Cracks in the U.S. Constitution: Broken Windows Policing and the Criminalization of Children

March 8, 2018
Albany Law School
Albany Government Law Review Symposium’s 13th Annual Symposium
Cracks in the U.S. Constitution: Broken Widows Policing and the Criminalization of Children
Thursday, March 8, 2018, noon – 5 p.m.

The Albany Government Law Review would like to thank Dean Ouellette and Dean Queenan for their extensive support; our advisors Andy Ayers and Rose Mary Bailly, for their guidance; professors Young, Farley, and Sundquist for their flexibility and engagement; Kendra Sena, Clay Gustave, and Lisa Rivage for their assistance in the solicitation of panelists; the Communication and Marketing department for all of their hard work; John Springsteen and Nicole Bezona for their logistical support; and Information and Technology Services, Maintenance Services, BMT Hospitality, Panera Bread, and Price Chopper.
Agenda

11:30am – 12:00pm  Registration

12:00pm – 12:30pm  Keynote
Andrea J. Ritchie, Esq.
Researcher in Residence on Race,
Gender, Sexuality and Criminalization
Bernard Center for Research on Women

12:30pm – 1:30pm  Broken Windows Policing

Moderator:
Prof. Donna Young
Albany Law School

Panelists:
Prof. Anthony P. Farley
James Campbell Matthews
Distinguished Professor of Jurisprudence
Albany Law School

Kevin Jason, Esq.
New York Civil Liberties Union

Mark Mishler, Esq.
Law Office of Mark Mishler, P.C.

Shontell Smith, Esq., Chief Counsel to the
Senate Democratic Conference
New York State Senate

Frank Wiley, Chief of Police
University at Albany

1:30pm – 1:45pm  Break
1:45pm – 2:45pm  
School-to-Prison Pipeline

**Moderator:**
Prof. Christian B. Sundquist  
Albany Law School

**Kaweeda G. Adams,** Superintendent  
City School District of Albany

**Katrina Charland**  
Bethlehem Youth Coordinator

**Jasmine Gripper**  
Legislative Director & Statewide Education Advocate  
Alliance for Quality Education

**Prof. Areto Imoukhuede**  
Nova Southeastern University  
Shepard Broad College of Law

3:15pm – 4:30pm  
Oversight

**Moderator:**
Andy Ayers, Esq., Director, Government Law Center

**Panelists:**  
**Mickey Bradley**  
Former Chair, Albany Police Citizen’s Review Board

**Patrick Jordan, Esq.**, General Counsel  
Albany Port District Commission

**Nicole Napolitano, PhD.**  
Director of Policy and Advocacy  
Civilian Complaint Review Board

**David Rozen, Esq.** Assistant Counsel  
New York City Department of Investigation’s  
Office of Inspector General for the New York Police Department (OIG-NYPD)
Speaker Biographies

KAWEEDA J. ADAMS is Superintendent of the City School District of Albany, where she leads a diverse urban school district of nearly 9,700 students. Ms. Adams joined the district on August 14, 2017, after the Albany Board of Education unanimously approved her appointment. A third-generation educator, she served in increasing levels of responsibility for twenty-eight years in the Clark County School District in Nevada before accepting the position in Albany. Her former district includes Las Vegas and educates more than 320,000 students, about 75 percent of all students in Nevada. Ms. Adams began her career in education as a secondary-level English teacher, working at the middle and high school levels for six and a half years before moving into administration, where she served in numerous positions. In Albany, she leads a school district in which students speak fifty-seven different languages and approximately 75 percent qualify for free or reduced-price meals. The district has struggled to close the achievement gap between white students and students of color. It offers students a wide range of opportunities such as the prestigious International Baccalaureate program and twenty-one Advanced Placement offerings. Albany High’s four-year graduation rate has increased by nearly 25 percent in recent years, to 62 percent for the Class of 2016. It is experiencing significant enrollment growth, with about 1,500 more students today (about 18 percent more) than in 2008. A native of Shreveport, LA, Ms. Adams earned a bachelor’s in English Education from the University of New Orleans. She earned a master’s in Education Administration and Higher Education from the University of Nevada, Las Vegas. She currently is pursuing a doctorate in Organizational Leadership with an emphasis in Organizational Management from Grand Canyon University in Phoenix. Ms. Adams has been recognized as a master teacher for student teachers; is a recipient of the Alpha Kappa Alpha Sorority Inc., Theta Theta Omega Thelma Tyree Award; and was recognized by the principals of Clark County’s Performance Zone 3 as an Outstanding School Associate Superintendent.

MICKEY BRADLEY served on Albany’s Citizen Police Review Board (CPRB) from 2011–2017. In that time, Mr. Bradley reviewed the investigations of dozens of citizen complaints, ranging from use of force allegations to civil rights violations. He headed the CPRB’s Mediation Committee, helping to create an effective program that allows citizens to directly address officers to discuss and resolve complaints. In his two years as Chair of the CPRB, Mr. Bradley partnered with multiple
stakeholders to improve police-community relations and propose new policies. Under his leadership, the CPRB focus included better communication with the public, the development of policies for complainants with mental health issues, training new officers on community needs and expectations, and finding innovative ways to bring greater transparency and accountability to the department’s disciplinary process. In 2017, Mr. Bradley was elected to the Board of Directors for the National Association for Civilian Oversight of Law Enforcement (NACOLE), a national resource and advocacy group dedicated to supporting oversight practitioners throughout the US. He currently heads NACOLE’s Strategic Planning Committee, working to strengthen and broaden the organization’s mission of promoting police accountability and transparency. Mr. Bradley received a BS in math from Union College and an MA in English from the State University of New York at Albany.

KATRINA CHARLAND is currently the Executive Director of Bethlehem Youth Court, a non-profit diversion program for youth who have committed first time, low-level offenses. Mrs. Charland’s experience in the field of juvenile justice advocacy spans more than a decade. She has been involved with youth courts for the past ten years, primarily as the Director of Bethlehem Youth Court. During that time she has served as both the Secretary and Co-President for the Association of New York State Youth Courts, or ANYSYC. She played an integral role in the planning and implementation of statewide youth court conferences in 2013 and 2014. Her most recent endeavor has been involvement with the New York State Bar Association’s Task Force on School to Prison Pipeline. Mrs. Charland graduated, magna cum laude, from Russell Sage College in 2007 with a BA in history and a minor in criminal justice. She was employed by Policy Research Associates in Delmar, NY, for three years, before her voluntary departure to pursue her career in direct implementation of court diversion programs. While at Policy Research Associates, Mrs. Charland worked in the Criminal Justice Division performing research-related tasks for diversion courts, specifically mental health courts. She also assisted in the creation of a suicide prevention training program for attorneys and court staff to help identify and appropriately respond to people who are at risk for suicide.

