. Public Perception

The public's perception of police use of force was a topic of concern for many symposium participants. When polled, only 4 of 36 symposium attendees believed that citizens were objective when evaluating use of force incidents. One in 10 had confidence that the public would examine the facts and circumstances unique to each individual incident. The remaining participants were divided in their beliefs. By a 3 to 1 majority, participants asserted that a bias against police existed, as compared to a minority who found that a bias in favor of police was typically present.

There was consensus that police leadership was responsible for educating the public and concern that the failure to adopt a proactive national communications strategy hindered police efforts to speak with clarity on the issue. In the absence of a cohesive fact-based message the media and other constituencies are left to frame the topic, which often results in sensationalizing incidents or driving the agenda of various special interest groups. As a result, police officials react to stories framed by others, rather than proactively communicating information within the framework of a unified national theme. Nearly two-thirds of participants believed that police did a poor job conveying information to the public regarding use of force incidents.

Participants were sensitive to the fact that the success of any future communications strategy was directly related to the level of trust existing between police and the public at the national and, most importantly, the local levels. As such, attendees understood that it was critical that any previous history involving the inappropriate use of force had to be acknowledged. Equally important was maintaining sensitivity to the various harms resulting from this unacceptable conduct and making clear statements necessary to ensure that leadership is not perceived as attempting to minimize the severity of the breach of the public trust.

It was suggested that a fundamental component of the communications message would be the use of common terms. Thirty-one of 34 symposium participants acknowledged that no common language existed for talking about use of force between police and the communities they serve. For example discussions of reasonable versus unreasonable uses of force were preferred as compared to debates over excessive force. Participants felt that misconceptions concerning the appropriateness of the level of force used by police could be often tied to how incidents were discussed. A significant piece of any communications strategy is to explain to the public why the police may employ force at a level greater than the force being used against the officer, and why this is appropriate



Citizen Police Academies are excellent opportunities to help citizens move from misperceptions to full understanding of the complex nature of use of force.

— Al Pearsall
Special Assistant to the Principal Deputy Director
Office of Community Oriented Policing Services

There is a large body of case law that permits the police to use force that is reasonably necessary to overcome the force used against them. The public often perceives that force as excessive when it is not.

— Philip Broadfoot, *Chief of Police*
Danville Police Department

and not excessive. Unlike a professional hockey fight where a player would be severely sanctioned for using his stick instead of his fist, an officer is expected and trained to deploy weapons such as a baton, pepper spray, or Taser to counter an offender determined to fight an officer. Use of these technologies is certainly considered a justified, reasonable, and appropriate use of force by an officer sworn to uphold the law and maintain public safety, and is an important action to minimize injury to both officers and suspects.

Participants were supportive of a variety of programs focused on developing better relationships between the police, the public, the media, and special interest groups. Citizen academies and

ride along programs were suggested as vehicles by which participants would be provided an opportunity to better grasp the complexities and realities of being a law enforcement officer. These inclusive activities serve the critical function of making law enforcement policy and practice transparent. Youth programs in school, other extra curricula activities, and events were identified as opportunities to form a positive view of policing at an early age. Focused interactions and relationship building with specific constituencies aimed at developing trust and good will were seen as strategic necessities in anticipation for the need to respond quickly to contain the fall-out from use of force incidents in the future. In furtherance of influencing the public's view of the individual officers, it was also suggested that efforts be made to monitor and positively influence the demeanor of officers towards the public they serve. It was suggested that the everyday attitude of officers during the course of their routine activities has as great an influence on public perception as actual uses of force.

RECOMMENDATIONS:

- ▶ **DEVELOP** a model communications strategy for law enforcement on the topic of use of force.
- ▶ **DEVELOP** a national media guide to inform the public regarding the dangers of policing and the necessity to use appropriate force in furtherance of public safety.
- ▶ **DEVELOP** a sustainable online resource library detailing programs and summaries of approaches that have proven to build better relationships between police and their communities.

III. Getting at the Facts

Stemming from discussions regarding law enforcement's role in informing the public, concern was raised about police leadership's true understanding of current trends and statistics regarding the use of force landscape. Several participants challenged the assumption made by other attendees that police leaders had a firm grasp of the present use of force environment as well as accurate statistics relative to the dangerousness of policing today as compared to historical data. The differences in opinion were most profound when the views of academics, front line officers, and participants supporting police administration were contrasted with those expressed by chiefs of police and command officials. Similar differences were witnessed based on the size of the agency represented, as issues relating to use of force in large urban cities did not always align with issues experienced by mid-size and smaller departments. Supportive of this lack of consensus were the results of a survey where participants disagreed over a fundamental question regarding the trend in the rate of use of force incidents. Eight of 34 participants believed that use of force incidents had decreased, while 6 of 34 suspected that use of force incidents had increased. The majority estimated that force trends had remained the same. It was evident that local views and personal experience most influenced perception as to the overall state of use of force.

Participants agreed that the collection and analysis of use of force data varied widely and that this challenge was likely to continue if not worsen as a result of the economic downturn. In departments forced to downsize, administrative positions traditionally charged with data collection are often the first to be eliminated. As a result, it was suspected that use of force data collection and analysis was currently the province of mostly larger departments. Concerns were also expressed regarding the applicability of findings born from big city data analysis to mid-size and smaller agencies.

Some participants believed that various departments collected use of force data in line with standards established by the Commission for Accreditation of Law Enforcement Agencies (CALEA) or other model reporting protocols. Others described data collection in line with state legislation and consent decrees. There was consensus, however, that for those departments who collected the data, most failed to analyze the data and/or use it for policy development or training purposes. The majority of departments had no policies or procedures in place that mandated annual analysis and reporting.

Before we go out and educate people on use of force we need to educate ourselves.

— Dr. Geoffrey Alpert, *Professor*
University of South Carolina

So often after an event someone uses statistics to show what we should have known. We need to understand our history employing basic trend and pattern analysis before critical incidents occur.

— Louis Dekmar, *Chief of Police*
City of LaGrange

We have a good understanding of larger departments but not the conditions and situations that impact smaller and medium agencies.

— Dr. Geoffrey Alpert, *Professor*
University of South Carolina

In response to the current use of statistics to inform public discussion on force trends, some participants were suspect of the “facts” that were purported. Participants speculated that a reliance on year to year comparisons is a function of reporting now common place in departments employing COMPSTAT. As such, data can be heavily influenced by periodic spikes not uncommon when measuring occurrences within small data sets such as officers feloniously killed in the line of duty. Some identified a void of more traditional multi-year historical statistical examinations readily available to inform leadership

and members of the public regarding recent trends. These same participants expressed concern that the void has been filled by various experts and policy advocates expressing their point of view, rather than sharing facts, regarding current highly publicized and emotionally charged events.

The perception is that chiefs know about use of force in their departments, but the reality is they often do not. When we come in afterward to ask for data to explain to a jury, it is almost impossible to obtain.

— Steven Ijames, *Major (Ret.)*
Springfield Police Department

It was suggested that much work should be done within the behavioral science communities to explore how police respond to deadly encounters. The belief was expressed that the police profession and the public at large do not fully understand myriad of factors that contribute to a typical use of force incident. It was posited that we often do not fully appreciate the complexities involved when an officer makes a decision to use force in relation to a critical incident.


RECOMMENDATIONS:

- ▶ **PROPOSE** National Use of Force reporting standards.
- ▶ **COLLECT** data and conduct annual National Use of Force analysis.
- ▶ **CONDUCT** evaluation of use of force issues for the mid-size and small police agency.
- ▶ **CHARGE** a single government sponsored entity with responsibility for collection, analysis, and dissemination of real-time data describing violence directed at police.

IV. Managing Use of Force: A Chief's Duty

Symposium participants were clearly cognizant of the varied responsibilities charged to leaders within police organizations. Specifically, during a downturn economy, fiscal emergencies and retention of the personnel required to meet mission goals were recognized as challenging tasks for any focused public safety official. Despite this environment, management of a police department's application of force in furtherance of its operations was understood to be every chief's fundamental responsibility.

Participants suggested that the gold standard of use of force management is a leader who possesses complete awareness of the use of force culture within his or her department and knowledge of the attitudes held by all officers to include those assigned to patrol, those charged with training, as well as those functioning within specialty assignments. Participants representing city management acknowledged that the vast majority of public officials have no law enforcement experience. As a result, an able use-of-force-focused police leader in service of the mayor or city manager would proactively establish a risk-based dialogue with city executives so that critical information regarding the potential implications of use of force incidents would be understood. Police leaders should in fact seek up-front support for investments in police training and equipment in lieu of post incident funding to offset legal judgments or settlements at a later date. A progressive city should view a highly resourced and trained police force as the appropriate cost of doing business rather than using public funds to establish an annual line item for legal settlements.



I think what we are talking about is an affirmative obligation for police to manage use of force, not just to explain a particular incident to the public.

— Merrick Bobb, *Director*
Police Assessment Resource Center

Members of the symposium were clear that chiefs need to ensure that the level of competency and knowledge surrounding the appropriate use of force has been received and retained by officers. Leaders should set a high bar for professionalism and expect that use of force decisions would mature through experience and not degrade as the length of time from police academy graduation increases. Chiefs should be intimately aware of the culture surrounding in-service training within their departments to ensure that the highest level training is being offered.

Chiefs not only have to ensure that use of force data is being collected by their department but that it is collected in a format that it is useful for supervisors to drive decision making. Intelligence-led and evidence-based policing models not only drive better police work and targeting of crime problems, but also are approaches that improve decision making. Properly managed data can be the backbone of an early warning system that identifies at risk officers, dangerous activities, and policy gaps that require immediate mitigation.

City managers tend to know little about law enforcement. In an analysis of 9,000 members, only a handful had prior law enforcement experience.

— Leonard Matarese, *Director*
International City/County Management
Association

Leaders also warned that the level of inexperience in dealing with critical use of force incidents should not be underestimated. Statistics suggest that use of force by police is infrequent and the inappropriate use of force or negative force related outcomes are a relatively rare event. However, each year a number of chiefs will have to respond to critical incidents when their officers have been killed, a suspect has been killed, or incidents occur that call into question the professionalism of certain officers. A chief must be prepared for this possibility and possess the confidence to take swift and decisive action. A chief's standing in the eyes of the public can be impacted by a single response to a critical incident.

For chiefs who are committed to preparing for a critical incident involving use of force issues, highly specialized training is essential. For example, table top exercises in partnership with other key players such as the city manager, command staff, public information officers, Department of Justice officials, and trusted partners within the media, police union, and public interests groups can be useful. Such exercises can simulate the type of pressures generated during a real crisis. Crafting a post-incident protocol in partnership with this group that fits the norms of unique communities and departmental policies and procedures would be invaluable as a guide during a real incident. Communication strategies that inform the public while maintaining the confidence of front line officers who require the chief's support require planning in advance, and should not be addressed for the first time during an emotionally charged event.

RECOMMENDATIONS:

- ▶ **DEVELOP** Use of Force Management Institute for Police Leaders.
- ▶ **DEVELOP** Use of Force Management publication for City Officials.


V. Officer Training: After the Academy

As recognized by symposium participants, there is much about the use of force topic that we do not understand, but much that we suspect. What we do know for certain is that leaders have a professional obligation to train law enforcement to the fullest degree in order to ensure officer safety as well as public safety. Symposium participants also clearly believed that police professionals were falling short in their duty to train officers. Fourteen of 33 attendees believed that use of force training “insufficiently” prepared police, while only a single attendee believed that officers were “very well” prepared.

Many symposium participants shared a concern that in-service trainings have not been validated in the same rigorous fashion as academy training, and that the level of accountability is far different for officers when approaching in-service training—as they do not fear failure or loss of job based on poor performance during these exercises.

Performance related action against employees as a result of non-compliance with in-service training guidelines is much more complex than similar issues encountered during academy training. Employees at the academy stage have yet to be certified or have only been hired conditionally and are within a probationary period where corrective action can be taken aggressively.

Symposium participants shared many concerns regarding the training environment. Their primary concerns centered on fears that a downturn economy would impact the ability to train. Simultaneously, they felt there has never been a more important time to be properly trained. Some chiefs felt that due to public perception and fear of lawsuits, some officers were inadvertently being trained to return fire only when fired upon rather than using that force reasonably necessary to prevent injury or death.



I’ve supported in-service training across the country and while it is a critical training delivery opportunity, officers are often distracted or disinterested. This problem is confirmed as I read depositions for officers being sued. There is no evidence they learned anything except how to shoot. If we want consistency we need to know they know what they are being trained on and validate that training.

— Steven Ijames, *Major (Ret.)*,
Springfield Police Department

Some leaders suggested that insurance companies may be appropriate funding sources, or at a minimum advocates, to influence the city officials who make tough financial decisions for their communities.

A number of participants built upon the themes surrounding the chief's duty to manage use of force within the department. Participants suggested that video and audio recordings should be used more routinely as tools to manage and train officers. Use of audio/video will allow first-line supervisors to critique use of tactics or communication meant to manage conflict. Other participants were concerned that too much technology and too many choices in weapons systems degraded an officer's operational awareness and slowed reaction times. Some participants were concerned that more training needed to be focused on communication and command presence. Concern was shared that, later in their careers, officers often did not look prepared, while younger officers relied too much on physicality as opposed to using verbal tactics to deescalate and mitigate confrontational situations.

Participants questioned if training had become ineffective because it was based on what an officer could not do rather than a positive format focused on what an officer could do or in fact must do with respect to the use of force. In considering further changes to the framework by which training has been conducted, participants suggested that survivors should be interviewed more comprehensively, and training needed to be focused on situations based in reality as opposed to training that simply provided certification. There was consensus that firearm and/or force training needed to transition from the standard qualification of using age old static point and shoot courses. For training to be relevant, it was deemed essential to transition to tactical courses that replicate real encounters, requiring a choice between a variety of use of force options during stressful simulations as well as closely supervised tactical training environments.

Participants were briefed on the National Center for the Prevention of Violence Against the Police (NCPVAP), a collaborative effort between the International Association of Chiefs of Police and the Bureau of Justice Assistance. The mission of the National Center is to explore data currently collected detailing felonious assaults against police and to share findings with law enforcement in order to reduce officer deaths and injuries. Recently, the National Center revealed details regarding an examination of 10 years of Law Enforcement Officers Killed and Assaulted (LEOKA) data published by the FBI in an effort to examine use of force in response to deadly encounters. Researchers suspected that there would be value in examining responses to incidents through the lens of the years of service of the officer.

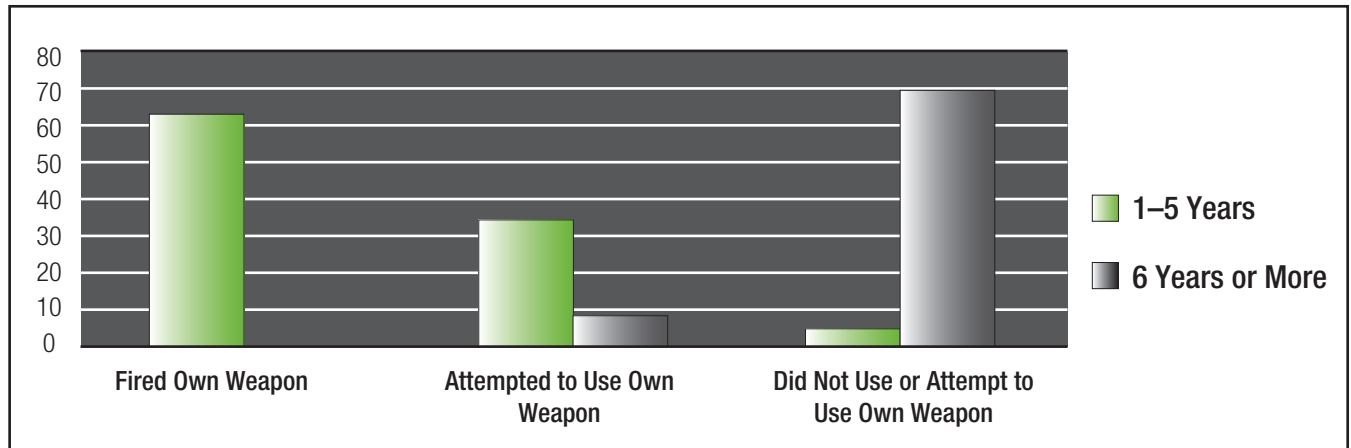


Figure 2. Weapon Use by Years of Service, 2000–2009

Source: IACP's National Center for the Prevention of Violence Against the Police. Author: Stephen Fender, IACP Project Coordinator

The FBI reports there were 187 officers with 5 years of service or less and 339 officers with 6 years of service or more that were killed in the line of duty during the past 10 years. When examining the group of less experienced officers (with 5 years or fewer on the job) the NCPVAP found that during the incident 63.1 percent fired their weapon, 33.2 percent attempted to fire their weapon, and 3.7 percent did not make an attempt. Of those more experienced officers (with 6 years or service or more) not a single one of 339 officers fired their weapon while only 8.6 percent were documented to have even made an attempt (see Figure 2). The National Center will continue to conduct in-depth examinations of these kinds of data to determine their value to police policy and training.

RECOMMENDATIONS:

- ▶ **SURVEY** to determine nationally the current spectrum of Use of Force Training
- ▶ **DEVELOP** model In-Service Use of Force Training
- ▶ **VALIDATE** Use of Force In-Service Training in Pilot Departments



VI. Officer Mindset

The IACP and COPS Office Use of Force Symposium created a safe environment for participants to have candid conversations, share concerns, and seek affirmations for personal observations. Symposium demographics were heavily weighted toward tenured experts in leadership positions, talking about use of force from a leadership perspective. Given that the vast majority of uses of force are employed by front line officers, symposium participants were reflecting on secondary observations concerning the actions of others or recalling their own experiences.

What officers think about the use of force and the factors that influence this decision are complex and unique to every officer. Understanding these dynamics is essential before attempts are made to manage, train, or otherwise influence an officer's use of force. Further research that supports a more comprehensive understanding of the officer's mindset is essential before moving forward.

During the symposium discussion on officer mindset, concerns were voiced on a number of subjects that have enormous ramifications to the use of force conversation. The first centered on law enforcement's perception concerning the level of violence directed against them as police. The spike in police fatalities that had occurred earlier in 2011 was noted. Many assumed that policing had never been more dangerous and appropriate action needed to be taken to defend police against an increased risk of injury and death. Others offered a different perspective, raising concerns about an alarmist response that could result in the over-reaction of police and a retreat from community oriented policing.

Participants voiced concerns that officers were often in a state of paralysis when it came to the use of force because of the unintended consequences of department use of force reporting requirements, outside review boards, internal affairs actions, liability concerns, and the ramification of criticism from outside constituencies.

I think the response that I'm not going to do my job because someone will object is despicable. Part of being a police professional is using appropriate force and learning to deal with criticism.

— Merrick Bobb, *Director*
Police Assessment Resource Center

We need to focus on the balance of officer and public safety—and to ensure that balance. When any citizen is injured or killed, and improper force is suspected, it must be fully investigated.

— Al Pearsall, *Special Assistant to the Principal Deputy Director*
Office of Community Oriented Policing Services

The recent police deaths are tragic but the most violent year for police occurred in 1971. We need to take this data and examine it historically rather than take it raw and think we are under siege. Without proper analysis there is fear that is unwarranted.

— Louis Dekmar, *Chief of Police*
City of LaGrange

From this discussion it appears critical that a variety of questions should be asked of front line officers. This inquiry could include questions regarding officer's fears or apprehension to use force, their sense of the relative dangerousness of their jobs, the perception of members of the community and how they are viewed by the community, their beliefs about the supportiveness of police leadership, the consistency of their actual reporting of use of force incidents, the types of use of force reporting and procedures in their department, their views on training at the academy and in-service, as well as their views regarding their role as police in the community they serve.

Participants collectively voiced a desire to have access to the facts concerning the actual violence currently leveled at police. When the environment is perceived as more dangerous, police leaders are likely to support

increasing levels of force to protect officers. Evidence of this trend can already be found in academia and government reports. Eastern Kentucky University criminologist Peter Kraska has published statistics suggesting that SWAT deployments in the United States have increased from 3,000 in 1980 to nearly 45,000 during 2007. In Maryland, where reporting the use of tactical teams is required by law, SWAT teams were used over 1,600 times during a 1-year period ending in June of 2010.¹ It is clear that leaders base force decisions on the prevailing crime and community context within their jurisdiction. Clearly, to maintain the trust with the community, belief about dangerousness must be congruent with the facts based on solid analysis of verifiable data, which in turn should be shared with the public.

Symposium members also struggled to characterize the actual and appropriate mindset of front line officers today. Despite an active conversation regarding the current feelings of front line officers, little consensus could be made. Leaders expressed a strong need for information concerning the actual threat of violence, and the state of mind of their front line officers. They noted that this need was immediate and could not wait for findings from lengthy multi-year research efforts. A sense of urgency was shared concerning the need for accurate data as well as the analysis required to understand these baseline factors before pushing forward in many of the areas addressed during the symposium.

RECOMMENDATIONS:

- ▶ **SURVEY** to evaluate the Use of Force Mindset of Police Officers
- ▶ **SUPPORT** efforts such as LEOKA and the National Center for Prevention of Violence Against the Police to collect, evaluate, and publish in real-time, data that speaks to trends in violence directed against police.

1. Kris Coronado. 2011. "Unnecessary Roughness." *Washingtonian Magazine*. April.

VII. Conclusion

The IACP/COPS Use of Force Symposium helped to identify critical issues and innovative recommendations to address them. Most of the recommendations are focused at the national policy and funding levels. Now that this report is in dissemination, IACP and the COPS Office will begin discussing how to maintain momentum to ensure these recommendations are implemented and, in particular, how to engage a broader spectrum of both public and private law enforcement leaders to support further work in this field.

While these national-level discussions proceed, it is equally urgent that local law enforcement leaders take immediate steps to strengthen their agencies' approach to all aspects of use of force policy. As always, local leaders need not wait for major national-level activities to emerge; rather they can use their authority to address issues—when necessary—with immediacy. Looking at this report's recommendations through the local lens, the following is a set of suggested actions that may be of critical value if addressed:

- **Officer mindset:** Hold regular briefings at both the command and officer level to fully understand how officers think about force issues, including policy adherence, liability, internal force reviews, public perceptions, and suspects' use of force against officers. Their perceptions will have a direct impact on how they use or do not use force.
- **Force policy and training:** Conduct a review of force policies, looking at both state and local policy models, to ensure currency and comprehensiveness. Revise and enhance all policies as needed. Make sure all use of force training is entirely consistent with policy and it both reinforces and further articulates policy intent.
- **Force reporting:** Review current use of force reporting policies in the context of both state and national models, and update or revise those policies as appropriate or needed. Proactively use that data to conduct annual use of force reviews that can influence policy and training enhancement.
- **Communications strategy:** Review local communications strategies to ensure preparedness and transparency in the event of a use of force incident that necessitates public commenting. On a regular basis, seek opportunities to gauge public perception on general use of force issues, absent of any recent incident.
- **Media:** Work with local media to educate them on use of force policy, training, and practices so they view and report on future incidents in an informed, contextual manner. Share that education with governing body leaders so they have the same contextual information as they review use of force incidents.

As symposium participants stated in Chapter IV, “the gold standard of use of force management is a leader who possesses complete awareness of the use of force culture within his or her department and knowledge of the attitudes held by all officers....” Taking action on the above items will enable local law enforcement leaders to gain critical information and perspective on force issues from within their organizations and the communities they serve, thus empowering leaders to ultimately use that information to achieve the gold standard of use of force management.

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Public perceptions of the use of force by law enforcement officers can dramatically and negatively affect the way the police and community interact. The International Association of Chiefs of Police (IACP) and the Office of Community Oriented Policing Services (COPS Office) convened a Use of Force Symposium to find ways in which law enforcement can address the perceived excessive use of force by officers. Discussions centered around five major themes, including public perception; getting at the facts; managing use of force; officer training; and officer mindset. *Emerging Use of Force Issues: Balancing Public and Officer Safety* summarizes the discussions from the Symposium and provides suggestions and conclusions on what actions can be taken to address these issues.



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Building Trust Between the Police and the Citizens They Serve



An Internal Affairs Promising Practices Guide for Local Law Enforcement



Building Trust Between the Police and the Citizens They Serve:

An Internal Affairs Promising Practices Guide for Local Law Enforcement

This project was supported by Cooperative Agreement Number 2007-CK-WX-K011 awarded by the Office of Community Oriented Policing Services, U.S. Department of Justice. The opinions contained herein are those of the authors and do not necessarily represent the official position of the U.S. Department of Justice. References to specific agencies, companies, products, or services should not be considered an endorsement by the authors or the U.S. Department of Justice. Rather, the references are illustrations to supplement discussion of the issues.

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Acknowledgments

The International Association of Chiefs of Police (IACP) project staff acknowledge the IACP Internal Affairs Advisory Committee and Roundtable participants for their dedication and tireless efforts toward the completion of this document. These talented individuals advised the project on its design and implementation. We also thank IACP leadership, project staff, and the Office of Community Oriented Policing Services, whose support made this document possible. In addition, we acknowledge the following individuals for their contributions to this guide.

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Without the support and enthusiasm of the dedicated leadership and staff at the Office of Community Oriented Policing Services (the COPS Office), U.S. Department of Justice, this guide would not be possible. The IACP particularly thanks Senior Policy Analyst Albert Antony Pearsall III, who was our project monitor. He was actively involved throughout the evolution of this project and provided valuable ideas, guidance, and support. We also extend our thanks to COPS Office Contractors Judith E. Beres, for editing this report, and Nancy Carlsen, for the publication design.

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Executive Summary

Building and maintaining community trust is the cornerstone of successful policing and law enforcement. The building and maintenance of trust takes a great deal of continuous effort. Unfortunately, the ethical work of thousands of local law enforcement officers is easily undone by the actions of one unethical officer. Often, the indictment of one seems like an indictment of all. Once misconduct occurs, the Internal Affairs function of the law enforcement agency becomes the primary method of reassuring the community that the police can and will aggressively address and resolve unethical behavior. In short, the integrity of the police will always dictate the level of community trust.

Throughout 2008 and 2009, the International Association of Chiefs of Police (IACP), supported by a grant from the Office of Community Oriented Policing Services (the COPS Office), examined the community trust continuum, with a focus on the pivotal role of Internal Affairs in rebuilding community trust once misconduct occurs. Working with ethics and Internal Affairs experts from across the country, IACP staff studied promising practices in recruitment and hiring, policies and training, rewards and discipline, and, in particular, successful and transparent Internal Affairs investigations.

This guide attempts to place Internal Affairs in its proper context—not as a stand-alone activity, but as one component of a systemic, agency-wide, professional standards effort. After discussion of some of the other components necessary in the community trust continuum—hiring, training, rewarding excellent performance—the guide focuses on building an effective Internal Affairs approach for any size or type of agency. The guidelines for the Internal Affairs function address every aspect, from complaint processing to decision-making, discipline, notification, and community transparency.

Looking at the Internal Affairs process from a citizen's viewpoint, this guide presents information on how local law enforcement agencies can be accountable to their citizens by engaging them in any number of trust-building initiatives, including citizen input for Internal Affairs determinations and discipline. Citizen involvement models range from very informal mechanisms to formalized (sometimes mandated) citizen Internal Affairs review boards. Departments are urged to create connections with their citizens in a proactive fashion to prevent the development of tenuous relationships following high-profile misconduct.

The final section of the guide addresses the critical relationship of the law enforcement leader and the governing body of the jurisdiction in trust-building and effective Internal Affairs practices. The guide suggests that the traditional hands-off approach to police ethics and Internal Affairs by governing body leaders is antithetical to addressing community trust issues successfully. The IACP and the COPS Office recommend that law enforcement leaders engage their governing bodies in the entire trust-building process—seeking their financial and programmatic support in recruitment, training, Internal Affairs, and other trust-building initiatives.

These guidelines for developing a strong Internal Affairs capacity come from experts in the field and represent national promising practices. Most important, law enforcement leaders must view Internal Affairs as part of a continuum of trust-building and not an isolated component of their agency. Once this is accomplished, the potential for community trust-building increases exponentially.

Introduction

Law enforcement executives are constantly striving to preserve a positive, ethical image of their departments to the public they are sworn to serve and protect. A community's perception of its local police department, however, is influenced by many variables.

Every day, tens of thousands of law enforcement personnel throughout the United States perform honorable and conscientious police work, but irreparable damage may be done to the entire profession from even one remote story of police misconduct or corruption. How each community perceives law enforcement depends on each police department. How the department interacts with its citizens, how accessible it is to the community, and how it manages Internal Affairs issues are integral to the profession overall. It is for these reasons that building and maintaining community trust is the hallmark of effective policing.

Law enforcement officers have accepted a position of visible authority within their communities and are held to a tremendously high standard of honesty, integrity, equity, and professionalism. Public trust in law enforcement may be fleeting if police executives do not continually reinforce sound, ethical policies and procedures to agency personnel and to the public. Law enforcement executives, therefore, bear the responsibility for demonstrating proper behavior, informing the community about their department's role in maintaining honor and integrity within the organization, and building and sustaining a trusting working relationship between the public and the police.

Establishing Internal Affairs policies and procedures within an agency is not just important, but essential. If misconduct occurs, the agency should already have measures in place to investigate and address such behavior. Internal Affairs investigations, however, should be but one component of a systemic approach to ethical conduct. If law enforcement executives hire the appropriate staff, deliver ethics training, establish an early intervention system, and properly supervise staff, all of which build trust within their communities, the Internal Affairs process may be necessary only in rare instances.

Building and Sustaining Trust Can Be Difficult

Two patrol officers from a neighboring jurisdiction are alleged to have received free groceries from a local supermarket chain for the past 2 years. The local news stations and the front page of the regional newspaper focused on the story for 3 days. Two weeks later, a lieutenant in a big city police department 2,000 miles away is accused of receiving tens of thousands of dollars in exchange for his assistance in a major drug enterprise. Both the local and national media report the story, adding that police departments across the country are undergoing similar types of corruption. As the police chief that has not had such ethical and behavioral challenges in the past, how should you address these issues of misconduct?

This guide is for law enforcement executives who strive to do the following:

- ▶ Prevent misconduct within their departments
- ▶ Properly address misconduct, should it occur
- ▶ Build and maintain community trust and confidence
- ▶ Create and maintain an ethical work environment
- ▶ Develop and sustain trust between their organizations and the communities that they serve.

While many existing publications address the Internal Affairs process, law enforcement integrity, and police/community relations, a hands-on guide to building community trust and ethical policing has not been available. The Office of Community Oriented Policing Services (the COPS Office), U.S. Department of Justice and the International Association of Chiefs of Police (IACP) partnered to create *Building Trust Between the Police and the Citizens They Serve: An Internal Affairs Promising Practices Guide for Local Law Enforcement*. This guide standardizes the practices and procedures for how law enforcement executives address ethical or misconduct problems within their departments. Several tools and resources, including a glossary of relevant terms, are included to help make the information as accessible as possible. The guide is the result of a thorough and detailed assessment of strategies that will best serve law enforcement in its quest for ethical and honest policing.

Whether you are the chief of an agency of 2, 200, or 2,000, this guide should act as an outline of how to organize and operate the Internal Affairs function in your department and build and maintain community trust.

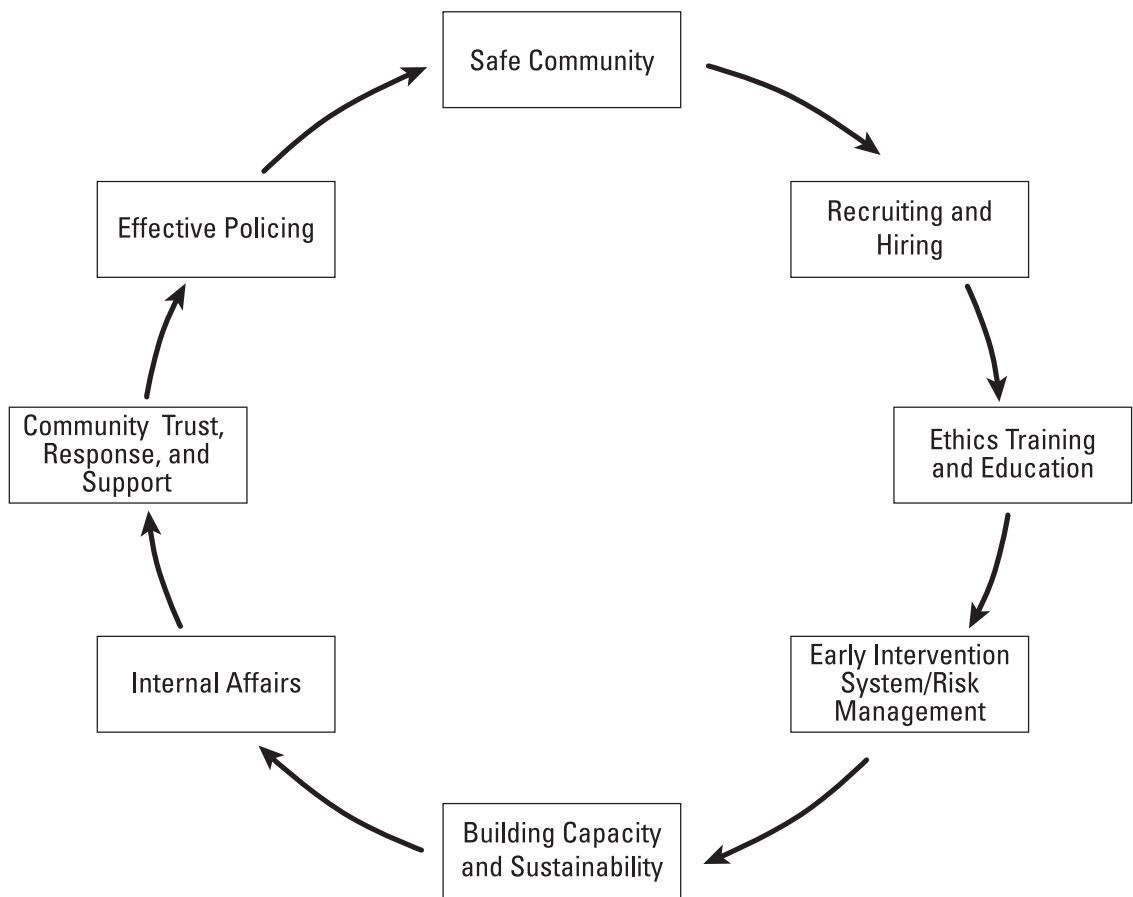
Community Trust and Police Integrity

Community trust is an established and highly honored relationship between an agency and the citizens it has been entrusted to serve. It is the key to effective policing, and law enforcement executives bear the primary responsibility for their departments' honesty, integrity, legitimacy, and competence (*Police Integrity*, 1997). To build community trust, it is incumbent on the chiefs of police and managing supervisors to foster an environment within their departments in which ethical behavior is expected and each individual is responsible for meeting those expectations (*Police Accountability and Citizen Review*, 2002). Police chiefs who are transparent (i.e., clear, concise, and open about their department's Internal Affairs process) with their constituencies, acknowledge misconduct, appropriately deal with misconduct when it occurs, and include the public in the response to misconduct will not only obtain, but also sustain, the respect and confidence of the citizens in their jurisdictions.

Police departments must adhere to the principles of integrity and professionalism as cornerstones of community trust-building. Because officers occupy a position of trust and confidence in their communities and are afforded awesome authority to carry out their duties, any excessive use of that authority, abuse of power, or failure to fulfill their duties can erode public trust and reduce or destroy their credibility within the communities they serve. Every member of a police department must understand that he or she represents the entire agency, that personal conduct is his or her own responsibility, and that he or she will be held accountable for all conduct, whether positive or negative.