PROFESSOR ANTHONY PAUL FARLEY is the James Campbell Matthews Distinguished Professor of Jurisprudence at Albany Law School. He was the James & Mary Lassiter Distinguished Visiting Professor at the University of Kentucky College of Law and the Andrew Jefferson Endowed Chair in Trial Advocacy at Texas Southern University's Thurgood Marshall School of Law in 2014–2015, the Haywood Burns Chair in Civil Rights at CUNY School of Law in 2006, and a tenured professor at Boston College Law School, where he taught for 16 years. Prior to entering academia, he was an Assistant US Attorney in the Office of the US Attorney for the District of Columbia. Prior to serving as a federal prosecutor, Professor Farley practiced law as a Corporate/Securities Associate with Shearman & Sterling in NYC. Professor Farley’s work has appeared in chapter form in Bandung Global History and International Law: Critical Pasts and Pending Futures (Eslava et al. eds., Cambridge University Press: forthcoming); Hip Hop and the Law (Bridgewater et al. eds., Carolina Academic Press: 2015); After the Storm: Black Intellectuals Explore the Meaning of Hurricane Katrina (Troutt ed., The New Press: 2007); Cultural Analysis, Cultural Studies & the Law
(Sarat & Simon eds., Duke University Press: 2003); Crossroads, Directions & a New Critical Race Theory (Valdes et al. eds., Temple University Press: 2002); Black Men on Race, Gender & Sexuality (Carbado ed., NYU Press: 1999); and Urgent Times: Policing and Rights in Inner-City Communities (Meares & Kahan eds., Beacon: 1999). His writings have appeared in numerous academic journals, including the Yale Journal of Law & Humanities, the NYU Review of Law & Social Change, the Southern California Interdisciplinary Law Journal, the Michigan Journal of Race & Law, Law & Literature, UCLA’s Chicano Latino Law Review, the Berkeley Journal of African American Law & Policy, the Berkeley La Raza Law Journal, and the Columbia Journal of Race & Law. Professor Farley has presented recent work at Harvard University, Yale Law School, Howard Law School, the University of Kentucky College of Law, University of Minnesota, the University of California at Davis, York University (Toronto, Canada), the Association of American Law Schools Annual Meeting, and elsewhere. Professor Farley was nominated and elected to membership in the American Law Institute in 2017. He is a graduate of the Harvard Law School and the University of Virginia.

JASMINE GRIPPER came up through the New York City public school system, and when it came time to choose a profession she envisioned a long career in the classroom. Ms. Gripper began her classroom experience teaching English as a second language in South Korean public schools. She then went on to teach 4th and 1st grade in international schools in Kuwait and the United Arab Emirates. When she returned home to Brooklyn, NY, she continued teaching 1st graders. After more than five years of experience teaching, she realized that education policies impacting the classroom are often decided by those who have little to no classroom experience. In order to affect genuine change and address the growing opportunity gap, Ms. Gripper moved to Cleveland, OH, to work as a Field Organizer for President Obama’s 2012 re-election campaign. After the election, she became Legislative Director of the Alliance for Quality Education, a coalition mobilizing communities across the state to keep New York true to its promise of ensuring a high quality education to all students. In recognition of her growing leadership in Albany, in 2016 she was named as one of City and State’s 40 Under 40 Rising Stars. Ms. Gripper is dedicated to educating parents, students, legislators, and community members on their power to influence and advance policies that ensure that all of our children receive the excellent education they deserve.

PROFESSOR ARETO IMOUKHUEDE is Professor of Law at Nova Southeastern University, Shepard Broad College of Law. Professor Imoukhuede holds a JD from the Georgetown University Law Center and a BA in economics from Northwestern University. He researches fundamental rights as duties under the United States Constitution. His education research addresses unmet constitutional obligations of government. He has presented his academic research across the nation, including at Seton Hall; University of Nevada, Las Vegas; and the University of Illinois, as well as overseas in Athens, Greece, and Rome, Italy. His education writings include, The Fifth Freedom: The Constitutional Duty to Provide Public Education, which provides compelling arguments for why there is a fundamental duty to provide public education under the United States Constitution. Freedom from Ignorance: The International Duty to Provide Public Education,
is equally powerful, arguing that public education is an international human right that the United States ought to recognize and protect. The next article in this project, *Education Rights and The New Due Process*, published in the *Indiana Law Review*, suggests that without an educated citizenry, liberty and democracy are empty concepts, devoid of meaning for all but the economically privileged and socially advantaged. Professor Imoukhuede served as a Congressional Fellow in the United States House of Representatives, where he conducted extensive research on United States education policy and related domestic and international issues. Professor Imoukhuede is a member of the Bars of Illinois, the District of Columbia, and the Northern District of Illinois. He is a proud Eagle Scout.

**KEVIN JASON, ESQ.**, is a staff attorney at the New York Civil Liberties Union, where he works on statewide civil rights and civil liberties impact litigation with a focus on criminal justice and education matters. Prior to joining the NYCLU, Mr. Jason clerked for the Honorable Steven M. Gold of the United States District Court for the Eastern District of New York and for the Honorable Andrew L. Carter, Jr. of the United States District Court for the Southern District of New York. Mr. Jason earned a BA from Columbia University in 2010 and an MA in public policy from Stanford University in 2014. He graduated from Stanford Law School in 2014 with pro bono distinction. He is admitted to practice law in New York.

**PATRICK K. JORDAN, ESQ.**, is the General Counsel for the Albany Port District Commission (Port of Albany). The Port of Albany is a multimillion-dollar public authority, managing a large maritime operation, dozens of tenants, and countless business transactions. Mr. Jordan is responsible for providing legal counsel to the Port’s General Manager, Board of Commissioners, and staff. He coordinates policies and procedures to ensure legal compliance and drafts and reviews all legal agreements, such as contracts and leases, with the Port’s service and product vendors and tenants. He also represents the Port in litigation and any other legal proceedings. Prior to joining the Port of Albany, Mr. Jordan was the Deputy Corporation Counsel for the City of Albany, where he was responsible for a wide array of legal matters. While with the City, he was the counsel to the City’s Common Council for thirteen years and counsel to the Citizens’ Police Review Board (CPRB) for more than a decade. During his time as CPRB counsel, Mr. Jordan assisted the Board in creating a mediation program that now facilitates meetings between police officers and citizens to try and work through complaints face-to-face with the help of a professional mediator. While working for the Government Law Center, Mr. Jordan assisted in drafting the legislation that created the CPRB in 2000. Mr. Jordan is a 2002 graduate of Albany Law School, where he was an associate editor of the *Albany Law Journal of Science and Technology*. He is a member of the law school’s Board of Trustees and the National Alumni Association, serving as NAA President since 2016. Mr. Jordan earned a BA from Siena College in 1998. He is admitted to practice in New York.