Transparent Internal Affairs processes, although critically important to any agency, are only one building block in maintaining community trust. A department's Internal Affairs practices should always be part of a larger culture of integrity and ethical conduct. If command staff properly supervise officers, the necessity to use the Internal Affairs function should be rare. Culture-changing policies, programs, and training are meaningful and effective not only in preventing misconduct and corruption in the department but also in demonstrating the agency's values and principles. Moreover, the police executive must ensure that the agency's core "values and principles are expressed, communicated, and reinforced throughout all aspects of the department's operations, administration, and service" (*Police Integrity*, 1997, 47). This can be achieved by adopting a clear, precise mission statement that directs the actions of the department. Departmental policies and procedures must support the agency's mission, and must be written, clearly defined, and enforced. These ethical standards and guiding principles should be set forth in a manual for all personnel and should not only define acceptable standards of conduct, but identify conduct that is unacceptable. These values and principles must be understood and embraced by all executives, supervisors, officers, and civilian employees within the department (*Police Integrity*, 1997).

Figure 1: Internal Affairs in the Context of Community Trust-Building



Creating a culture of integrity within a department is crucial to building and sustaining community trust, effective policing, and safe communities. A clearly defined standard that guides all actions of every member of a department lays the groundwork for a trusting relationship with the community. The chief must model the values and behaviors inherent in a culture of integrity, both internally (through hiring, training, and evaluation) and externally (through community outreach and dialog), as demonstrated in Figure 1.

Internal Strategies for Building Community Trust

Community trust must be built on the foundation of a strong police culture that values integrity and holds individuals accountable for their behavior and actions. This culture must be modeled by the administration and reinforced by supervisors to be effective. Several components must work together to establish and reinforce that organizational culture. When all elements are in place for a culture of integrity, a department can be more transparent with its community, and this will help to build a trusting relationship between the two.

Office of Professional Standards

To establish and maintain an ethical, accountable culture within a police department that reflects the core values and guiding principles of the organization, it is critical for the Internal Affairs function to be distinct, yet aligned with, and supported by, the agency's chief executive. In smaller agencies, this may mean that the police chief alone reviews misconduct allegations and complaints. Regardless of staffing resources, the Internal Affairs function should be established in every agency as an Office of Professional Standards (OPS). It can be managed by one person or several, depending on agency personnel resources, but must be distinct because it is an essential unit ensuring behavior accountability to the agency leadership and the community. Midsize and large agencies may be able to establish and maintain an OPS with dedicated and trained staff who are responsible for building and maintaining a culture of integrity at all levels of the organization through coordination of training and mentoring and through managing Internal Affairs matters. To creatively address personnel allocation and budgetary challenges, smaller agencies should explore the possibility of partnering with other agencies to create a regional OPS that reviews and maintains multiagency ethical standards through an Internal Affairs function. This practice could enhance the professional development of involved staff while sustaining a robust and consistent expectation of professional behavior and ethical conduct within all participating agencies.

Recruiting and Hiring

It is imperative to recruit and hire individuals who have a service orientation and the character necessary to uphold high standards of integrity, as well as the ability to withstand the temptation to deviate from these standards (*Police Integrity*, 1997). The selection process first must screen out candidates who are not right for the profession, and then it must screen in those who exhibit the most favorable characteristics for the profession and who fit the needs and culture of the local department (*Police Integrity*, 1997). It is important for agency leadership to determine the core competencies that they want their officers to possess, such as compassion and service orientation.

Identifying people who will likely excel in a law enforcement career can be accomplished through a combination of medical and psychiatric testing, personal interviews, and background investigations (Delattre, 2006). Researchers have identified five personality characteristics that enable a police officer to perform well: extrovert, emotional stability, agreeable, conscientious, and open to experience. Other variables, such as fitting into an agency's organizational culture and situational factors such as willingness to work in a high-crime area, are equally important when selecting and hiring potential officers (Hughes and Andre, 2007). If a candidate possesses all five personality traits but will not be able to handle the stress of the job, he or she is not a good fit for this type of position.

It is important to have a comprehensive recruiting plan in place, not only to enable an agency to recruit from traditional sources, such as the military, but from other sources such as local colleges and universities. The recruiting plan should also include nontraditional methods of reaching recruits through local news and print media; having officers attend and speak at church activities, school career days, and athletic events; and involving officers in youth programs at the local YMCA/YWCA, police athletic leagues, and the Boy/Girl Scouts¹ (Delattre, 2006). An example of a comprehensive recruitment plan, courtesy of the Pennsylvania State Police, is in Appendix A.

One way to recruit competent, ethical, and service-oriented police personnel is through the Discover Policing web site. The Discover Policing web site is the cornerstone of a broad recruitment initiative sponsored by the IACP and the Bureau of Justice Assistance and aimed at enhancing the image of policing. Discover Policing markets the benefits of careers in law enforcement to a broad and diverse audience, from new applicants to those seeking a career change. This resource allows job seekers to look up contact information for nearby agencies and access links to state-specific resources and also provides hiring agencies and prospective applicants with a platform to connect online. Also, hiring agencies can advertise their vacancies at no cost, and candidates are able to post their resumes. For more information, visit www.discoverpolicing.org.

Some new hires will come to an agency from another law enforcement department. While it may seem advantageous to hire an officer with field experience, agencies should obtain a thorough reference from the officer's previous employer. An experienced officer seeking to move to a new department may have left his or her previous agency prior to being disciplined or terminated because of misconduct. Unfortunately, departments will often provide a neutral reference for officers with whom they experienced behavioral problems or would have disciplined or terminated had he or she not agreed to resign. This enables problem officers to move from one agency to another without facing the consequences of their inappropriate or poor behavior. The situation could be avoided if police departments required all new officers to sign an agreement stating that the agency has permission to obtain a copy of the prospective employee's complete employment files from all prior jobs.

Training and Education

The chief of police must establish, model, and support a culture that “promotes openness, ensures internal and external fairness, promotes and rewards ethical behavior, and establishes a foundation that calls for mandating the highest quality service to the public” (*Police Integrity*, 1997, 48). By doing so, the chief will reinforce desirable behavior throughout the department, consistent with core values and guiding principles. This effort by the chief is sustained through initial and ongoing training and education at all levels of the organization. Police leaders across the United States have indicated that, in addition to police skills training, it is important to include moral and ethical decision making throughout an officer's career (*Police Integrity*, 1997).

1. For additional ways to recruit and hire officers, see *Protecting Civil Rights: A Leadership Guide for State, Local, and Tribal Law Enforcement* or visit www.discoverpolicing.org.

Training in ethics, integrity, and discretion should begin in the police academy and continue on a regular basis until the officer retires. Continued ethics training should include “exercises for the formation and maintenance of good habits and character, as well as exercises in value choices, ethical dilemmas, and discretion in police work” (Delattre, 2006, 52). Moreover, ethical considerations should be woven into every aspect of training, policies and procedures, and the department’s mission. From the most junior recruit to the chief of police, all employees should receive such education and strive to uphold these high ethical standards. The IACP’s Code of Ethics can be used in every law enforcement agency to reinforce this standard (*Standards of Conduct*, 1997). Administrative and supervisory training is essential, particularly for new supervisors who are responsible for personnel evaluations.

As an adjunct to academy training, the IACP and other police associations provide in-service officer and supervisory training. Local police departments should commit to ongoing training on ethics, supervision, and other related topics from regional police chiefs organizations, state associations of chiefs of police, the National Internal Affairs Investigators Association, and other related organizations. Admittedly, follow-through on such a commitment is based on the agency’s training budget, so it is incumbent on police leaders to educate city officials regarding the essential nature of ongoing police training. The COPS Office and other Department of Justice agencies provide free training videos, CDs, and other resources that can augment any training effort. Local colleges and universities are excellent resources for police training because many now offer criminal justice programs. Larger police agencies are often willing to provide seats in their training sessions at little or no cost to help augment a smaller agency’s personnel training. All avenues should be considered as chief executives commit to ongoing training for themselves and their officers.

Evaluations and Early Intervention Systems

Consistent, periodic employee reviews and follow-up will address problem behavior and reduce the need for a law enforcement agency to investigate misconduct or corruption through Internal Affairs. Evaluations enable supervisors to meet with an employee, discuss his or her performance, and formally record strengths, weaknesses, and expectations. Evaluations provide supervisors with an opportunity to encourage and praise desired behavior and to notify employees when unacceptable behavior has been reported. Early in the process of recognizing inappropriate attitude or behavior, the supervisor must communicate his or her concern with the officer, offer assistance, and explain that the agency will expect positive change from the officer (Kelly, 2003). The emphasis is to identify a problematic behavior or attitude and help the officer correct it as soon as possible. It also is important to let the officer know that positive contributions to the organization and community are valued and that such behavior can be acknowledged and that negative behavior can be addressed. In the case of

poor performance, the supervisor can develop a Performance Improvement Plan,² identify the specific areas of concern, and use the plan to address and overcome the noted deficiencies (Noble and Alpert, 2009). The plan should be used as positive reinforcement, helping the employee rectify and prevent unacceptable behavior. Supervisors must conduct follow-up between evaluation meetings to ensure that the officer's performance and accountability continue to improve.

Most often used within the context of Internal Affairs, Early Intervention Systems (EIS)³ and Risk Management Systems are effective in identifying, addressing, and preventing problem behavior before it escalates to a matter for Internal Affairs. EIS, which come in many forms, are a series of interrelated personnel management processes that help supervisors identify, assess, and evaluate employees' performance for the purpose of addressing potential concerns in a timely manner. Part of a larger effort to raise the level of accountability in a police department, an EIS is a valuable way to collect and analyze data on an officer's performance, ensuring integrity at all levels of the agency (Hughes and Andre, 2007). An EIS, however, not only reveals unacceptable performance, it should also identify exemplary performance. While an EIS helps an officer in a nonpunitive way (e.g., referral to counseling or training), it also should reward outstanding behavior through awards or promotions.

Most EIS use computer systems or databases to track employee records and are housed as a separate entity from the disciplinary system, usually within Internal Affairs units (Walker, Milligan, et al., 2006). The EIS records are intended to track employee behaviors and interventions by supervisors, should that become necessary. As data-driven mechanisms of accountability, these programs rely on a broad array of performance indicators, including use-of-force incidents, citizen complaints, department and community commendations and awards, court appearances, and arrest reports. Supervisors must be adequately prepared to review the data and, as with traditional performance evaluations, conduct appropriate interventions and follow-up with the employee (Walker, 2003). Through an EIS, many behavior problems could be reduced significantly, resulting in a decrease in the caseload of the Internal Affairs unit.

2. A sample Performance Improvement Plan, as well as a sample policy and procedure for a Performance Improvement Program, is in Appendix B.

3. Many agencies use the term Early Warning System (EWS) interchangeably with EIS. While this is accurate, EIS connotes a positive, nondisciplinary approach to assisting an officer, rather than a negative warning to an officer that his or her behavior is being monitored. EIS treat officers with problems, not problem officers (Walker, Milligan, et al., 2006).

External Strategies for Building Community Trust

Ongoing community partnerships and dialog help department leaders gauge the communities' perception of the police department and help foster trust between the community and the police. When a chief maintains a continuous dialog with the members of his or her community regarding their perception of how the agency is adhering to established standards, both the police and community leaders gain a better understanding of the community perception and can act to have a positive impact on that perception. Many strategies exist for engaging in effective community outreach with the goal of enhanced community trust, for example, circulating community safety surveys that accurately measure community perception and needs. Such an effort requires a commitment by the police leader to engage the community and respond to its needs.

Community Oriented Policing

A valuable and effective way for a department to engage its community is by practicing community oriented policing. Organizational transformation, problem-solving, and community partnerships comprise the concept known as community oriented policing (Fisher-Stewart, 2007). In existence for more than 30 years, community oriented policing is a policing philosophy that promotes and supports organizational strategies to address the causes, and reduce the fear of, crime and social disorder through problem-solving tactics and community/police partnerships. There is no single set of rules or a specific checklist for what constitutes a community oriented policing program; rather, the philosophy requires citizens and police to collaborate to proactively increase public safety within the community (Fisher-Stewart, 2007). Each community policing program is as unique as the community in which it is practiced; however, law enforcement agencies have cited five consistent key elements of an effective community oriented policing program (*Protecting Civil Rights*, 2006):

1. Adopting community service as the overarching philosophy of the organization.
2. Making an institutional commitment to community policing that is internalized throughout the command structure.
3. Emphasizing geographically decentralized models of policing that stress services tailored to the needs of individual communities rather than a one-size-fits-all approach for the entire jurisdiction.
4. Empowering citizens to act in partnership with the police on issues of crime and more broadly defined social problems, for example, quality-of-life issues.
5. Using problem-oriented or problem-solving approaches involving police personnel working with community members.

In addition to the five key elements, it is imperative that the chief of police demonstrates his or her commitment to the philosophy and incorporates it into the department's overall mission and way of doing business. Research shows that community oriented policing has greatly improved the public's perception of police. Community oriented policing strategies can establish frequent contact and build more meaningful relationships with the community by fostering dialog between the police and residents and enhancing community trust. Some examples of successful strategies include the following:

- ▶ Convene monthly meetings with community members
- ▶ Increase bicycle and foot patrols on community streets
- ▶ Engage specific sectors of the community, such as schools, minority communities (particularly those who previously have felt disenfranchised), and faith-based organizations
- ▶ Establish programs that solicit involvement from residents, such as Neighborhood Watch and Night Out Programs.

Citizen Police Academies

Another way for law enforcement to foster community trust is through citizen police academies. Citizen police academies enable residents to learn about their local law enforcement agency's culture and core values and the overall operations of a department. Citizen police academies provide citizens with a first-hand look at the mission, policies, and regulations to which officers must adhere, and allow them to better understand the job of being a police officer, including the stresses of the occupation (see National Citizens Police Academy Association, www.nationalcpaa.org). Graduates of citizen police academies often become advocates and ambassadors of police policy and practices to fellow citizens. This is an effective way to enhance the relationship between the public and law enforcement.

The Media

Proactively engaging the local media can be an effective way to influence community perception of a police department. Whether a department has a specifically designated public information officer, the agency always has a spokesperson who should use his or her media contacts to conduct a broad, proactive outreach strategy, disseminating information about successful programs within the department. Building rapport with the media will also provide the department with more opportunities to highlight positive stories in the future. By publicizing a community oriented policing or citizen police academy program through the news and print media, a police department can further convey its mission and core values to the public (Chermak and Weiss, 2003).

Implementing Community Trust-Building Activities

Internal Strategies

- Institute culture-changing policies, programs, and training to solidify the department's core values and ethical principles. Consider developing an Office of Professional Standards to manage these activities.
- Develop a comprehensive recruiting plan; recruit and hire people with a service orientation.
- Provide continuous training in ethics, integrity, and discretion to every officer from the time he or she enters the police academy through the time of retirement.
- Conduct consistent evaluations and review of all employees, and immediately address negative behavior and reward positive behavior.
- Use some form of Early Intervention System, not only in Internal Affairs, but to prevent behavior that may lead to an Internal Affairs complaint and investigation.

External Strategies

- Institute some form of community oriented policing program to better engage the community.
- Develop a citizen's police academy.
- Use the media to publicize positive programs and stories about the department.
- Hold workshops on subjects of interest to the community.
- Conduct a community survey to gauge and enhance public perception.
- Proactively involve the public.

Seminars, Publications, and Surveys

Many law enforcement agencies across the country have used innovative ways to reach out to their communities. Some agencies have held 1-day workshops and seminars on subjects such as community oriented policing and proper use of force. Some agencies have canvassed neighborhoods, handing out pamphlets and brochures about the department's programs or local crime statistics. Others have posted billboards with hot line and other important numbers at the police department, while others have posted pertinent information on their web sites or in their annual reports (Chermak and Weiss, 2003). Additionally, many agencies conduct community surveys every few years. A community survey can serve two purposes: 1) it can gather information about the public perception of the agency and 2) it promotes the understanding that the police department is interested in the community, seeks out and listens to community opinions and needs, and is responsive to the community. Sample community surveys are in Appendix C.

Citizen Involvement

Often implemented as a result of a local crisis, such as police misconduct, and usually associated exclusively with the Internal Affairs process in the form of a citizen review board, citizen involvement can be used as a tool that fosters continuous dialog between residents and the police department. By formally engaging community leaders in appropriate internal decision-making (e.g., where to implement Neighborhood Watch programs or whether it is necessary to start a Senior Citizen Alert program), residents will feel that they have a stake in programs that the police may implement, that the police are transparent in their motivations, and that they are assisting the police in improving public safety. If citizen involvement is used only in response to misconduct or corruption, citizens are likely to feel isolated and wary of law enforcement. If they feel included through collaboration, though, they will gain a broader appreciation of police work and gain insight into, and consequently trust of, law enforcement (Delattre, 2006).

Trust is built when citizens feel that the police department listens and appropriately responds to their valid concerns and opinions. Confidential information should not be shared with citizens; however, involving them in even the smallest facet of the organization goes a long way toward instilling a sense of community trust.

Internal Affairs as an Effective Tool for Building Trust

Community outreach and collaboration, as detailed in the previous section, are valuable tools in developing community trust. Internal Affairs, however, also plays an important role in the relationship between the public and the police. Internal Affairs is a function within a law enforcement agency that investigates allegations of misconduct, corruption, inappropriate adherence to policies and procedures and to behavior, and matters so assigned by superior officers to ensure the professional integrity of the department and its members. Internal Affairs should be part of the OPS in midsized and larger agencies and should have an integral role in smaller agencies.

“The vast majority of law enforcement officers are honest, loyal, and hardworking professionals” (*Investigation of Employee Misconduct*, 2007, 1); nevertheless, a small number of officers become susceptible to misconduct, and when this occurs, community trust in police is eroded. Whether the misconduct is administrative or criminal in nature, the police department must be “able to effectively identify, investigate, discipline, and control their officers to uphold the high standards of integrity central to the policing mission” (Noble and Alpert, 2009, 2). That is when the Internal Affairs process is a necessary tool, not only to address an officer’s misconduct, but to regain and maintain the trust of the public.

Effective Internal Affairs processes ensure that complaints about an officer are heard and dealt with effectively within the department, and that an officer is protected against false or malicious accusations through fair, thorough, accurate, and impartial investigations (Noble and Alpert, 2009). A strong Internal Affairs function should both improve morale within an agency and increase trust within the community.

The chief of police and all supervisory staff must be steadfast in their commitment to the Internal Affairs process. The procedures for accepting and investigating both internal and external complaints against an officer must be fair, consistent, and timely (*Investigation of Employee Misconduct*, 2001). The department should have written policies and procedures in place about the administration and investigation of Internal Affairs issues and the chief of police must ensure that all Internal Affairs rules and procedures are strictly enforced. A standard for Internal Affairs is in Chapter 52 of *Standards for Law Enforcement Agencies: A Management Improvement Model through Accreditation* (2006), a publication of the Commission on Accreditation for Law Enforcement Agencies (CALEA). The guidance from that chapter ranges from to whom the Internal Affairs position or division reports to reporting findings at the conclusion of an investigation. Additional information about Chapter 52 is in Appendix E.

There is no one-size-fits-all approach to Internal Affairs. The key is to ensure accountability in the agency. The methods for achieving this vary by the size of the department, the existing risk management tools in use, the type of misconduct, and the unique characteristics of the community (Noble and Alpert, 2009). Whether a department has a stand-alone Internal Affairs division, a designated supervisory officer, an external oversight agency, or any combination of the three, there are several guiding principles that any department should follow.

The Structure of Internal Affairs

If internal investigations are conducted in house, the physical location of the Internal Affairs function and related documents is of critical importance. It should always be housed in a private, secure area. “The best location for Internal Affairs would be a facility completely separate from the police facility. Complainants, witnesses, and subject officers could appear for interviews and interrogations without their appearances known by the entire department” (Noble and Alpert, 2009, 13). In reality, however, this is feasible only in larger agencies. Many law enforcement executives demonstrate the importance and seriousness of the Internal Affairs function by symbolically placing the unit or person near the executive staff offices (Noble and Alpert, 2009). Similarly, the chief of police (or his or her designee) should directly oversee Internal Affairs matters, further ensuring confidentiality of records and the integrity of the process (*Investigation of Employee Misconduct*, 2007).

Selecting the right person or persons to serve as Internal Affairs staff is crucial. The chief of police must select officers who want to be a part of the Internal Affairs function; an officer should never be forced into this position. The investigator must be well-respected in the department, by union officials (if applicable), and in the community; have good interpersonal skills; have significant patrol and supervisory experience; and be fair, objective, and honest. Whoever is selected to serve in Internal Affairs must possess highly advanced investigation skills similar to those used in conducting criminal investigations. Even the most skilled investigator should receive additional and continuous training, not only on the subject of investigations but also in the areas of state employment law, the applicable collective bargaining agreement, and related topics (*Investigation of Employee Misconduct*, 2007). The chief of police must send a clear message about the importance of Internal Affairs by having those personnel report directly to the chief. Moreover, the top executive should reward fair and thorough internal investigators with promotions, commendations, conference attendance, and public recognition of the good work of the officer(s).

By sheer necessity, the chief of police in a smaller agency may be responsible for conducting all Internal Affairs investigations and determining the appropriate dispositions. The executive must determine whether he or she can continue to administer the agency while fairly and thoroughly investigating individual cases. Chiefs should be cautious of creating the perception of impropriety because he or she will be forced to both investigate the allegation and rule on its outcome.

An alternative way for an agency to handle complaint allegations is for the chief of police to ask the subject officer's immediate supervisor to investigate the issue and recommend an outcome to the executive, who will ultimately make the final determination. Usually, the employee's supervisor will conduct investigations into complaints of rudeness, minor neglect of duty, failure to appear in court, failure to follow proper procedure, and other less-serious accusations (Noble and Alpert, 2009). For this method to be effective, however, extensive training for supervisors is required.

Last, when a complaint allegation involves the chief executive or a member of his or her executive staff or when there are not enough resources to conduct an internal investigation, an agency can use an external investigator or investigative agency to handle the complaint. The external investigator can be another law enforcement agency, like the state police or the prosecutor's office, or a contract investigator. Some smaller agencies have formed regional Internal Affairs consortiums, while others have established state investigatory associations. Both models allow law enforcement organizations to conduct another agency's Internal Affairs investigations, providing more support and structure throughout the process. These models also reassure the community of fairness and impartiality.

If a department chooses to use an outside investigator or agency to conduct the investigation, that person or agency must be independent, unbiased, and knowledgeable in the areas of law enforcement and employment law. Additionally, the department and the external investigator should enter into a memorandum of understanding (MOU) that sets forth the parameters of the investigation (e.g., timeline, to whom the investigator reports, and the limits on his or her authority with respect to agency staff/witnesses). The MOU should make it clear that the investigator maintain the utmost confidentiality in the matter and adhere to all applicable laws and collective bargaining agreements. The law enforcement executive should always retain his or her right to release information to the public and should never assign that authority to anyone else. Finally, the external agency should provide frequent progress reports to the chief of police. These reports should not reveal details of the investigation but rather details about the progress of the investigation; for example, which witness the investigator interviewed or when the investigator reviewed a security tape of the alleged incident (Noble and Alpert, 2009). For more information about what to include in an MOU, review the sample MOU in Appendix D.

Regardless of which investigatory method is used, a high level of quality control is essential to any fair and thorough investigation. Some basic steps to ensure quality control are set forth in the following section.

The Complaint Process

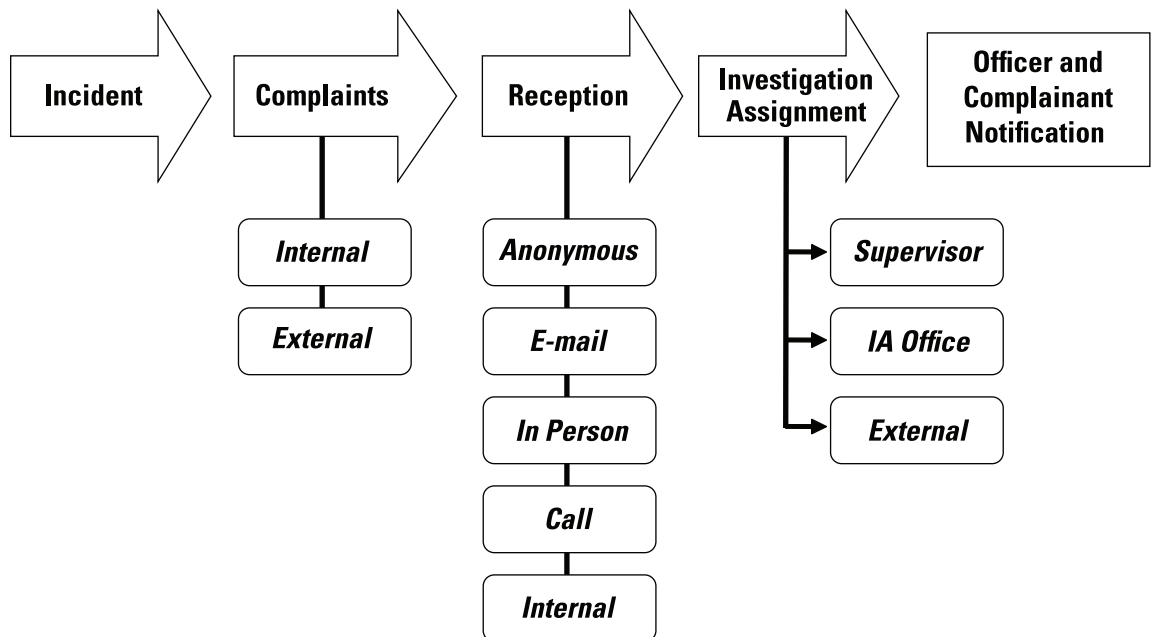
“The complaint process should not discourage, dishearten, or intimidate complainants, or give them cause for fear”

(Internal Affairs Guidelines, 2008, 10)

A complaint is an expression of displeasure with the actions or services of an agency and/or its employer, or an allegation of wrongdoing. Receipt of a complaint will initiate the Internal Affairs process, so a procedure for complaints must be established. A general model of the complaint process is detailed in Figure 2 and in the text that follows.

It is imperative to not only have procedures in place for fairly and impartially accepting, processing, and investigating complaints concerning allegations of employee misconduct but also to inform all police employees and the public of that process *(Investigation of Employee Misconduct, 2007)*. “An accessible, fair, and transparent complaint process is the hallmark of police responsiveness to the community” *(Protecting Civil Rights, 2006, 81)*. It is incumbent on the police department to make its citizens aware that a complaint process exists, how to file a complaint, and how the agency processes and investigates complaints.

Figure 2: The Complaint Process



Principles of an Effective Complaint Process

An effective complaint process contains the following four underlying principles (*Protecting Civil Rights*, 2006):

Comprehensive

A department must investigate all misconduct complaints, regardless of the source (*Investigation of Employee Misconduct*, 2007). CALEA Accreditation Standard No. 52.1.1 states that a written directive must require that “all complaints against the agency or its employees be investigated, including anonymous complaints.” A standard practice of accepting any and all complaints is the best way to ensure that any method of complaint is accepted (Thurnauer, 2002). Complaints should be accepted in all forms, including in person, in writing, by e-mail and web pages, or by telephone. Some agencies have even established 24-hour complaint hot lines (Noble and Alpert, 2009).

Accessible

Employees and civilians alike should be made aware, through proactive outreach programs, of their right to file a complaint. CALEA Accreditation Standard No. 52.1.4 states that information on registering complaints must be made available through the media and community outreach. Many agencies use brochures (in multiple languages, where applicable), their web sites, and community meetings to let the public know that the process exists.

Fair and Thorough

Departments should afford each complaint “a thorough, rigorous, unbiased, and timely investigation” (*Protecting Civil Rights*, 2006, 89). There should be a standard of fundamental fairness in the investigation of a complaint. All subject officers should be treated equally and be afforded comprehensive investigations into any claims of misconduct.

Transparent

There should be a formal process for all employees to be able to accept complaints at any of the police department’s facilities, including substations, satellite offices, and oversight agencies (Noble and Alpert, 2009). All department staff must fully understand the Internal Affairs process and the department should make every effort to inform their constituents about the process. All employees should be trained on what to do when a complainant files a complaint, and the department should have a formal way to keep the complainant apprised of the progress of the complaint (*Protecting Civil Rights*, 2006).

Both the IACP and CALEA have adopted standards for written policies and procedures for internal and citizen complaints.⁴ In addition to the IACP and CALEA standards, many agencies follow similar state certification standards. Whatever standards a department follows, it is important to note that before any type of complaint process is implemented, state and local laws and any collective bargaining agreements that may be in effect must be examined to ensure proper adherence to legal and contract rights.

Once a complaint is received, it should be forwarded to the appropriate personnel (i.e., the Internal Affairs unit, staff member who is in charge of Internal Affairs, or immediate supervisor); recorded, preferably electronically; and kept in a separate, secure storage area, apart from other personnel records (CALEA, 2006, 52.1.2). As the complaint progresses through the process, it should be tracked, electronically when possible (Noble and Alpert, 2009). Unless a criminal investigation would prohibit it, the subject officer should be notified in writing of the complaint immediately.⁵ The notification must contain the rights and responsibilities of the employee with respect to the investigation (CALEA, 2006, 52.2.5). If the state has a codified Officer's Bill of Rights, it should also be included with the notification. Additionally, the notification should include the nature of the allegations; a copy of the complaint, if available; and the name and rank of the officer or the name of the agency that will investigate the claim (Thurnauer, 2002). The entire process should embrace the notion of fundamental fairness. All employees who receive a complaint against them, regardless of rank or tenure, should be treated fairly and equitably.

It is essential to have a written directive that delineates which types of complaints will be investigated by the subject officer's supervisor and which will be referred to Internal Affairs (CALEA, 2006, 52.2.1). Usually, less-serious complaints are handled by the chain of command, while more serious allegations are reviewed by the Internal Affairs function. Even if Internal Affairs is involved, the employee's supervisor should be notified.

Examples of Complaint Categories

- ▶ Verbal abuse
- ▶ Physical abuse
- ▶ On-duty
- ▶ Off-duty
- ▶ Drug and alcohol
- ▶ Informal complaints
- ▶ Traffic citation complaints
- ▶ Shooting incidents
- ▶ Violation of policy/procedure
- ▶ Profiling
- ▶ Violation of policy/procedure.

4. CALEA *Standards for Internal Affairs* is in Appendix E and the IACP *Model Policy* is in Appendix F.

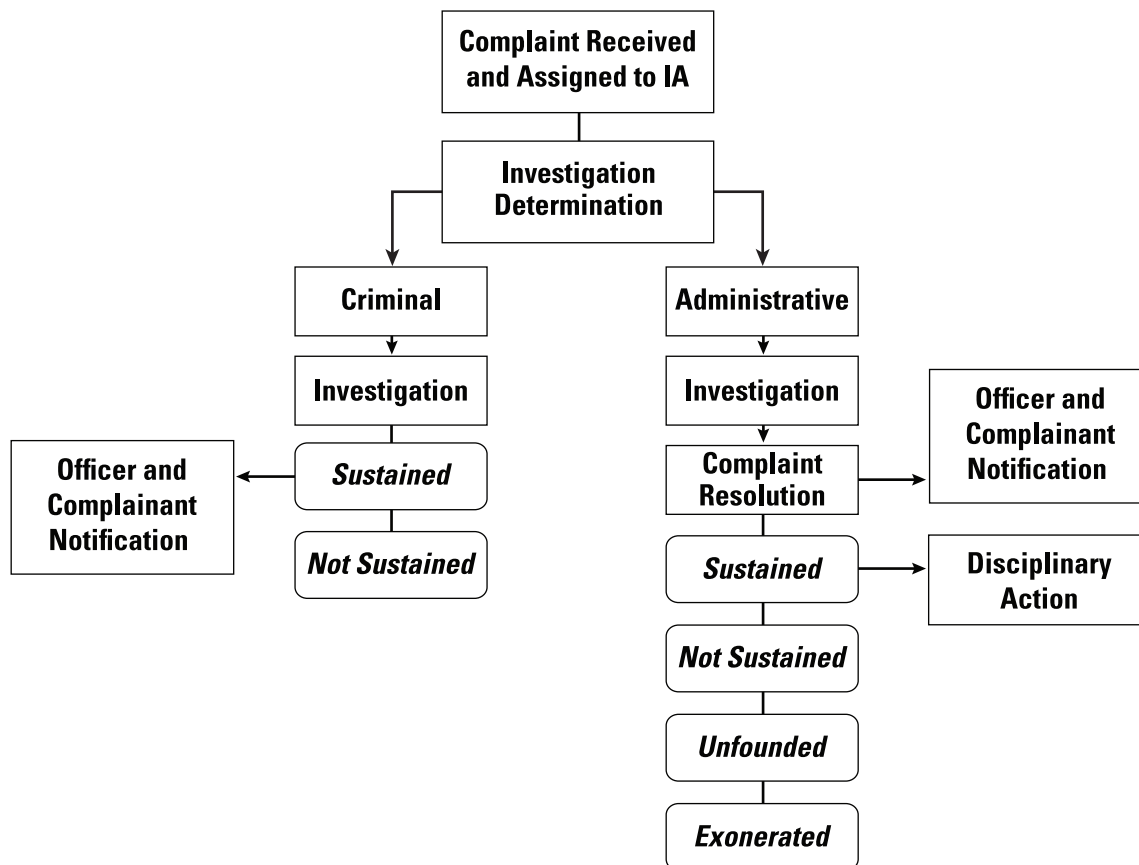
5. A sample officer notification form is in Appendix G.

Once the investigator is assigned, the department sends a letter to the complainant acknowledging receipt of the complaint.⁶ The letter should contain the name and contact information of the investigator and explain that the complainant will receive periodic status reports about the investigation and notice of the ultimate disposition within a reasonable time frame (CALEA,2006, 52.2.4). CALEA Accreditation Standard No. 52.2.3 dictates that a police department must have a written time frame for completing all Internal Affairs investigations. Having a time frame established enhances accountability for a timely response to both the complainant and the officer.

The Investigation

Once a complaint has been received and assigned to an investigator, the investigation process can commence. A general model of the investigation process is detailed in Figure 3 and in the text that follows.

Figure 3: The Investigation Process



6. This does not apply to complaints received anonymously.

Understanding Garrity

Every Internal Affairs investigator should understand the seminal United States Supreme Court case of *Garrity v. New Jersey*, 385 U.S. 493 (1967). *Garrity* held that in administrative proceedings, an employer may compel a statement from a public employee by threatening him or her with dismissal from the job, but the statement may not be used in subsequent criminal prosecutions. It is advisable, therefore, to provide *Garrity* warnings during an investigation. Similar to Miranda warnings, a *Garrity* warning advises the employee that failure to fully disclose information that is related to the office held may result in disciplinary action up to and including dismissal. This enables an administrative investigator to obtain complete information without being obligated to share it with the criminal investigator. To avoid any complications associated with *Garrity*, it is advisable that the criminal investigator's interview of the subject officer be conducted prior to that of the administrative investigator. Some agencies avoid this confusion by waiting until the criminal investigation is completed before beginning the administrative investigation (Noble and Alpert, 2009). Because of the various complications that may arise, it is advisable that every department create a protocol delineating how to proceed with an administrative complaint while waiting for a potential criminal case to arise (*Internal Affairs Guidelines*, 2008). If the chief feels that the complaint allegation or the situation is dire (e.g., lethal use of force), he or she must make a decision immediately about what action is warranted for the subject employee (e.g., unpaid leave or removal of his or her firearm), rather than waiting for the outcome of the criminal investigation. The chief must always remember that protecting the public is his or her first priority and that waiting for prosecutorial determinations is not practical in many situations.

At the beginning of the investigation, the investigator must determine if the complaint is valid and, if so, he or she must classify the complaint as either administrative or criminal in nature. If the investigating officer determines that the complaint is frivolous or specifies an action that is made in accordance with agency policy and procedure, the complaint should be dismissed (Noble and Alpert, 2009). If the investigating officer has reason to believe that the allegations are reasonable, he or she should classify the complaint as administrative or criminal and begin the investigation (Noble and Alpert, 2009).

If the complaint reveals both administrative and criminal behavior, the matter should be separated into two investigations, one administrative and one criminal, with a separate investigator assigned to each investigation (Thurnauer, 2002). Each type of investigation must follow the letter of the law as well as agency policy and procedure, while being careful not to compel statements from the subject officer that may be used against him or her in the criminal investigation (Noble and Alpert, 2009).