**MARK S. MISHLER, ESQ.**, practices criminal, civil rights, and employment law in Albany, NY. Mr. Mishler has extensive experience handling criminal matters, including numerous felony and misdemeanor trials. He has represented many young people accused of criminal offenses or juvenile delinquency charges. Mr. Mishler has litigated police misconduct and related civil rights
cases against the City of Albany and other governmental entities. In 2016, he drafted a brief as amicus curiae on behalf of Capital Area Against Mass Incarceration (CAAMI) and other community organizations, scholars, and elected officials, to the New York Appellate Division, 3rd Department, seeking reversal of a nine-year adult prison sentence imposed on a sixteen-year-old youth for stealing a pair of sneakers. The Court reversed the youth’s conviction, granted him “youthful offender” status, and reduced his sentence to three years (*People v. Marquis A.*, 145 AD 3d 61 (2016)). Mr. Mishler coordinated the representation of Occupy Albany activists and litigated, with co-counsel, *Soares v. Carter, et al.*, 25 NY 3d 1011 (2015), in which the New York Court of Appeals held that a judge cannot hold a prosecutor in contempt for declining to prosecute a case. He developed and taught courses on “Mass Incarceration: The New Jim Crow” at Albany Law School in 2012 and at the University at Albany School of Criminal Justice from 2015–16. As a community activist, Mr. Mishler previously served as an Executive Board member of the Albany NAACP and on the steering committee of the Capital District Coalition Against Racism and Apartheid. He currently is a member of the steering committee of CAAMI and is an activist with Jewish Voice for Peace and the Capital District Coalition Against Islamophobia. Mr. Mishler received a JD, cum laude, from Boston College School of Law in 1981 and a BA, cum laude, in music from Brandeis University in 1978. He is admitted to practice in Massachusetts (1981), New York (1982), the US District Court for the Northern District of NY (1982), and the US Court of Appeals for the 2nd Circuit (1987).

**NICOLE NAPOLITANO, PHD,** is the Director of Policy and Advocacy at the New York City Civilian Complaint Review Board (CCRB), the nation’s largest independent police oversight agency. In this role, Dr. Napolitano manages the operations of the CCRB Policy Unit, analyzes and publishes data related to misconduct in the New York City Police Department (NYPD), and is responsible for production of Agency reports and recommendations to improve police-community relations. She also connects with community advocates and elected officials to develop strategies for improving the Agency’s connection to the public and advancing a legislative agenda. Before her tenure at CCRB, Dr. Napolitano was a Senior Policy Manager at the Department of Investigation’s Office of the Inspector General for the NYPD (OIG-NYPD), an external police oversight office that conducts systemic reviews, audits, and investigations of the policies, practices, and protocols of the New York City Police Department. Prior to her work in police oversight, Dr. Napolitano worked as an adjunct faculty member and researcher at John Jay College of Criminal Justice, studying the connection between politics, public opinion, and crime control policy, focusing on policing and counterterrorism policies. During this time, she worked for three years as a Homeland Security Research Fellow under a grant funded by the US Department of Homeland Security, studying the nexus between counterterrorism policy and media. Prior to that fellowship, she was a Doctoral Fellow at the John Jay College Center on Race, Crime, and Justice and examined issues involving racial disproportionality in the criminal justice system. Dr. Napolitano received a PhD from the Graduate Center of the City University of New York, and she holds two master’s degrees, one in criminal justice specializing in criminology and deviance, and the other in forensic psychology, both from John Jay College. She received a BA in anthropology from the University at Albany. Dr.
Napolitano is an Adjunct Assistant Professor in the Master’s Program in Criminal Justice at John Jay College of Criminal Justice in New York, where she teaches courses on terrorism and policing.

ANDREA J. RITCHIE, ESQ., is a Black lesbian immigrant whose writing, litigation, and advocacy has focused on policing of women and LGBT people of color for the past two decades. She is currently Researcher in Residence on Race, Gender Sexuality and Criminal Justice at the Barnard Center for Research on Women’s Social Justice Institute. She was a 2014 Senior Soros Justice Fellow. She is the author of Invisible No More: Police Violence Against Black Women and Women of Color and co-author of Say Her Name: Resisting Police Brutality Against Black Women and Queer (In)Justice: The Criminalization of LGBT People in the United States. A nationally recognized expert and commentator on issues relating to policing and criminalization, she has written and edited a number of reports and articles on policing issues for academic, policymaker, and general audiences. She has also been invited to testify before the President’s Task Force on 21st Century Policing, the White House Council on Women and Girls, the Prison Rape Elimination Commission, and several UN treaty bodies. She has appeared regularly in the New York Times, as well as on MSNBC, C-Span, NBC Nightly News, NPR, Al-Jazeera, and Mother Jones, and her blogs and opinion pieces have been published in the New York Times, The Root, Colorlines, Portside, Rewire, Cassius Life and TruthOUT. She currently coordinates the policing subgroup of the LGBT Federal Criminal Justice Working Group, and served as co-chair of the Anti-Violence/Criminal Justice Working Group of the New York City Council's Young Women's Initiative and as a founding member of the Steering Committee of Communities United for Police Reform. Ms. Ritchie received a BS, with Honors and Distinction, from Cornell University and a JD, magna cum laude, in animal sciences from Howard University. She is admitted to practice in New York.

DAVID A. ROZEN, ESQ., serves as an Assistant Counsel to the New York City Department of Investigation’s Office of the Inspector General for the New York Police Department (OIG-NYPD). Before his appointment to OIG-NYPD, Mr. Rozen was the Vice-Chair of the City of Albany’s Citizens’ Police Review Board (CPRB), comprised of volunteers appointed by the City of Albany Mayor and Common Council. Serving on the CPRB for nearly five years, Mr. Rozen helped develop and lead the Board in its work investigating, adjudicating, and mediating complaints by the public alleging police misconduct, as well as issuing investigative reports and recommendations for improvements in the work of the City of Albany’s Police Department. Mr. Rozen has undertaken leadership roles for the National Association for Civilian Oversight of Law Enforcement (NACOLE), a non-profit organization of law enforcement oversight agencies and practitioners that works to enhance accountability and transparency in policing and build community trust through independent police review. He has been a panelist and presenter on police oversight issues nationally. Mr. Rozen previously served as Deputy Records Access Officer for the New York State Department of Health, via appointment by NYS Governor Andrew Cuomo, for two years; acted as Legislative Counsel to New York State Senator Michael Gianaris; and provided political consulting and election law assistance for successful NYS Senate candidates Neil Breslin, Terry Gipson, and Cecilia Tkaczyk. He earned a bachelor’s degree in political science and philosophy from the Rockefeller College of Public Affairs & Policy at the University at Albany and a JD from
Albany Law School, with honors, while concentrating in Government Administration & Regulation. Mr. Rozen serves or has served in various leadership positions, including as Director of Membership for the Robert F. Kennedy Democratic Club, Inc.; as Alumni Advisor and Corporate Board Member for the New York East Chapter of Hugh O'Brian Youth Leadership; and as a Committee Member and Secretary for the Albany County Democratic Committee, 6th Ward. He has been recognized by City & State as a 2015 “40 Under 40 Albany Rising Star.” He has received a number of awards such as the 2015 Diversity Commitment Award from the New Leaders Council of the Capital District, the Albany Knickerbocker Ledger’s “30 Under 30″ Award, and the Outstanding Young Alumni Award from Albany Law School’s National Alumni Association. Mr. Rozen is admitted to practice in New York.

SHONTELL SMITH, ESQ., is an attorney at the New York State Senate who has worked in public service for more than a decade. She is currently the Director of Counsel and Finance for the New York State Senate Democratic Conference. She is responsible for managing the legal, finance and public policy departments for the conference. Ms. Smith received an undergraduate degree in political science from Siena College and a JD from the University of Maryland, Francis King Carey School of law in 2007. She then worked as a law clerk for the Honorable Michael E. Loney for the Anne Arundel Circuit Court in Maryland. Upon completion of her clerkship, Ms. Smith returned to Albany, went to work for the New York State Senate as the Floor Counsel for the Democratic Conference, and was later promoted to the Floor and Policy Development Counsel. Ms. Smith is a first generation American born and raised in Albany, NY. Her mother was born in Guyana, South America, and her father was born in Jamaica, West Indies.

PROFESSOR CHRISTIAN B. SUNDQUIST is Director of Faculty Research and Scholarship and Professor of Law at Albany Law School. He is a nationally recognized scholar on issues of race and law. While his principal research interest lies at the intersection of genetics, race and law, he has published and presented widely on a variety of issues in the fields of constitutional law, evidence law, immigration law, critical race theory, education reform, and welfare reform. His publications have appeared in numerous academic journals, including the Harvard Blackletter Law Journal, the N.Y.U. Annual Survey of American Law, the Columbia Journal on Race and Law, and the Georgetown Journal on Poverty Law and Policy. Professor Sundquist has delivered lectures and presentations in a variety of venues, including at the Facing Race annual conference on racial justice, the Kirwan Institute for the Study of Race and Ethnicity, the Society of American Law Teachers annual conference, the National People of Color legal conference, the LatCrit annual conference, and the Research Council for the Sociology of Law annual conference. Professor Sundquist has also delivered lectures to the New York State legislature (staff attorneys) and the New York State Department of Health. Professor Sundquist teaches Evidence, Advanced Evidence, Federal Jurisdiction and Practice, Immigration Law and Policy, and Economic Justice at the law school. He is a member of the Society of American Law Teachers, the Capital District Black and Hispanic Bar Association, the American Bar Association, and the New York State Bar Association. Before entering academia, Professor Sundquist practiced in the litigation group at
Chadbourne & Parke LLP in New York, NY, an internationally-known law firm. He received a BA from Carleton College and a JD from Georgetown University.

**FRANK WILEY** is a graduate of Sojourner Douglass College in Baltimore, MD. Mr. Wiley started his career with the Baltimore City Police Department in 1979. He then moved on to the University System at the University of Maryland in Baltimore County, where he was nurtured in the profession by Chief Robert C. Nielsen, one of the most prodigious writers and commentators for the International Association of Campus Law Enforcement. It was during this ten-year period that Mr. Wiley was introduced to the concept of Community Policing and the writing and research of Dr. Robert Torjanowicz, referred to by some as the “Father of Modern Community Policing.” Mr. Wiley was named the Chief of Police at the University of Maryland, Eastern Shore in 1992. He became the Chief of Police at the University of Albany in 1996. Mr. Wiley is a proponent of the Community Policing approach, with its hallmarks of fairness, equity, discretion, prevention, and collaboration. His work has been informed by faculty in the University at Albany School of Criminal Justice, specifically Professors James Acker and Robert Worden and Professor Emeritus David Bayle. In 2011, the University Police Department received New York State Accreditation. The Department was re-accredited in 2016 through 2021. Mr. Wiley has been an Adjunct Professor since 1998 in the Africana-Studies Department at the University of Albany, where he has been fortunate to receive guidance from Drs. Marcia Sutherland, Kwado Sarfoh, Oscar Williams, and Leonard Slade Jr. On October 7, 2017, Mr. Wiley received the “Man of the Year” award from the “First” Israel African Methodist Episcopal Church in Albany, in deepest appreciation of his dedicated service to the well-being of the University at Albany Family and Capital District Community.
Invisible No More: Police Violence Against Black Women and Women of Color

Andrea J. Ritchie, Esq.
When protesters developed a platform to end police violence in the wake of the 2014 police shooting of 18-year-old Michael Brown in Ferguson, Missouri, the first of their 10 demands was to end "broken windows" policing, the law enforcement paradigm marked by aggressive policing of minor offenses and heavy police presence in low-income Black communities.  

Broken windows policing is what led Ferguson police officer Darren Wilson to approach Michael Brown simply for walking in the middle of the street. It is what motivated police to repeatedly harass Eric Garner, a 43-year-old Staten Island resident who was killed earlier that summer by NYPD officer Daniel Pantaleo, using a banned police chokehold during an encounter initiated over Garner’s alleged sale of loose cigarettes. And in 2015 it was what brought Baltimore police into contact with Freddie Gray, a 25-year-old Baltimore man who was initially stopped while allegedly fleeing from police officers in his low-income Black community—and who died after his spinal cord was severed while he was in police custody.

The role of broken windows policing in each death quickly became the focus of protesters from the Black Lives Matter movement and other civil rights advocates. Just days after Brown’s death, national president of the NAACP Cornell William Brooks said, “The death of Michael Brown strikes me as the latest, sad chapter in an ongoing national narrative about a form of policing, broken windows policing, that is simply not right for the country.”

Broken windows policing is not only all too often lethal, it also contributes to the use of excessive and illegal force in the context of the most mundane police encounters. It led a New York City officer to put Rosan Miller, a seven-months pregnant Black woman initially approached for grilling outside her home, into the same banned chokehold that had led to Garner’s death just a few weeks before. It was the excuse for another officer to slam Stephanie Maldonado to the ground in New York City’s West Village for “jaywalking” like Mike Brown. Johnson, a Black transgender woman, for prostitution—one focus of broken windows policing—while walking down a street in Memphis, Tennessee, in 2008, only to beat her bloody with metal handcuffs at the police station in an incident captured on video because she refused to answer to “faggot.” Broken windows policing also created opportunities for recently convicted Oklahoma City police officer Daniel Holzclaw to stop women as they walked down the street to inquire as to what they were doing and where they were going, thus facilitating his sexual harassment, assault, and rape of thirteen Black women and girls.

The ‘Folk’ Origins of Broken Windows

What does broken windows policing have to do with the Right? In part, the
answer lies in where it came from: an outgrowth of the conservative “law and order” agendas of the early 1980s. Neo-conservatives George Kelling and James Q. Wilson outlined the theory underlying broken windows policing in a 1982 *Atlantic Quarterly* article.⁸ Kelling is a senior fellow at the Manhattan Institute, and Wilson, before his death in 2012, was a board member at the American Enterprise Institute, both right-wing think tanks.⁹ According to Wilson and his colleagues, liberal concessions to civil rights movements and protest cultures of the 1960s and ’70s were significant contributing factors to the urban chaos broken windows policing purports to address.¹⁰ In 1985, Wilson co-wrote a book, *Crime and Human Nature*, with Richard J. Herrnstein, a co-author of *The Bell Curve*, which notoriously advanced a theory of racial differences in intelligence. Wilson’s own 1975 book, *Thinking About Crime*, argued that crime is the product of individual and social “predispositions,” rather than socio-economic conditions.¹¹ His theories echoed those of his mentor, Edward Banfield, who theorized about a “culture of poverty,” which Wilson believed required a punitive response,¹² and those of *The Bell Curve’s* other co-author, Charles Murray, whose arguments suggest that crime is the result of individual mental and moral deficiencies.¹³ Wilson decried single parenthood, claiming “illegitimacy was eroding the nation’s values,”¹⁴ and, as Pam Chamberlain wrote in PRA’s *Defending Justice: An Activist Resource Kit*, argued for “returning to a path where religion is influential and where families remain intact.”¹⁵