After the complaint has been categorized as either criminal or administrative and the subject officer has been notified, the investigator can begin a thorough, unbiased, and timely investigation into the allegation.⁷ Information obtained from all sources, including mobile data terminals, witness interviews, photographs, and canvassing of the scene should be explored.

Interviews should not take place in a group setting and should be conducted as close to the incident in question as possible (Noble and Alpert, 2009, 44). Absent restrictions dictated by law or union contract, the department should give the subject officer advance warning before an administration interview, allowing the officer to obtain legal (or union) representation, if he or she wishes (*Internal Affairs Guidelines*, 2008). The investigator must adhere to the investigatory timeline used by the agency. Many agencies have a policy that sets a 30-day time frame of completion from the date the complaint is received.⁸ Particularly for smaller agencies, such a timeline may put undue strain on an internal investigator. All departments, therefore, should have a policy that allows an investigator to request additional time to complete the investigation. If the investigation cannot be completed within 30 days, the chief of police should grant an extension and immediately notify the subject officer and complainant of the extension.

The entire investigation process should be transparent to the subject officer and the complainant, and they should be updated regularly on the progress of the investigation. If a collective bargaining agreement is in place, the investigator must adhere strictly to the procedures set forth in the agreement and a designated union representative should also receive periodic updates. It is crucial to note that an investigator should never be a witness in a case that he or she is investigating.

Sample Report Outline for Internal Investigations

1. Predication.
2. General information, including evidence.
3. Complainant interview.
4. Victim interview, if not the complainant.
5. Witness interview(s).
6. Accused interview.
7. Polygraph results.
8. Findings.
9. Attachments (*Garrity*, copies of policies, diagrams, photos, etc.).

7. Even if the subject officer resigns prior to, or during, an investigation into his or her conduct, the law enforcement executive should consider investigating the complaint as if the officer was still employed, resources permitting (*Internal Affairs Guidelines*, 2008).

8. Information gathered from an IACP member survey indicates that the majority of respondents use a 30-day time frame. Additional information about the survey results and overall methodology is in Appendix I.

Once the investigation is complete, the investigator should analyze the issues, evidence, testimony, and materials; logically organize the presentation of facts; and write a comprehensive report. The report should include a summary of the complaint, identification of the subject officer, identification of all witnesses, the details of the allegations, the policies and procedures that were allegedly violated, and an extensive narrative about the substance and process of the investigation (Noble and Alpert, 2009). It is advisable to use a uniform report outline in a consistent manner, as shown in the sidebar, “Sample Report Outline for Internal Regulations”⁹ on page 25.

The Disposition

The investigator must forward his or her report first to the subject officer’s supervisor and then to the chief of police. Usually, the chief is responsible for determining the final disposition in the matter, but he or she can delegate this authority.¹⁰ Findings should consist of at least the following four determinations:

1. Unfounded: the allegation was false or devoid of fact.
2. Exonerated: the act occurred but was lawful and within policy.
3. Not Sustained: the evidence was insufficient to either prove or disprove the allegation.
4. Sustained: the evidence was sufficient to prove the allegation. (*Investigation of Employee Misconduct*, 2001)

Once a finding is reached, the chief of police must notify the subject officer and the complainant (CALEA, 2006, 52.2.8). The employee should be advised of the findings and, if sustained, notified that he or she will be disciplined. In all cases, the subject officer should receive a complete copy of the investigative report (*Investigation of Employee Misconduct*, 2001). Similarly, the complainant should receive written notification of the final disposition of the complaint and, at a minimum, the name and contact information of the commanding officer who can answer any questions (Noble and Alpert, 2009).

9. Sample report outline for internal investigations is provided by the Douglasville (Georgia) Police Department.

10. The chief of police may delegate authority to four sources that can make a determination of finding on a complaint. They are: the head of, or a group within, the Internal Affairs unit; the subject officer’s supervisor; an internal panel of police managers; or an oversight agency (*Managing Accountability Systems for Police Conduct: Internal Affairs and External Oversight*, 2009).

Addressing Problem Behavior

If a complaint against the subject employee is sustained, the chief of police must approve some form of corrective action to modify the employee's behavior and, in some cases, discipline the officer. Action taken against the employee should be consistent but flexible, recognizing that each situation has unique factors (Noble and Alpert, 2009). Before determining how to address the issue with the employee, both state and local laws and collective bargaining agreements that may be in effect should be examined to ensure compliance with legal and contract rights.

Police agencies around the United States address the issue of discipline from a variety of perspectives. In all cases, the goal of discipline is to assist employees who are not performing at established standards or who may not be in compliance with a rule or policy to make better future judgments. The disciplinary action should also help them internalize the policies and procedures of the agency that support its guiding principals and core values. All disciplinary action should be fair and consistent.

Some agencies use a traditional form of discipline in which discipline is a punitive system that increases in severity depending on the severity of the infraction, up to and including termination. Termination, though, should be used as a last resort when the officer fails to conform to departmental standards after various opportunities to correct the behavior or when the employee has been found to have committed serious misconduct or criminal acts (Noble and Alpert, 2009). CALEA Accreditation Standard No. 52.2.7 requires an agency to have a written directive establishing the circumstances in which an employee may be terminated. The underlying assumption of this progressive discipline model is that the more severe the punishment, the greater the deterrent.

In other models, discipline is addressed through training intended to help the employee develop greater self-control so that future judgment is more compliant with agency values and guiding principles. The emphasis in this disciplinary system (Discipline without Punishment), is on the employees taking personal responsibility for their actions by internalizing the agency policies and aligning themselves with its core values and guiding principles. It is the employees' responsibility to choose to make the right decision, or take the right action that is supported by their peers and agency leadership. It is not solely the responsibility of the leadership, in this case, to determine when an employee's behavior is inappropriate and administer punishment. When an employee willingly follows agency policy, meets or exceeds expectations, and practices good judgment, it is indicative of effective discipline and self-monitoring. There may be many ways to accomplish this goal and maintain positive relationships between the employee and supervisors through coaching, mentoring, and discipline.

Working with Unions

In jurisdictions where there are collective bargaining agreements with police unions, police chiefs must be fair but firm in their position on issues pertaining to ethical accountability, the Internal Affairs process, and discipline. The chief of police can concede in some areas, such as benefits or work schedules, but should not negotiate executive oversight in these important areas. If the premise of any negotiation begins with both sides wanting an ethical, fair, and unbiased work environment, the discussions should not be antagonistic.

Some agencies use a disciplinary matrix that provides the chief with a guide for determining disciplinary action. Other agencies use disciplinary guidelines to obtain flexibility in the disciplinary response for specific actions, while ensuring that the response remains consistent and not arbitrary (*Internal Affairs Guidelines*, 2008). Whatever type of guidance the department uses, the decision-maker should be allowed some disciplinary discretion (*Investigation of Employee Misconduct*, 2007).

Before the employee's supervisor imposes any recommended disciplinary action, the written document that notifies the employee of the investigation's outcome must also notify the officer of his or her right to formally respond to the finding (*Investigation of Employee Misconduct*, 2007). If the officer wants to respond, he or she may do so within the period set forth in the formal notification. Depending on the agency's policies, the officer may 1) request, either in writing or verbally, the chief or his or her designee for a predisciplinary hearing, or 2) merely respond, in writing, to the finding. In either case, the employee should be allowed to address the charges against him or her and request a reduction in any proposed disciplinary action (*Investigation of Employee Misconduct*, 2007). Once the top executive reviews the employee's response and makes a final ruling on the proposed discipline, the chief may order the supervisory officer to implement the disciplinary action. It is important to note that some union contracts require that, before any corrective action or termination takes place, the agency must demonstrate just cause in determining whether management acted reasonably in its decision to implement discipline or termination (Noble and Alpert, 2009).

Implementing an Effective and Transparent Internal Affairs Process

Structure

- Establish and maintain an Internal Affairs function in the agency.
- Draft written policies and procedures with respect to Internal Affairs, ensuring fair, unbiased, and timely investigations of officers.
- Select a private and secure location for the Internal Affairs function.
- Select the appropriate person or persons to perform the Internal Affairs function, and provide training for the position.
- Determine whether Internal Affairs investigations will be handled internally, externally, or a combination thereof.
- If an external investigator is used, enter into an MOU before turning over any authority to investigate.

Complaints

- Establish written policies and procedures for accepting, processing, and investigating complaints, ensuring fairness to the subject officers.
- Ensure that the public is aware of the complaint process.
- Determine whether the complaint is administrative or criminal in nature, and if both, separate it into two investigations.

Investigations

- Adhere to written timelines for investigations, which should be between 30 to 60 days from the date the complaint was filed.
- Upon completion of the investigation, the investigator must write a comprehensive report on the matter.
- Findings should consist of at least four, clear determinations (unfounded, exonerated, not sustained, and sustained).
- Notify the subject officer and complainant, in writing, of the outcome.
- Approve of corrective action, which should always be fair, consistent, and positive, if a complaint has been sustained.
- Allow the subject officer to respond to the finding before imposing corrective action.

Confidentiality

- Ensure that all documents and files are kept separately and securely, apart from other personnel files.
- Review state public records laws.

Internal Affairs Files and Confidentiality

Once an investigation is complete, all documents and files must be forwarded to the department's Internal Affairs unit, if applicable, or to the law enforcement executive who oversees Internal Affairs. These files should be kept completely separate from all other personnel files, and should always remain locked, accessible only to appropriately credentialed personnel and preferably, in the office of the chief of police. All files must remain confidential and should be retained for a period of time required by law or, if no law exists, for an appropriate length of time determined by the chief of police (*Investigation of Employee Misconduct*, 2007).

Finally, executives and investigators should operate on the assumption that all written interviews, statements, and reports may be reviewed by the public. All 50 states and the District of Columbia have public records laws. Some states have enacted multiple statutes, but generally, these laws enable members of the public to obtain documents and other public records from state and local governments. Although these laws are similar to the federal Freedom of Information Act (FOIA), there are important differences between and among the laws. At the very least, every chief must familiarize him or herself with the FOIAs within his or her state, thereby knowing what information is vulnerable to public inspection.

Accountability Through Internal Affairs

The Internal Affairs function must focus on a broad range of concerns, rather than merely adjudicating an individual case. Internal Affairs “must demonstrate a commitment to enhance public trust and assess whether deficiencies in departmental policies, procedures, or training may have contributed to the problematic behavior” (*Protecting Civil Rights*, 2006, 103). There are a variety of ways to establish individual and departmental accountability.

Citizen Review

Citizen involvement is one possible measure that would serve to reassure the community of the accountability of the department. Among the various forms of citizen review of police misconduct, the most common include the following:¹¹

- ▲ **Citizen review board:** a panel of citizens handles every aspect of the citizen complaint continuum.
- ▲ **Police review/citizen oversight:** the police department handles every aspect of the complaint continuum, but citizens review those actions/determinations.
- ▲ **Police review/citizen-police appeal board:** the police department handles every aspect of the complaint continuum, but the complainant may appeal the outcome to a board comprised of officers and citizens.
- ▲ **Independent citizen auditor:** the police department handles every aspect of the complaint continuum, but a citizen serves as an auditor to review the process for effectiveness and accuracy, making recommendations to improve the process as necessary.

While some agencies may view citizen review as a sign of mistrust or interference from the community, generally “citizen review proposals are not negative in character but an outreach from the community to help departments respond objectively to different internal situations” (*Police Accountability*, 2000, 2). If an allegation of police misconduct occurs, the community may begin to lack faith in the Internal Affairs process. The public, then, often becomes uncomfortable with law enforcement policing itself and may want more involvement in the process (*Police Accountability*, 2000).

Citizen involvement may not be feasible, warranted, or necessary in all communities. It is important for a chief of police, in collaboration with government and community representatives, to take a position on citizen review after careful and detailed analysis of existing problems, costs, and political consequences and weigh alternative methods of reviewing internal matters in a way the fosters community trust.

11. See *Police Accountability and Citizen Review* for a detailed account of citizen review.

Complaint Tracking

A highly effective way to establish both individual and departmental accountability is by collecting, maintaining, and analyzing all complaint data (*Internal Affairs Guidelines*, 2008). CALEA Accreditation Standard No. 52.1.5 requires that agencies make annual statistical summaries of all records of law enforcement investigations available to the public and all departmental employees.

By tracking complaints, management can evaluate the types of offenses that are the most frequent subject of complaints and also identify patterns of behavior related to specific officers.¹² This form of tracking will help inform agency-wide training priorities as well

Implementing Accountability Measures

- Consider implementation of a citizen advisory function.
- Use data management systems to track complaints and assess the overall agency climate.
- Disseminate summary complaint and investigation outcomes to the public on a regular, consistent basis.

as opportunities for individual intervention. Employee evaluations should use the EIS to identify an officer who may have repeated complaints lodged against him or her, and after analyzing the data, management can assist the employee in rectifying the problem behavior. This kind of tracking contributes to the internal structure that can increase citizen trust in the agency, and decreases the department's (and the city's) legal liability as a risk-management tool.

Additionally, by tracking the complaint process and analyzing the data from it, agencies can produce comprehensive, clear, and informative summary reports to disseminate to the public.

In accordance with CALEA Accreditation Standard No. 52.1.5, these summary reports should be widely disseminated, "sending a message of transparency and accountability to the public" (*Protecting Civil Rights*, 2006, 104). Many agencies make this information available in their annual reports, in brochures, on their agency's web sites, and through public service announcements. The information from these reports should be used in conjunction with other indicators of citizen satisfaction to ensure the continued integrity of the police department. Routine assessments of the agency are a way to proactively ensure that the high standards of the organization are being implemented and that those standards reflect the needs and desires of the community.

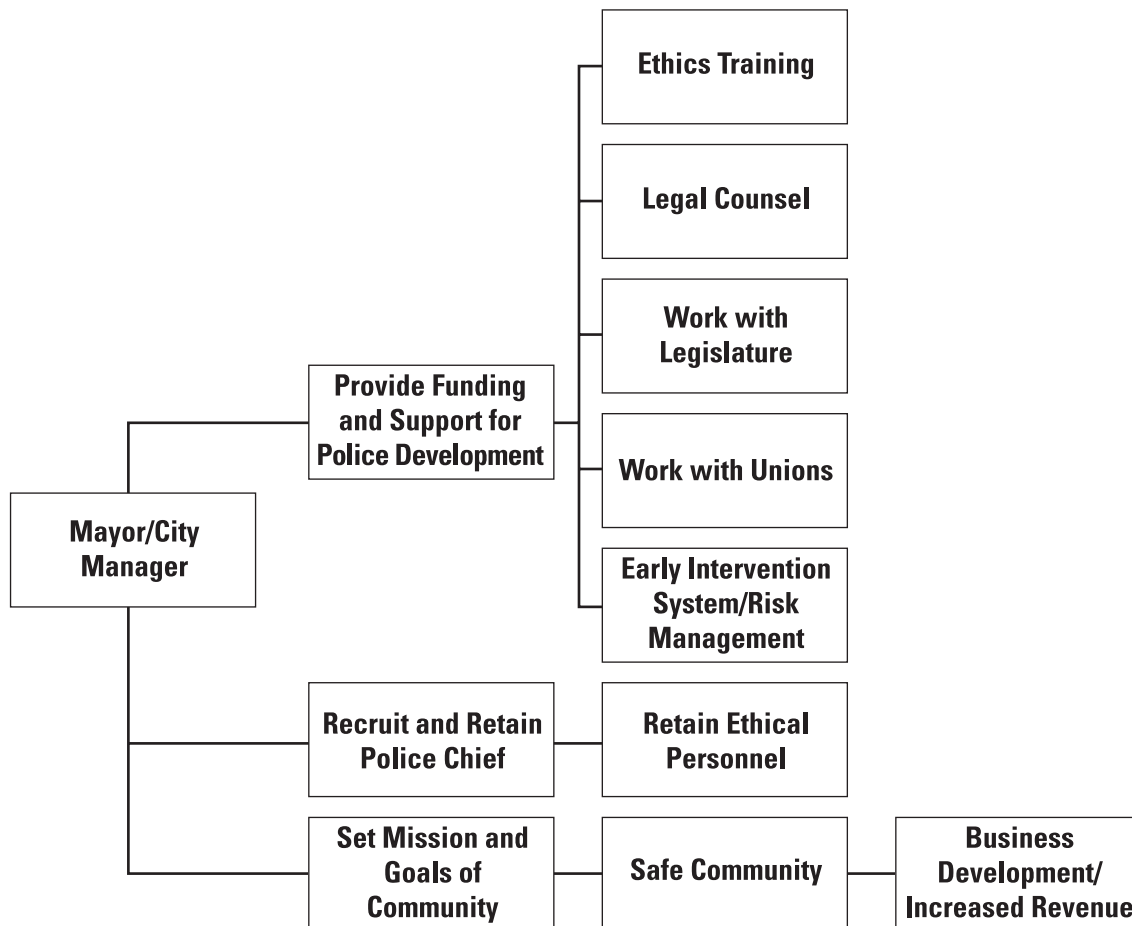
12. Various types of computer programs track this kind of information, such as IA Pro, CompStat, and PoliceStat.

The Local Government’s Role in Building Community Trust

The police department is often one of the most visible public representations of a municipal government because of its frequent interaction with citizens in the community. The local government, therefore, also has a stake in building trust between the police department and the public. The vested interest of the mayor/city manager in promoting public safety and community trust is detailed in Figure 4.

The chief of police should not only see himself or herself as the leader of the law enforcement agency in the community, but as a part of the management team of the city government. All city leaders are beholden to the citizens they serve, and meeting the needs and expectations of those citizens should be the mission of any city. If the city operates successfully, business development will occur, bringing money into the community. These funds can be spent on structural improvements; services; and recruiting, retaining, and training city employees. Those investments lead to a cohesive and ethical workforce, a safe community, and enhance public trust in the community leadership.

Figure 4: The Mayor/City Manager’s Relationship to the Process



Strategies for Engaging Municipal Government

- Develop and maintain a positive working relationship with city leaders.
- Meet regularly with the mayor or city manager to keep him or her involved in, and knowledgeable about, the department's ethics commitment and Internal Affairs process.
- Consult with a qualified attorney, preferably one supplied by the municipal government, throughout the complaint investigation process.

It is critical that the chief of police and city leaders develop and maintain a positive, effective working relationship. The mayor/city manager, city council, and chief of police must collaborate to ensure ethical standards and accountability in the police department. Presumably, the city government selected the police chief because of the officer's high ethical and moral standards and hopes the chief will enforce and maintain those standards throughout the department. The mayor/city manager should immediately show an interest

in police accountability measures and support the chief in his or her ethics policies and procedures, including the development or enhancement of Internal Affairs procedures within the agency. The mayor/city manager should issue a press release notifying the public of the police department's Internal Affairs function and that he or she and the chief of police are committed to upholding a fair, unbiased, and transparent police department. Immediately, this communicates to the community that city management and the chief of police have the same core values and that accountability measures are important and in place.

To sustain a positive working relationship, it is imperative that the chief of police and mayor/city manager meet regularly to discuss ethical behavior and accountability practices, including Internal Affairs matters, in the department. The chief of police needs to tell city management that if an allegation of misconduct occurs, no one should make a statement about the incident until a full investigation has been completed. Presenting this unified front confirms to the public that the mayor/city manager has the utmost confidence in the Internal Affairs process and in the ability of the police department to handle the complaint fairly, thoroughly, and in a timely manner.

City executives often can be passive concerning the enforcement and maintenance of ethical policies and procedures until an incident of misconduct or corruption occurs. The mayor/city manager should feel equally as accountable as the chief of police for ensuring an ethical law enforcement agency. Municipal executives should demonstrate to the public their support of the law enforcement management by: adequately funding the agency; voicing support for the agency's mission, policies, and procedures; not intervening with agency operations; endorsing laws that assist the department in increasing public safety; and speaking with police union representatives to ensure honest and fair negotiations. Funding for the agency should include money for continuing officer training and education, hiring legal staff, and purchasing data management systems, thereby further ensuring accountability in the department.

The municipal government can also support its police department by providing legal counsel for matters related to Internal Affairs. It is critically important for every police agency to be able to consult with legal counsel immediately upon learning of an allegation of misconduct and again prior to any disciplinary action. Ideally, this lawyer would be on the staff of the police agency, but that is likely to be cost-prohibitive for most departments. Nonetheless, it is imperative that an attorney is available (perhaps on retainer with the city) who keeps abreast of all new laws in the area of law enforcement and employment law.

By funding the police department in its efforts to ensure ethical and effective policing, the city will foster an overall sense of trust between the community, law enforcement, and the municipal government. When cities are safe and there is a high level of community trust, businesses are more likely to locate there, bringing services to citizens and funds to the city.

Conclusion

The unique position of power and authority that members of law enforcement hold means that there is an added need to uphold high ethical standards and accountability to the community that a department is sworn to serve and protect. One officer who engages in misconduct or abuse of power can sully the reputation of the entire profession. It is imperative for executives to consistently maintain a culture of integrity and community trust throughout their departments every day. Addressing negative issues and behaviors only when they arise is not an effective operating model. Continued community trust-building and maintenance is the key to effective policing.

Through various forms of community outreach, standardized practices of hiring new recruits, continued education and training, and consistent evaluations and early intervention, a chief can sustain his or her department's integrity, while garnering public trust. Internal Affairs policies and procedures are critical to every agency, but it is important to remember that Internal Affairs is one component of a thoughtful, systemic approach to ethical conduct.

When Internal Affairs processes are necessary, the department must handle the issue at hand with confidence. Through a comprehensive, accessible, fair, and transparent complaint, investigation, and disposition process, the law enforcement executive will be able to address any problem while continuing to maintain the trust of his or her staff and that of the community.

With standards and practices of integrity in place in every police department across America, law enforcement will be able to maintain its place as a most honorable profession. Everyone, from recruits to captains and from citizens to municipal government officials, will benefit.

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Glossary

The IACP compiled these terms and acronyms from the law enforcement perspective. Realizing that not all stakeholders use or interpret the same terminology in the same ways, this glossary is not intended to be comprehensive or exhaustive.

42. U.S.C.: 1983 modern administrative regulation that allows federal civil complaints to be brought against persons who violate the legally or constitutional guaranteed rights of any person under color of law.

Adjudicating Officer: An individual responsible for the adjudication of an internal investigation.

Administrative Conflict of Interest: In the law enforcement fitness for duty methodology a circumstance in which subordinate status of an internal provider gives the appearance that the professional's opinion may be improperly influenced by superiors and is not objective.

Administrative Action: Corrective action taken by command/supervisory personnel.

Administrative Investigation: Inquiries into alleged misconduct by personnel or any inquiry into the actions of department personnel required by directives where no misconduct is alleged.

Bureau Register: A compilation of data indexing the initiation and processing of administrative investigations by Internal Affairs Division control number.

Caveats, Warnings, or Notices: Filed in court by an interested party requesting the postponement of a proceeding until there is an evidentiary hearing.

Civil Service Merit-Based System: Meant to provide the hiring of qualified persons in law enforcement. A part of the modernization of the American law enforcement system.

Civilian Review Boards: Composed of nonlaw enforcement personnel in government service, who examine or review conduct, complaint processing, policy changes, and operation of mediation centers.

Cleveland Board of Education v. Loudermill: Provides all but probationary officers with the right to be notified of the charges against them and to respond either verbally or in writing to those charges. This applies to all charges against an employee except a reprimand. The employee can give a statement and clarify any information or present any facts that could be exculpatory during an Internal Affairs investigation or could result in a reduced punishment to include dismissal of charges, but the employee cannot cross-examine witnesses as in a court setting. This mandates that the department prepare a charging document and give the employee ample time to respond with a union representative or attorney. There is no requirement to respond, however. This is a right because public nonprobationary public employees are deemed to have a property right in their employment.

Code of Ethics: A statement of the organization's values on behavioral, moral, and conduct issues.

Community: A social group consisting of individuals sharing the same environment with essentially the same interests, goals, and objectives.

Community Policing: A policing philosophy that promotes and supports organizational strategies to address the causes and reduce the fear of crime and social disorder through problem-solving tactics and community-police partnership.

Community Trust: An established and highly honored relationship between a police agency and the citizens it has been entrusted to serve.

Complaint: An allegation identifying conduct which, if substantiated, would constitute a violation of law or agency policy and procedure.

Complainant: A person with knowledge of an alleged incident of misconduct, or violation of a statute or department directive, who brings the information to the attention of the department.

Complaint Process: A series of steps by which law enforcement agencies accept, investigate, and adjudicate allegations of misconduct malfeasance, misfeasance, and nonfeasance on the part of police personnel.

Conduct Unbecoming: A term of administration regarding misconduct by law enforcement officers that usually applies to distasteful and undesirable conduct that is not clearly criminal or corrupt.

Deliberate Indifference: The conscious or reckless disregard of the consequences of one's acts or omissions.

Discipline: The action(s) of an agency, punitive and/or corrective in nature, with the specific intent to ensure obedience of its members to rules, regulations, policies, and procedures, and which is designed to promote order and deter acts of disobedience as established and enacted by supervisory personnel.

Disciplinary System: A mechanism by which employees are held accountable for their actions based on violation of established rules, regulations, policies, and procedures, and is based on the sound principles of fairness and objectivity.

Early Intervention System (Early Warning System/Performance Management): A series of interrelated personnel management processes that help supervisors identify, assess, and evaluate employees' performance for the purposes of addressing potential concerns in a timely manner.

Employee Assistance Program: A counseling service for employees and their eligible dependents who may be experiencing personal or work place problems

Ethics: The duty of all law enforcement personnel to conduct themselves at all times in a manner that reflects the ethical standards consistent with the rules of their agency; to effectively and efficiently protect the public, maintain peace and order, and conduct other essential business. The choice between right and wrong.

Exonerated (Proper Conduct): The allegation is true; the action of the agency or the employee was consistent with agency policy.

Eye Witness: A person who was present and saw or heard the incident/complaint.

Garrity: *Garrity v. New Jersey* is a constitutional protection that holds that public employee statements that are induced (compelled) by threat of dismissal or other discipline may not be used in a subsequent criminal prosecution.

Fitness for Duty Examination (FFDE): A physical or mental examination to determine if an officer is able to perform his or her duties.

Full Investigation: An in-depth investigation in which all pertinent facts are gathered and are impartially and thoroughly reported on the appropriate agency investigative document.

Internal Affairs: A specific division within a law enforcement agency that investigates allegations of misconduct, corruption, inappropriate behavior, adherence to policy and procedure, and matters so assigned by superior officers to ensure the professional integrity of the department and its members.

Internal Affairs Control Number: A sequential number assigned by the internal affairs department to index all complaints and administrative investigations.

Internal Affairs History: A member's record of internal affairs department investigations which includes internal affairs department control numbers, complaint dates, types of complaints, and administrative actions.

Internal Affairs Investigator: A member of the Internal Affairs unit.

Internal Affairs Process: A series of steps used to conduct a review for possible misconduct by an agency's employee.

Internal Affairs Policy: Agency guidelines promulgated to receive, track, evaluate, and investigate complaints of police misconduct that violate department policies and procedures.

Lautenberg Amendment: Federal law that restricts the ability of a person to own or possess a firearm.

Limited Investigation: The alleged misconduct failed to constitute a violation of department rules and regulations.

- The complainant was mistaken and the misconduct alleged was not attributed to personnel.
- The complainant was the subject of a criminal or administrative investigation conducted by the department; the complaint alleged bias or misconduct during the criminal, investigative, or disciplinary process by investigators or personnel involved; and the complainant was afforded a full and fair opportunity to litigate the matters complained of before a court or administrative tribunal.
- The complainant(s) refused to verify the complaint by signing a completed complaint verification form and the nature of the complaint does not include allegations of criminal conduct or conduct that could reasonably be construed to result in a recommendation of court-martial by the department's disciplinary officer.

Lybarger Admonishment: If information is given to physiological examiners in a FFED, that examinee is told that information from the examination may not be used against him or her because it is mandatory, not voluntary.

Misconduct not Based on Original Complaint: Misconduct discovered during an internal investigation not associated with original complaint.

Negligent Retention: Allowing an officer to remain working when doing so the department knew that he or she was a risk to the public.

Noncomplaint Investigation: An investigation into the actions of department personnel required by directive or requested by the office of chief counsel, with no misconduct alleged.

Not Sustained: Investigation failed to conclusively prove or disprove the allegation.

Office of Professional Standards: The designated employee(s)/unit with primary responsibility for conducting investigations of employee misconduct allegations.

OISB: Officer involved shooting board that investigates instances of the use of deadly force.

Performance Inadequacies: Minor infractions of omission/commission by a member that violate a department policy or regulation. Infractions of this type do not include conduct that involves compliance to lawful orders, the veracity of a member, criminal or civil liability, or publicity which may adversely affect the department or its personnel.

Policy Void: Indicates that the action of the department or the involved member(s) was not inconsistent with existing department policy, but the complainant still suffered harm.

Professional Ethics: Those ethics to use when acting in a professional capacity that center on sound judgment and the judicious disbursement of information based on the principles of integrity, honesty, and commitment to duty.

Public Complaint Package: Packages containing complaint forms, information on the complaint procedure used by the agency and actions the public can expect from this agency in response to a complaint.

Substantiated or Sustained (Improper Conduct): The allegation is true. The action of the agency or the member was inconsistent with agency policy.

— Investigation indicates that misconduct did actually occur.

Supervisory Review: A preliminary review undertaken immediately upon receipt of a complaint. Conducted for the thorough gathering and securing of evidence and facts to discover truth and reach conclusions as to the possibility a department member has violated any rules, regulations, policies and/or procedures. The investigating supervisor will make contact with the complainant in order to discuss the incident, and will notify the complainant of the final outcome of the preliminary review. Based on this review, the chief of police will determine the need for further investigation.

— The individual responsible for reviewing an administrative investigation and concurring with the adjudication rendered by the adjudicating officer.

Transparency: A clear and concise understanding of an agency's Internal Affairs process, and function, by the general citizenry.

Unfounded: Indicates that the incident did not occur or could not have occurred as alleged.

Unsubstantiated or Not Sustained (Insufficient Evidence): The investigation failed to conclusively prove or disprove the allegation.

Weingarten Rule: In certain employment conditions, the right for a union representative to be present during an interview.

Withdrawn: Indicates that the complainant refused to sign a complaint verification and the investigation was terminated or an investigation was otherwise concluded on advice of the appropriate command staff.

Appendixes

Appendix A: Sample Recruitment Plan

Appendix B: Sample Performance Improvement Policy, Procedure, and Plan

Appendix C: Sample Community Surveys

Appendix D: Sample Memorandum of Understanding

Appendix E: CALEA Standards for Law Enforcement Agencies—Chapter 52 on Internal Affairs

Appendix F: IACP Concepts and Issues Paper and Model Policy—Investigation of Employee Misconduct

Appendix G: Sample Officer Notification Form

Appendix H: Funding Sources for Training and Software on Ethics and Internal Affairs

Appendix I: Methodology

Appendix A: Sample Recruitment Plan

This sample recruitment plan is provided courtesy of the Pennsylvania State Police.

Pennsylvania State Police Recruitment Plan

RECRUITMENT AND SPECIAL SERVICES OFFICE, RECRUITMENT SECTION

A. Recruitment Vision and Mission Statements

VISION: *To be a proficient and professional recruitment section acting with enthusiasm and integrity. To assist the Department in its commitment to maintain an organization which promotes public confidence in the integrity, efficiency, and professional excellence expected of the Pennsylvania State Police. To actively seek and encourage the most qualified individuals to apply for positions within this Department who reflect this commitment, in addition to the diverse cultural, gender, and ethnic backgrounds of all citizens of this Commonwealth.*

MISSION: *To develop and implement strategies and procedures which enable us to continue to attract the best caliber of individuals for the Department.*

GENERAL RECRUITMENT ACTIVITIES

Recruitment activities shall include, but are not limited to:

- A. Contacting and cultivating working relationships with career/guidance counselors at colleges (colleges listed on appendages IV thru VIII) and high schools.
- B. Conducting career presentations.
- C. Contacting career planning officers at institutions of higher learning on a biannual basis to promote law enforcement:
 - 1. As a professional career choice.
 - 2. Opportunities for assignment to a variety of specialized positions.
 - 3. Opportunities for advancement.
- D. Cultivating liaisons with prospective applicants and establishing an applicant support system.
- E. Participating in or initiating career programs.
- F. Scheduling and conducting interview sessions with potential applicants.

- G. Scheduling the Mobile Recruitment Office (MRO) to travel to community locations, colleges and universities.

CADET RECRUITMENT ACTIVITIES

- A. Recruiters shall:
 - 1. Provide realistic overview and accurate information of law enforcement as a career, so applicants can make an informed decision regarding a future in law enforcement.
 - 2. Identify and address specific questions, issues, and concerns of potential applicants.
 - 3. Present information regarding:
 - a. Opportunities to serve the Commonwealth.
 - b. Salary and benefits.
 - c. Promotional opportunities.
 - d. Job security.
 - e. Mobility within the Commonwealth.
 - f. Academy training and Department expectations.
 - 4. Contact local reserve centers, armed forces recruiters, veterans' organizations, and various military installations located within a reasonable distance of the Pennsylvania borders.
 - 5. Maintain contact with:
 - a. Community leaders.
 - b. Civic organizations.
 - c. Department personnel.
 - d. Community centers.
 - e. Religious leaders.
 - f. Other high visibility locations.
 - 6. Attend community events within the wide variety of ethnic and cultural settings representative of the Commonwealth's population.

7. Annually update human resource lists.
8. Notify human resource contacts of job opportunities within the Department. This will facilitate the dispersal of information to members of their communities and organizations.
9. Post job announcements, in both English and Spanish, at designated locations.
10. Initiate contact with referred persons to provide information concerning job requirements, responsibilities, benefits, and the selection process.
11. Keep applicants updated regarding the application and selection processes.
12. Periodically meet with recruiters from other law enforcement agencies to exchange ideas and information.
13. Utilize tools and materials, such as the Mobile Recruitment Office, PowerPoint Presentations, wireless aircards, videos, photographs, and posters when canvassing for prospective applicants at:
 - a. Career and job fairs.
 - b. Job centers.
 - c. Historical, annual or ethnic events.
 - d. Police activity exhibits at parks, institutions of higher education, malls, etc.
14. Provide updated recruiting literature.

Appendix B: Sample Performance Improvement Policy, Procedure, and Plan

This sample Performance Improvement Policy, Procedure, and Plan is provided courtesy of the Arroyo Grande (California) Police Department.

I. POLICY

- A. The policy of the Arroyo Grande Police Department is that all employees are expected to perform in a competent manner in furtherance of the mission and objectives of the Department and in accordance with the law and the policies and procedures of the City of Arroyo Grande and the Police Department.
- B. In furtherance of this policy, the Police Department does establish this procedure whereby substandard/unacceptable performance can be identified and an appropriate program of corrective action can be established.

II. PURPOSE

- A. The objective of this procedure is to correct the substandard/unacceptable performance, thereby restoring the employee to a level of acceptable and competent productivity. In order to accomplish this objective, this procedure is developed upon the following key criteria:
 - 1. Identification of the substandard/unacceptable performance/behavior,
 - 2. Communication of the deficiencies to the employee,
 - 3. Formal documentation of the deficiency and the expected change(s), and
 - 4. Development of the document which specifies an action plan.
- B. Performance Improvement Programs are not intended to be disciplinary in nature and therefore will not be made a part of an employee's personnel file if the employee successfully completes the program.
 - 1. Failure to successfully complete the program, resulting in reduction in pay, demotion, or termination, will result in the inclusion of the program documentation in the employee's personnel file.
 - 2. Program documentation for cases involving successful completion of the program will be maintained in a separate file by the Office of the Chief of Police until such time as it may be disposed of per current City Council Resolution for records destruction.

III. PROCEDURE

- A. Initial Supervisory Corrections

1. When minor policy infractions and/or performance deficiencies are noted for the first time, verbal counseling is the preferred method for corrective action.
2. When repeated policy infractions and/or performance deficiencies are noted, formal counseling sessions should be initiated. Such counseling sessions should be documented on either a Supervisor's Report or counseling memo.
 - a. The counseling session should address each policy infraction and/or performance deficiency which has been identified and the expected corrective action by the employee for each one.
 - b. The documentation of the counseling session should list each policy infraction and/or performance deficiency along with the expected corrective action.
3. Should formal counseling fail to correct the performance deficiency and/or ensure compliance with policy, a Performance Improvement Program shall be implemented.

B. Performance Improvement Program

1. The Performance Improvement Plan Process
 - a. The supervisor prepares a draft Performance Improvement Plan (P.I.P).
 - b. The supervisor forwards the draft P.I.P. to his/her supervisor for approval.
 - (1) The draft P.I.P. will be forwarded through the chain-of-command to the Chief of Police for approval.
 - c. The supervisor discusses the draft P.I.P. with the employee and prepares the final version of the P.I.P.
 - d. The supervisor implements the Supervisory Assistance Sections and conducts follow-up counseling.
 - e. The supervisor completes the final progress report and forwards the completed file to the Operations Commander for review and approval.
 - (1) Should punitive action be necessary, such action will be implemented in accordance with General Order 0204 - Personnel Complaints.

2. Performance Improvement Plan

a. Heading

Standard memo headings shall be used:

- (1) TO: (Name of the affected employee)

- (2) FROM: (Name of the employee's supervisor)
- (3) Subject: FAILURE TO MEET PERFORMANCE STANDARDS

b. Performance Standards and How You Failed to Meet Them

- (1) List each performance standard in which the employee is deficient.
 - (a) Example: "An employee shall be punctual in reporting for duty at the time and place specified by his superior (General Order 0201 - Rules of Conduct)."
- (2) List specifically and with detail each occasion where the employee failed to meet the listed standard.
- (3) Repeat this process for each standard.

c. How to Improve Your Performance

- (1) This section is a summary of the positive behavior the supervisor expects the employee to exhibit in order to be regarded as an acceptable employee.

d. Supervisory Assistance and Guidance

- (1) The supervisor sets a review schedule where the supervisor will review the progress of the employee with him/her. Such reviews will be done either weekly or bi-weekly.
- (2) The supervisor may direct the employee to obtain training and/or counseling when appropriate.

e. Time Frame and Consequences

- (1) The supervisor will set the duration of the Performance Improvement Program.
 - (a) Normally, a Performance Improvement Program will be 90 days in length. The minimum specified time for such a program is 60 days and the maximum time is 120 days.
 - (b) Should the employee progress at an accelerated rate, the Performance Improvement Program may be shortened from the specified time.
- (2) The consequences of failing to satisfactorily complete the Performance Improvement Program must be clearly stated. In most situations, the consequence will be termination for failure to meet the specified performance standards within the allotted time. When appropriate, demotion and reduction in pay may be administered.

3. The Initial Interview

- a. The supervisor will address each performance deficiency identified in the Performance Improvement Plan along with the expected corrective behavior.
 - (1) The supervisor should emphasize the objectives of the Performance Improvement Process as stated in Section I.C. of this General Order.
 - (a) The supervisor should advise the employee of the intent of the supervisor to assist the employee in his/her improvement.
 - (b) The supervisor should encourage employee input and take appropriate notes concerning the employee's viewpoints. This information may be incorporated into the Performance Improvement Plan.
- b. The supervisor will advise the employee of the review process and the schedule for the review sessions.
- c. The supervisor will inform the employee of any outside training and/or counseling that is required as part of the Performance Improvement Program.
- d. The supervisor will inform the employee of the consequences that may result in the event the employee fails to satisfactorily complete the Performance Improvement Program.

4. Follow-Up Counseling

- a. During the duration of the Performance Improvement Program, the supervisor will meet in formal counseling sessions with the employee as specified in the Performance Improvement Plan.
- b. The supervisor will review the employee's progress as it relates to each identified performance deficiency.
 - (1) Appropriate reinforcement should be given to the employee depending on whether the employee is improving or not.
- c. The counseling session will be documented in a Progress Report.

5. Final Report

- a. At the end of the Performance Improvement Program, the supervisor shall prepare a final report regarding the employee's progress in the Performance Improvement Program.

- (1) When the employee successfully completes the program, the final report should reinforce the employee's improved performance and encourage continued acceptable performance.
 - (2) In the event the employee does not successfully complete the program, the report should:
 - (a) Specify those standards the employee failed to achieve and how he/she failed to do so,
 - (b) State that the supervisor is recommending that the penalty contained in the Performance Improvement Plan as a consequence for non-improvement, be implemented, and
 - (c) Contain a detailed account of the employee's comments regarding the final report.
- b. The Final Report along with all follow-up reports and other appropriate documentation will be forwarded via the chain-of-command, to the Chief of Police for review and appropriate action.

IV. ATTACHMENTS

A. Sample of Performance Improvement Plan

Name of Department
Performance Improvement Plan

To: *(Name of the affected employee)*

From: *(Name of the employee's supervisor)*

Date:

Subject: Failure to Meet Performance Standards

Performance Standards and how you failed to meet them:

List each performance standard to which the employee has failed to meet, list specific occasions.

How to improve your performance:

List positive behaviors

Supervisory Assistance and Guidance:

Over the next 90 days your supervisor/s will meet with you and follow up with your performance improvement progress every:

Monday Tuesday Wednesday Thursday Friday

Weekly Bi-Weekly Time: _____ Location: _____

Your supervisor directs you to obtain training and/or counseling in the following areas:

If your performance fails to improve or you fail to complete the requirements indicated above, you are subject to termination, or if deemed appropriate, demotion and a reduction in pay.

Signature of Supervisor

Signature

Badge No.

Date

Time

Appendix C: Sample Community Surveys

The following sample community surveys are courtesy of the Geddes (New York) Police Department and the Lexington (Massachusetts) Police Department. Additional information about community surveys is available through the IACP.

2007 Community Satisfaction Survey Town of Geddes Police Department

1. How satisfied are you with the visibility of the Town of Geddes Police Department?
Very Dissatisfied Dissatisfied Neutral Satisfied Very Satisfied DK

2. How satisfied are you with how professional the officers act?
Very Dissatisfied Dissatisfied Neutral Satisfied Very Satisfied DK

3. How satisfied are you with the competency of the officers?
Very Dissatisfied Dissatisfied Neutral Satisfied Very Satisfied DK

4. How satisfied are you with the courtesy of the officers?
Very Dissatisfied Dissatisfied Neutral Satisfied Very Satisfied DK

5. How satisfied are you with the appearance of the officers?
Very Dissatisfied Dissatisfied Neutral Satisfied Very Satisfied DK

6. How safe do you feel walking alone in your neighborhood at night?
Very Unsafe Unsafe Neutral Safe Very Safe DK

7. How safe do you feel in your home?
Very Unsafe Unsafe Neutral Safe Very Safe DK

8. Is the police presence adequate in your neighborhood?
Yes No DK

9. Is the traffic enforcement adequate in the Town of Geddes?
Yes No DK

10. Have you ever been a victim of a crime in the Town of Geddes?
Yes No DK

11. What do you like best about the Police Department?

_____ NA

12. How would you improve the Police Department?

_____ NA

13. How do you feel the Geddes Police Department has changed over the past four years?
Much Worse Worse Same Improved Much Improved Didn't live here DK

Sex: Male or Female (Circle One)

Age: 18-24 25-34 35-44 45-54 55-64 65+ (Circle One)

Lexington Police Department Public Safety Survey

Directions: Please answer the following questions to the best of your knowledge. All of your responses will be absolutely confidential.

Section I: Your Community

1. Please rate the seriousness of the following crimes and quality of life issues in Lexington for the past 5 years. (Check only one box for each item)

	Very Serious	Moderately Serious	Slightly Serious	Not a Problem	Don't Know
Burglary/House break ins					
Assaults					
Domestic Violence					
Unlawful drug use					
Unsupervised house parties					
Animal control problems					
Drinking groups in woods/parks					
Graffiti					
Litter					
Unlawful weapon use					
Loitering					
Property theft					
Organized gangs					
Speeding motor vehicles					
Poor driving attitudes					
Drunk driving					
Credit card/check fraud					
Computer/Internet problems					
Skateboarding/Rollerblading in business districts					
Vehicle theft					
Harassing/Annoying phone calls					
Vandalism					
Parking problems					
Solicitors					
Bicycles on sidewalks					
Pedestrian safety					
Public drinking					
Unnecessary noise					
Other:					

2. Have you ever been the victim of a crime **in** Lexington? No Yes

3. Have you ever been the victim of a crime **outside** Lexington? No Yes

4. In Lexington, have you ever: *(Check all that apply)*

- Stopped to ask an officer advice or directions
- Stopped to talk to a police officer about a community issue
- Called the police station to discuss a community issue
- Been involved in a traffic accident which required police intervention
- Been involved in a police/community outreach program (ex. DARE, Bicycle Safety)
- Been stopped for a traffic offense
- Been questioned by the police and released (other than for a traffic offense)
- Reported a crime
- Been arrested
- Filed a formal complaint against a Lexington Police Officer/Department

5. In your opinion how much have the following factors contributed to the crime rate in Lexington over the past 5 years? *(Check only one box for each subject)*

	Large Influence	Moderate Influence	Slight Influence	No Influence	Don't Know
Courts are too lenient					
Drug/alcohol abuse					
Lack of alternative activities for youth					
Lack of education					
Lack of jobs/employment					
Limited police presence					
Poor parenting					
Poverty/low income					
Intolerance of differences based on race, religion, sexual orientation, etc.					
Social programs/welfare					
Over population					
Availability of weapons					
Lack of respect					
Affluence					
Other:					

6. Does your neighborhood have a citizen crime watch group? No Yes
 If no, would you participate in a crime watch group? No Yes

7. What kind of security do you use at home? *(Check all that apply--this survey is anonymous)*

- alarm system sensor lights standard door & window locks
- window grills dead bolt locks anti-open devices in windows
- dog exterior/interior burglar bars do not secure home

8. In your opinion, how likely is it that you will be the victim of a **property** crime in Lexington over the next 5 years?

- highly likely moderately likely slightly likely Not at all likely

9. In your opinion, how likely is it that you will be the victim of a **violent** crime in Lexington over the next 5 years?

- highly likely moderately likely slightly likely Not at all likely

10. How much time do you spend actively participating in the community (community-based programs, committees, boards, etc.) each month?
 1-7 hrs 8-12 hrs 13-20 hrs 21+ hrs don't participate
11. In your opinion, compared to other communities in the Boston area, how safe is Lexington overall?
 much safer slightly safer about the same
 less safe much less safe
12. What do you believe about the prevalence of crime in Lexington?
(Please check only one category)
 Crime has increased in Lexington over the last five years.
 Crime has remained the same in Lexington over the last five years.
 Crime has decreased in Lexington over the last five years.
 Don't know.

13. Please check one response for each statement:

	Strongly Agree	Agree	Disagree	Strongly Disagree	Don't Know
I feel safe at home					
I feel safe walking alone in my neighborhood after dark					
I feel safe walking with others after dark in my neighborhood					
I feel that my personal property is safe when I leave home					
When returning home at night, I feel safe					
I feel safe leaving my home/car unlocked during the day in Lexington					
I feel safe <i>with others</i> on the Minuteman Bikeway					
I feel safe <i>alone</i> on the Minuteman Bikeway					
I feel safe walking <i>alone</i> in Lexington's shopping districts <i>at night</i>					
I feel safe walking <i>with others</i> in Lexington's shopping districts <i>at night</i>					
I feel safe <i>alone</i> in parks and recreation areas in Lexington					
I feel safe <i>with others</i> in parks and recreation areas in Lexington					

14. How serious is the illegal drug problem in the following areas in Lexington?
(Please check one box for each item)

	Very Serious	Somewhat Serious	Slightly Serious	Not Serious	Don't Know
High Schools					
Middle Schools					
Elementary Schools					
Playgrounds & recreation areas					
Within the adult community					

Section II: The Department

15. Please respond whether you agree or disagree with the following statements:

(Please check one box for each item)

	Strongly Agree	Agree	No Opinion	Disagree	Strongly Disagree
The police presence in my neighborhood is appropriate for the need					
Traffic enforcement in Lexington meets the needs of the community					
The Police Department gives proper attention to minor crimes (i.e. vandalism, disturbances, etc.)					
The Police Department is providing appropriate community education and outreach programs					
Efforts of the Police Department to enforce the law are compatible with community needs					
Lexington police officers perform an appropriate amount of patrolling on foot in Lexington Center					
There is an appropriate representation of female officers in the Lexington Police Department					
The Police Department responds to emergency calls in a timely manner					
Lexington police officers treat people with respect					
Lexington police officers respect the rights of individuals and treat people fairly					
Telephone calls to the Lexington police station are handled professionally and courteously					
A formal complaint brought against a Lexington police officer will receive a fair, objective and timely response					
The Lexington Police Department solicits and welcomes community input					
Lexington police officers are respected by the community					
The Lexington Police Department has a good public image					
The Lexington Police Department does its job well					
Lexington police officers look professional in appearance					
Police information provided in local newspaper is useful					
Lexington police officers provide timely and useful information to persons reporting crimes					
The Lexington Police Department publicizes its services and programs adequately <i>(see question 16 on next page)</i>					

20. Do you have any children under the age of 21 living in your household? No Yes
If yes, please list their ages here: _____
21. Do you own or rent your home? Own Rent Other _____
22. Average household yearly income before taxes?
 under \$30,000 \$30,000-59,000 \$60,000-89,999 \$90,000-119,999 \$120,000+
23. What is your current employment status? *(Please check only one box)*
 Employed Unemployed Student
 Self-employed Disabled House wife/husband
 Retired Other
24. What is your race?
 Caucasian African-American Asian Hispanic
 Other _____
25. Do you or anyone in the household own any firearms for sport or protection against crime?
 Yes, Sport Yes, Both Choose not to answer
 Yes, Protection against crime No, Neither

Section IV: Your Comments

Please feel free to use as much space or additional pages as necessary.

The thing I like best about the Lexington Police Department is:

The thing I would most like to see improved at the Lexington Police Department is:

Please list the most significant values or characteristics that a Lexington Police Officer should possess.

Other comments or expansion of previous answers *(use reverse side of page if more space is needed):*

If you have any questions/comments regarding this survey, please contact Chief Casey's Office at (781) 862-1212 or e-mail at ccasey@ci.lexington.ma.us

Appendix D: Sample Memorandum of Understanding

The following memorandum of understanding (MOU) is only a sample. MOUs are legally binding documents and should be reviewed by legal counsel prior to finalization and signature.

Purpose:

(Explain why your department is entering into a memorandum of understanding)

List the primary reasons:

- To assist the _____ Police Department in providing proper and unbiased Internal Affairs investigations of the staff and sworn law enforcement of the _____ Police Department.

Once the _____ Police Department has received a complaint and the chief executive officer has been briefed on the content of the complaint, the chief executive officer, having determined that the investigation should be carried out externally, will engage the _____ Police Department to conduct the Internal Affairs investigation.

Responsibilities:

Responsibilities of the investigation team will be to assist the _____ Police Department Internal Affairs investigation. It is understood that the investigation team is in support of the _____ Police Department and must abide by all laws and procedures enforced by the _____ Police Department as outlined in this Memorandum of Understanding.

- The investigation team reports to the lead investigator and the lead investigator reports to the chief executive officer of the _____ Police Department.
- Confidentiality of all matters involved in the investigation will be maintained.
- The chief executive officer of the _____ Police Department will be the only one allowed to disclose any information to the media, complainant, and to the officer/s involved in the complaint once the investigation is concluded.
- The lead investigator will be determined on a case-by-case basis by the parties involved.
- The lead investigator will have the responsibility and authority to resolve any procedural or investigative conflicts resulting during the course of the investigation. The lead investigator will have the responsibility and authority to discuss the progress and outcome of the investigation with the _____ Police Department's executive officer.

Responsibilities of the contracting Police Department:

- Will not inhibit the investigation process by sharing information, evidence, interview/s, or in any way jeopardizing the investigation by releasing confidential information to the public.
- The police department will ensure that the investigation adheres to applicable law and the department's policy and procedure manual.
- The police department will, when possible, support the investigative efforts with assets such as laboratory costs (including DNA) associated with the investigation.

Exchange of Information:

Information shared between the contracting agencies will be done so in a confidential manner so as not to compromise the investigation process.

Procedure:

Investigation Process

Role of each Police Department

Conclusion and Recommendations

In the case of a chief executive officer being under investigation, the investigation team will be reporting to and under the supervision of the chief executive's supervisor (mayor, city council, etc. as per legal guidance).

Limitations:

The chief executive officer of _____ Police Department will be the only person to notify the mayor or supervising authority, the public, or media concerning the investigation.

Oversight of the investigative team will be the responsibility of the lead investigator who will report to their executive officer.

Progress Reports:

If needed, progress reports may be written every 30 days by the lead investigator. These reports will be made available to his/her executive officer who will update the contracting executive officer or appropriate authority of the contracting department.

Final Report:

Appendix E: CALEA Standards for Law Enforcement Agencies—Chapter 52 on Internal Affairs

Standards Manual Text

Chapter	52 - Internal Affairs
Section	1 - Administration and Operations
Standard	1 - Complaint Investigation
Number	52.1.1

52.1.1 *A written directive requires all complaints against the agency or its employees be investigated, to include anonymous complaints.*

Commentary: To ensure the integrity of its operations and personnel, agencies should investigate all allegations of misconduct, regardless of their source. Anonymous complaints can be difficult to investigate; however, the agency should carefully review each complaint for validation before disregarding it for lack of a credible complainant.
(M M M M)

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Standards Manual Text

Chapter 52 - Internal Affairs

Section 1 - Administration and Operations

Standard 2 - Records, Maintenance and Security

Number 52.1.2

52.1.2 *A written directive requires the agency to maintain a record of all complaints against the agency or employees and to protect the confidentiality of these records by maintaining them in a secure area.*

Commentary: The confidentiality of internal affairs records is important, and proper security precautions should be taken. This records activity is a task of the internal affairs function and is an exception to the personnel records or centralized records systems. The schedule for retaining internal affairs records should be consistent with legal requirements. (M M M M)

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Standards Manual Text

Chapter 52 - Internal Affairs
Section 1 - Administration and Operations
Standard 3 - CEO, Direct Accessibility
Number 52.1.3

52.1.3 *A written directive specifies that the position responsible for the internal affairs function has the authority to report directly to the agency's chief executive officer.*

Commentary: The sensitivity and impact of internal affairs matters on the direction and control of an agency require that the agency's chief executive officer receive all pertinent information directly. (M M M M)

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Standards Manual Text

Chapter **52 - Internal Affairs**
Section **1 - Administration and Operations**
Standard **4 - Complaint Registering Procedures**
Number **52.1.4**

***52.1.4** The agency makes available information to the public on procedures to be followed in registering complaints against the agency or its employees.*

Commentary: Procedures for registering complaints should be made available to the community through the media or the agency's community relations programs. This information should also be disseminated to all agency employees. (O O O O)

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Standards Manual Text

Chapter 52 - Internal Affairs
Section 1 - Administration and Operations
Standard 5 - Annual Summaries-Public Availability
Number 52.1.5

52.1.5 *The agency compiles annual statistical summaries, based upon records of internal affairs investigations, which are made available to the public and agency employees.*

Commentary: None. (M M M M)

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Standards Manual Text

Chapter	52 - Internal Affairs
Section	2 - Complaint Procedures
Standard	1 - Complaint Types
Number	52.2.1

52.2.1 *A written directive specifies:*

- a. the type of complaints to be investigated by line supervisors; and*
- b. the type of complaints that require investigation by the internal affairs function.*

Commentary: The intent of this standard is to provide guidelines regarding which categories of complaints are to be handled by the internal affairs function and which are part of routine discipline. The criteria for determining the categories of complaints to be referred to the internal affairs function may include allegations of corruption, brutality, misuse of force, breach of civil rights, and criminal misconduct. Criteria for assignment of the investigation of the complaint to line supervisors may include, for example, alleged rudeness on the part of the officer, tardiness, or insubordination. (M M M M)

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Standards Manual Text

Chapter 52 - Internal Affairs
Section 2 - Complaint Procedures
Standard 2 - CEO, Notification
Number 52.2.2

52.2.2 A written directive specifies the procedures for notifying the agency's chief executive officer of complaints against the agency or its employees.

Commentary: The directive should specify the nature of those complaints that should be brought immediately to the attention of the agency's chief executive officer and those that can be postponed to a later time. (O O OO)

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Standards Manual Text

Chapter 52 - Internal Affairs
Section 2 - Complaint Procedures
Standard 3 - Investigation Time Limits
Number 52.2.3

52.2.3 A written directive specifies a time limit for completing an internal affairs investigation, with provisions for extensions.

Commentary: None. (M M M M)

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Standards Manual Text

Chapter 52 - Internal Affairs
Section 2 - Complaint Procedures
Standard 4 - Informing Complainant
Number 52.2.4

52.2.4 The agency keeps the complainant informed concerning the status of a complaint to include, at a minimum:

- a. verification of receipt that the complaint has been received for processing;*
- b. periodic status reports; and*
- c. notification of the results of the investigation upon conclusion.*

Commentary: The verification, usually in the form of a receipt, furnished to persons initiating complaints alleging misconduct on the part of the agency or an agency employee may contain a description of the investigative process. The status of investigations should be communicated to the complainant, although the degree of specificity of the notice is left to the discretion of the agency. This standard does not apply to anonymous complaints. (O O O O)

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Standards Manual Text

Chapter 52 - Internal Affairs
Section 2 - Complaint Procedures
Standard 5 - Statement of Allegations/Rights
Number 52.2.5

52.2.5 When employees are notified that they have become the subject of an internal affairs investigation, the agency issues the employee a written statement of the allegations and the employee's rights and responsibilities relative to the investigation.

Commentary: None. (M M M M)

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Standards Manual Text

Chapter	52 - Internal Affairs
Section	2 - Complaint Procedures
Standard	6 - Submission to Tests, Procedures
Number	52.2.6

52.2.6 *A written directive specifies the conditions, if any, during an internal affairs investigation, when:*

- a. medical or laboratory examinations are administered;*
- b. photographs are taken of employees;*
- c. an employee may be directed to participate in a line-up;*
- d. an employee may be required to submit financial disclosure statements; and*
- e. instruments for the detection of deception are used.*

Commentary: The written directive should be based on the legal requirements in the jurisdiction, case law, and precedent and should be consistent with other administrative decisions. An employee may be required to submit to a medical or laboratory examination, at the agency's expense, when the examination is specifically directed and narrowly related to a particular internal affairs investigation being conducted by the agency. An example is the use of this process in determining drug use by employees. An employee may also be required to be photographed, to participate in a line-up, and/or submit to a financial disclosure statement when the actions are material to a particular internal affairs investigation being conducted by the agency. **(M M M M)**

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Standards Manual Text

Chapter 52 - Internal Affairs
Section 2 - Complaint Procedures
Standard 7 - Relieved from Duty
Number 52.2.7

52.2.7 A written directive specifies the circumstances in which an employee may be relieved from duty.

Commentary: The written directive should be supported by other documents establishing the powers and authority of the office of the chief executive. The relief from duty may be a temporary administrative action pertaining to an employee's physical or psychological fitness for duty or an action pending disposition of an internal affairs investigation. The authority to relieve an employee from duty should extend to supervisory levels. (O O O O)

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Standards Manual Text

Chapter 52 - Internal Affairs
Section 2 - Complaint Procedures
Standard 8 - Conclusion of Fact
Number 52.2.8

52.2.8 *A written directive requires a "conclusion of fact" for each investigation into allegation of misconduct.*

Commentary: The conclusion of the disciplinary process should be structured and should provide information to all participants in the process. The agency needs to be aware of changes in policies, procedures, rules, and regulations that may prevent future allegations of misconduct, as well as the need to modify or expand training. (O O O O)

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Appendix F: IACP Concepts and Issues Paper and Model Policy—Investigation of Employee Misconduct

IACP National Law Enforcement Policy Center

Investigation of Employee Misconduct

Concepts and Issues Paper

Originally Published: 1990

Revised: October 2001, January 2007

I. INTRODUCTION

A. Purpose of the Document

This document was designed to accompany the Model Policy on Investigation of Employee Misconduct established by the IACP National Law Enforcement Policy Center. This paper provides essential background material and supporting documentation to provide greater understanding of the developmental philosophy and implementation requirements for the model policy. This material will be of value to law enforcement executives in their efforts to tailor the model to the requirements and circumstances of their communities and their law enforcement agencies.

This discussion is divided into five parts. Part I provides background information; part II discusses discipline as an integral and potentially constructive part of any internal investigative process; part III examines the process of receiving and processing complaints from the public; part IV addresses the legal and procedural issues surrounding the investigative process; and part V reviews means of preventing employee misconduct.

B. Background

A substantial degree of attention is devoted in this concepts and issues paper to the disciplinary process, citizen complaints, and the many facets of investigating allegations of police officer misconduct. There are several reasons for addressing these interrelated issues in such detail.

First, over the past several years there has been a series of high-profile incidents of police officer misconduct. Many individuals believe that this demonstrates in part a weakness in many police agencies—even the largest and seemingly most sophisticated agencies—to detect, effectively intervene in, or prevent instances of officer misconduct as well as a failure to effectively supervise officers and take effective action in instances of officer misconduct. The notoriety generated by the most serious of these high-profile cases has had devastating effects on

the police agencies involved, undermined their reputation and effectiveness in the communities they serve, and diminished the police profession. In fact, as this document is being prepared, the federal government is considering a comprehensive nationwide study of issues surrounding law enforcement misconduct and integrity.

Second, early in their careers some police officers become suspicious of or even hostile to the internal investigation process and wary of disciplinary procedures. These procedures are often viewed as unfair and biased against accused officers, and in some instances even regarded as an unnecessary interference into an officer's ability to perform his or her duties. Some officers come to view this regulatory function as an indication that the police agency does not trust them or that management has misgivings about the integrity and honesty of their officers. As such, some police officers may only grudgingly cooperate in internal affairs investigations—an act that often perpetuates the all-too-common distance between management and line officers.

The vast majority of police officers are honest, loyal, and hardworking professionals. The broad-brush strokes of officer brutality and excessive force sometimes painted by the media are almost always the product of misconduct by a small minority of officers. But the misconduct of a few can often taint the reputation of many. Often this affects an entire department when, in the face of employee misconduct, management imposes a more demanding system of officer accountability and discipline. Of course, police officers, like all other professionals, can and do make mistakes. There are also some officers who take advantage of their office or who, on a recurring basis, make such serious errors of judgment or overstep their authority that they probably should not be employed in law enforcement. Therefore, a police department must monitor its officer's mistakes and misconduct to protect its interests and reputation.

A publication of the IACP National Law Enforcement Policy Center
515 N. Washington St., Alexandria, VA 22314-2357

This document is the result of work performed by the IACP National Law Enforcement Policy Center. The views and opinions expressed in this document are sanctioned by the center's advisory board and do not necessarily represent the official position or policies of the International Association of Chiefs of Police.

To protect their own interests, reputations, and career goals, police officers must be forthcoming about their conduct and the conduct of other officers. This requires that they have knowledge of and faith in the integrity of their agency's investigative and disciplinary process. These are complex issue areas that require sound procedures based on up-to-date information. But, to be effective, internal investigation and disciplinary procedures must be understood by all members of the department.

Therefore, it is the intent of this document and the model policy upon which it is based to closely examine the internal investigation and disciplinary process. This information will (1) provide possible alternatives to present procedures; (2) expand the knowledge of officers, supervisors, and managers alike concerning their legal rights and responsibilities during internal investigations and disciplinary actions; and (3) instill the notion that a well-organized and professionally run internal investigation and disciplinary process serves the best interests of officers, law enforcement agencies, and the communities they serve.

It is recognized that individual agencies often have widely varying procedures and styles in this area and that some of these are the product of individual state law, employment contracts, state or local civil service requirements, and related matters. Obviously, this document cannot take into account all of the terms of these requirements and agreements. But it attempts to provide the essential ingredients of a well-administered, professional program governing internal investigations and disciplinary procedures.

II. GENERAL DISCIPLINARY CONCEPTS

A. "Fair Play" in Officer Investigations and Discipline

Discipline is an indispensable component of law enforcement management. There are rules and regulations that pertain to all fields of employment. But, unlike any other professionals, law enforcement officers possess unique powers and discretion to take actions that require professional supervision, management, oversight, and control, and adherence of officers to a rigid code of conduct and professionalism.

There are few issues among law enforcement personnel that can raise more concern, debate, rancor, and sometimes outright dissension than the issue of employee discipline and the way agencies investigate specific allegations of employee misconduct. Where there are widespread perceptions that the investigation and administration of discipline is handled unfairly, capriciously, inconsistently, or unprofessionally, ramifications can be widespread and extremely damaging to department morale and operations.

A theme that runs throughout this document involves the need for police agencies to follow an investigative and disciplinary process based on the principle of "fair play." Police agencies have a duty to investigate fully and completely accusations of officer misconduct to protect the department's integrity and its credibility in the community, not to mention clearing the names of officers

who have done no wrong. But in that process, it must be remembered that accused officers do not lose their due process rights or the right to be treated fairly, impartially, and respectfully. When all officers understand that the department's disciplinary process is managed in this way it goes a long way to enhance relations between management and staff and to eliminate self-protective, stonewalling behavior that is often seen among officers who view the disciplinary system as unfair.

B. Perceptions of Discipline

As noted, public complaints and the disciplinary process often have unpleasant connotations for law enforcement officers and their superiors. For some officers, disciplinary matters conjure up feelings of fear, shame, discredit, anger, and alienation from the department. The issue also raises concerns and stress for law enforcement managers. The thoughtful executive or administrator may question whether his or her current mechanism for detecting officer misconduct achieves its goal. These same persons may question whether the existing disciplinary system is too lax or too harsh, whether it is applied consistently and fairly, and whether the disciplined officer will become embittered by the process or learn to become a better officer.

By contrast, some law enforcement officers and executives view citizens' allegations of officer misconduct and the disciplinary process in a significantly different light. They may consider these functions to be a carefully created facade to satisfy political and community groups, with no real intention of effectively investigating allegations of misconduct and applying appropriate discipline when warranted. Some officers take the position that the policies, procedures, and rules of an agency are primarily intended to assign blame when things go wrong rather than serve as a necessary means for directing, controlling, and managing employee conduct and operational practices. Such attitudes exist for a variety of reasons, not the least of which are issues of alienation between line and management personnel incorporating but not limited to a failure to engage officers in the establishment and justification of policies, procedures, and rules in the first place.

Neither of the foregoing views is healthy for the officer or law enforcement agency. Each undermines the basic goals of the internal investigative process and disciplinary system. In order to maximize the goals and purposes of these critical functions, police agencies must understand the entire process and formulate a philosophy of discipline for the department. The common adage, "Actions speak louder than words," is appropriate here. To instill an unbiased philosophy of discipline there must be a history within the agency of dealing fairly, impartially, and consistently with officers in the disciplinary process. Unfair or unnecessarily harsh discipline, treating officers as criminals or as guilty until proven innocent during the investigative process, generally has unintended negative consequences. Rather than serve to gain cooperation and respect of officers,

such treatment most often serves to estrange them. It lowers morale and can even foster a siege mentality between management and line officers that debilitates the entire organization. Aside from issues such as fairness, a large part of the problem is how police agencies and officers view discipline in general—particularly whether it is regarded as a fundamentally punitive measure (negative discipline) or whether it also serves a constructive purpose (positive discipline).

C. Positive vs. Negative Discipline

In order to develop a sound philosophy of discipline and apply it effectively, one must understand the distinction between negative discipline and positive discipline.

1. *Negative discipline.* The concept of negative discipline functions on one reactive and negative premise: A proven allegation of misconduct receives immediate punishment. This style is reactive because officer misconduct is addressed only after it has occurred. The disciplinary process is an end in itself and not a means of educating officers about appropriate types of behavior or a way to explain why certain standards are necessary. While negative discipline is long on punishment, it generally is short on reward.

Traditionally, the law enforcement profession has maintained a negative, reactive approach to internal investigations of allegations of officer misconduct and the disciplinary process. The paramilitary style upon which the law enforcement profession is modeled has helped to reinforce this approach.

2. *Positive discipline.* The current trend among law enforcement is to formulate an internal investigation and discipline system using a more holistic and positive approach to discipline and investigating allegations of officer misconduct.¹

Positive discipline also focuses on determining why misconduct occurred, rather than focusing solely on taking measures to punish misconduct. For example, officer misconduct may be a result of poorly written policy or ineffective training. A positive disciplinary system analyzes each case to determine the cause of misconduct and develops appropriate remedial recommendations in addition to or in place of punitive actions.

Positive discipline includes reinforcement of excellent behavior by maintaining a reward system in addition to a punitive system. Actions by officers that exceed the norm deserve recognition. This may be done by special departmental commendations and medals or by recognition during performance reviews or similar means. In addition, each agency has officers who may not be outstanding but who are known for their reliability and consistent performance. These individuals also need to be recognized.

Generally, human beings respond to praise more positively than to criticism and punishment. Officers who perceive that their daily contributions are appreciated tend to feel better about themselves and want to continue doing a good job or even improve. They feel part of the agency and want to support its reputation. The use of threats of punishment alone to gain compliance with

policy does not encourage excellence or promote the efficient delivery of police services.

Positive discipline implies a departmental goal of administering counseling, reprimands, suspension, or other discipline in a fair and consistent manner. Inconsistent discipline can undermine the entire disciplinary process and lead to charges of disparate treatment and civil litigation. Where officers perceive that they may receive stiffer punishment than another officer or supervisor for similar misconduct, any lessons that the department hoped to impart through discipline will be lost. This is true of every employee, irrespective of rank. Discipline must be consistent.

Finally, it should be noted that training is one of the most effective approaches to positive discipline. Some disciplinary matters are largely a product of inadequate training, a failure by officers to master what is being taught, or their inability to maintain specific skills and abilities or remember how to follow specific practices, protocols, or procedures. For them, refresher training may be more effective and appropriate than punishment.

D. Developing a Departmental Philosophy of Discipline

1. *Establishing Goals.* Law enforcement agencies must provide a firm foundation for the disciplinary process by developing clear goals to be achieved by the department. It is not enough for the chief executive officer to inform officers that the goal of the department is to prevent and detect criminal activity. While it may be the mission, this goal is too broad and too simple. Modern agencies operate in a complicated environment that affects this mission and requires thoughtful assessment of how these many factors affect delivery of public services. For example, relevant departmental goals may be established to create an environment that encourages the community both to work with the agency and to actively use the citizen complaint process. Goals focusing on a more positive relationship with the community have helped departments achieve the larger mission of detecting criminal conduct.

Additionally, the internal investigative process must be mindful of the potential for internal police misconduct that is not registered through the citizen complaint process. Therefore, it is important that police ethics and rules of police conduct are clearly defined. The process for internal investigations should also provide for the reporting and investigation of potential misconduct that has been identified from within the agency.

2. *Goals and Departmental Policy.* Departmental policy is the written expression of the department's goals. Departmental policy also reflects the standards of behavior that are expected from officers in daily operations. In addition, policy is one means of communicating these goals and how they are to be implemented by the officer.

3. *Communicating Goals, Policy, Procedures, and Rules.*² In order to achieve a positive, focused disciplinary system, departmental goals as well as departmental policy, rules, and procedures must be effectively communicated to and understood by all

employees. Effective communication is often a complex and difficult process, and it requires much more than periodic pronouncements posted on a bulletin board. One method of communicating goals and policies effectively is by incorporating officers and supervisors into the policy development process. Empowering officers and supervisors to participate in the articulation of goals and development of policies can help hone policies into more effective instruments for officer guidance and direction. Sharing the process of developing goals and policies will provide the officer with a better understanding of why a policy is necessary and why the officer must conform his or her behavior to that standard.