New York City became the first municipality to aggressively implement broken windows policing theories rooted in these right-wing intellectual traditions in the early 1990s. Under the leadership of former Republican Mayor Rudolph Giuliani, and bolstered by right-wing media like the *New York Post* and right-wing think tanks like the Manhattan Institute, the city put Kelling and Wilson’s theories into practice with an internal police memorandum, “Reclaiming the Public Spaces of New York,” citing both the pair’s *Atlantic* article and the infamous 1965 Moynihan Report, which blamed social dysfunction on Black families, and particularly, Black mothers.¹⁶

The broken windows theory, brilliantly summarized in a recent video created by Molly Crabapple,¹⁷ goes something like this: if signs of disorder—like broken windows—and minor offenses—like loitering, panhandling, and graffiti—are left unchecked, then it’s only a matter of time before a community descends into chaos and violence. According to Kelling and Wilson, the only way to prevent this from happening is through aggressive enforcement and prosecution of minor offenses. At its core, broken windows relies on fear-mongering, stoked by familiar right-wing themes about the need for increased “security” and a compulsion to root out certain groups of people as embodied threats to a particular way of life. But even Kelling and Wilson acknowledged back in 1982 that it is “not inevitable that serious crime will flourish or violent attacks on strangers will occur” if signs of disorder are left unchecked. Indeed, the two wrote that their entire premise is admittedly drawn from what they themselves call “folk wisdom” rather than objective data, based on the belief that perceived disorder somehow renders an area more “vulnerable to criminal invasion” such that “drugs will change hands, prostitutes will solicit, and cars will be stripped.”¹十八 It’s a theory, they implicitly admitted, based more on people’s fears and beliefs than on hard evidence.

The theory later evolved to advance the premise that individuals who commit minor offenses—like fare evasion in public transit—will, if not caught and punished, eventually commit more serious offenses: a sort of slippery slope of criminality. The new logic of broken windows, according to Tanya Erzen, a scholar of American conservatism, writing in *Zero Tolerance: Quality of Life and the New Police Brutality in New York City*, is that “graffiti taggers, turnstile jumpers and kids in a public park are either already criminals, or simply criminals in the making.”¹⁹

Even the theory’s biggest proponent, New York City Police Commissioner Bill Bratton—who spearheaded its implementation in New York City under Mayor Giuliani; actively promoted its spread around the country both as a consultant and as Los Angeles Police Commissioner; and has pursued it with renewed vigor in his second tenure in New York City under current Mayor Bill de Blasio—concedes that neither premise has ever been conclusively proven.²⁰ In fact, several studies undermine the theory’s claims.²¹ In a comprehensive review of the literature and a summary of his own research, Columbia law professor Bernard Harcourt concludes that, “Taken together, the wealth of research pro-
Brown’s death, “The goal is to reduce the level of disorder in public spaces so that citizens feel safe, are able to use them, and businesses thrive.” Kelling concedes that it is, in essence, an approach based on public perception—that is, on feelings—rather than proof. In the end, fear—of crime, yes, but also, as the original article explains, of “being bothered by disorderly people,” like panhandlers, "addicts," or people living with mental illness—is the moving force behind the theory. As Bratton once put it, “Aggressive panhandling, squeegee cleaners, street prostitution, ‘boombox cars,’ public drunkenness, reckless bicyclists, and graffiti have added to the sense of hetero-patriarchal families, and low-regard for youth, adults living outside of hetero-patriarchal families, and low-regard for youth, adults living outside of hetero-patriarchal families, and low-regard for youth, adults living outside of hetero-patriarchal families, and low-regard for youth. And policing the borders of “desirable” people, Black people, and people of color—no matter how irrational or racialized. 

Broken windows policing isn’t about reducing crime, it’s about assuaging white fear of poor people, Black people, and people of color—no matter how irrational or racialized.

Throughout U.S. history: Indigenous peoples, formerly enslaved people of African descent, immigrants, women, and homeless and poor people. In his recent defense of broken windows, Kelling himself directly acknowledged the lineage, stating in reference to his 1982 essay, “Given the subject of our article, the Black Codes—vague loitering and vagrancy laws passed in the South immediately after the Civil War—were of special concern for us. Under these laws, police arrested African Americans for minor offenses and, when they could not pay the fines, courts committed them to involuntary labor on farms—in a sense, extending slavery for many into the 20th century.” Without offering a means of distinguishing present-day broken windows policing from these practices, Kelling simply submits that he and Wilson were just arguing for “doing a better job at maintaining order.”

The question though, is whose order? In their 1982 article, Kelling and Wilson acknowledge that there are “no universal standards...to settle arguments over disorder...” and that charges of being a “suspicious person” or of vagrancy have “scarcely any legal meaning.” Ultimately, they wrote, “These charges exist...because [society] wants an officer to have the legal tools to remove undesirable persons from a neighborhood when informal efforts to preserve order in the streets have failed.”

This is to say that, since its inception, broken windows policing has self-consciously been about promoting a particular type of community, maintaining particular structural relations of power, and policing the borders of “desirability.” Delving deeper into its theoretical premise, a desirable community, as described by Wilson and Kelling, is one of “families who care for their homes, mind each other’s children, and confidently frown on intruders.” Broken windows policing is posited as the last bulwark against a “frightening jungle”—a term fraught with racial meaning—in which “unattached adults”—that is, single people—replace traditional families, where teenagers gather in front of the corner store, litter abounds, and panhandlers stalk pedestrians. In this framework, conservative values with deep racial overtones ultimately drive how an individual’s presence will be perceived and valued, and promote disregard for youth, adults living outside of hetero-patriarchal families, and low-income and homeless people who live in this idealized community. 

WHOSE QUALITY OF LIFE?

Key to implementing broken windows policing is the proliferation of “quality of life” regulations, which criminalize...
an ever-expanding range of activities in public spaces, including standing or walking (recast as “loitering”), sitting, lying down, sleeping, eating, drinking, urinating, making noise, and approaching strangers, as well as a number of vaguer offenses, such as engaging in “disorderly” or “lewd” conduct. This broad range of potential offenses gives police almost unlimited license to stop, ticket, and arrest. According to one researcher, enforcement of such low-level offenses has become the “most common point of contact between the public and the criminal justice system.”

Of course, what conduct is deemed “disorderly” or “lewd” is more often than not in the eye of the beholder, informed by deeply racialized and gendered perceptions. Where offenses are more specific, they criminalize activities so common they can’t be enforced at all times against all people. When I speak publicly about broken windows policing, I often ask how many members of the audience have ever fallen asleep on a train or ridden a bicycle on a sidewalk at some point in their lives. Dozens of hands shoot up. When I ask how many have ever been ticketed or arrested for it, almost all hands come down—that is, unless I am at a drop-in center for homeless youth or adults, or in a low-income Black neighborhood. There, many hands remain in the air.