Officers who can internalize the basis for agency goals through assisting in developing and refining agency policy have a clearer understanding of the reasons for expected behavior. This is one way to minimize disciplinary problems. Individuals will generally conform more easily to a standard that they understand and accept as rational than to blind orders to adhere to such standards or procedures.

E. Disciplinary “Schedules”

One essential criteria for effective discipline is the degree to which departmental personnel perceive the disciplinary system as being fair. In order to achieve consistency, fairness, and objectivity in discipline, some departments use a system of graduated discipline. This typically involves the use of tables or schedules of penalties for one or more infractions or breaches of conduct, policy, procedures, or rules. There are arguments both for and against this type of uniformity.

On the one hand, it provides officers with a general idea of what they can expect for committing certain types of infractions. Major departures from the disciplinary schedule for these infractions are readily apparent—a factor that also serves as a check on decision making. This approach is more easily applied to certain types of misconduct where there are no unusual circumstances involved. However, many instances of misconduct occur that, while they may involve the same or similar charges, involve substantially different facts and circumstances. Administration of discipline strictly on a formula basis in these circumstances may not take into account the total circumstances of the event or the performance history of the individual officer(s). Therefore, disciplinary systems that rely solely on administration of discipline by formula can prove to be too inflexible and thus unfair.

However, the availability of a scale of disciplinary actions for various types of misconduct provides some general controls over inappropriate use of administrative discretion. If punishment for misconduct deviates from what is perceived to be the norm, a written explanation should be made explaining the decision-making process that supported the punitive action. Administrators and supervisors need not relinquish all discretion in this matter if they use a disciplinary scale. It can be used with the understanding that unusual circumstances may require departures from the schedule and that the reasons for such departures will be fully explained to those involved.

All things being equal, use of a scale of disciplinary penalties, or a “disciplinary matrix,” can be a valuable

tool for both employers and employees. The federal government uses a system that incorporates both a scale of potential penalties for various administrative infractions, as well as guidelines that supervisors must incorporate in making final decisions that takes into account both mitigating and aggravating factors of the employee’s employment record. (A discussion of this process is included in an addendum to this concept paper).

Ideally, a matrix of penalties should be developed in a collaborative undertaking between employees and management. Employees who have input into determining appropriate punitive action for misconduct automatically invest themselves in the system. Some police departments that have used this approach have found both that officers are often harsher in their perceptions of appropriate disciplinary action for specific acts of misconduct than is management, and are less likely to lodge complaints against management for being unfair in disciplinary decision making.

III. RECEIVING AND PROCESSING COMPLAINTS

A. Responsibility for Complaint Investigation and Review

A police department’s mechanism for investigating allegations of officer misconduct is of great importance. Whether this responsibility falls on one individual or an entire unit, those involved should adhere to guidelines and principles of operation that in many respects go far beyond those undertaken by internal affairs units of days gone by. Significant issue areas in this regard include the following:

1. *Necessity for Establishing an Internal Investigations Authority.* The internal investigation function is critical to maintaining the integrity and professionalism of a police agency. Public trust and confidence in law enforcement are injured where the public perceives that officer misconduct is ignored or that punishment is not commensurate with the misconduct. In addition, the internal investigation function serves to maintain the internal discipline and control necessary to provide efficient law enforcement services. Therefore, each law enforcement agency should have a mechanism for investigating citizen complaints and other allegations of employee misconduct.

2. *Nature of the Investigative Authority.* The traditional approach to investigating employee misconduct has been the responsibility of what has been commonly referred to as “internal affairs.” This document’s use of the term “office of professional standards” (OPS) to define this function represents more than a change in terminology. It is meant to convey a different perspective on the duties and responsibilities of this function within police agencies. Where information is available, compiled and summarized, this office can identify potential problems with agency policy, training, supervision, and other functions.

The office is also well situated to combine information on individual officer misconduct with other

risk factors to determine whether individual officers or even units have been engaged in behavior that is potentially problematic. Often referred to as an “early warning” or “early identification” system, these analyses can be used effectively to avoid future misconduct by identifying employees who are exhibiting various types of problematic behavior. Early warning systems are now required as an element of the accreditation process for agencies seeking or maintaining that status through the Commission on Accreditation for Law Enforcement Agencies, Inc. (CALEA).³

As suggested above, an office of professional standards should be charged with more than investigating alleged wrongdoing by officers, which is a purely reactive response to problems of misconduct. OPS can become a cornerstone for risk management within law enforcement agencies by identifying ways the agency and officers can avoid problems and correct shortcomings before they become problems. This office can also monitor evolving police practices that the agency may wish to adopt. These functions are best performed in conjunction with the inspections unit, research and planning or similar offices where available.

Many agencies have a separate unit that is solely responsible for conducting investigations of employee misconduct. Smaller agencies are typically unable to staff a separate unit. These agencies may designate an officer or officers to conduct all internal investigations on an ad hoc basis or rotate this responsibility among selected investigators as the need arises.

A growing number of law enforcement agencies have one unit to review the outcome of complaints lodged by the public and another to investigate internal allegations of employee misconduct. Some of these agencies staff the public complaint unit solely with department employees or use a mixture of citizens and officers. The latter may create more public accountability, since the citizens in the unit are meant to guard against internal department bias.

Several large urban areas have attempted to develop distinct units outside their departments in order to facilitate the public complaint review process. These units are usually staffed exclusively by members of the public such as community leaders and politicians or by a combination of police officers and the public. In a study of citizen complaint procedures conducted by the Police Executive Research Forum (PERF), it was determined that these external units have not worked as well as expected.⁴

Proponents of external complaint review units cite the value of injecting an independent and more objective voice in assessing and remedying officer misconduct. They claim that citizen involvement in this function reinforces goodwill between the department and the public. The public gains confidence that misconduct is fairly and adequately addressed where the public participates in the complaint review system.

The PERF study notes that opponents of external complaint review units feel that these units can undermine the morale of a police agency. The authority and responsibility for command staff to manage the department is interrupted and influenced by persons who are inexperienced in law enforcement and its unique

workings. The PERF study suggests that some early citizen review boards may have been inherently biased against law enforcement and thus failed to achieve their goals.

3. Organizational Placement of Investigative Authority. The placement of the internal investigations authority—whether designated OPS or known by another title—within the organizational structure of the agency is an issue of critical importance. The internal investigations authority, whether a unit or employee, should be under the direct oversight of the chief executive officer of the department. The authority should have direct access to, and report directly to, this chief executive officer or another senior executive officer if so directed by the chief.

The integrity of internal investigations into allegations of officer misconduct is protected to a large degree when the internal investigations authority is required to report directly to the chief executive officer. Such investigations may unearth sensitive and confidential information that may or may not prove to be true. If treated without rigid internal controls, such information could potentially ruin the reputation and career of employees under investigation. Therefore, access to investigative information must be closely guarded and limited to those personnel with a need and right to know. This will protect the subject from the unfounded rumors or false accusations that may arise where numerous employees have access to all or some of the investigative information.

The process of conducting internal investigations must also guard against personal influence or bias. The possibility that an investigation may be stifled or unduly influenced as a result of favoritism, discrimination, or personal dislike increases as more personnel are involved in the internal investigation function. Where the internal investigation authority does not report directly to the chief executive officer there is a greater opportunity for corrupt officers to influence the outcome of internal investigations.

The attitudes of personnel involved in the investigative process may also threaten the integrity of the investigation. For example, a supervisor may privately consider investigation of use-of-force incidents to be less important than investigation of patrol car accidents, because the supervisor believes that all uses of force are merited. The supervisor may thereby practice internal selectivity in directing internal investigations. Whether due to personal selectivity or bias, the chief executive officer may ultimately receive a distorted picture of allegations of officer misconduct where all complaints are not forwarded to the internal investigation’s authority and the authority does not report directly to the Office of the Chief.

The nature of the complaint review process and the duties of the chief executive officer is another reason for placing the internal investigative function under the direct control of the chief. The chief is responsible for control of the law enforcement agency and its employees. Immediate and firsthand knowledge of employee actions is necessary so that the CEO can effectively fulfill this responsibility. Additionally,

corrective actions must be taken in a timely manner where a pattern of misconduct indicates weaknesses in policy, training, or supervision. This can be delayed or interrupted if the chief receives allegations of misconduct through indirect channels.

4. *Staffing of the Investigations Authority.* The choice of staff to perform internal investigations is a critical factor in ensuring the integrity of this function. Officers for these assignments must be selected and assigned with the utmost care. Some law enforcement managers are uncomfortable with the prospect of administering discipline to fellow officers for misconduct. Often, they retain the perception that everything is different on the street and that any subsequent review of the facts to determine potential misconduct cannot accurately reproduce the event or duplicate the officer's feelings while involved in the incident.⁵ Where civilians are involved in the review of investigations of misconduct (as in civilian review boards) the civilian may compensate for lack of street experience by recommending inordinately harsh or light discipline. Therefore, the chief executive officer must establish a unit comprised of personnel who understand the critical necessity for accurate, unbiased, and fair investigations.

Another means of ensuring unbiased and professional internal investigations is to use only trained personnel for this function. Personnel should receive formal training in this area both within the department and through professionally recognized external sources. The law relating to internal investigations is complex and requires investigators to know its requirements. In addition, internal investigators should have a firm grasp of such matters as the Peace Officers' Bill of Rights, use of the polygraph, the range of other operations and practices that influence the investigative process as well as local collective bargaining agreements, civil service requirements, and related matters.

When considering candidates for internal investigation assignments, the department CEO should evaluate a candidate's image within the department, his or her communication skills, personal disciplinary history and reputation, and breadth of law enforcement experience. The successful candidate for this assignment should have considerable patrol and supervisory experience, a positive reputation within the department, and outstanding interpersonal and investigative skills. In order for an officer to perform his or her duties, the officer must be able to conduct focused, unbiased fact-finding investigations irrespective of the officer(s) under investigation. At the same time, these no-nonsense investigations must be conducted in a manner that promotes a sense of fairness in the internal investigative process and confidence both inside and outside the police agency that charges of officer misconduct are being dealt within a professional manner. These are significant demands and underscore the demanding qualifications that must be possessed by the successful candidate.

B. Additional Duties of OPS

Although a supervisor will often initiate complaint inquiries, the primary responsibility for review and investigation of complaints and allegations against

employees lies with the office of professional standards. This is the case regardless of whether the complaint or allegation is initiated by a member of the public or someone in the department or another state or local governmental agency. OPS may, for example, assume responsibility for an investigation (a) upon notification from a supervisor of the complaint or allegation, or (b) upon its own initiative once the complaint is registered with the department. However, OPS can take the initiative to conduct internal investigations of its own that are not generated by one of the foregoing sources if given prior approval by the department's CEO or the CEO's designee. This approval process is required to ensure that OPS does not become too independent and engage in "fishing expeditions" without reasonable justification to suspect misconduct.

In addition to its conduct of, or participation in, investigations of alleged employee misconduct, OPS should also do the following:

- Maintain a complaint log.
- Maintain a central file of complaints received. This file should be stored in a secured area with limited access. These records should be maintained in accordance with any records retention requirements imposed by state law.
- Conduct a regular audit of complaints to ascertain the need for changes in training or policy.
- Compile statistical and related information to identify trends in complaints involving use of excessive force or abuse of authority.
- Track complaints against individual employees to assist in employee risk analysis (e.g., early warning systems).
- Provide the department's CEO with an annual summary of complaints against employees and the disposition of those complaints. This summary may be made available to the public or used in other ways as directed by the CEO.

Analysis of documented public complaints and their disposition may provide the department with critical information pertaining to the need for increased training and policy development or refinement on a department wide basis. This analysis may also act as an early warning system by producing one element of such a system—evidence of a pattern of misconduct by an officer or officers. It can serve as one component of a more comprehensive system for identifying problematic patterns of officer behavior and conduct that warrant attention and possible intervention. Analysis may also illuminate malfunctions in the disciplinary process itself that may be corrected, such as inconsistent discipline.

Another role of OPS is to provide certain types of information that will assist the agency in educating the public about the public complaint process. This is an essential part of efforts to facilitate a climate in which the public feels it can be heard by the police department. For this reason annual summaries of complaints investigated and the collective results of investigations should be made available to the public. These reports should not name the officers involved but should provide a summary of the nature of the complaints and dispositions. Increased education about the public

complaint process and the daily operations of its law enforcement agency will help the public better understand law enforcement procedures. Often, public complaints arise due to a lack of understanding of these procedures.

C. Accepting and Filing Public Complaints

Although allegations of misconduct may come from within the department as well as from external sources, the primary focus here is upon the handling of complaints from members of the public.

1. Receipt of Complaint. Police departments should allow public complaints to be received initially by any member of the department.⁶ However, when someone expresses to a non-supervisory employee a desire to make a complaint, where possible the matter should be referred to a supervisor, as noted below. There should be little or no restriction on the means of receiving a complaint. Complaints should be accepted directly from the complainant in person, by telephone, in writing, or by any other means.⁷ Anonymous complaints should also be accepted and reviewed.

Any supervisor within the department should be authorized to accept and record a public complaint. This is the prevalent practice among law enforcement agencies. Many departments permit any sworn officer or department employee to accept such complaints. This has the benefit of broad employee involvement while maximizing citizen access to the complaint process. This approach eliminates the need for the public to go through lengthy procedures before being able to register a complaint. In this manner, the public may also perceive that all officers and departmental personnel are genuinely open to investigation of misconduct. However, allowing a line officer to record a complaint may promote a lack of organization in the complaint acceptance and review process and permit individual officers to bypass the process by not recording or forwarding troublesome complaints. Therefore, it is preferable in efforts to safeguard the integrity of the process for members of the public to lodge complaints with a supervisory officer and be provided with whatever assistance is reasonable and necessary for them to do so by subordinate officers.

Alternatively, the department's complaint procedures should be explained to the complainant, and the complainant should be advised where and with whom the complaint may be filed. It should also be explained to the complainant that the complaint may be made in person or by any other means.

Supervisors are generally considered to have primary initial responsibility for observing officers' behavior for potential misconduct (see below); thus, responsibility for primary intake of public complaints reinforces their knowledge and ability to carry out this function.

The most appropriate manner of addressing public complaints has become a matter of concern for law enforcement. One particular issue is whether all public complaints received by the department should be subject to a thorough internal investigation. Some police personnel maintain a skeptical attitude towards public complaints. They assert that the complaint process can be manipulated by the public to exact revenge against officers. The increasingly high monetary judgments

against law enforcement agencies in actions filed under Title 42 U.S.C. Sec. 1983 have contributed to the filing of frivolous or harassing public complaints. It is argued that some individuals file misconduct complaints and legal actions in the hopes of forcing the police department or governing jurisdiction into a quick out-of-court monetary settlement. Also, many officers dislike public complaints because they fear that the department may be more willing to believe the citizen than its own employee. The possibility of abuse in the public complaint filing process has prompted some agencies to investigate only the most serious allegations of officer misconduct.

Criticisms of the public complaint review process focusing on the potential for abuse of the system have some merit. Citizen abuse of this mechanism has occurred. However, when weighed against the benefits accrued to the department and public from a strong public review process, these criticisms prove negligible. In short, all citizen allegations of employee misconduct should be recorded and reviewed by the internal investigation authority. This doesn't mean that a full-scale investigation of every public complaint should be launched. But at a minimum each should be reviewed to determine whether it merits further investigation.

The complaint should be accepted and reviewed whether or not the complainant wishes to remain anonymous. There are numerous reasons why a citizen may wish to remain anonymous or distance him or herself from the complaint review process. Elderly citizens may have witnessed misconduct, but illness or infirmity may impede their ability to participate. Fear of reprisal should not, but can, influence a complainant's decision. The citizen may believe that a complaint against an officer will make the citizen a target both of the department and the officer against whom the complaint was lodged. Visions of daily parking tickets, citations for minor or nonexistent infractions, and officer failure to respond to a genuine emergency because the citizen was responsible for punishment of another police officer may scare the citizen into requiring anonymity or not registering a complaint at all.

2. Community Relations. Acceptance and review or investigation of all public complaints is vital in efforts to further the law enforcement goal of building and maintaining a good working relationship with all members of the community. One purpose of the complaint review process is to ensure that evidence of an officer's abuse of his or her official position is revealed and corrected. However, some citizens are unaware of the fact that a departmental mechanism exists to address public complaints of officer misconduct.

Until recently, law enforcement agencies have not typically taken active steps to inform the public about how to file complaints or how the police department handles those complaints. Nor have agencies, until relatively recently, provided the public with an annual summary of public complaints investigated and the results of those investigations. Many agencies have begun to provide such information to establish more credibility with, and accountability to, the public.

However, there have been times when, as a result of the general lack of knowledge about the complaint review process, some individuals have simply accepted certain minor forms of officer misconduct without question. Thus isolated from a full picture of officer misconduct, departments often have remained relatively unaccountable for the disposition of public complaints. In doing so, they have also missed the opportunity to dispel rumors about officer conduct within their agency—often information that can demonstrate the overall excellence of their department and fine performance of their officers.

Failure to address public complaints or involve the public in this process may have two unfortunate results. First, incomplete knowledge of officer misconduct may permit officers with hostile or overly aggressive characters to remain in their positions of authority and to continue to abuse that authority. Officers with temporary physical or emotional problems that cause misconduct may not be identified by early warning signals that could have surfaced through public complaints. Second, the public and law enforcement can break into two isolated and opposing camps. Incidents of discriminatory behavior by law enforcement personnel may increasingly alienate large segments of the population. The law enforcement agency may gain a reputation for being unaccountable for its actions. Under such a situation, the phrase “to serve the public” becomes largely meaningless as the public is seldom consulted or considered.

Therefore, review of all public complaints received by the law enforcement agency is an important means of serving the public and remaining in touch with the public’s needs. Public trust and confidence are built when the public perceives that officer misconduct is addressed and corrected by the agency. This, in turn, promotes public willingness to help the agency carry out its law enforcement mission. In a climate that fosters trust between the public and law enforcement, citizens are more likely to come forward to testify, to provide evidence of criminal acts, and to provide other needed assistance in reducing crime.

3. Complaint Forms. Public complaint packages for use in the filing of complaints are also a good idea. Such packages should contain complaint forms, information on the department’s complaint procedures, and an explanation of the action that the complainant can expect in response to a complaint. These packages can be made available to the public directly through police personnel and at designated public locations. Use of a customized complaint form is a good idea no matter how large or small a police department. The components of a complaint form are attached to this document. Actions forming the basis for a public complaint may also form the basis for litigation against the public entity, employing department, or officer for a violation of individual rights. Full documentation of the complaint helps the department document that the facts as reported to them were received and then acted upon to the fullest extent of the department’s abilities.

Should the complainant revise his or her story, the department will have evidence to rebut these changes. Where the complainant has fraudulently filed a public complaint, the officer or department may decide to take

legal action against the complainant. The documented complaint may be used to prove these charges.

Filing of false complaints is not a widespread problem in most localities. However, to guard against this possibility, some officers advise the complainant of the penalties for filing a false complaint. This is not a good general practice as it creates a chilling effect on the entire complaint reporting and filing process and could be perceived by others as an attempt to intimidate potential complainants. Failure to fully document all complaints can additionally create a perception that the department is covering up some officer misconduct. Thus, some written documentation of all public complaints should be instituted by law enforcement agencies.

D. Role of the Supervisor

Although the office of professional standards or similar entity should be given primary responsibility for the investigation of complaints and allegations, the initial responsibility for complaint review should lie with the supervisor receiving the complaint. Following is a suggested approach from the model policy for processing public complaints. This may be used as a prototype for creating a reporting/review system or as a basis for comparing an existing system. This approach consists of the following initial steps.

- *Supervisors Conduct a Preliminary Investigation.* Under this approach, supervisors conduct, or cause to be conducted, a preliminary inquiry to determine if grounds exist for initiating a full administrative investigation.

- *Complainant Receives a Copy of the Complaint.* The complainant receives a copy of the complaint as filed and is asked to verify by signature that the complaint set forth on the complaint form is a complete and accurate account of the events involved. If the complainant elects not to sign, this is documented by the supervisor and the inquiry proceeds. Copies of the complaint and the supervisor’s findings should be forwarded to the office of professional standards and to the agency’s chief executive officer (CEO).

1. *Document and Forward the Complaint.* All public complaints should be documented upon receipt and forwarded to the office of professional standards and the agency CEO. Even where the supervisor has seemingly resolved the matter by way of explanation of departmental policy or other actions, the complaint should still be documented and forwarded to OPS. The documentation should note any actions that were taken by the supervisor to resolve the complaint and the citizen’s reaction. A copy of the complaint should go to the sheriff or chief of police if for no other reason than to keep him or her apprised of the nature of complaints on a daily basis.

2. *Provide Complainant with a Copy of the Complaint.* The complainant should receive a copy of the complaint. In some cases, citizens who lodge complaints receive little feedback about the final disposition, or whether the complaint was ever investigated. This shortcoming helps promote a general perception that such complaints are discouraged by the police agency, or that the agency takes little meaningful

action in response to public complaints. While agencies may actually investigate public complaints in good faith, lack of public knowledge concerning how these complaints were addressed or their outcomes reinforces this misperception.

3. *Explain Complaint Process to Complainant.* It is desirable that the complainant be given either a verbal briefing or written description of the complaint process and be informed that he or she will be contacted in writing about the final disposition.

If the supervisor taking the complaint recognizes that the actions taken by the officer(s) were appropriate and in accordance with existing agency policy and procedures, the supervisor should explain this to the complainant. The supervisor may explain to the complainant the policies and procedures in question in the event that a simple misunderstanding has precipitated the complaint.

For example, many citizens are unfamiliar with the field interview procedure or its purpose and may view this procedure as a form of harassment. A simple explanation of the purpose of this procedure may resolve these misunderstandings and may even leave the individual with positive feelings about law enforcement investigations and protection of the community. However, this in no measure implies that the explanation should be used as a means of talking the citizen out of filing a complaint should he or she desire to do so. In fact, the complaint should always be recorded for screening irrespective of other immediate steps by the supervisor to explain the events or actions of the officer. This is a safeguard for the supervisor should he or she be accused of dissuading or failing to record a complaint.

4. *Distinguish between Service vs. Personnel Complaints.* Some police departments classify complaints as either “service” or “personnel” depending on the issue(s) involved. Service complaints or concerns are those associated with the way police services are provided. A common example is a citizen complaint over police response time. Many of these types of public complaints may be handled in the internal investigative process somewhat differently from those involving personnel action or inaction directly with a citizen. But each type of complaint should receive a unique tracking number and be screened for pertinent information and potential violations of departmental policy and procedures. Even complaints involving misunderstandings may contain information of value to a police agency. This includes, for example, a need for the department to clarify procedures to individual officers or groups of officers, or to provide additional training in communication or other interpersonal skills. Examination of all public complaints allows the police agency to determine if the complaints form a pattern that should be addressed by the department in another appropriate manner.

5. *Conduct Further Investigation if Necessary.* If the supervisor’s preliminary investigation discovers issues that may support a charge of misconduct, the supervisor should cause further investigation to be made and should notify OPS of the information uncovered and the actions that are being undertaken. If the preliminary investigation reveals evidence of criminal conduct by a departmental

employee, all available information should be forwarded to both OPS and the agency CEO immediately and investigation of the complaint will be turned over to OPS.

It should be clear, however, that OPS may assume concurrent or sole authority over the investigation of any charge of misconduct at any time or at any point in a supervisor’s investigation. In doing so, OPS must notify the involved supervisor of this action. Such actions of OPS without notification or justification risk the development of ill will between OPS investigators and the supervisor involved. Therefore, these actions should only be taken by OPS where unusual circumstances or facts of the incident warrant intervention. The overall purpose for allowing OPS to intervene in this manner is to provide a check against any potential charges of supervisory inaction or failure to pursue an investigation in a diligent manner.

6. *Give Supervisors a Major Role in Investigation of Complaints.* The office of professional standards must have the primary responsibility for investigating all complaints of employee misconduct. However, in the vast majority of cases, officer misconduct does not rise to the level of an offense for which suspension, dismissal or similarly serious disciplinary action is an appropriate remedy. Positive discipline may include additional training or counseling for an officer as an option to more punitive measures. For example, the officer may simply need a refresher on departmental policies in order to correct relatively minor problems. The supervisor is often in the best position to ascertain where these specific measures would be most effective and to administer them in an appropriate manner given the circumstances.

Thus, in many departments the officer’s immediate supervisor is, or should be, given a major role in the investigative and disciplinary process. For example, first-line supervisors may be authorized to give the offending officer a verbal or written reprimand for minor infractions or for more serious infractions that still may not merit action through the department’s formal disciplinary process. These reprimands should be used also in an educational manner for the officer, not solely as punishment. Even in more serious instances, the supervisor should also be asked to make recommendations for disposition of the case.

This system permits a more efficient and rational allocation of internal investigative manpower. For example, serious allegations of misconduct, such as brutality, are normally best assigned to OPS for internal investigation, while continued tardiness might better be investigated and handled by the officer’s supervisor. In this manner, supervisors have a significant role in the investigatory and disciplinary process. But, where necessary and indicated the supervisor’s investigation can be joined or even preempted by the OPS. Agencies that adopt this or a similar approach should provide both supervisors and OPS personnel with general guidelines concerning the types of complaints that should normally be handled by each.

IV. THE INVESTIGATIVE PROCESS

A. General Legal Considerations: Termination or Suspension

There are legal constraints that affect the investigation of officer misconduct and the administration of disciplinary action in all jurisdictions. Certain aspects of law enforcement officer discipline may vary in accordance with state or local law, civil service decisions, or the terms of collective bargaining agreements. In addition, several states provide statutory regulation of the public complaint process. However, in the absence of these specific constraints, certain general principles apply. A broad overview of these general features of officer discipline is important for all police personnel.

The most severe forms of discipline, such as suspension and termination, are those that are most extensively governed by federal, state, and local law. Regardless of the jurisdiction in which the department operates, suspension and termination proceedings must be conducted in accordance with applicable laws if they are to withstand legal scrutiny. The exact procedures for terminating or suspending a law enforcement officer will usually depend upon how the officer's employment is characterized under the applicable law.

Other forms of discipline that could impact an officer's property interests as determined under the 14th Amendment are also subject to legal guidelines as outlined in this section.

1. *Property Interest in Continued Employment.* The 14th Amendment's Due Process Clause guarantees that no person shall be deprived of life, liberty, or property without due process of law. "Property" has been expanded beyond its common meaning to include the abstract concept of a vested interest or right to continue holding one's job. Where such a property interest in continued employment exists, termination or suspension from such employment must conform to certain federally determined due process procedures.⁸ A property interest in employment may be created not only by court decision but also by federal, state, or local legislation, civil service decision, or personnel handbooks. These determine the extent of the property interest.⁹

In most jurisdictions, law enforcement officers are given property interest in their employment by state statute. The wording of such legislation may differ widely from state to state. Many state statutes provide that officers shall retain their position unless dismissed for just cause. Other statutes contain a listing of behavior that may subject an officer to dismissal or discipline. Statutory wording that limits when an officer may be dismissed or suspended generally implies intent to confer a property right.

Where the law confers a property right in employment, officers cannot be terminated or suspended without just cause and a hearing by the law enforcement agency or other appropriate tribunal must precede such management decisions.

Where an officer is considered to have a property right in employment, suspension or termination must be based upon "just cause," that is, certain legally recognized grounds. There may be other grounds for discipline and

other rights accorded to a department's officers in a given jurisdiction. These include the following.

- *Incompetence.* Most states permit an officer to be disciplined up to termination for incompetence. The department is not required to retain an officer who is unable to perform his or her duties due to incompetence.¹⁰

- *Neglect, Nonfeasance, or Failure to Perform Official Duties.* Even where the officer is competent, if the officer does not fulfill his or her responsibilities, the officer may be disciplined. Thus, many states include neglect of duty, nonfeasance, and/or failure to perform official duties as grounds for disciplinary action up to and including termination.

- *Conduct Unbecoming an Officer.* A basis for discipline that has long been a subject of controversy is the catchall provision "conduct unbecoming an officer," often referred to as CUBO. Conduct unbecoming an officer may include a wide range of behavior. For example, acts of moral turpitude by the officer, such as certain sexual activity or lying, may constitute CUBO.¹¹ This charge may also refer to acts that are considered to damage the department's reputation or the welfare of the department or the general public.

Some courts that are uneasy with the seemingly vague nature of the charge have criticized suspension or dismissal based on CUBO. It is sometimes contended that, because of this vagueness, the officer is not given adequate notice of the types of acts that are prohibited. By contrast, many courts have upheld this charge as a basis for discipline. Under the latter view, the officer is considered able to determine from state case law and department policy the scope of actions constituting conduct unbecoming an officer. In addition, officers are considered to be able to discern from their own moral value systems, which of their acts could potentially bring the department into disrepute. Law enforcement personnel need to receive advice on state employment law to determine whether a trend exists locally that would support CUBO as a basis for discipline.

- *Violation of Departmental Policy, Rules, or Procedures.* "Just cause" for discipline has also been found where the officer has violated departmental policies, rules, or procedures. Officers have a duty to obey all properly promulgated and legal policies and procedures of the department. Charges of misconduct by the officer or malfeasance in office are usually premised on such departmental policy violations.

- *Failure to Obey an Order.* Dismissal may in some cases be founded upon failure to obey the lawful order of a superior officer. What constitutes a lawful order can be disputed in some cases. If the officer can show that there was in fact no direct order, or that the order given was unlawful, there are no grounds for discipline.

- *Violation of Criminal Law.* In most states, an officer may be disciplined administratively in degrees up to and including dismissal for violating criminal law. Where there is a concurrent departmental policy prohibiting criminal conduct, the officer may also be disciplined for violation of departmental policy.¹²

In such cases an administrative finding of misconduct and subsequent discipline will not be dependent on a

judicial conviction unless otherwise provided by law. If the commission of a crime is a violation of department policy (as it should be) it may be immaterial that the employee was not criminally charged or convicted. The administrative proceeding conducted by the police department does not have to be guided by the legal standard of proof “beyond a reasonable doubt” as does a criminal court proceeding. A fair preponderance of the evidence indicating guilt is all that is necessary for a department to take disciplinary action up to and including dismissal from service.

Some departments choose not to file formal administrative charges until there has been an ultimate resolution of the criminal charges. However, this approach has some consequences that should be considered in advance. In particular, criminal court proceedings often take extensive time for resolution, particularly where appeals are granted. If the criminal charges against the officer are serious, the police department often does not and generally should not return the officer to street duties and may transfer him or her either to an administrative assignment or to administrative leave status. If the officer is maintained on any type of duty and/or retains law enforcement powers, the department risks civil litigation should the officer subsequently use those police powers inappropriately, whether on or off duty.

If the officer is placed on administrative leave, it should be with pay. This action ensures the employment status of the officer and, as an employee, the officer is required to answer questions regarding the investigation or face dismissal for failure to comply with a legal order. However, considering that an officer can remain, and many have remained, on administrative leave with pay for years pending the outcome of criminal charges, the financial efficacy of this approach often comes into question. Agencies should also consider whether this action has negative effects on other officers in the department who continue to work for their pay. As a result, the time officers may remain on administrative duty with pay should be as short as possible.

Coordination and cooperation with the prosecutor’s office where criminal conduct is under investigation is essential. In some cases, where the evidence is sufficiently strong to determine that an officer has committed a crime, it may be best to dismiss the officer even if in doing so the department has to grant use immunity to the officer barring his statement from being used for criminal prosecution. This action effectively rids the department of an officer who poses additional risks to civilians and other officers if allowed to remain employed. Such decisions depend on a number of factors to include the seriousness of the offense and the strength of the case against the officer, among other matters.

2. Disciplinary Hearings. Law enforcement officers holding a property interest in their position normally must be given an administrative hearing prior to suspension or dismissal.¹³ However, the department may be permitted to suspend the officer with pay pending the administrative hearing where the officer would pose a significant hazard to the public or the department if allowed to remain on active duty while awaiting a

hearing.¹⁴ Even without these exigent circumstances, an officer may be relieved from active duty or placed on administrative leave with pay pending the administrative hearing. In some rare instances it may be feasible to relieve an officer from active duty without pay with the proviso that if the administrative hearing results in a favorable ruling for the officer, he or she will be reinstated with appropriate back pay and without a break in benefits. Here again, officers and their agencies should understand that these are primarily defensive actions designed to protect the police agency, governing jurisdiction and citizens. It is not worth risking the safety of civilians or other officers when the ability of an officer to hold office is in serious doubt.

3. Terminable-at-will Employment. A more difficult legal disciplinary problem is presented in those states that do not confer a property interest upon law enforcement officers. While few in number, these states essentially treat public and private-sector employees in a similar manner. Termination of officers is considered to be at the will of the employing agency. Probationary officers are often regarded as “terminable-at-will.”

Employment at-will means just that. Discharge can be imposed without good cause. However, no at-will employee can be discharged based upon race, religion, sex, or national origin. Nor should any person be discharged because of his or her sexual orientation.

In general, the federal due process pre-disciplinary requirements discussed in the previous section do not apply to terminable-at-will employees. As the officer has no legal property interest in his or her position, there is no deprivation of property upon termination that is protected by the 14th Amendment. As a result, a terminable-at-will officer has no right to a pre-disciplinary hearing to determine the validity of the firing decision except in certain limited instances.¹⁵

The rights accorded a law enforcement officer in terminable-at-will states vary significantly from state to state.¹⁶ Adoption of exceptions by statute or case law should be researched within individual state laws.

4. Probationary Officers. It is well settled that probationary employees of public agencies can be dismissed without a hearing and without judicially cognizable good cause. [Perry v. Sindermann, 408 U.S. 593 (1972)] However, a general exception to this rule is recognized whenever an officer’s liberty interest, as secured by the Due Process Clause of the 14th Amendment is invoked.¹⁷

5. Right to Good Reputation and “Clean Name.” Any employee whose discharge impacts his or her liberty interests as provided by the 14th Amendment has a right to a name-clearing hearing. Impairment of a liberty interest occurs when a stigma or other disability results from termination of employment. In other words, the action affects the terminated employee’s reputation or ability to secure new employment.¹⁸ Cases involving the right to a name-clearing hearing have involved accusations of involvement in such criminal activity as rape, corruption, and theft as well as such charges as improper association with women, sexual misconduct, insubordination, and dishonesty.

In terminable-at-will employment, the 14th Amendment property provision has been construed to include an abstract right of employees to a good reputation and “clean name.” Even where there is no property interest in the employment itself, the officer may have an enforceable interest in his or her good reputation. Indeed, this interest in reputation triggers the 14th Amendment due process requirements regardless of whether the employee is terminable at will or is being terminated for just cause.¹⁹ Where an officer is to be discharged on the basis of a charge that may damage his or her standing in the community or attach a stigma to his or her good name, reputation, honor, and integrity, a name-clearing hearing prior to termination is necessary.²⁰

Essentially, employers are not allowed to ruin an employee’s chances of getting another job by firing him or her on the basis of scandalous or grievous charges that may be false, without giving the employee an opportunity to prove that the charges are false. For example, discharge of an employee for a positive drug test would trigger the requirement that the officer be given the opportunity to have a name-clearing hearing.

6. *Defamation and Other Interests in Reputation.* Even where termination itself is lawful, departments must be cautious of any statements released to the media or to prospective employers regarding the cause for the dismissal.²¹ Regardless of whether there is a property interest in the employment, and whether correct procedures were followed in the disciplinary process, incorrect or incautious statements about an ex-officer may provide that officer with a right to bring a civil action in state court for defamation or in federal court for violation of the employee’s “liberty interest” in his or her reputation.²²

7. *“Whistle-Blowing” Statutes.* An important protection afforded to all employees is found in the so-called whistle-blowing statutes. These statutes prohibit employers from discharging employees who report or threaten to report an employer’s violations or intended violations of the law.

B. Investigative Procedures

Responsibility for conducting internal investigations of police conduct carries with it the important responsibility to conduct such investigations in accordance with the law and professionally accepted practices. An officer who is the subject of an internal investigation retains certain rights, and legally accepted procedures must be followed during the investigation of alleged officer misconduct. Officer rights may vary according to state and local law or the terms of a departmental collective bargaining agreement. In addition, the characterization of the investigation as administrative or criminal will determine the applicable rules.

Several state legislatures have enacted legislation addressing the various rights guaranteed to law enforcement officers during their employment. These legislative acts are generally known as Peace Officers’ Bill of Rights and generally incorporate the rights of officers who are under investigation for misconduct. The states that have adopted a Peace Officers’ Bill of Rights

include Kentucky, West Virginia, Virginia, Rhode Island, Maryland, Illinois, California, and Florida, among others.

Where the allegation of officer misconduct may involve a violation of criminal law, different considerations apply, and more stringent officer rights are generally guaranteed. For example, an officer who is to be questioned in a criminal investigation must be read his or her Miranda rights before questioning is begun, and those dictates must be honored during the interview. If in a criminal investigation the officer invokes his or her Miranda rights, that officer may not be disciplined for invocation of those rights. By contrast, questioning an officer during a purely administrative investigation into noncriminal violations invokes what are known as “Reverse Miranda” rights. The officer is not entitled to remain silent and must truthfully answer questions narrowly, specifically, and directly related to the performance of his or her official duties. Failure to answer these narrowly focused questions provides the agency with grounds for invoking discipline up to and including discharge from service for failure of the officer to respond to a direct order. Prior to questioning, the officer must be advised of the Reverse Miranda provisions.

This type of compulsory testimony raises a potential problem for police officers. The officer knows that by answering all questions truthfully he or she may be forced to admit criminal activity and thus face criminal charges. On the other hand, the officer knows that failure to answer as ordered may result in being discharged from employment. In order to circumvent this problem and ensure that officers are encouraged to answer all questions, the officer may be given “use immunity” in return for a waiver of his or her right against self-incrimination during the administrative investigation. “Use immunity” as previously noted, means that the department will not use any admissions of criminal activity by the officer for criminal prosecution purposes. However, if the officer is prosecuted for a federal criminal civil rights violation, such statements may be used for impeachment purposes. Also, the admissions may be used as the basis for administrative charges for any departmental policies that may have been breached.

The distinction between criminal and administrative investigations is an important one for investigators as will be noted later. But for purposes of the following discussion it should be emphasized that this document is primarily intended to address the conduct of administrative investigations.

1. *Notification to Employee.* Prior to a hearing on charges, the officer must be informed of the charges against him or her in accordance with the provisions of state law. The officer under investigation should have the opportunity to contact the investigating authority, whether a supervisor, OPS, or similar entity, to ascertain the status of the investigation. Some police departments neglect to inform the involved officer of the outcome of the investigation until the disciplinary hearing is imminent. This is a serious oversight by an investigating authority. It is a practice that should not be followed as it

minimizes the officer's opportunity to prepare his or her response and defense to departmental charges. In addition, where the officer is able to ascertain the progress of the investigation, the pressure and alienation generated by being the subject of an internal investigation may be minimized. The officer is not left in the dark and may feel more in control of the situation. Again, providing this information to the officer is part of dealing fairly with police officers under investigation.

2. *Interviewing Employees.* Irrespective of any notification of the investigation with which the officer has been provided, the employee to be interviewed should be advised of the nature of the complaint prior to any questioning.

All interviews should be conducted while the employee is on duty, unless the seriousness of the investigation is such that an interview during off-duty time is required. The atmosphere of the interview should not be coercive or demeaning. The officer should be treated in a dignified and respectful manner, and offensive or threatening language should not be used.

While more than one internal investigator may be in the room during an interview, one person shall be designated as the primary investigator who will conduct the questioning. Some departments permit questioning by more than one investigator, but this practice can degenerate into a hostile and coercive situation for the interviewee.

An officer under investigation should be able to bring a personal representative into an internal interview. The personal representative may be an attorney, union representative, supervisor, or other person chosen by the officer. But such representative(s) should not be in any manner connected with the incident under investigation. The role of the interviewee's representative is primarily that of observer. He or she should be advised not to intervene in the interview unless requested to do so by the interviewers or the employee, or unless the interview leads to issues of criminal activity.

Some law enforcement agencies only permit an officer under investigation to be accompanied by a supervisor or union representative. It is sometimes asserted that attorneys unnecessarily impede the progress of administrative investigations without fulfilling any critical role. However, in the complex world of civil liability, logic dictates that an officer be permitted legal representation during an administrative interview. A supervisor or union representative may be unable to foresee all the ramifications of any given case or be in a position to adequately prepare the officer. A personal legal representative, although relegated to an observer's role during an administrative interview, can still help the officer prepare a better case, while ensuring that the interview proceeds in an appropriate and legal manner.

Finally, while an administrative interview does not carry the direct threat of punitive action at the conclusion, it does target the livelihood and chosen profession of the officer under investigation. A sense of fairness suggests that an officer is entitled to protect his or her livelihood and unblemished name by having a legal representative present as an observer during an administrative interview.

All interviews should be recorded in their entirety. If breaks are taken, a notation should be made on the recording concerning the time that the break was taken, who requested it, and the time at which the interview resumed.

At the commencement of the interview, the interviewee under investigation should be given the following warning:

- *You are advised that this is an internal administrative investigation only.*

- *You will be asked questions specifically related to the performance of your duties and your fitness for office. You are required to answer all such questions.*

- *If you refuse to answer these questions, you may be subject to discipline for the refusal. This discipline may include measures up to and including termination of employment.*

- *You will also be subject to discipline if you knowingly make false statements during the interview.*

- *Any answers that you give are to be used solely for internal administrative purposes. They may not be used in any subsequent criminal proceedings, if any such proceedings should occur. However, should there be a federal criminal civil rights prosecution, your statement may be admissible for impeachment purposes.*

3. *Examinations, Tests, Lineups, and Searches.* Where deemed pertinent, the department may require an employee under investigation to undergo any of the following examinations:

- Intoximeter test
- Blood test
- Urine test
- Psychological examination
- Polygraph examination
- Medical examination
- Any other examination not prohibited by law

In addition to the foregoing general authorization for examinations of the officer under investigation, an on-duty supervisor should be permitted to direct an employee to submit immediately to a breath, blood, or urine test when there is reasonable suspicion in the line of duty that alcohol or drug usage is directly related to a public complaint or other misconduct.

Specialized tests such as medical or psychological examinations should only be required as part of an internal investigation where it is probable that the examination will produce relevant evidence. For example, an employee might be ordered to submit to a physical examination where the employee explains that the alleged misconduct occurred due to a temporary physical illness or condition.

State law varies on the permissibility of using the polygraph. The reliability of the polygraph examination has also been increasingly challenged as a means of discerning the truth. Some states have outlawed employer use of the polygraph on employees in both the public and private sector. Law enforcement agencies in those states may not be permitted to use the polygraph as a tool to help prove or disprove employee misconduct.

The trend among the states has been to provide stringent regulations on the use of the polygraph and to require certification of the polygraph examiner where

these tests are permitted. Those states with statutes regulating use of the polygraph generally prohibit its use within the private sector but permit the law enforcement profession to use the polygraph in investigations of employee misconduct and as a recruit-screening device. Some states permit this exception based upon the heightened need for internal security by the law enforcement profession. However, in other states this has led to the argument that a statute requiring only employees of a public law enforcement agency to take a polygraph is unconstitutional. For this reason, individual law enforcement agencies should carefully check their state law on this serious issue.

Where the polygraph examination is permitted as part of an internal investigation into officer misconduct, specific limits should be placed on the scope of the questioning. The employee may only be asked questions that are narrowly related to the performance of his or her official duties. The department may not ask broad questions unrelated to the investigation in hopes of gaining other information. This standard is the same as that applicable to questioning of the officer in a verbal investigative interview.

Whether the employee or employer requests the test, the employee must be advised prior to the polygraph test that failure to answer questions truthfully could result in discipline up to and including discharge. Use immunity for admissions of a criminal nature must be explained and a waiver obtained as in normal face-to-face questioning.

Where the law permits the test, if the citizen making the complaint submits to and passes a polygraph examination, the employee should also be required to submit to a polygraph examination.

An employee can also be required to participate in a lineup, if the lineup is to be used solely for administrative purposes.²³

With regard to searches, property belonging to the department is normally subject to inspection for investigative purposes. This may include vehicles, desks, files, storage lockers, computers, e-mail messages, MDT transmissions, or other items or locations that are the property of the department. However, this right to inspect applies only to items in which the employee does not have a reasonable expectation of privacy. This is sometimes difficult to determine in cases where it has not been defined by departmental policy.

However, authorization to search should be restricted to a search for evidence of work-related misconduct. Authorization should extend only to departmental property, (that is “those areas and items that are related to work and are generally within the employer’s control”).²⁴ The employer may not search for evidence in private areas such as in a purse or locked luggage. Even when the item or location is departmental property, a search may not be legal without first obtaining a search warrant. This is the case if the employee has established a reasonable expectation of privacy by law, by departmental regulations or operating procedures, or by custom or practice of the department where formal policy to the contrary has not been established.

C. Disposition Following Investigation

1. Review and Recommendation. After the investigation is deemed complete, the primary investigative authority should review the complaint report and the investigative findings relative to the complaint. That investigative authority should then compile a report of findings and provide a disposition recommendation for each charge.

The model policy provides four possible dispositions for consideration in making these decisions.

- *Sustained:* There is sufficient evidence to prove the allegations.
- *Not sustained:* There is insufficient evidence to either prove or disprove the allegations.
- *Exonerated:* The incident occurred but was lawful and within policy.
- *Unfounded:* The allegation was false or not factual or the accused employee was not involved in the incident.

2. Review and Forwarding of Report. A copy of the investigator’s findings and recommendations should be submitted for review to OPS. Thereafter, OPS may make any additional inquiries or conduct any investigation deemed necessary to verify, authenticate, or clarify the findings and recommendations of the investigative report. The report should then be forwarded to the department CEO through the chain of command for command officers’ information, review, and comment.

3. Actions of CEO. Upon receipt of the report, the CEO should review the report and supporting documents. Generally, the CEO then chooses either to accept the findings and recommendations of the report or to remand the case for additional investigation. If the complaint is sustained, the CEO should determine whether final charges should be brought. If there is an affirmative finding on this matter, the CEO or his or her designee must direct that a charging document be prepared by the employee’s supervisor or commander or by the OPS as appropriate. This document must be signed and thereafter served upon the employee.

The charging document must include the following:

- The nature of the charges.
- A copy of the investigative file.
- Notification that the employee may respond to the charges and a statement of the time frame for such response. This time frame must be reasonable, that is, long enough to give the employee a reasonable opportunity to prepare his or her response.

4. Response of Employee. The point at which the officer’s response to the charges is accepted or heard is commonly referred to as the pre-disciplinary hearing (PDH). An employee who desires an opportunity to be heard regarding the proposed charges may request such a hearing. This request should be made to the CEO or the CEO’s designee within the time stated in the charging document. The employee may respond either verbally or in writing to the charges within the time stated in the charging document.

The pre-disciplinary hearing need not approach the formality of a full judicial trial to satisfy the due process requirements of the 14th Amendment. The purpose of the hearing is to determine whether there are reasonable

grounds to believe that departmental charges against the employee are true and that suspension, dismissal, or other form of discipline is merited. This may include a reduction in penalty.

Due process requires that the officer be given notice of and an opportunity to be heard on the charges.²⁵ Due process does not require a police department to provide a permanent employee with a full evidentiary hearing prior to taking initial punitive action. But it does require at a minimum such pre-disciplinary safeguards as a notice of the proposed action, the reasons for such actions, a copy of the charges and materials on which the action is based, and the opportunity to respond either verbally or in writing within a reasonable period.

In order for the PDH to be meaningful, it must be held at a reasonable time and place. The officer must be permitted enough time before the hearing to prepare to address the charges against him or her, and the hearing must be held at a time and location that is easily accessible to the officer.²⁶ State law generally establishes the provisions for formal and evidentiary hearings of this type.

In many departments, the CEO will delegate this hearing to a member of his or her command staff or another designee. It is absolutely essential that the individuals so designated be fair and impartial and that the individual possess the authority to recommend a final disposition without fear of any reprisal from the CEO. The CEO may still make his or her own decision concerning appropriate punishment but should provide the reasons for overriding the recommendation decision to the involved officer.

Once the pre-disciplinary hearing is concluded, if the chief executive officer feels that discipline is justified, the officer must have the right to a full evidentiary hearing in order to satisfy the due process clause.²⁷ It is essential that departments observe the procedural requirements imposed upon the disciplinary process and that officers understand their right to these procedural safeguards. Even where just cause for discipline exists, failure to observe the proper procedures may result in judicial invalidation of the departmental action and an award of civil damages to the officer.

5. Disposition. Following the PDH or written response of the employee, the CEO is in a position to determine the appropriate disposition of the charge(s).²⁸ The disposition should normally be returned from the CEO to the commander of the employee's unit although this will depend upon the size and organization of the police department. The commander should then direct the employee's supervisor to take whatever disciplinary action is designated. A written copy of the disposition must be provided to the employee. The supervisor must subsequently verify to the commander, to OPS, and to the department's central personnel authority that the authorized disciplinary action has been taken.

6. Time Limit on Review Process. Whenever possible, the investigation of a complaint should be completed within a reasonable period of time. A period of 45 days from the time of the initial receipt of the complaint to its disposition would be considered reasonable under most circumstances although extenuating circumstances may

have bearing on this time limit. For that reason, the time designated by the agency may be altered by a waiver granted by the CEO or the CEO's designee and must be modified in accordance with any requirements established by departmental policy, applicable law, or existing labor agreement. Whatever the time allowed, it may be desirable that regular status reports be submitted regarding the progress of the investigation.

This time limit may be impractical in investigations involving criminal activity where the administrative investigation is suspended to allow the criminal investigation to begin or to proceed. However, administrative investigations should comply with some reasonable established timetable in order to ensure the freshness and continuing availability of all witnesses and relevant evidence. In addition, adherence to a time limit demonstrates, both to employees and the community, the department's serious commitment to investigation of alleged misconduct. A set time limit on internal investigations helps to moderate the atmosphere of suspense and pressure that often exists where the accused officer must wait an interminable period for the conclusion of the investigation. Finally, a timetable for all internal investigations tends to ensure fairness in the process.

Coincidentally, serious consideration should be given to limiting the time that an officer may remain on administrative leave with pay pending the outcome of a criminal investigation. While the focus of this discussion is not on criminal investigations, it should be noted that if a criminal investigation has led to the filing of a criminal complaint, continuation of an officer on administrative leave without pay serves little or no purpose. At such point, it may be preferable to remove the officer from this status and to file administrative charges against him or her. This is particularly the case when administrative charges alone would normally form the basis for termination of employment.

7. Appeal. In addition to the foregoing opportunities for an officer to defend against charges of misconduct, most employees may appeal proposed charges and any action taken thereon as provided by statute, ordinance, collective bargaining agreement, civil service regulations, or departmental or jurisdictional appeal procedures.

8. Notification to Complainant. Following final disposition of the complaint, a letter should be sent to the complainant from the CEO or the CEO's designee explaining the final disposition.

9. Applicability of these Procedures. The procedures discussed here should be followed in any proceeding involving written admonishments, punitive transfers, punitive reduction in pay, punitive relinquishment of accumulated overtime or vacation, suspension, and discharge whether for cause or not.

In the last decade there has been a marked increase in complaints by unions and members about the way police officers are treated in personnel investigations. First is the complaint about disparity in the penalty imposed upon a police officer as opposed to a command staff officer. Second is the difference in which these classes of officers are treated while the personnel investigation

is taking place. Complaints about disparity in treatment, among other matters, have become so common that morale in many departments has been negatively affected. When this occurs, there is routinely a reduction in overall efficiency of officers.

It is recognized that in many cases following the recommendations contained herein will give greater rights to employees under investigation than may exist at the state law level. However, these procedures are fundamentally fair and present no downside to either management or employees.

It is self-evident that no CEO wants to impose discipline upon a sworn officer without just cause. Following the prescribed route as outlined here is a safeguard against real or imagined charges by critics that the CEO has acted in a capricious manner. Even though most internal investigations are for non-firing offenses, employees closely watch the manner in which these investigations are conducted. When it becomes clear that management conducts such investigations in a fair and impartial manner, one can expect to maintain or improve employee morale and productivity as well as decrease administrative hearings and civil suits.

D. Records and Confidentiality

The office of professional standards must be informed of all final disciplinary decisions and should in turn forward a copy of the final disciplinary decision to the department's central personnel authority.

It is essential that OPS case files and other information be physically separated from other personnel records and remain under the control of OPS. These files should be retained for the period determined by the CEO or as otherwise required by law. Information in these files is considered confidential and must be retained under secure conditions. OPS files may not be released to any person or entity without prior approval of the CEO unless law otherwise authorizes release.

Each law enforcement agency should recognize the importance of maintaining these investigative case records. Maintaining step-by-step written documentation of the investigative process, from receipt of the initial complaint to final disposition, protects the integrity of internal investigations. Officers who become the subject of an internal investigation are protected from an investigation tainted by personal influence or other corrupt actions from within the department through secured retention of such documentary evidence. In addition, an administrative finding of innocence from an untainted and fully documented investigation will weigh strongly in the officer's and the department's favor in any subsequent litigation that might be filed.

Due to the confidentiality of internal investigations, complaint records must be maintained in a secured area with access limited to only those personnel with the appropriate credentials who have a need to access this information and who have a right to do so as provided by law. To protect the confidentiality of the complainant, each complaint should be assigned a number, that should be used as a reference during the investigation.

V. PREVENTION OF EMPLOYEE MISCONDUCT

A. Proactive Measures

As with any other aspect of law enforcement, the best way to solve a problem is to prevent the problem from arising. For this reason, the topic of employee misconduct discussed here has stressed the importance of embracing a broader view of discipline—one that also incorporates proactive, preventive measures for detecting and responding to indications of potential disciplinary problems before they become realities.²⁹

The following additional recommendations for misconduct prevention are provided for consideration by police agencies:

1. Individual Responsibility and Accountability. Line officers are key stakeholders in efforts to preserve and enhance the reputation of their department and their personal pride as police officers. Police officers can no longer subscribe to the timeworn notion that silence and secrecy will serve their individual or collective interests. Experience has clearly demonstrated that these attitudes only serve to build barriers within police agencies and alienate officers, supervisors, and managers. Line officers are on the front line with the community they serve, and their conduct reflects on the department as a whole. They are no better or worse in the eyes of the public than the officers with whom they serve. Unfortunately, the mistakes and misdeeds of a few often have serious repercussions for all who wear the same uniform.

Therefore, if an agency is to maintain a professional image, officers must ensure that their behavior complies with professional standards of conduct. Every employee of the department has a responsibility to adhere to agency standards of conduct, policies, rules, and procedures. Employees should be made fully aware of the fact that they will be held strictly accountable for such adherence. Officers should also be required to report actions or patterns of behavior of fellow officers that breach agency standards of conduct. This does not mean that every misstep, mistake, or instance of poor judgment needs to be reported to a supervisor. Such zealotry could cause more harm than good. However, it does mean that officers need to draw the line when an act or pattern of behavior by fellow officers threatens the rights of citizens and/or the well-being and reputation of police officers and their police department. Officers need to be made aware of the fact that reporting misconduct is not an act of betrayal to fellow officers, it is an act of self-defense.

Agencies should facilitate this reporting practice by providing officers with anonymous or confidential reporting protocols. They should take those measures possible to protect the identity of any officer who reports serious misconduct or behavior that could jeopardize the lives, safety, and well-being of officers or citizens, or damage the department's reputation. The department should also make it known and clearly demonstrate where necessary that any officer who attempts to interfere with or retaliate against an officer or other employee who makes such reports will be dealt with

through administrative regulations or criminal proceedings where indicated.

2. *Training, Supervision, and Policy Guidance.* The police department is responsible for providing each employee with sufficient and proper training, supervision, and policy guidance to ensure that all employees of the department are fully aware of standards of conduct, policies, rules, and procedures. Policies, procedures, and rules must be tied closely with training and supervision. These are not distinct functions that operate independently from one another but are part of a continuum of officer education, training, and management. An agency's mission establishes the basis for its policies, procedures, and rules. These in turn must serve to establish the essential groundwork upon which training curricula are developed and administered and field supervision conducted. These functions feed into each other, and upon evaluations of officer and agency effectiveness and efficiency, they complete the ongoing process of refinement and modification.

In this respect, policy and procedure development is not static but a dynamic function subject to continued refinement as the department's environment and circumstances change along with the law enforcement profession. As modifications are made, it should be noted that merely distributing or posting policies, procedures, and rules, is not sufficient. Steps must be taken to ensure that each employee has actual notice of such matters and fully understands what is required. To this end, individual copies of each policy, directive, or similar document should be distributed to every individual, a written receipt of delivery should be obtained, and, where necessary, testing should be instituted to determine whether each employee has read and fully understands these documents.

3. *Appropriateness of Assignments.* Employees must be assigned only to duties and responsibilities for which they have the necessary knowledge, capabilities, skills, abilities, and training.³⁰ To assign personnel in a haphazard fashion risks performance, morale, motivation, and productivity problems and increases the risk of officer mistakes, miscalculations, and misconduct.

4. *Responsibility of Supervisors.* The primary responsibility for maintaining and reinforcing employee conformance with the department's standards of conduct and operational procedures is lodged with first-line supervisors. Supervisors are required to familiarize themselves with the personnel in their units. They must closely monitor and evaluate their general conduct and performance. This cannot be done through the review of performance statistics alone. The issue of how officers do their job is as important as the issue of what they accomplish.

Evaluations of officers must be the product of daily observation and close working relationships. Supervisors should remain alert to any indications of behavioral, physical, or other problems that may affect an employee's job performance as well as any behaviors that may suggest conduct that is inconsistent with agency policy, procedures, and rules. Where observed, any information of this type that is deemed relevant should be documented immediately. When problems are detected, a supervisor

may recommend additional training, counseling, or other measures for the employee. The supervisor should document all instances of additional training and counseling undertaken to modify an employee's behavior.

Supervisors play a critical role in observing officer behavior that may signal isolated or aggregate personal or work problems that may lead to misconduct. Supervisors are a police department's most important asset for continually reinforcing the department's evolving policies, procedures, goals, and objectives and ensuring that they are carried out properly.

Moreover, it cannot be assumed by the department that an officer's promotion to supervisory status necessarily imparts supervisory or leadership abilities to the subject officer. These are rarely innate talents, and all supervisory personnel require training in first-line supervision skills if they are to be effective in that role and serve the interests of the department and the community.

Endnotes

1. IACP, *Managing for Effective Police Discipline*, International Association of Chiefs of Police, Alexandria, Virginia (1977).

2. Whenever the term "policy" is used in this document it is meant to include policies, rules, and procedures. The violation of any of these can form the grounds for discipline.

3. The policy center, at this writing, has completed a final draft of a Model Policy on Early Warning Systems. Publication of this document is slated for late summer, 2001.

4. Inspector Paul West, "PERF Investigation of Complaints Against the Police Survey: Summary Report of Results", Police Executive Research Forum, Washington, DC

5. *Gardner v. Broderick*, 392 U.S. 273 (1968); *Garrity v. New Jersey*, 385 U.S. 493 (1967).

6. References are made to the receipt of complaints by supervisory personnel, but it is clear that initially a complaint may be received by any member of the department.

7. Today this might include the use of such means as facsimile or e-mail.

8. *Goldberg v. Kelly*, 397 U.S. 254 (1970).

9. *Arnett v. Kennedy*, 416 U.S. 134 (1974).

10. This generally does not include physical inability to perform. The Americans with Disabilities Act (ADA) and state or local law may affect the department's right to take action against an employee where physical inability is involved.

11. Some states limit "moral turpitude" to acts involving stealing or lying. Others view the concept more broadly and include such matters as sexual misconduct, drug use, and so on, in the definition of moral turpitude.

12. 16A McQuillan, *Municipal Corporations*, Sections 45.63 - 45.70 (3rd Ed.).

13. *Cleveland Board of Education v. Loudermill*, 470 U.S. 532 (1985).

14. *Cleveland Board of Education v. Loudermill*, 470 U.S. 532, 544-5 (1985).

15. *Bishop v. Wood*, 426 U.S. 341 (1976).

16. For a fuller discussion of the exceptions to the doctrine of employment at will and the available causes of action, see Larson, and Barowsky, *Unjust Dismissal*, Mathew Bender Publication (1987).

17. [*Lubey v. City and County of San Francisco*, 98 Cal. App. 3d 340, 346 (1979)] Lubey defines an officer's liberty interest as "charges of misconduct which 'stigmatize' his reputation, or 'seriously impair' his opportunity to earn a living." Therefore, in matters involving the contemplated discipline of a

probationary officer, only where the officer is able to allege an infringement of his or her liberty interest, will it become certain that “due process does mandate that the employee be accorded certain procedural rights before the discipline becomes effective.” [Skelly v. State Personnel Board, 15 Cal. 3d 194, 215 (1975)]

The procedural safeguards in place for public employees who allege valid deprivations of their liberty interest, require that a public employee receive, “prior to imposition of discipline,” (1) notice of the action proposed, (2) the grounds for discipline, (3) the charges and materials upon which action is based, and (4) the opportunity to respond in opposition to the proposed action. [Bollinger v. San Diego Civil Service Commission, 84 Cal. Rptr. 2d 27, 32 (1999), quoting Skelly Id at 215: “To be meaningful, the right to respond must afford the employee an opportunity to present his side of the controversy before a reasonable impartial and an uninvolved reviewer who possesses the authority to recommend a final disposition of the matter.”]

In determining whether or not an employee has alleged facts sufficient to constitute a violation of due process, courts look at three distinct factors: (1) the private interest that will be affected by the official action; (2) the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or sub statute procedural safeguards; and finally (3) the state’s interest. In applying these factors, courts are generally concerned to see whether the probationary officer is currently, or may be, subjected to any stigmatization or impairment of his right to make a living.

18. See for example, *Lubey v. City and County of San Francisco*, 98 C.A. 3rd, 340 (1979).

19. *Board of Regents v. Roth*, 408 U.S. 564 (1972).

20. *Board of Regents v. Roth*, 408 U.S. 564, 573 (1972).

21. Today, legislation may protect the department from liability for statements made to prospective employers about the ex-officer’s performance or the cause of the ex-officer’s dismissal. To ensure the lawfulness of releasing this information, departments should seek a written release signed by the former employee.

22. For a complete discussion of this complex issue, see, for example, *Policy Review*, vol. 8, no. 2, “Avoiding Liability for Employment References,” IACP National Law Enforcement Policy Center, International Association of Chiefs of Police, Alexandria, Virginia.

23. This document deals with administrative investigations. The gathering of evidence against an employee for use in connection with criminal charges is governed by federal constitutional law.

24. *O’Connor v. Ortega*, 107 S.Ct. 1492 (1987).

25. *Cleveland Board of Education v. Loudermill*, 470 U.S. 532, 546 (1985).

26. *Goldberg v. Kelly*, 397 U.S. 254 (1970).

27. *Goldberg v. Kelly*, 397 U.S. 254 (1970).

28. If necessary, the CEO may remand the case for further investigation before final disposition.

29. For additional guidance on proactive measures to prevent employee misconduct, refer to the Model Policy on Corruption Prevention and its accompanying Concepts and Issues Paper published by the IACP National Law Enforcement Policy Center.

30. Law such as the Americans with Disabilities Act or similar state laws may impose limitations upon the department as to what employees may or may not be deemed to have the necessary capability to perform a particular job.

This project was supported by Grant No. 2000-DD-VX-0020 and Grant No. 2006-DG-BX-K004 awarded by the Bureau of Justice Assistance, Office of Justice Programs, U.S. Department of Justice. The Assistant Attorney General, Office of Justice Programs, coordinates the activities of the following program offices and bureaus: the Bureau of Justice Assistance, the Bureau of Justice Statistics, National Institute of Justice, Office of Juvenile Justice and Delinquency Prevention, and the Office of Victims of Crime. Points of view or opinions in this document are those of the author and do not represent the official position or policies of the United States Department of Justice or the IACP.

Every effort has been made by the IACP National Law Enforcement Policy Center staff and advisory board to ensure that this model policy incorporates the most current information and contemporary professional judgment on this issue. However, law enforcement administrators should be cautioned that no “model” policy can meet all the needs of any given law enforcement agency. Each law enforcement agency operates in a unique environment of federal court rulings, state laws, local ordinances, regulations, judicial and administrative decisions and collective bargaining agreements that must be considered. In addition, the formulation of specific agency policies must take into account local political and community perspectives and customs, prerogatives and demands; often divergent law enforcement strategies and philosophies; and the impact of varied agency resource capabilities among other factors.

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Attachment
Sample Citizen Complaint and Inquiry Form

This form should be completed in accordance with Departmental Directive

Nature of Complaint: _____

Complainant's Name: _____

Home Address: _____

Business Address: _____

If applicable, list other complainants and/or witnesses: _____

Citizen Complaint #: _____

Race and Sex: _____

Telephone: _____

Member Involved: (1) _____

Member Involved: (2) _____

Member Involved: (3) _____

Location of Incident: _____

Complaint Received By: _____

Forwarded for Investigation to: _____

Division: _____

Division: _____

Division: _____

Date: _____

Time: _____

Summary of Incident: _____

Disposition of Complaint or Inquiry: _____

Court Issue: _____

Resolved with Citizen and/or No Further Action Deemed Necessary: _____

Investigative Comments: _____

Routing: _____

Responsible Division Commanding Officer: _____

Responsible Assistant Chief of Police: _____

Internal Affairs Section: _____

Signature of Responsible Division Commanding Officer: _____

Signature of Responsible Assistant Chief of Police: _____

Appendix Flow Chart

Investigation of Employee Misconduct

I. INTRODUCTION

The process and component steps or events involved in investigating officer misconduct can be difficult to understand and to visualize as a process. A flow chart is provided as an appendix to this concepts and issues paper to assist in this understanding. The chart presents the sequence of events and steps involved in the investigation as well as decision points in the investigative process.

It should be noted that while this chart includes nearly all the component parts of an internal investigation, not all police agencies will desire or need to adhere to them in the manner presented here or in the depth which they are discussed in the concepts and issues paper. The law, collective bargaining agreements, civil service regulations and other regulatory factors may preclude the need to include certain steps in this process or may require that additional steps or protocols be added. In addition, the size and complexity of individual agencies may dictate that certain investigative protocols or hearings be handled through less formal and more expeditious means than may otherwise be the case in larger agencies.

All police agencies need to protect the legal rights of officers during internal investigations. For example, officers charged with infractions that could affect their property interests in continued employment must be given the right to a pre-disciplinary hearing in most instances. However, in smaller agencies it may be permissible to hold this hearing in a closed door meeting with the chief of police and other authorized persons rather than in a more formal board hearing.

In effect, while the flow chart includes many component parts and at first glance may appear somewhat daunting, the majority of disciplinary actions within most police agencies can be resolved at the supervisory level as they do not rise to the level of possible suspension or termination of employment.

II. FLOW CHART COMPONENTS

As an overview, it can be seen from the flow chart that an investigation can commence at either of two junctures—through the initiation of a complaint to a police supervisor as depicted on the right side of the chart, or through public complaints lodged directly with the department's Office of Professional Standards (OPS). OPS may also investigate complaints that originate from employees within the agency, from other public agencies or from reasonable suspicion of wrongdoing established by other means or through other sources.

The model policy provides a two-tiered investigative system that (1) draws supervisory personnel into the investigation of employee complaints, (2) allows minor infractions to be handled by supervisory personnel and their immediate commanding officer without the requirement to involve OPS officers in every complaint and (3) includes checks and balances during the process to ensure that all complaints are dealt with, fully, fairly, and impartially.

Some agencies may wish to direct all complaints to OPS rather than adopt the two-pronged approach suggested here. While this would require shifts in the flow of complaints into the agency, most of the other decision points and measures cited in the flow chart would still need to be addressed in some manner.

The rationale for procedures identified in the flow chart are spelled out in the concepts and issues paper and are not reiterated here. The purpose of this discussion is to lead the reader through the sequence of steps and decision points identified in the flow chart and addressed in a more complete manner in the concepts and issues paper.

A. Complaints Lodged with Supervisors

The model policy for complaint acceptance and investigation suggested by the National Law Enforcement Policy Center allows for initiation of an investigation at one of two points—through a supervisory officer, or through the Office of Professional Standards. These two tracks are addressed here individually for sake of convenience. One can readily see the close coordination and direct linkages between supervisory and OPS initiated investigations.

That said, starting on the right side of the flow chart, a complaint that may come to the attention of a line officer must be referred to a supervisory officer for recording in accordance with procedures set forth in the model policy. From that point, the process of a supervisory investigation takes the following course:

- Once the complaint has been documented in a complaint report, a copy is provided to the complainant (unless the complainant is anonymous) and a second copy is forward to OPS.
- The OPS copy serves as a means of informing that office that a complaint has been lodged, allows OPS timely information to provide to the CEO, provides a means for ensuring that a follow-up supervisory investigation is completed in a timely manner, and allows

OPS to intervene in an investigation should it be deemed necessary.

- A report of all complaints filed, whether in summary or detailed format, is provided to the CEO or his/her designee on a routine basis as defined by internal protocols.

- If the initial complaint appears to be relatively minor involving administrative or service matters, the supervisor conducts an investigation into the incident.

- If the investigation provides reasonable suspicion to uphold the complaint, the nature of the offense and potential discipline involved must be evaluated before proceeding.

- If the investigation reveals that the alleged violation is of a more serious nature than originally envisioned and/or would involve punishment that would potentially invoke the officer's "property interests" in employment, the complaint and all investigative findings must be referred to OPS for further action.

- If, on the other hand, the supervisory investigation does not unearth matters of a more serious nature and potential disciplinary action—such as verbal reprimand, counseling or retraining—would not invoke the officer's property interests, the supervisor must advise OPS of the findings of the inquiry with a recommendation for discipline.

- OPS then reviews the findings of the investigation, determines whether the investigation is complete and in order, whether recommended disciplinary action appears warranted and appropriate, and passes the recommendation and findings on to the CEO for approval or other action.

- The CEO may approve the findings and recommendations, dismiss the matter or take other action that he/she deems appropriate. If disciplinary action is approved, the approval is returned to the officer's unit commander and implemented by the subject officer's supervisor.

- A copy of the report and disposition is maintained at the local unit level for reference and use in subsequent periodic evaluations.

B. Investigations Conducted by the Office of Professional Standards

OPS can initiate investigations of alleged officer misconduct in several ways: (1) assumption of responsibility (with notice) of a supervisory investigation at any stage of the investigation, (2) supervisory referral of a public complaint due to the perceived significance/seriousness of the allegations, (3) on the basis of complaints received directly by OPS from individuals or groups of individuals in the public sector, or through public or private institutions or entities, or (4) basis on information and/or evidence developed through internally

initiated investigations that have received prior approval of the CEO.

Upon receiving an allegation of misconduct, OPS initiates a case file and reports the allegation to the CEO as previously noted. In instances of more serious complaints, particularly those that potentially involve corruption and other forms of criminal conduct, information on the allegations, evidence and subsequent investigation should normally be presented to the CEO in strict confidence outside normal reporting procedures. Steps and procedures beyond this point involve the following.

- OPS personnel conduct an investigation of the alleged misconduct.

- Should the investigation at any time uncover reasonable grounds to suspect criminal activity, OPS, with the knowledge of the CEO should refer and coordinate their investigation with the office of the prosecutor or district attorney.

- Once the administrative investigation has commenced, OPS should notify the subject officer(s) that OPS is conducting an investigation of the officer's conduct and the circumstances surrounding the specific complaint(s) in question.

- Within time limits designated by the police agency, investigation of the complaint should be concluded or an extension to that timeframe requested in order to conclude the investigation. Thereupon, OPS should complete its report of findings and submit it along with recommended dispositions for each charge to the agency CEO through the subject officer's chain of command.

- The CEO may take at least one of three measures (1) accept the findings and disposition recommendations, (2) reject some or all of the findings and disposition recommendations, or (3) remand some or all of the findings and disposition recommendations to OPS for additional inquiry or clarification.