As former Yale law professor Charles Reich notes, “Laws that are widely violated...especially lend themselves to selective and arbitrary enforcement.” As a result, both vague and specific “quality of life” offenses are selectively enforced in particular neighborhoods and communities, or against particular people, by officers wielding an extraordinary amount of discretion, largely unrestrained by constitutional protections. As legal scholar Dorothy Roberts notes in “Race, Vagueness, and the Social Meaning of Order-Maintenance Policing,” over the last several decades, conservative commentators have called for a relaxation of legal doctrines disfavoring vague offenses and reining in police discretion in the name of “law and order” agendas.

When I speak publicly about broken windows policing, I often ask how many members of the audience have ever fallen asleep on a train or ridden a bicycle on a sidewalk at some point in their lives. Dozens of hands shoot up. When I ask how many have ever been ticketed or arrested for it, almost all hands come down—that is, unless I am at a drop-in center for homeless youth or adults, or in a low-income Black neighborhood.

COMMUNITIES IN THE CROSSHAIRS

Given all of this, it’s easy to predict who gets targeted by broken windows policing. Despite proponents’ contention that the approach targets specific behaviors, not specific people, the article on which the theory is premised explicitly names particular types of people—youth, homeless people, people perceived to be engaged in prostitution—as embodied signs of disorder. According to Pete White of Los Angeles Community Action Network (LA CAN), a community organization that has been fighting the effects of broken windows policing on Los Angeles’ homeless population for decades, the inspirations for Kelling and Wilson’s 1982 article were much more explicit about the racial and gender make up of signs of neighborhood disorder: “young Black men, young women in short shorts hanging out on corners, interracial couples, and gay folks.”

The result: dramatically increased frequency and intensity of police interactions with Black and Brown youth, low-income and homeless people, public housing residents, people who are—or who are perceived to be—engaged in street-based prostitution, street vendors (many of whom are immigrants), and anyone else who is hyper-visible in public spaces, including lesbian, gay, bisexual, trans and gender nonconforming people.

The results are striking. Broken windows policing has contributed to widespread criminalization of Black youth in New York City under a range of offenses, including disorderly conduct, unreasonable noise, turnstile jumping, performing on the subway, riding a bike on the sidewalk, and being in a city park after
ensure that age or skin color or national origin or harmless mannerisms will not also become the basis for distinguishing the undesirable from the desirable? Their answer was that they were not confident that there was one—except that police must understand the outer limits of their discretion to be that their role is “not to maintain racial or ethnic purity of a neighborhood,” only to regulate behavior. The statistics above suggest that officers are, in fact, exercising their discretion—just in racially discriminatory ways.

CONSEQUENCES
The consequences for those targeted are far from minimal. Broken windows policing not only places Black lives at risk of lethal and excessive force, as well as sexual harassment, assault, and extortion in exchange for avoiding a ticket or arrest; it also subjects Black people to the daily indignity of being stopped and questioned in their own communities, being ordered to put their hands on the wall and spread their legs to be frisked in front of their neighbors, and sometimes spending 24 hours wending their way through police vans, precincts, and central booking pens between arrest and arraignment. Even if they simply receive a summons, they are still required to spend at least one day in court defending themselves against minor charges, to pay exorbitant fines and criminal court fees, and to comply with community service and other mandates imposed on people convicted of offenses as minor as spitting or littering.

Black people of all genders and sexualities come within the crosshairs of broken windows policing. In fact, one of the less frequently discussed realities is that it facilitates racialized policing of gender and sexuality. According to Tanya Erzen, broken windows policing “enables officers to act upon racial and gender biases they may have when they enter the police department—under the guise of enforcement of ‘unified guidelines.’” All too often, officers read actual or perceived gender disjuncture as inherently out of order, resulting in stops, harassment, and arrests of transgender, gender nonconforming, and queer people of color—along with anyone perceived to deviate from racialized “rules” of gender or sexuality—for “disorderly” or “lewd” conduct offenses. Stereotypes framing gender nonconforming people as inherently violent and deviant also lead gender nonconforming young women to be profiled and targeted in the context of “gang policing.”

Broken windows policing is also a driving force behind aggressive policing of street-based prostitution, which has been documented to have racially disparate impacts. These are rooted both in profiling of Black women and women of color—trans and not trans—as being engaged in prostitution based on age-old stereotypes, and also in the makeup of sex work which, like every other industry, concentrates Black women and transgender people in its most visible and risky sectors (such as street-based prostitution, which more Black women are pushed into, versus legal strip clubs, which frequently discriminate against women of color). Gay and gender nonconforming men, for their part, are profiled and discriminatorily targeted for enforcement of lewd conduct laws in public bathrooms and public parks. The broad discretion allowed in enforcement is fueled by perceptions of Black and Brown men—and particularly those who are gender nonconforming or perceived to be queer—as hypersexual uncontrolled manifestations of sexual deviance, with predictably racially disparate impacts.

BLACK LIVES OVER BROKEN WINDOWS
Even as the broken windows theory trades in fear of Black people, it claims the mantle of protecting Black communities seeking more safety, and thereby, protecting Black lives. Heather MacDonald of the right-wing Manhattan Institute twists the logic of Black Lives Matter to argue that broken windows policing “has saved thousands of black lives, brought lawful commerce and jobs to once drug-infested neighborhoods and allowed millions to go about their daily lives without fear.”

Right-wing commentators claiming to be concerned with the welfare of Black communities are not alone. Progressives like David Thacher of the Gerald Ford School of Public Policy in Michigan,
writing in a blog for The Marshall Project, have critiqued Campaign Zero’s call for an end to broken windows policing, pointing to Black communities’ right to safety and safe public spaces. Thacher, like Kelling, acknowledges the pitfalls of enforcing vague offenses like “disorderly conduct,” as well as more specific ones like bans on skateboarding or public drinking, which are not enforced in white suburbs as they are in Black communities. He acknowledges that, “As long as modern police forces have been around, they have used disorderly conduct statutes and many other public order rules to investigate suspicious and unpopular people in circumstances when doing so overtly would be forbidden,” noting that “the Ferguson Police Department’s intensive use of a city code provision regulating a pedestrian’s ‘manner of walking in the roadway’ to run warrant checks and question suspicious people is only one of many examples.” Although he argues for a kinder, gentler form of broken windows in the interests of Black community safety, Thacher’s arguments in fact support the notion that it is bound to produce the same results. Unfortunately, that hasn’t stopped some community leaders, legislators, and policymakers from continuing to promote and invest in this flawed approach in the name of safety for Black and Brown communities.

Increasingly though, Black communities across the country are speaking for themselves, loudly and clearly, demanding safety from all forms of violence—including the violence of profiling, discriminatory enforcement, and police violence intrinsic to broken windows policing. They are resisting the false choices presented by broken windows proponents, demanding both authentic safety and an end to police violence, harassment, and surveillance, along with communities, leaving no one behind. Together, they issue a clarion call to combat and dismantle systems of structural discrimination that foster violence while limiting opportunities and life chances of Black people—including “broken windows” policing.