- For charges that are finally approved by the agency CEO, a document must be prepared itemizing the charges against the officer.

- Upon receipt of the charging document, the officer has a period of time in which he or she can choose to respond to the charges, either verbally or in writing. This is the pre-disciplinary hearing.

- If a hearing is convened or a written statement submitted by the officer, this information will be provided to the CEO for consideration.

- If the officer is entitled to a full evidentiary hearing and chooses to invoke that right, the findings of that hearing will be forwarded to the CEO for consideration.

- Following any such hearings and with all findings in hand, the CEO then determines a disposition for each charge against the officer.

- The disposition is then forwarded to the subject officer's commander who in turn directs that the discipline be implemented.

- A copy of the disposition is provided to the subject officer at that time.

- In some jurisdictions, an officer may have a right to appeal a disciplinary action to a civil service or other board. He or she may also be entitled to a name clearing hearing. Should these options be authorized and available to the officer and he or she elects to be heard in these forums, the results of these hearings shall be returned to the CEO for information purposes or for purposes of making any modifications to the imposed discipline.

- Once disciplinary actions have been imposed and appeals or other hearings concluded, verification of final disciplinary action taken shall be forwarded to the commander of OPS and the agency's personnel authority.

- Finally, the complainant should be provided with a written statement of the outcome of the investigation and any disciplinary action that was taken as a result.

Addendum

Employee Disciplinary Matrix: A Search for Fairness in the Disciplinary Process

There are few issues among law enforcement personnel that can raise more concern, debate, rancor, and sometimes outright dissension than that of employee discipline—both the manner in which agencies investigate specific allegations of employee misconduct, and the way in which disciplinary penalties are determined. Where there are widespread perceptions that the investigation and administration of discipline is handled unfairly, capriciously, inconsistently, or otherwise unprofessionally, ramifications can be widespread and extremely damaging to department morale and operations.¹

Unfortunately, perceived unfairness is an all too common condition in law enforcement agencies. Employee discipline is never an easy matter to deal with in any employment environment, and law enforcement agencies are no exception. In the field of law enforcement there are additional forces that tend to complicate both the procedural and substantive aspects of employee discipline. In particular, because of the unique powers that police hold in a democratic society, there is greater demand for accountability among police departments and individual officers. Actions and behaviors of officers often have life altering consequences for the public and unauthorized behaviors or actions can have dire legal consequences for officers and their agencies. Consequently, ensuring that police officers act in accordance with law, departmental policy, rules, and training is an indispensable element of effective police management.

Traditionally, law enforcement has been long on discipline and short on remediation. In more recent times, police organizations have adopted disciplinary procedures that are designed not simply to impose negative sanctions but to provide employees with the opportunity to correct inappropriate behavior and learn from mistakes. Consistent with this more redemptive approach to personnel management has come the notion of progressive discipline—a key component, as shall be seen, in the construction and use of a disciplinary matrix. Progressive discipline holds that, when punishment is warranted, it is most effective to mete it out in increasing levels of severity based on reoccurrences. Less serious forms of misconduct and those that are first offenses do not always deserve or require severe punitive actions. They can often be dealt with effectively by verbal reprimands or counseling, among other possible alternatives. In other words, the discipline must fit the misconduct, or be appropriate to the misdeed at hand. Progressive discipline, however, sometimes requires that employees receive different penalties for the same offense behavior because of different disciplinary histories.

In employment generally, and police work in particular, the notion of fairness in administration of discipline plays a

key role. If employees believe that they are being dealt with fairly, they are more likely to be accepting of corrective actions and less likely to be alienated. In contrast, when discipline is viewed as unfair or unpredictable, employees often undermine the process and develop negative attitudes towards the organization. Unfair disciplinary processes (and those seen as unfair) support the development of a "code of silence" among employees and undermine the legitimacy of the disciplinary process.

The issue of fairness is comprised of at least two components of equal importance. The first of these is equality, which refers to consistency in the administration of discipline. Employees want to know that their punishment is no harsher than, and at least consistent with, the punishment of other employees who have committed the same type of misconduct. To be consistent, punishment for one person's act of misconduct must be the same or closely similar to the punishment given other persons who have committed the same or similar act. In other words, like penalties for like offenses in like circumstances. Equality also means that favoritism based on an employee's rank or position, race, gender, seniority or other characteristics does not play a part in determining appropriate discipline. Employee actions citing disparate treatment in disciplinary matters are often based on allegations that the police department's punishment was not in line with punishments given to other employees for the same or similar offense.

The second component of "fairness" is equity, meaning that underlying or contextual circumstances surrounding the misconduct or behavior need to be taken into account when deciding punishment. Mitigating circumstances may come into play. For example, in taking a prohibited action, the officer may have misunderstood the task or order that was given and acted inappropriately, the officer may have just learned of a death in the family and was not paying attention when engaged in the task at hand, or may have been confronted with highly unusual circumstances during the incident that warranted departure from established policy. On the other hand, determination of fair discipline must also take into account aggravating circumstances such as an officer's possible negative attitude toward the underlying incident, history of prior misconduct, prior attempts of the department to correct inappropriate behavior, or other factors.

Many if not most organizations generally, and police departments in particular, continue to find it difficult to successfully integrate the foregoing requirements into a cohesive disciplinary system. In larger departments in particular, it is difficult to achieve fairness of punishment when the authority for final disciplinary decisions is spread among a number of district, precinct, or division commanders

who may not share the same views concerning appropriate punishment for the same offense. The perceived fairness of disciplinary actions may be further eroded when supervisory or command level personnel are not held to the same standards as their line counterparts. Aggravating or mitigating information important to the fair determination of discipline may not be shared between departmental assignments or units, informal discipline and remedial actions of supervisors may not be fully documented, and problem employees often may be transferred rather than effectively dealt with by their superiors.

Disciplinary Matrix

The problem of developing a fair system of disciplinary sanctions in policing is similar to the problem of ensuring a fair system of criminal sentencing in the courts. At bottom the issue revolves around the existence of discretion in the disciplinary decision. While discretion is necessary for fairness since latitude allows penalties to be fine-tuned to match behaviors and circumstances, it also allows unfairness. The same system that allows a supervisor to grant leniency in cases involving well intentioned but inexperienced officers can also allow supervisors to grant or withhold leniency based on officer sex, race, age, or other characteristics.

There are three basic ways to control discretion. One way to control discretion is to eliminate it. Mandatory sentencing laws or mandatory penalty policies that require persons found in violation to receive a pre-set punishment act to eliminate discretion. The problem here is that while mandatory penalties can work to improve equality, they almost always undercut equity in the disciplinary process. A second way to control discretion is by developing a series of "checks" so that decisions are reviewed. Appellate review of criminal sentences provides a check on judicial decisions; an appeals process in the disciplinary procedures can do the same. Checks on discretion have a number of problems including the fact that they extend the length of the disciplinary process and thus add to officer and supervisory anxiety, undermine any deterrent effects, and add layers of decision making (and cost) to the process. Disciplinary decisions in most agencies are reviewable today (in addition to any departmental appeals there are often civil service reviews and, in the end, officers can seek court review of disciplinary decisions). Checking discretion may ultimately achieve more fairness, but given the current controversies, existing mechanisms do not seem to prevent disputes. A final way to limit discretion is through developing guidelines for decision makers. Guidelines inform the decision maker about the purpose of the decision, what factors should be considered (and how), and often, what has been the outcome in other similar cases.

In an effort to respond to charges of arbitrary and capricious disciplinary actions, police departments have sought several types of solutions, one of which is the development of a table of disciplinary actions often referred

to as a disciplinary matrix. Such matrices attempt to answer the problem of fairness between individual disciplinary actions by the use of predetermined ranges of disciplinary alternatives. These disciplinary alternatives may be correlated to specific acts or various acts may be aggregated into a class of misconduct based on their perceived severity.

A disciplinary matrix provides the decision maker with a guideline for the disciplinary decision.

Disciplinary matrices are similar to matrix sentencing guidelines used in criminal courts around the country. The term "matrix" refers to a table that allows the decision maker to consider at least two things at the same time. Most criminal sentences are based on both the seriousness of the crime and the extent of the offender's prior record. Both more serious crimes and longer or more serious criminal histories lead to more severe penalties. The table plots offense seriousness against prior record and provides a suggested sentence or range of sentence for each combination of seriousness and prior record.

The matrix is like the mileage charts sometimes found on road maps that tell the reader how far it is between destinations. In these charts the same listing of destinations (usually cities) is printed across the top and down the side of the page. To find the distance between cities, the reader locates the first city on the vertical list (down the side) and then reads across the chart until reaching the second city on the horizontal list (across the top). At this point, where the two destinations intersect, the distance between the two places is printed. For discipline, the decision maker finds the seriousness of the behavior on one dimension and then reads across the chart to find a second dimension (such as prior disciplinary record). At the point where these two factors intersect, the matrix provides a range of appropriate sanctions or even a specific suggested sanction.

Progressive discipline is integral to disciplinary matrices or tables. Such tables are generally divided into several columns representing disciplinary history (a first, second, third, or even fourth repeat offense) and several rows representing seriousness of the misbehavior. Penalties increase as either seriousness or disciplinary history increase. For disciplinary history each repeated offense category carries a harsher form of punishment. Generally, repeated misconduct does not have to be of the same type or class in order to constitute repeated misconduct. The department establishes a period of time (typically between one and two years) wherein misconduct qualifies as a repeated offense.

Generally, disciplinary matrices are used for the imposition of punitive action for acts of misconduct rather than behavioral problems. Behavioral problems are often dealt with through counseling, remedial training, mentoring, increased supervision or related approaches. However, depending on the nature of the misbehavior and the frequency of its recurrence, it may be subject to sanctions within the disciplinary matrix.

The matrix is intended to provide officers with a general idea of the upper and lower limits of punishment for acts of misconduct. The matrix also provides guidance to supervisors and managers. In so doing, proponents hold, it takes some of the guesswork out of discipline, relieving officer apprehensions about potential penalties and reducing stress during the investigatory and deliberative stages of the disciplinary process. It is also purported to reduce individual concerns and potential grievances and appeals concerning disparate treatment. Strict adherence to a disciplinary matrix can limit the discretion of deciding officials and thereby level the playing field among supervisors who may have widely divergent ideas about discipline. Some also argue that a disciplinary matrix can enhance public information and police accountability in cases where a department's disciplinary table of penalties is made public.

While a disciplinary matrix may assist in bringing consistency to disciplinary decisions, some argue that it does not go far enough in many instances in ensuring the inclusion of mitigating or aggravating factors that could enhance or diminish the decision on severity of discipline. Still others argue that it removes important management discretion to impose punishment that is consistent with both mitigating and aggravating factors.

These are both legitimate concerns. A table of penalties, once accepted by management and line officers alike, could conceivably limit disciplinary discretion of supervisors and commanders. The question then becomes, by using a disciplinary matrix, would departments sacrifice a degree of equity for the sake of meeting demands for equality? The answer to this is both yes and no. Theoretically, to be fully consistent in all cases of punishment would exclude, in some cases, equity in discipline because it would have to overlook individual differences and circumstances in reliance on the formula of penalties. Theoretically, the specific act of misconduct would be the only issue at hand in making a disciplinary decision.

In reality, this is normally not the case for two reasons. First, equity and consistency do not have to be mutually exclusive, nor do they have to unacceptably compromise one another. Mitigating and aggravating factors can, and should, be incorporated into the disciplinary decision-making process when using a matrix. This has been done at the federal level, as we shall see, and to some degree in state and local disciplinary procedures. In fact, it would be problematic if provisions for considering extenuating circumstances were not included in a system that uses a disciplinary matrix given the fact that due process considerations allow employees to reply both orally and in writing to specific charges. Secondly, most tables of discipline do not identify discreet disciplinary penalties but rather a range of possible penalties, thus providing the deciding authority with necessary latitude in entertaining and incorporating extenuating circumstances

into the disciplinary decision. An example of one page of a disciplinary matrix is included in the appendix.

The Federal Model

Many elements of the federal government, as well as the Metropolitan Washington Police Department, rely on a disciplinary matrix to guide decision making on appropriate discipline.

The Office of the Secretary of Defense (OSD) for example, provides guidance on the use of the matrix and the incorporation of mitigating and aggravating factors in disciplinary decisions.² An overview of their system may provide a useful example for those departments considering the use of a disciplinary matrix.

In this case, supervisors are provided with the primary responsibility for initiating and recommending employee discipline, albeit with significant oversight by a senior commander and a personnel specialist from the Office of Labor Relations. In referencing the table of penalties, guidance provides that a particular penalty is not mandatory simply because it is listed in the table. In addition, the system provides that appropriate penalties for unlisted offenses may be derived by comparing the nature and seriousness of an offense to those listed in the table. Then, selection of an appropriate penalty should involve the balancing of the relevant factors in the individual case, consideration of the employee's previous disciplinary record, if any, and the recent offense giving rise to the disciplinary action.

The instructions further state

In selecting the appropriate penalty from the table, a prior offense of any type for which formal disciplinary action was taken forms the basis for proposing the next higher sanction. For example, a first offense of insubordination for which an official reprimand is in the employee's official personnel folder, followed by a charge of absence without leave (AWOL), triggers the second offense identified in the table, i.e., a proposed five-day suspension if the AWOL charge was for eight hours or less or a proposed five-day suspension if the AWOL charge exceeded eight hours. Aggravating factors on which the supervisor intends to rely for imposition of a more stringent penalty, such as a history of discipline or the seriousness of the offense, should be addressed in the notice of proposed discipline, thereby giving the employee the opportunity to respond.

The federal system emphasizes that a matrix of penalties should not be employed in a mechanical fashion, but with practical realism. This approach was emphasized in the landmark case *Douglas v. Veterans Administration*,³ in which the Federal Merit System Protection Board, a federal adjudicatory agency, outlined 12 factors that must be considered by supervisors when recommending or deciding

employee disciplinary action. While not all are pertinent to every case, they provide a broad-brush approach of the types of mitigating (or aggravating) factors that can and should be considered when employing an agency table of penalties. Many, if not most, of these have application in the disciplinary decision-making environment of state and local law enforcement:

- The nature and seriousness of the offense, and its relation to the employee's duties, position, and responsibilities, including whether the offense was intentional or technical or inadvertent, or was committed maliciously or for gain, or was frequently repeated
- The employee's job level and type of employment, including supervisory or fiduciary role, contacts with the public, and prominence of the position
- The employee's disciplinary record
- The employee's work record, including length of service, performance on the job, ability to get along with fellow workers, and dependability
- The effect of the offense upon the employee's ability to perform at a satisfactory level and its effect upon supervisors' confidence in the employee's work ability to perform assigned duties
- Consistency of the penalty with those imposed upon other employees for the same or similar offenses
- Consistency of the penalty with any applicable agency table of penalties
- The notoriety of the offense or its impact upon the reputation of the agency
- The clarity with which the employee was on notice of any rules that were violated in committing the offense, or had been warned about the conduct in question
- The potential for the employee's rehabilitation
- Mitigating circumstances surrounding the offense such as unusual job tensions, personality problems, mental impairment, harassment, or bad faith, malice or provocation on the part of others involved in the matter
- The adequacy and effectiveness of alternative sanctions to deter such conduct in the future by the employee or others

Importance of Documentation

It is essential for supervisors to document misconduct and both formal and informal discipline by using either a disciplinary matrix or other means to determine discipline. Without such documentation, it is not possible to ensure consistency between disciplinary decisions for the same employee or other employees who have been engaged in similar misconduct, nor is it possible to respond effectively to potential disciplinary appeals. Informal discipline such as verbal reprimands and counseling is no exception. These should be recorded in a supervisor's memorandum as a matter of record for performance review purposes and for future reference in cases of repeat misconduct. While informal discipline should not be placed in an employee's permanent

personnel file and may not have an immediate impact on an officer's employment status or condition, repeated behavioral problems or an accumulation of minor infractions of policy or procedure should be taken into account when assessing an employee's performance or determining future penalties for misconduct. As such, this information must be available to other supervisors if necessary. Such information is normally retained at the unit level for a limited period of time and is expunged after a set period of time if the officer does not engage in additional misconduct.

When conducting any type of informal discipline or corrective action, supervisors should fully document the details of the circumstances of the incident(s) on which the counseling or reprimand is based. The specifics of the counseling or reprimand should also be documented together with such information as the date it took place, persons present such as another supervisor as witness, name of the person conducting the counseling and any statements made by the subject officer that have bearing on the officer's performance or behavior. The officer should be notified that the counseling session or reprimand will be documented but will be used only for purposes of recording the incident unless misconduct or inappropriate behavior is repeated. In some cases, the supervisor and officer may decide to enter into an agreement involving informal remedial training, review of departmental policy and procedures, or related actions to help ensure that similar problems of conduct or misbehavior can be avoided. In such cases, the terms of such an agreement should be clearly defined in the memorandum.

The employee should be given the opportunity to read and discuss the contents of the memorandum once completed, asked to sign and date it to verify that the employee has read it, and given a copy if he or she requests one. Where differences of opinion concerning the contents of the memorandum exist, they should be discussed and documented in an attachment. If the employee refuses to acknowledge the memorandum by signature, this fact should be recorded on the document and witnessed by another supervisor.

The need for documentation is equally if not more important in instances of formal disciplinary actions that have direct impact on the terms and conditions of employment. These procedures and due process safeguards involving such matters as *Garrity* and *Laudermill* are generally well documented in departmental policy and need not be reexamined here.⁴

Comprehensive documentation in the realm of employee discipline may also serve the police department in other ways. When reports of misconduct are lodged in a central repository, they can provide the core data elements for an early warning system, both for individual employees and the organization as a whole. In all organizations, compilation of employee disciplinary offenses and subsequent penalties will prove invaluable for comparative purposes in determining the consistency of disciplinary actions between individuals and, in

larger departments, between divisions, assignments, and varied departmental components. In addition, summary and comparative data on the overall nature of employee misconduct in the department can point to potential problems in departmental policy, training, or supervision as well as possible solutions. For example, public complaints that center on unacceptable delivery of services rather than officer conduct (such as response time) may also prove essential in making alterations in personnel allocation or other organizational change.

When systematically organized in this manner, whether manually or by computer programming, individual officer conduct that may point to more serious problems can be flagged and addressed on a preemptive basis. Repeated complaints regarding firearms discharges, excessive force, damage to motor vehicles, loss of departmental property, and related information can suggest underlying problems with an officer that deserve proactive attention. Finally, this information is vital to monitoring and assessing the operation of the disciplinary matrix. A consistent pattern of disciplinary decisions that fall outside the range suggested in the matrix may be evidence that the matrix should be revised, or that supervisors require additional training in the use of the matrix.

What Is "Reasonable" Discipline?

Possibly most problematic in development of a disciplinary matrix is the selection of appropriate or reasonable penalties for individual acts or classes of misconduct. As noted earlier, a basic criterion for discipline is that the punishment must be in reasonable proportion to the rule or policy violation or other prohibited conduct. Obviously, a penalty that may be reasonable to one person may not be to another. There is no nationally recognized table of disciplines that can be used commonly among disciplinary schedules across states and localities. Many would argue that such a model would be impractical in light of differences in community and individual agency value systems, goals, and priorities. This is not to say that examples from similarly situated police departments cannot be effectively and usefully employed. In fact, if disciplinary actions are challenged as unreasonable, the availability of comparative information from other law enforcement agencies could be useful. But the final decision for an individual department must be made by that police department.

In order for a disciplinary system of this type to function with reasonable effectiveness, there must be some degree of buy in by employees. Where labor unions represent the employment interests of workers, this will unavoidably require union involvement. Even where collective bargaining entities are not at issue, management and line employees will need to reach a degree of agreement on acceptable disciplinary penalties and sanctions. This does not mean that

management must seek concurrence on all decisions of disciplinary action but that there needs to be some reasonable accommodation of interests in arriving at a final table of disciplinary penalties.

Such a process of give-and-take can take considerable time and will undoubtedly test the patience of all involved. But if it can be accomplished, the exercise alone can be valuable. For example, in some cases where departments have engaged in this undertaking, it has been reported that employees take a stricter view toward adherence to certain principles of conduct and advocate harsher penalties than management for certain employee transgressions; thus, such negotiation can assist the department in defining or refining its core values and goals. For example, on close examination, employees may determine that police work requires, among all else, reliance on the integrity and truthfulness of officers. As such, employee conduct that undermines these basic tenets must be dealt with decisively and harshly. By the same token, departmental management may endorse more stringent penalties for failure of officers to adhere to policy in critical enforcement areas. For example, failure of officers to abide strictly to vehicular pursuit policy and procedures may be regarded as deserving strict enforcement and harsh penalties due to the department's involvement in a large number of crashes and injuries in such incidents. In this and related instances, a department can utilize the table of penalties to enforce and underline its commitment to specific priorities or goals.

Development of a table of penalties can be time consuming and laborious; however, the effort can be truncated somewhat by organizing acts of misconduct into conceptually similar classes with assigned sanctions on a collective basis. This approach has merit in that it is difficult to attempt to identify every discreet act of misconduct. And, failure to identify a specific act as impermissible could render any discipline in such a case as unreasonable based on the fact that employees were not informed in advance that it was prohibited. Identification of classes of prohibited actions combined with a defined list of mitigating and extenuating factors similar to those identified in Douglas under the federal model may be adequate to provide sufficient particularity to discipline based on the act of misconduct.

There is quite a bit of knowledge and experience with matrix sentencing guidelines that can ease the development of disciplinary matrices. It is not necessary to reinvent the wheel. Based on the experience with sentencing guidelines, there are two basic models for matrix development: descriptive or prescriptive. A descriptive matrix suggests sanctions based on what has typically been done in similar cases in the past. If disciplinary data are available, an analysis is done to identify the factors associated with different sanctions. Almost always this analysis will reveal that the severity of punishments is linked to the seriousness of the misbehavior and the prior history of the employee. Based on this analysis, a matrix can be derived that reflects these factors. In this way, the matrix

actually describes current practice. In this case, the application of the matrix does little to change how discipline is decided but does increase consistency. Alternatively, a prescriptive matrix can be developed by first determining what factors should be important and how they should relate. Then this determination of how discipline should work forms the basis of a matrix that prescribes penalties for future violations. In this case, the matrix discipline system may bear no relation to existing practice. The choice of developmental method depends on several factors including the availability of data, the capacity to conduct the analyses, the levels of satisfaction with current discipline practices, and the like. If the primary complaint about the current disciplinary process is procedural (concerns equality) and not substantive (concerns equity), a descriptive model seems to be indicated.

If a disciplinary matrix is adopted, regardless of the developmental model it is important to institute a system of recording disciplinary actions that includes collecting information about the relevant factors (such as offense seriousness, prior history, and sanction) so that the workings of the matrix system can be documented and evaluated. Periodic reviews should be conducted to look for areas where the system might be improved.

No matter how sanctions are determined in an employee disciplinary system, it is important to realize that the penalties are only part of the process. A matrix system can improve fairness in disciplinary decisions but the integrity of the total disciplinary processes depends on fairness in detecting, reporting, investigating, and documenting infractions. A disciplinary matrix is part of a total employee discipline process.

Endnotes

1. Investigation of Employee Misconduct: Concepts and Issues Paper, IACP National Law Enforcement Policy Center, International Association of Chiefs of Police, 515 North Washington Street, Alexandria, Virginia.
2. Department of Defense, Washington Headquarters Service, Memorandum for Supervisors and Managers: Disciplinary and Adverse Actions, March 1989.
3. Douglas v. Veterans Administration, 5 M.S.P.R. 280, 306 (1981).
4. See Investigation of Employee Misconduct, Model Policy and Concepts and Issues Paper, IACP National Law Enforcement Policy Center, International Association of Chiefs of Police, Alexandria, Virginia.

Model Policy

<i>Effective Date</i> July, 2001		<i>Number</i>	
<i>Subject</i> Investigation of Employee Misconduct			
<i>Reference</i>		<i>Special Instructions</i>	
<i>Distribution</i>		<i>Reevaluation Date</i> July, 2002	<i>No. Pages</i> 4

I. PURPOSE

The purpose of this policy is to inform all employees and the public of procedures for accepting, processing and investigating complaints concerning allegations of employee misconduct. This policy defines provisions applicable only to investigation and disposition of allegations of administrative misconduct.

II. POLICY

Establishment of procedures for investigating complaints and allegations of employee misconduct is crucial to demonstrate and protect this agency's integrity. This agency shall accept and investigate fairly and impartially all complaints of employee conduct to determine the validity of allegations and to impose any disciplinary actions that may be justified in a timely and consistent manner.

III. DEFINITIONS

Office of Professional Standards (OPS): The designated employee(s)/unit with primary responsibility for conducting investigations of employee misconduct allegations.

Public Complaint Package: Information packages containing complaint forms, information on the complaint procedures used by this agency and actions the public can expect from this agency in response to their complaint.

Summary Action: Disciplinary action taken by an employee's supervisor or commander for lesser violations of agency rules, policies or procedures as defined by this agency. Summary actions are the lowest level of disciplinary action generally handled by first line supervisors.

IV. PROCEDURES

A. Basis for Discipline

1. Employees are subject to discipline for violations of law or agency policy, rules or regulations.
2. All disciplinary actions taken under this policy are subject to, and shall be consistent with, applicable state law, local ordinances, administrative rulings and collective bargaining agreements.
3. Employees who withhold information from, or fail to cooperate with, internal investigations or who fail to report misconduct of employees are subject to disciplinary action in addition to any other disciplinary action that may result from the investigation.

B. Acceptance/Filing of Complaints

1. Public complaint packages shall be made available to the public through police personnel and at designated public facilities.
2. Complaints may be received by supervisory members of this agency either in person, over the telephone or in writing, and may be lodged anonymously or by any other means.
3. Employees shall provide assistance to those who express the desire to lodge complaints against any employee(s) of this agency. This includes but is not limited to:
 - a. calling a supervisor to the scene to document the complaint,
 - b. explaining the agency's complaint procedures,
 - c. providing referrals to individuals and/or locations where such complaints can be made in person, or
 - d. explaining alternative means for lodging complaints, such as by phone or mail.

C. Summary Action

1. Summary action may be taken by supervisory personnel for lesser violations of rules, policies, or procedures, as defined by this agency, upon approval of such action by the unit commander.

2. All summary actions shall be documented and copies of the charges and disposition provided to the subject employee, retained by and forwarded to subsequent units of assignment, forwarded to OPS and incorporated in the employee's central personnel record.

D. Investigation of Public Complaints—Supervisor's Role/Responsibility

1. Supervisory personnel shall cause a preliminary inquiry to be conducted to determine if grounds exist to conduct an administrative investigation.
 - a. If the inquiry finds that acceptable agency policy and procedures have been followed, the supervisor will explain to the complainant the investigative steps that were taken by the agency together with the findings and conclusions of the investigation. If appropriate, the supervisor may explain agency procedures, a misunderstanding of which may have precipitated the complaint.
 - b. The complainant shall receive a copy of the complaint as lodged with the agency and shall be asked to verify by signature if it is a complete and accurate account. If the complainant elects not to sign, this fact shall be documented and the investigation will proceed.
 - c. The allegation shall be documented and copies forwarded to OPS and the agency chief executive officer (CEO).
2. If the supervisor's preliminary investigation identifies grounds that may support disciplinary action, the supervisor shall cause further investigation of the complaint and shall notify OPS of this action.
 - a. OPS may assume concurrent or sole authority for the investigation at any point in the investigation upon notification of the subject employee's supervisor and/or commander.
 - b. Should an investigation at any time reveal evidence of criminal conduct, all available information shall be forwarded to the agency CEO and to OPS as soon as possible.

E. Investigation of Public Complaints—OPS Role/Responsibility

1. OPS has primary responsibility for review and investigation of all complaints against employees, whether initiated by the public or by a member of the department.
2. OPS may assume primary responsibility for a supervisor's complaint investigation at any stage in the investigative process upon notification of the supervisor involved. OPS may also initiate an investigation of alleged employee misconduct, with or without a formal complaint, with prior

knowledge and approval of the agency CEO or his/her designee.

3. OPS shall have the following additional responsibilities:
 - a. Maintain a complaint log;
 - b. Maintain a central file for complaints in a secured area and in conformity with records retention requirements of state law;
 - c. Conduct a regular audit of complaints to ascertain the need for changes in training or policy;
 - d. Maintain statistical and related information to identify trends involving all complaints of excessive force and abuse of authority;
 - e. Track complaints against individual employees to assist in employee risk analysis; and
 - f. Provide the CEO with an annual summary of complaints against employees and final dispositions that may be made available to the public or otherwise used at the discretion of the CEO.

F. Investigative Interviews and Procedures

1. Prior to being interviewed, the subject employee shall be advised of the nature of the complaint.
2. All interviews will be conducted while the employee is on duty, unless the seriousness of the investigation is such that an immediate interview is required.
3. During interviews conducted by OPS, there will be one employee designated as the primary interviewer.
4. The complete interview shall be recorded. The recording will note the time at which breaks are taken in the interview process, who requested the break and the time at which the interview resumed.
5. The employee shall be provided with the name, rank and command of all persons present during the questioning. The employee shall also be given the following admonitions:
 - a. *You are advised that this is an internal administrative investigation only.*
 - b. *You will be asked and are required to answer all questions specifically related to the performance of your duties and your fitness for office.*
 - c. *If you refuse to answer these questions, you can be subject to discipline that can be as much as discharge or removal from office. You may also be subject to discipline for knowingly giving false statements.*
 - d. *I want to reassure you that any answers given are to be used solely for internal administrative purposes and may not be used in any subsequent criminal prosecution should such occur.*
6. Counsel at Interview
 - a. Employees may have an attorney, union representative, supervisor, or personal representative

with them during any internal investigative interview so long as the individual is not involved in any manner with the incident under investigation.

- b. The employee representative's role is primarily that of observer. He/she should be advised not to intervene in the interview unless requested to do so by the subject employee or unless the interview leads to issues of potential criminal activity.

7. Examinations and Searches

- a. The agency may direct that the employee undergo an intoximeter, blood, urine, psychological, polygraph, medical examination or any other exam not prohibited by law if it is believed that such an examination pertinent to the investigation.
- b. An on-duty supervisor may direct an employee to submit to a breath, blood or urine test when there is a reasonable suspicion that alcohol and/or drug usage is suspected as the factor directly related to allegations of misconduct.
- c. An employee can be required to participate in a lineup if it is used solely for administrative purposes.
- d. Property belonging to the law enforcement agency is subject to inspection for investigative purposes unless the employee has been granted a reasonable expectation of privacy in vehicles, desks, files, storage lockers, computers or similar items or places.

G. Disposition

1. The primary investigative authority for the investigation (i.e., subject employee's supervisor and commander or OPS) shall review the complaint report and investigative findings once deemed complete. This authority will compile a report of findings and provide a disposition recommendation for each charge as follows:
 - a. *Sustained*: Evidence sufficient to prove allegations.
 - b. *Not sustained*: Insufficient evidence to either prove or disprove allegations.
 - c. *Exonerated*: Incident occurred but was lawful.
 - d. *Unfounded*: Allegation is false or not factual or the employee was not involved.
2. A copy of the findings and recommendations shall be submitted for review by OPS prior to submission to the agency CEO if OPS is not the primary investigative authority. OPS may make any additional inquiries or investigative measures deemed necessary to verify, authenticate or clarify findings and recommendations of the investigative report and may include such findings and

disposition recommendations with the report submitted to the CEO.

3. All disciplinary investigation findings and recommendations shall be forwarded to the agency CEO through the chain of command for information, review and comment.
4. The CEO will review the investigative report and supporting documents and may accept the findings and recommendations or remand the case for additional investigation in all or in part.
5. If the complaint is sustained, and the CEO determines that formal charges will be brought, the CEO, or his/her designee, will direct that a charging document be prepared by the subject employee's commander, supervisor or OPS as appropriate, signed and thereafter served upon the subject employee. The charging document will provide:
 - a. nature of the charges,
 - b. a copy of the investigative file, and
 - c. a reasonable time frame in which the employee can respond to the charges either in written or oral form.
6. Employees who desire an opportunity to be heard on these proposed charges may make a request for a hearing to the agency CEO or his/her designee within the time period permitted for this action.
7. Following a hearing or written response of the subject employee to the charges, the chief executive shall determine an appropriate disposition of the charges or may remand the case for further investigation or related actions.
8. The employee may appeal the proposed charges as provided by law, ordinance, collective bargaining agreement, or departmental or governing jurisdiction procedure.
9. The disposition shall be returned from the CEO to the commander who shall direct the employee's supervisor to take such disciplinary action as required.
10. The supervisor shall verify to the commander, OPS and the agency's central personnel authority when authorized disciplinary action has been taken. A written copy of the disposition will be provided to the employee.
11. Where the findings do not support the charges, the commander shall forward the complaint with supporting documentation to OPS for reporting and accounting purposes. A copy will also be provided to the subject employee.
12. Following final disposition of the complaint, a letter shall be sent to the complainant from the CEO or his/her designee explaining the final disposition.
13. Whenever reasonably possible, the investigation of complaints should be completed within 45 days

from receipt of the complaint to its disposition unless a waiver is granted by the CEO or his/her designee or another time frame is required by departmental policy, law or labor agreement.

H. OPS Records and Confidentiality

1. OPS shall be informed of all final disciplinary decisions.
2. OPS shall forward a copy of all final disciplinary decisions to the agency's central personnel authority.
3. OPS case files and information shall be maintained separately from personnel records.
4. OPS information is considered confidential and will be retained under secure conditions within OPS.
 - a. OPS case files and personnel dispositions may not be released to any source without prior approval of the agency CEO unless otherwise provided by law.
 - b. Case investigation files shall be retained for a period of time as defined by state law or the agency CEO.

I. Prevention of Employee Misconduct

1. Every employee of this agency has a personal responsibility for, and will be held strictly accountable for, adherence to the agency standards of conduct, rules, policies and procedures.
2. This agency has the responsibility for, and will provide to each employee, sufficient and proper training, supervision and policy guidance to ensure that all employees are apprised of the demands and requirements of this agency with regard to employee conduct, duties and responsibilities.
3. This agency shall take all reasonable measures to ensure that employees are assigned only to duties and responsibilities in which they have all the requisite knowledge, skills, abilities and training.
4. The primary responsibility for maintaining and reinforcing employee conformance with the standards of conduct of this department shall be with employees and first line supervisors.
5. Supervisors shall familiarize themselves with the employees in their unit and closely observe their general conduct and appearance on a daily basis.
6. Supervisors should remain alert to indications of behavioral problems or changes that may affect an employee's normal job performance and document such information where deemed relevant.
7. Where a supervisor perceives that an employee may be having or causing problems, the supervisor should assess the situation and determine the most appropriate action. Supervisors should refer to and use this agency's *Employee Mental Health Policy* for guidance in cases involving emergency removal

of employees from the line of duty and for issues dealing with employee mental health assistance.

8. A supervisor may recommend additional training to refresh and reinforce an employee's skills, abilities or understanding of agency policy, rules and regulations.
9. Counseling may be used by the supervisor to determine the extent of any personal or job problems that may be affecting performance, and to offer assistance and guidance.
10. The supervisor shall document all instances of counseling or additional training used to modify and employee's behavior.

This project was supported by Grant No. 2000-DD-VX-0020 awarded by the Bureau of Justice, Office of Justice Programs, U.S. Department of Justice. The Assistant Attorney General, Office of Justice Programs, coordinates the activities of the following program offices and bureaus: the Bureau of Justice Assistance, the Bureau of Justice Statistics, National Institute of Justice, Office of Juvenile Justice and Delinquency Prevention, and the Office of Victims of Crime. Points to view or opinions in this document are those of the author and do not represent the official position or policies of the U.S. Department of Justice or the International Association of Chiefs of Police.