The best strategy to promote safety in Black communities is to divest from policing and punishment and instead invest in and support Black communities, leaving no one behind. Andrea Ritchie is a Black lesbian police misconduct attorney and organizer whose work focuses on policing of women and LGBT people of color. She is co-author of Say Her Name: Resisting Police Brutality Against Black Women and Queer Injustice: The Criminalization of LGBT People in the United States. She is currently at work on Invisible No More: Racial Profiling and Police Brutality Against Black Women of Color, forthcoming from Beacon Press, and is a contributor to Who Do You Serve? Who Do You Protect?, published by Haymarket Press.

The Black Youth Project 100’s Agenda to Keep us Safe (2014) and Agenda to Build Black Futures (2016) articulate visions of safety for Black communities. Source: BYP100.
Black Lives Over Broken Windows, p. 4

* Editor’s note: PRA’s convention is to capitalize both Black and White, to emphasize that both are constructed categories. At the request of the author, this article departs from that convention.


13. Ibid.


18. Kelling and Wilson, supra note 8.


24. Kelling and Wilson, supra note 8.

25. Ibid.

26. Ibid.

27. Ibid.

28. Ibid.

29. Ibid.

30. Ibid.

31. Ibid.

32. Ibid.

33. Ibid.

34. Ibid.

35. Ibid.

36. Ibid.

37. Ibid.

38. Ibid.

39. Ibid.


43. Ibid.

44. Kelling and Wilson, supra note 8.

45. Ibid.

46. Mogul et al., supra n. 6.

47. Mogul et al., supra n. 6; Tanya Erzen, supra note 19.

48. Mogul et al., supra n. 6.


51. Mogul et al., supra n. 6.

52. Ibid.


55. Ibid.


61. Ibid.
2016

The Costs of "Broken Windows" Policing: Twenty Years and Counting

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THE COSTS OF “BROKEN WINDOWS” POLICING:
TWENTY YEARS AND COUNTING

K. Babe Howell†

Over twenty years ago, in 1994, I started my career as a public
defender, as Mayor Rudolph Giuliani and Police Commissioner William
Bratton transformed New York City policing based on the “Broken
Windows” theory (Broken Windows).¹ I watched Broken Windows
transform the criminal justice system, but it was not really Broken
Windows.² It was zero-tolerance policing.³ Moreover, it was zero-
tolerance policing that was confined almost entirely to communities of
color and vulnerable populations. Twenty years later, the same zero-
tolerance policing persists in New York City.

If we took the theory underlying Broken Windows policing
seriously, we would be fixing broken windows. We would be replacing
broken light bulbs. We would be repairing broken doors and broken
elevators in public housing.⁴ We would be improving parks and schools
and after school programs in underserved communities. We would be
making our public spaces safe by addressing unsafe conditions.

† Associate Professor, CUNY School of Law. Special thanks to Nora Hirozawa for her
excellent research assistance. This Article is based on a talk given at the Benjamin N. Cardozo
School of Law at the Cardozo Law Review Symposium: The Underbelly of the Beast:
¹ See George L. Kelling & James Q. Wilson, Broken Windows: The Police and Neighborhood
03/broken-windows/304465.
² George Kelling, Don’t Blame My ‘Broken Windows’ Theory for Poor Policing, POLITICO
MAG. (Aug. 11, 2015), http://www.politico.com/magazine/story/2015/08/broken-windows-
theory-poor-policing-ferguson-kelling-121268 (“Arrest of an offender is supposed to be a last
resort—not the first.”).
³ By zero-tolerance policing, I refer to a policing policy that requires arrests and summons,
rather than informal responses to minor violations. As the next sentence makes clear, “zero-
tolerance” is a bit of a misnomer because only certain populations are arrested and policed for
these minor violations.
⁴ See Ginia Bellafante, In New York Public Housing, Policing Broken Lights, N.Y. TIMES
policing-broken-lights.html (noting that leaders purportedly committed to Broken Windows
policing have failed to address deterioration of public housing).
The theory behind Broken Windows is to make public spaces safe so that law-abiding people feel comfortable spending time in such public spaces. But what zero-tolerance policing does is make public spaces very, very dangerous for black people, Latino people, poor people, LGBTQ people, people with substance abuse problems, people with mental health problems, and homeless people. The risk of being subjected to a stop, summons, or arrest for de minimis offenses means that many individuals, and particularly young men of color, in aggressively policed neighborhoods experience a certain amount of fear each time they leave their homes.

Zero-tolerance policing re-creates and reinforces that “tale of two cities” that New York City Mayor Bill de Blasio promised to end in his campaign. While I do not doubt that Mayor de Blasio is concerned about the increasing disparities between the rich and the poor in New York City, the decision to bring back Police Commissioner Bratton demonstrates that Mayor de Blasio, like so many others, fails to

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5 Id.
6 This Article has been edited to conform to The Chicago Manual of Style, which prefers not to capitalize “black.” THE CHICAGO MANUAL OF STYLE ¶ 8.39 (16th ed. 2010). However, the Author’s preference is to capitalize it. See Merrill Perlman, Black and White: Why Capitalization Matters, COLUMN. JOURNALISM REV. (June 23, 2015), http://www.cjr.org/analysis/language_corner_1.php; Lori L. Tharps, Opinion, The Case for Black with a Capital B, N.Y. TIMES (Nov. 18, 2014), http://www.nytimes.com/2014/11/19/opinion/the-case-for-black-with-a-capital-b.html.
8 LGBTQ is an acronym for Lesbian, Gay, Bisexual, Transgender, and Queer.
9 Many moving accounts are available regarding the impact of these policies. See, e.g., Julie Dressner & Edwin Martinez, Opinion, The Scars of Stop and Frisk, N.Y. TIMES (June 12, 2012), http://www.nytimes.com/2012/06/12/opinion/the-scars-of-stop-and-frisk.html (recounting Tyquan Bre hon and his mentor’s experiences with the New York Police Department (NYPD), leading Tyquan to stay home to avoid the police, and his mentor, a thirty-something-year-old educator, to experience fear when a police car was behind him); Nicholas K. Peart, Opinion, Why Is the N.Y.P.D. After Me?, N.Y. TIMES (Dec. 17, 2011), http://www.nytimes.com/2011/12/18/opinion/sunday/young-black-and-frisked-by-the-nypd.html (explaining that, after several unjustified stops, “I was afraid I would be stopped and searched or that something worse would happen. . . . I incorporated into my daily life the sense that I might find myself up against a wall or on the ground with an officer’s gun at my head. For a black man in his 20s like me, it’s just a fact of life in New York”). For an excellent discussion of the impact of aggressive policing policy on youth, see Brett G. Stoudt, Michelle Fine & Madeline Fox, Growing Up Policed in the Age of Aggressive Policing Policies, 56 N.Y.L. SCH. L. REV. 1331 (2011/12) (analyzing NYPD stop, frisk, use of force, and arrest data for youths aged fourteen through twenty-one and youth-generated survey results regarding policing), and also see Paul Butler, Stop and Frisk and Torture-Lite: Police Terror of Minority Communities, 12 OHIO ST. J. CRIM. L. 57, 64–65 (2014) (recounting the experiences of black men who modify behavior because of aggressive policing tactics).
recognize the enormous cost imposed on vulnerable communities by zero-tolerance policing.\textsuperscript{11} Broken Windows policing as a practice in New York City is one of the policies that favors the rich and disfavors the poor, reinforcing and magnifying income and social inequality.\textsuperscript{12}