Every Effort has been made by the IACP National Law Enforcement Policy Center staff and advisory board to ensure that his model policy incorporates the most current information and contemporary professional judgment on this issue. However, law enforcement administrators should be cautioned that no "model" policy can meet all the needs of any given law enforcement agency. Each law enforcement agency operates in a unique environment of federal court rulings, state laws, local ordinances, regulations, judicial and administrative decisions and collective bargaining agreements that must be considered. In addition, the formulation of specific agency policies must take into account local political and community perspectives and customs, prerogatives and demands; often divergent law enforcement strategies and philosophies; and the impact of varied agency resource capabilities, among other factors.

Appendix H: Funding Sources for Training and Software on Ethics and Internal Affairs

Training:

- ▶ National Internal Affairs Investigators Association: www.niaia.us
- ▶ Legal and Liability Risk Management Institute, A Division of the Public Agency Training Council: www.llrmi.com/Training/le-internalaffairs.cfm

Software:

- ▶ Ci Technologies Inc.: www.ci-technologies.com
- ▶ L.E.A. Data Technologies: www.leadatatech.com
- ▶ Larimore Associates Inc.: www.larimore.net
- ▶ On Target Performance Systems: www.otps.com
- ▶ Pilat HR Solutions: www.pilat-nai.com
- ▶ Police Foundation: www.policefoundation.org

Appendix I: Methodology

While some books, articles and other publications address the Internal Affairs process, law enforcement integrity and police/community relations, nothing exists that is a hands-on guide to ethical policing and community trust-building. Therefore, the Office of Community Oriented Policing Services (the COPS Office), U.S. Department of Justice, and the International Association of Chiefs of Police (IACP) joined forces to create, *Building Trust Between the Police and the Citizens They Serve: An Internal Affairs Promising Practices Guide for Local Law Enforcement* in an attempt to standardize the practices and procedures of how law enforcement executives address ethical or misconduct problems within their departments. The guide's advisory committee, composed of representatives from the COPS Office, IACP, and numerous police agencies, particularly those involved in Internal Affairs operations, convened to direct the project and determine how to obtain specific information on complaint management, Internal Affairs, and community trust building.

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John Brown

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Don Pierce*Executive Director*

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Office of Mayor Tom Potter
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Tina Skahill*Chief of Internal Affairs*

Chicago Police Department
Chicago, Illinois

Leslie Stevens*Director*

Office of Professional Standards
Portland Police Bureau
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Frank Straub*Commissioner*

City of White Plains Department of Public
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White Plains, New York

David Varrelman*Inspector*

Stafford County Sheriff's Office
Stafford, Virginia

David Williams*Colonel-Retired*

Village Administrator
Itasca, Illinois

Based on these experts' recommendations, IACP project staff conducted an extensive review of the existing literature on the issues of police ethics, community trust, and the Internal Affairs process and attitudes toward it. Staff gathered information from sources including books, reports, monographs, articles, newsletters, newspapers, and web sites. The literature review revealed three areas that need to be focused on by law enforcement agencies in the Internal Affairs process: standardization, training, and education. The complete literature review is available through the IACP.

Literature Reviewed

Chermak, S. and A. Weiss. *Marketing Community Policing in the News: A Missed Opportunity?* Washington, D.C.: U.S. Department of Justice, Office of Justice Programs, National Institute of Justice, July 2003. www.ncjrs.gov/pdffiles1/nij/200473.pdf

De Angelis, J. and A. Kupchik. *Officer Satisfaction with the Denver Police Complaint Process: A Comparison of the Baseline and Post-Implementation Surveys*. Conducted for the Office of the Independent Monitor, Denver, Colorado: 2007. www.denvergov.org/Portals/374/documents/OfficerSatisfaction2006.pdf

Fields, C. *1999–2006 Award-Winning Community Policing Strategies; A Report for the International Association of Chiefs of Police, Community Policing Committee*. Washington, D.C.: U.S. Department of Justice Office of Community Oriented Policing Services, 2007. www.cops.usdoj.gov/files/RIC/Publications/e08071596.pdf

Fisher-Stewart, G. *Community Policing Explained: A Guide for Local Government*. Washington, D.C.: U.S. Department of Justice Office of Community Oriented Policing Services and International City/County Management Association, 2007. www.cops.usdoj.gov/files/RIC/Publications/cp_explained.pdf

Hackman, M. J. *Citizen Complaints About Police Use of Force: Bureau Justice of Statistics Special Report*. Washington, D.C.: U.S. Department of Justice, Office of Justice Programs, 2006. www.ojp.gov/bjs/pub/pdf/ccpuf.pdf

“Investigation of Employee Misconduct: Concepts and Issues Paper.” International Association of Chiefs of Police, National Law Enforcement Policy Center, Alexandria, Virginia: 2007.

Kelly, S. “Internal Affairs: Issues for Small Police Departments.” *FBI Law Enforcement Bulletin*, vol. 72, no. 7, July 2003, pages 1–6. www.fbi.gov/publications/leb/2003/july03leb.pdf

Martinelli, T. J. and J. A. Schafer. “First-Line Supervisor’s Perceptions of Police Integrity: The Measurement of Police Integrity Revisited,” vol. 31 no. 2, 2008, pages 306–323. Bingley, United Kingdom: Emerald Group Publishing Limited.

Nickels, E. L. and A. Verma. “Dimensions of Police Culture Police Culture: A study in Canada, India, and Japan,” vol. 31 no. 2, 2008, pages 186-209. Bingley, United Kingdom: Emerald Group Publishing Limited.

Noble, J. J. and G. P Alpert. *Managing Accountability Systems for Police Conduct: Internal Affairs and External Oversight*. Prospect Heights, Illinois: Waveland Press, 2009.

Police Accountability and Citizen Review—A Leadership Opportunity for Police Chiefs. Alexandria, Virginia: International Association of Chiefs of Police, November 2000. www.theiacp.org/PoliceServices/ExecutiveServices/ProfessionalAssistance/Ethics/ReportsResources/PoliceAccountabilityandCitizenReview/tabid/193/Default.aspx

Protecting Civil Rights: A Leadership Guide for State, Local, and Tribal Law Enforcement. Alexandria, Virginia: International Association of Chiefs of Police, September 2006. www.cops.usdoj.gov/files/ric/Publications/e06064100.pdf

Reiter, L. *Law Enforcement Administrative Investigations: A Supervisory and Agency Guide to: Handle Citizen Complaints of Misconduct, Conduct Administrative Investigations, Manage the Internal Affairs Function, and Create Reasonable and Defensible Discipline 2nd Edition.* Tallahassee, Florida: Lou Reiter and Associates, 2004.

Thurnauer, B. *Best Practice Guide, Internal Affairs: A Strategy for Smaller Departments.* Alexandria, Virginia: International Association of Chiefs of Police, 2002. www.theiacp.org/LinkClick.aspx?fileticket=4B%2f4SDZtgV8%3d&tabid=392

U.S. Department of Justice, Office of Community Oriented Policing Services and Office of Justice Programs, National Institute of Justice. *Police Integrity – Public Service with Honor, A Partnership Between the National Institute of Justice and the Office of Community Oriented Policing Services.* Washington, D.C., January 1997. www.ncjrs.gov/pdffiles/163811.pdf

Walker, S., S.O. Milligan, and A. Berke. *Strategies for Intervening with Officers through Early Intervention Systems: A Guide for Front-line Supervisors.* Washington, D.C.: U.S. Department of Justice Office of Community Oriented Policing Services, Police Executive Research Forum, February 2006. www.cops.usdoj.gov/files/RIC/Publications/e01060004.pdf

Second, project staff reviewed 17 IACP management studies¹³ conducted between 1991 and 2007 by the IACP's Programs and Research Division. A copy of complete review of the management studies is available through the IACP. The review identified Internal Affairs practices that would benefit any sized law enforcement agency in the United States. The review showed that the following major elements were missing from all of the 17 agencies studied:

- ▶ Consistent officer training, which is needed to increase and maintain an understanding of the departments' duties, values, principles, and policies
- ▶ Tracking of citizen complaints and the police departments' Internal Affairs processes
- ▶ Public awareness of the police departments' complaint processes, values, and structure.

13. *IACP Management Studies*, conducted by the Programs and Research Division, are comprehensive studies that review a police department's strengths and weaknesses, with the intent of improving the agency's overall functioning.

Next, the IACP developed and disseminated a survey intended to identify trends and community practices currently in use by all-sized agencies during an Internal Affairs investigation. The survey was sent via the Internet to 9,000 active IACP members. The IACP received 1,705 responses from state and local law enforcement executives, with an overall response rate of almost 19 percent. A copy of the survey and its results are available from the IACP. Project staff analyzed the data and found that although 91 percent of the survey respondents had an Internal Affairs policy, there was little uniformity in several areas, including the following:

- ▶ Who is responsible for investigating complaints
- ▶ The types of complaints investigated
- ▶ The way complaints are received
- ▶ Tracking complaints
- ▶ The types of dispositions for complaints
- ▶ Whether or not there is an early intervention system (EIS) or risk management system
- ▶ The type and amount of input that the governing bodies have in a police agency's Internal Affairs process
- ▶ How agencies inform their communities of police ethics and Internal Affairs practices.

The review and synthesis of the survey results further elucidated the need for a practices and procedures guide for law enforcement to effectively maintain a culture of integrity and the public trust.

Last, the IACP hosted four regional roundtable discussions that focused on building trust between the police and the citizens they serve. The groups included police executives, Internal Affairs managers, mayors and city managers, and subject matter experts in the area of police integrity, Internal Affairs, and community trust-building. The participants identified a number of issues that were important to police ethics and integrity and suggested that uniformity among policies and procedures in individual departments was critical. The following were the attendees at the four roundtable meetings.

Roundtable #1, held in Seattle, Washington

Robert Berg

Chief of Police

Centralia Police Department
Centralia, Washington

Jeffrey Chen

Chief of Police

Medina Police Department
Medina, Washington

Bob Collins

Sergeant

Des Moines Police Department
Des Moines, Washington

Don Forman

Operations Captain

Lake Oswego Police Department
Lake Oswego, Oregon

John L. Gray

Chief of Police

City of Arlington Police Department
Arlington, Washington

Doug Greisen

Chief of Police

Scappoose Police Department
Scappoose, Oregon

Robert Huebler

Lieutenant

Enumclaw Police Department
Enumclaw, Washington

Scott Jones

Sergeant

Quincy Police Department
Quincy, Washington

R. Gil Kerlikowske

Chief of Police

Seattle Police Department
Seattle, Washington

Mike Lasnier

Chief of Police

Suquamish Tribe of Washington
Port Madison Indian Reservation
Poulsbo, Washington

Nancy McAllister

Lieutenant

Port of Seattle Police Department
Seattle, Washington

Steve Nelson

Commander

City of Olympia Police Department
Olympia, Washington

Chris Odlin

Captain

Missoula Police Department
Missoula, Montana

Steven W. Orr

Chief of Police

Lewiston Police Department
Lewiston, Idaho

Ronald C. Ruecker

IACP President – 2008

Director of Public Safety
Sherwood, Oregon

Cameron Webster

Captain

King County Sheriff's Office
Seattle, Washington

Kristi Wilson

Commander

Redmond Police Department
Redmond, Washington

Roundtable #2, held in Chicago, Illinois

Peter Brust

Deputy Superintendent
Bureau of Professional Standards
Chicago Police Department
Chicago, Illinois

Anita Flagg

Captain
Operations and Internal Investigations
Murfreesboro Police Department
Murfreesboro, Tennessee

Jack Garcia

Colonel
Division of Internal Investigation
Illinois State Police
Springfield, Illinois

Patrick F. Gransberry

Deputy Chief
East Chicago Police Department
East Chicago, Indiana

Terry D. Milam

Chief of Police
St. John Police Department
St. John, Missouri

Jeanne Miller

Chief of Police
Davidson Police Department
Davidson, North Carolina

Albert Pearsall III

Senior Policy Analyst/COPS Program Manager
Office of Community Oriented Policing
Services
Washington, D.C.

Emory A. Plitt, Jr.

Circuit Judge
Circuit Court for Harford County
Maryland Courthouse
Bel Air, Maryland

Lynn S. Rowe

Chief of Police
Springfield Police Department
Springfield, Missouri

Dale Sievert

Lieutenant
Services Division
Davenport Police Department
Davenport, Iowa

Tina Skahill

Chief of Internal Affairs
Chicago Police Department
Chicago, Illinois

Wayne W. Schmidt

Executive Director
Americans for Effective Law Enforcement
Park Ridge, Illinois

Gary G. Smith

Chief of Police
Emporia Police Department
Emporia, Kansas

David Tiefenbrunn

Lieutenant
St. Charles Sheriff Department
O'Fallon, Missouri

J. Michael Ward II

Chief of Police
Alexandria Police Department
Alexandria, Kentucky

Roundtable #3, held in Hershey, Pennsylvania

Carol Abrams

Captain

Impact Unit, Internal Affairs
Philadelphia Police Department
Philadelphia, Pennsylvania

John R. Brown

Deputy Commissioner

Professional Standards and Administration
Pennsylvania State Police
Harrisburg, Pennsylvania

Patrick Caughey

Major

Office of Professional Standards
New Jersey State Police
West Trenton, New Jersey

David Falcinelli

Captain

Director, Internal Affairs Division
Montgomery County Police Department
Gaithersburg, Maryland

James Hyde

Captain

Miami Beach Police Department
Miami Beach, Florida

Matthew Klein

Inspector

Director, Internal Affairs Division
Metropolitan Police Department
Washington, D.C.

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Monitoring
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Michigan State Police
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Lloyd Perkins

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Skaneateles Police Department
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Law Firm of Robert L. Smith, Jr., LLC
Havre de Grace, Maryland

Walter Tuffy

Colonel

Chief of the Internal Investigations
Baltimore City Police Department
Baltimore, Maryland

Roundtable #4, held in Alexandria, Virginia

Geoffrey P. Alpert

Professor

University of South Carolina
Columbia, South Carolina

Cameron D. Benson

City Manager

Hollywood, Florida

John R. Brown

Deputy Commissioner

Administration and Professional
Responsibility
Pennsylvania State Police
Harrisburg, Pennsylvania

Darnell Earley

City Manager

Saginaw, Michigan

Riccardo Ginex

Village Manager

Brookfield, Illinois

Robert S. Hoffmann

Borough Administrator

Westwood, New Jersey

Curtis L. Holt

City Manager

Wyoming, Michigan

Richard Kaffenberger

City Manager

Lake Havasu City, Arizona

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City Manager

Belton, Texas

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City Manager

Spokane Valley, Washington

Terry D. Milam

Chief of Police

St. John Police Department
St. John, Missouri

Gary A. Nace

Borough Manager

Ephrata, Pennsylvania

Gary O'Rourke

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Streamwood, Illinois

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Emory A. Plitt, Jr.

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Circuit Court for Harford County Maryland
Courthouse
Bel Air, Maryland

Christopher Thomaskutty

Deputy Mayor

Baltimore, Maryland

Keith Tiedemann

Major

Internal Investigation Division

Baltimore, Maryland

Jose Torres

Mayor

Patterson, New Jersey

James M. Twombly

City Manager

Broken Arrow, Oklahoma

David C. Williams

Colonel-Retired

Village Administrator

Itasca, Illinois

Based on the information obtained through the literature review, management studies, survey, and roundtable discussions, IACP determined what publications already exist on the subject of Internal Affairs and community trust-building; in which areas the most guidance is needed; and what successful practices are in place in various agencies throughout the country. This guide is the result of a thorough and detailed assessment of what will best serve law enforcement in its quest for ethical and honest policing.

Individual detailed reports for the literature review, IACP Management Study review, and the survey of IACP members are available by calling 800.THE.IACP.



OATH OF HONOR

ON MY HONOR,
I WILL NEVER BETRAY MY BADGE,
MY INTEGRITY, MY CHARACTER,
OR THE PUBLIC TRUST.

I WILL ALWAYS HAVE
THE COURAGE TO HOLD MYSELF
AND OTHERS ACCOUNTABLE
FOR OUR ACTIONS.

I WILL ALWAYS UPHOLD
THE CONSTITUTION,
MY COMMUNITY,
AND THE AGENCY
I SERVE

Building Trust Between the Police and the Citizens They Serve focuses on the pivotal role of the Internal Affairs function as one component of an agency-wide professional standards effort in building trust between law enforcement agencies, their staff, and the communities they are sworn to protect and serve. The guide addresses the Internal Affairs function from complaint processing to decision-making, discipline, notification, and community transparency, as well as building an effective Internal Affairs approach for any size agency. It also looks at the Internal Affairs process from the citizen's viewpoint, presenting information how local agencies can be accountable to their citizens through trust-building initiatives and other activities.



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To obtain details about COPS Office programs, call
the COPS Office Response Center at 800.421.6770

Visit COPS Online at www.cops.usdoj.gov



International Association of Chiefs of Police
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Resources

The IACP researches and addresses issues relative to officer-involved shootings (OIS) from various perspectives - including work done by the National Policy Center, the Legal Officers Section, and the Police Psychological Services Section. The following describes the missions of these IACP components, and also provides information on work done by each specifically on officer involved shootings.

National Policy Center

The IACP National Law Enforcement Policy Center has, since its inception in 1987, published over 120 model policies and accompanying discussion papers for use by state and local law enforcement agencies. In 1990, the center released a comprehensive policy and paper on "Investigation of Officer Misconduct." Since that initial publication, the documents have been refined twice, most recently in 2007. Combined, these documents provide a wide-ranging look at the legal intricacies, operational choices, and pitfalls often encountered during these investigations.

Legal Officers Section

Assists in the establishment of professional standards, assistance, and cooperation among attorneys who provide legal advice or representation to law enforcement administrators. The Legal Officers Section conducts twice yearly training programs specific to police attorneys, maintains a listserv to facilitate communication and sharing of expertise among members, and regularly assists in the preparation and review of amicus briefs submitted to the United States Supreme Court on cases of import to law enforcement.

Police Psychological Services Section

Develops professional standards, facilitates the exchange of information among police psychological service providers, and acts as a resource of professional expertise to the association. The Police Psychological Services Section developed Officer Involved Shooting Guidelines to provide information to law enforcement agencies and mental health providers who work with law enforcement personnel to ensure that officers' mental health needs are carefully considered in regard to OIS incidents.

Assessing Your Approach

- ❑ Do you have clear and concise policies and procedures in place to address officer-involved shootings? Have you trained all staff on these policies? (On-scene checklists are very helpful)
- ❑ Do you have a clearly defined use of force policy and training curriculum and are they updated regularly?
- ❑ Are you prepared to conduct OIS investigations in a timely manner to return officers to duty as soon as possible and appropriate?
- ❑ Do you have a strong partnership with the prosecuting attorney's office to assist in conducting a thorough, unbiased and, impartial investigation?
- ❑ Have you designated your investigative team to handle an investigation if an incident occurs? Will that team be from Internal Affairs, Homicide, or Special Investigation units or others? Is your OIS team fully trained and prepared to handle multiple scene requirements (on-scene, station, and hospital)?
- ❑ Do you have updated video evidence policies, including what video evidence (public or private) to use in the investigation, audio visual recording of officer statements, and if and when to review the video with the officer?
- ❑ Are your evidence technicians fully trained and ready to support the investigation to insure the integrity of evidence?
- ❑ Have you put in place mental health and wellness policies to support officers involved in a shooting? Do those policies include peer support and family outreach?
- ❑ Are you ready to engage the public and will your media relations team speak with 'one voice' representing you and your agency in an open and transparent manner?

Officer-Involved Shootings Investigative Protocols

A Guide for Law Enforcement Leaders

INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE

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Officer-Involved Shootings

Officer-involved shootings (OIS), though relatively rare when compared to the number of interactions law enforcement officers have with the public each day, tend to be high profile events that draw media coverage and sometimes citizen concern.

When is Firearm Use of Force Legally Justified?

Firearm use of force is legally justified:

- To protect the officer or others from what is reasonably believed to be a threat of death or serious bodily harm
- To prevent the escape of a fleeing violent felon who the officer has probable cause to believe will pose a significant threat of death or serious physical injury to the officer or others

The use of verbal orders should be used to gain compliance. Under no circumstances may the use of physical force be more than that which is necessary to achieve a lawful purpose. Whether the use of force is objectively reasonable shall be judged from the perspective of an officer at the time of the incident, based upon facts known or reasonably available to him or her. Facts unknown to the officer, no matter how compelling, cannot be considered in subsequent investigations, reviews, or hearings.

Complexity of the Investigative Process

It is essential for police departments to demonstrate accountability to the community through an impartial, transparent, and systematic investigative process. Systematic investigations of officer-involved shootings may uncover deficiencies that lead to necessary changes in policy and training, and avert civil lawsuits. Officers need to understand the routine processes of OIS investigations so that they won't feel singled out and unfairly scrutinized.

What Officers Must Know Before An Incident Occurs

Training is essential for every officer and an important part of that is preparing officers in the event that they are involved in a shooting. Specifically:

- What are the officers' rights?
- What are the departmental rights?
- What are the differences between administrative and criminal investigations?
- What actions should be taken to assure officer mental health and wellness following an officer-involved shooting?

CRIMINAL INVESTIGATION

- **Miranda warning:** During the criminal investigation phase, assure officer(s) are advised of their Miranda rights.
- **Prosecutor role:** Administrative violations may not be crimes. To understand this dichotomy and the situations officers face, police training for prosecutors is helpful, to include a Citizen's Police Academy, shooting scenario, and use of force training.
- **Grand jury:** Typically selected by the prosecuting attorney's office, it is helpful if grand jury members have some knowledge of police practices, use of force, and firearms.
- **Determination:** Upon resolution of the criminal case, your agency may begin an administrative investigation, if not done concurrently, with appropriate safeguards. Once the criminal case has been adjudicated, all pertinent documentation should be forwarded to your agency's investigation team.
- **Preparation for civil litigation:** Your agency should prepare for civil litigation at the outset of any officer-involved shooting, to include preservation of evidence.

ADMINISTRATIVE INVESTIGATION

- **Applicable Law Enforcement Officers Bill of Rights (LEOBR) Provisions/Labor Contract Requirements:** It is important to be familiar with discipline-related laws, rules, rights, responsibilities, and deadlines.
- **On scene walk-through/initial statements:** On scene walk-through and initial statement should be used for evidentiary purposes and conducted with the officer involved.
- **Audio/Video recordings:** Videotaping the scene under the same or similar conditions will preserve its appearance and assist in showing the lighting, the weather conditions, and the integrity of the crime scene.
- **Administrative Leave/Administrative Duty:** Typically officers are placed on a brief paid administrative leave or in a no-contact assignment pending the outcome of the investigation.
- **Compelled Statement:** Taken during the administrative portion of the investigation this compelled statement, or any information gleaned from it, cannot be used in any manner in the criminal phase of the investigation.
 - During administrative investigation, the officer is compelled (ordered) to give a statement; failure to do so could result in discipline up to and including termination.
- **Actions:** Based on the investigative finding, if warranted, disciplinary action can include written reprimand, fines, retraining, reassignment, termination, or criminal charges.
- **Return to Work:** Consideration should be given to officers' readiness to return to duty. Areas of concern include, but are not limited to, use of force training, firearms requalification and mental health (psychological services). Even after officers are ready to return to duty, some may need additional time before returning full-time to the street; others may want to transfer to a different position.

OFFICER MENTAL HEALTH/WELLNESS CONSIDERATIONS

- **Sleep cycles before statements:** Whenever feasible, officers should have some recovery time before providing a full formal statement. At least one night's sleep is beneficial prior to being interviewed.
- **Memory and perception:** Memory and perceptual disturbances following a shooting or other critical incident are common and normal. These may include memory loss for part of the incident, sounds being quieter or louder, tunnel vision, increased attention to detail, time slowed down and/or time sped up.
- **Emotional stress:** The first few hours after a shooting or other critical incident is a potentially emotional and confusing time. Depending on the nature of the incident, stress may remain high for the involved officers in the aftermath of the incident.
- **Investigative process:** The investigative process and concerns over legal and administrative consequences are often the most stressful parts of an officer-involved shooting or other critical incident for involved personnel. Agencies should clarify with officers the purpose of procedures so that they are understood to be routine and not disciplinary in nature.
- **Psychological services:** The standard of practice is to visit a departmentally approved, trained, and licensed mental health professional following a shooting incident. The purpose of this confidential intervention is primarily educative, as this reassurance reduces worry, anxiety, and negative self-assessment. Additionally, group debriefings with a trained mental health professional mobilize peer support, enhancing a supportive social milieu that may be helpful to individuals in stressful situations.
- **Peer support:** Involved personnel can benefit from support from other law enforcement personnel. Sources of support include Peer Support and Critical Incident Stress Management Teams, fellow officers trained in peer support, or officers who have previously been involved in an OIS investigation. Support from supervisors can also be helpful.
- **Personnel:** Dispatch and other involved personnel may benefit from support and assistance as well.
- **Family:** Family members of officers involved in shootings may also benefit from contact with a trained mental health professional and/or peer support.

INFORMING THE COMMUNITY

- **Transparency:** Your department should provide the community with information as appropriate, as much as possible, at each investigative stage.
- **Media relations:** The media should be provided with the basic facts of the case, as available and normally within 24 hours.
- **Community/town hall meetings:** When it is appropriate, and the facts are known, arrange for speaking engagements before audiences that are most invested in the event and its outcome.
- **Messaging:** One person should speak on behalf of the department, such as the public information officer, chief, or a designated senior spokesperson, to assure information is accurate and consistent.

Resources

For concrete actions that law enforcement leaders can take in collaboration with partners at the local, state, and national levels to improve the response to young people, see the IACP national summit report:

Law Enforcement's Leadership Role in Juvenile Justice Reform
<http://www.theiacp.org/jjsummitreport>

For assistance with **Project Safe Neighborhoods training**, contact your local United States Attorney's Office or the following:

Project Safe Neighborhoods
AskPSN@usdoj.gov
www.psn.gov

Bureau of Justice Assistance
810 Seventh Street NW.
Washington, DC 20531
202-616-6500
Fax: 202-305-1367
www.ojp.usdoj.gov/BJA

For publications from the **Office of Community Oriented Policing Services (COPS)**:

U.S. Department of Justice
Office of Community Oriented Policing Services
145 N Street, N.E.
Washington, DC 20530

To obtain details on COPS programs, call the COPS Office Response Center at 800.421.6770 or visit www.cops.usdoj.gov.

For information on the President's My Brother's Keeper Initiative, visit www.whitehouse.gov/my-brothers-keeper.

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Prevention Programs

► Identify and recommend programs to link at-risk youth with responsible adults:

The White House Initiative, My Brother's Keeper, provides guidance on establishing public-private campaigns to actively recruit mentors for youth and improve the quality of mentoring programs.

► Review the role of School Resource Officers to balance enforcement with prevention:

According to *The Washington Post*, it is estimated that in Maryland, 21 percent of school sites have at least a part-time school resource officer (SRO). In Virginia, 47 percent of the schools have at least a part-time police presence, according to recent data. Concentrate on having the SRO increase information sharing, intelligence gathering, and mentoring.

► Ensure that messaging with departments about at-risk youth strategies flows from chief to mid-rank to line:

The Spokane, WA, Police Department's Youth Police Initiative places off-duty police officers as basketball coaches, community service advocates, and mentors for at-risk youth.

► Develop violence prevention programs in context with guns, families, education, poverty, and mental health—all count in the formula:

A large percentage of juveniles in the criminal justice system were themselves victims and witnesses of violence in their neighborhoods and homes.

► Identify and respond to children exposed to violence:

The criminal justice implications of children exposed to violence are grave. Exposed children are at greater risk for drug and alcohol abuse, as well as becoming perpetual offenders, the consequences of which commonly require police involvement. Suffering from abuse or neglect increases the likelihood of arrest as a juvenile by 59 percent, as an adult by 28 percent, and for a violent crime by 30 percent. The New Haven, CT, Police Department, together with the Yale Child Study Center, created a ground-breaking program called the Child Development-Community Policing (CDCP) program, which provides a collaborative response of police and mental health providers to assist children exposed to violence. Responding effectively to children using both developmentally appropriate and trauma-informed approaches at scenes of violent crimes can be critical in decreasing the traumatic nature of children's exposure to violence and aid in children's long-term recovery. Police-mental health partnerships based on the CDCP Program have been implemented in communities across the United States. The IACP is working with Yale and the New Haven Police, in partnership with the U.S. Department of Justice, to create a series of trainings, tools, and resources for law enforcement on how to identify and respond to children exposed to violence based on the CDCP program.

► Support pathways to school completions:

Research indicates that developing alternatives to expulsions, suspensions, and/or court referrals will reduce patterns of truancy and offenses. Partnerships between law enforcement and schools to promote completion are critically important. The Framingham, MA, Police Department, has adopted a program to work with local school districts to identify kids who are skipping school and falling off the path to completing their education.

► Support the implementation of curfews:

New Orleans, LA, Police Department has long utilized curfews in an effort to reduce and prevent crime. Curfews can be controversial, but when partnered with other community services, they can also connect at-risk youth to counseling, mentoring, or social programs and improve communications among police, parents, schools, social agencies, and youth.

► Visit IACP's Youth-Focused Policing Resource Center (www.iacpyouth.org):

The website is dedicated to proactive intervention strategies that enable law enforcement to intervene with youth to reduce crime, victimization, and more. It also offers a searchable program directory of law enforcement programs addressing a variety of juvenile justice issues, training and technical assistance information, and a resource library.

Reducing Violence and Crime on Our Streets

A Guide for Law Enforcement Leaders

CRIME SCENE DO NOT CROSS



Understanding the Issue

Many communities in the United States are confronted by unacceptable levels of crime and violence on our streets. Typically, a disproportionate amount of this violence is the result of young males killing other young males. In the United States, homicide is the second leading cause of death for all young males 15–24 years old. According to the National Center for Injury Prevention and Control, homicide is the leading cause of death among 10–24-year-old African Americans. This is simply unacceptable. It is imperative that law enforcement works with our partners in the criminal justice system to reduce the level of violence through an array of successful approaches. These range from early intervention, to aggressive enforcement and prosecution, to enhanced penalties for those that commit crimes with a firearm.

This guide was developed as part of an IACP Presidential Initiative and designed for the purpose of providing an action agenda for law enforcement leadership, their agencies, and the communities they serve.

Community Outreach

► Establish a dialogue with community organizers to diagnose issues:

Jerry Oliver, former chief of the Richmond, VA, Police Department, during the Project Exile initiative, which drastically reduced homicides in the city, invited some of the most vocal critics of his police department to meet with him in his office and voice their concerns. This allowed the critics to feel that everyone had an opportunity to provide input on police policy.

► Explore the feasibility of establishing a not-for-profit foundation:

Working with groups in the community to establish a nonprofit allows funds to be used in a variety of ways, including advertising. Advertising enhanced penalties for the illegal possession of a firearm can have a significant effect. Recent research supports the idea that the threat of swift and certain penalties can deter crime.

► Follow the Project Safe Neighborhoods model regarding community outreach recommendations:

One of the five core elements of this crime reduction strategy is outreach activities, including distributing literature; conducting mail campaigns; sponsoring local workshops; and producing public service announcements (PSAs), educational literature, crime prevention toolkits, billboard advertisements, press releases, and news articles. Media partners work with the local PSN task forces to identify local stakeholders, leverage the support of potential partners, identify resources, and engage members of the community in the PSN initiative.

► Establish a relationship with local university crime researchers to identify crime patterns:

Dr. Anthony Braga worked as an embedded criminologist in the Boston, MA, Police Department between 2007 and 2013, and earned the trust of officers and command staff. He devised problem-oriented policing strategies to reduce violent crime and impact hotspots. Researchers can assist in making successful arguments to budget decision makers for research funds. Having a professional researcher assist in devising evidence-based policing strategies will assist in supporting this initiative in the face of any criticism.

► Use your bully pulpit as chief to advocate for health, education, and welfare programs and services that target at-risk youth:

Your position in the community carries significant influence and clout that cannot be overlooked. Your support can be pivotal in helping governing bodies support programs reducing violence and crime.

Enforcement Strategies

► Use hotspot policing data to identify high-crime areas:

A number of policy makers and researchers have argued that many crime problems can be reduced more efficiently if law enforcement focused more attention to high-crime areas. In Minneapolis, MN, only 3 percent of the city's addresses accounted for 50 percent of calls for service. Even within the most crime-ridden neighborhoods, crime clusters are often at a few discrete locations and other areas are often relatively crime free. Research has also demonstrated that these high-activity crime places generate very stable concentrations of crime over long periods of time. For instance, in Boston, MA, only 5 percent of the city's street block faces and street intersections were responsible for 74 percent of the city's total shootings between 1980 and 2008.

Source: Anthony A. Braga, Andrew V. Papachristos, David M. Hureau, Police Programs to Prevent Crime in Hot Spot Areas.

► Target open-air drug markets to reduce shootings:

This multi-stage approach includes (1) systematically identifying key offenders, groups, and behavior patterns; (2) developing a clear deterrent message to offenders and groups of offenders, which employs a wide-ranging suite of sanctions to persuade them to cease their deviant behaviors; (3) focusing social services and community resources on targeted offenders and groups to complement law enforcement efforts; and (4) directly, clearly, and repeatedly communicating to offenders why they are receiving this special attention.

► Work with the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) to employ Project Exile-type strategies to prosecute in federal court:

U.S. federal firearms statute penalties, including the Armed Career Criminal statute, can be severe and often require mandatory minimum sentences with no parole.

► Adopt proven violence and intervention strategies:

These strategies are designed to reduce violence by gangs and criminally active street groups and generally replicate the Operation Ceasefire process developed in Boston during the 1990s. The Operation Ceasefire program was designed to prevent violence by reaching out directly to gangs, explicitly stating that violence would no longer be tolerated, and swift and certain legal actions would be taken against all offenders given certain violations.

► Utilize ballistics data and crime gun data to identify the serial shooters in your area:

The New Haven, CT, Police Department recently employed the ATF National Integrated Ballistic Network (NIBIN) successfully and found that one gun was used in five shootings, including an unsolved homicide. This ballistic data provides law enforcement with timely, actionable leads to assist in identifying serial shooters and violent criminal organizations.

► Review policies and procedures relevant to enforcement goals:

If the priority for patrol officers is getting guns off the street and the majority of officers' time is spent processing drug arrests, perhaps adjustments should be made to consent search policies and to other policies.

► Examine the use of alternative strategies before incarceration occurs:

In Prince William County, VA, police officers offer to transport suspected drug users and low-level dealers to a drug treatment facility immediately after booking. The U.S. Department of Justice's Smart on Crime Initiative recommends the use of alternative strategies before arrest occurs and has other useful recommendations regarding alternative strategies.

Government-Wide Coordination

► Employ all government agencies in the fight to combat violence:

Prince George's County, MD, Police Department enlists an all-hands approach to dealing with crime hotspots and areas of criminal activity to include involving the Health and Human Services Division; Department of Permits, Inspection, and Enforcement; and Fire Department for code violations issues. All agencies can assist in their own manner to impact geographic areas suffering violent crime.

► Advocate for other agencies and government service providers who have demonstrated innovative criminal justice system models:

One such model is Hawaii's Opportunity Probation with Enforcement (HOPE) model, which was started to improve the probation system. HOPE found that when drug offenders violated their probations, the punishments were often slow and cumbersome. To address the high rates of recidivism, The Hope Program focused on delivering swift, certain, and proportionate sanctions to those who failed to comply with the rules. HOPE participants received randomized and frequent drug tests throughout the duration of the program. Probationers are warned that if they test positive for drugs, they will be arrested immediately, and warrants will be issued immediately for probationers who miss an appointment or drug test. Those found guilty face a short term in jail—usually starting with a few days but increasing with repeated violations. This immediate consequence for bad behavior helps probationers learn and change their behavior. A Department of Justice-funded study found that HOPE participants were 72 percent less likely to use drugs, half as likely to have their probation revoked or be arrested for new crimes, and spent almost half the time in prison as other probationers.

► Request Project Safe Neighborhoods (PSN) training:

Contact your local U.S. Attorney's Office or the International Association of Chiefs of Police for assistance in obtaining training on Firearms Tracing and Investigative Tools, Firearms Identification, Proactive Firearms Interdiction Strategies, Suspect Debriefing and Interview Techniques, and Characteristics of Armed Persons.