First, every police encounter that arises out of a minor offense has the potential to end in tragedy, making unnecessary policing under zero-tolerance policies dangerous. In New York City today, Eric Garner would not be dead and his children would have a father if not for zero-tolerance policing.\textsuperscript{13} Mr. Garner was arrested for selling loose cigarettes by a unit that was designated to address quality-of-life conditions as part of the Broken Windows strategy.\textsuperscript{14} Akai Gurley would not have been shot and killed during a "vertical patrol."\textsuperscript{15} These, of course, are just two of a list of unfortunate victims of zero-tolerance policing stretching back two full decades to the 1994 chokehold death of Anthony Baez, who was

\begin{footnotesize}
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  \item[\textsuperscript{11}] Alternatively, he may understand the harms imposed by zero-tolerance policing, but be making a politically strategic choice of police commissioner to avoid allegations of being soft on crime and to shore up support for other initiatives.
  \item[\textsuperscript{12}] For data on the concentration of stop and frisk, use of force, and arrest activities by precinct with income and race data, see Stoudt, Fine & Fox, supra note 9, at 1340, 1364 app. III, 1365 app. IV (comparing stop, frisk, and arrest rates and income in the ten police precincts in NYC most likely to stop youths and in the ten police precincts least likely to stop youths), and also see Sarah Ryley, \textit{Minorities Face Disproportionate 'Broken Windows' Enforcement Everywhere—Especially in Predominately White Neighborhoods}, N.Y. DAILY NEWS (Sept. 8, 2014, 10:03 PM), http://www.nydailynews.com/new-york/nyc-crime/broken-windows-disproportionately-enforced-white-neighborhoods-article-1.1931171 (analyzing summons data in New York City and finding “this tale of two cities seems to follow blacks and Hispanics wherever they go”). For an interactive map of summonses in New York City, see Maura R. O'Connor, \textit{The NYPD's Improbable Cause}, N.Y. WORLD (Sept. 5, 2012), http://www.thenewyorkworld.com/2012/09/05/nypd-improbable-cause. For racial disparities in marijuana arrests and the increase in these prosecutions since Broken Windows policing was adopted, see K. Babe Howell, \textit{Prosecutorial Discretion and the Duty to Seek Justice in an Overburdened Criminal Justice System}, 27 GEO. J. LEGAL ETHICS 285, 321–24 (2014) [hereinafter Howell, \textit{Prosecutorial Discretion}] (comparing use, arrest, and prosecution data by race for marijuana misdemeanors in New York City), and also see AM. CIVIL LIBERTIES UNION, \textit{The War on Marijuana in Black and White} 94 (2013) (depending on the county, New York City arrests for marijuana under zero-tolerance policies were nearly five to ten times higher for blacks than for whites).
  \item[\textsuperscript{14}] Al Baker, J. David Goodman & Benjamin Mueller, \textit{Beyond the Chokehold: The Path to Eric Garner’s Death}, N.Y. TIMES (June 13, 2015), http://www.nytimes.com/2015/06/14/nyregion/eric-garner-police-chokehold-staten-island.html (linking Mr. Garner’s death to the Broken Windows policing strategy of addressing minor disorder, stating that “[t]his was not a chance meeting on the street,” but rather, “[i]t was a product of a police strategy to crack down on the sort of disorder that, to the police, Mr. Garner represented”).
\end{itemize}
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tossing a football in the street. Elsewhere in the country, similar tragedies unfold as police proactively engage in policing based on the Broken Windows model that New York City made so popular. Michael Brown would not be dead if a Ferguson, Missouri, police officer had not attempted to confront him for walking in the street rather than on the sidewalk. Walter Scott and Sandra Bland would also be with us if they were not subjected to protracted stops for traffic infractions. While the use of force to effectuate arrests has always created the risk of injury or death, Broken Windows policing has multiplied the number of police–civilian encounters that may result in such tragedies by encouraging stops, summonses, and arrests for even the most minor of offenses.

Second, often overshadowed by these tragedies is the fact that for every death that makes the front pages of the newspaper, there are millions of discretionary police encounters. These encounters take


20 Sandra Bland was pulled out of her car during a routine traffic stop after she refused to put out a cigarette. See Gay, supra note 7. She was arrested, held on $5,000 bail, and committed suicide three days later while in police custody. See id.

21 For information on the increase in policing of minor offenses, see infra notes 23–27 and accompanying text.

22 In 2012, more than 12.1 million arrests were reported to the Federal Bureau of Investigation. See Estimated Number of Arrests: United States, 2012, FED. BUREAU OF INVESTIGATION, https://www.fbi.gov/about-us/cjis/ucr/crime-in-the-u.s/2012/crime-in-the-
place because of police policies that require or encourage “proactive” policing activity in the form of arrests, stops, and summonses.\textsuperscript{23} In New York City, for example, the criminal courts handled approximately 675,000 misdemeanor arrests, violation arrests, and summonses in 2014 alone.\textsuperscript{24} There were almost 200,000 more nonfelony arrests in 2014 than in 1989.\textsuperscript{25} At least two million arrests over the past two decades are attributable to increased misdemeanor enforcement.\textsuperscript{26} In 2014 alone, the revenues from fees, fines, and surcharges generated in New York City
criminal courts by these misdemeanors, violations, and summonses were nearly $32 million.\textsuperscript{27} A back-of-the-envelope estimate arrived at by multiplying the 2014 revenues by twenty (for the twenty years that Broken Windows policing has been practiced in New York City) suggests that criminal court fees and revenues may well exceed a half billion dollars.\textsuperscript{28} For the most part, these revenues are extracted from relatively poor segments of the population, who live in heavily policed neighborhoods.\textsuperscript{29}

A person need not be strangled, shot, subjected to excessive force, arrested, given a summons, stopped, or even be directly involved to be harmed by zero-tolerance policing if the costs associated with such policing are borne by the families\textsuperscript{30} and their communities.\textsuperscript{31}

\textsuperscript{27} See Criminal Court Report 2014, supra note 24, at 58.

\textsuperscript{28} Thirty-two million dollars multiplied by twenty would be $640 million; however, the number of cases and size of court fees have also increased in the last two decades, so actual costs are probably somewhat less.

\textsuperscript{29} For a discussion of the costs and impacts of fees associated with the criminal justice system, see Tamar R. Birckhead, The New Peonage, 72 Wash. & Lee L. Rev. 1595, 1602 (2015) ("Across the United States, even minor criminal charges, such as loitering, littering, and unpaid traffic tickets, trigger an array of fees, court costs, and assessments in both juvenile and criminal courts. These fees can create insurmountable debt burdens for already struggling families.") (footnote omitted)).

\textsuperscript{30} See id. (manuscript at 6–7) ("[L]egal financial obligations come first: first before food and shelter. It doesn’t matter what the family suffers, so long as the court gets paid." (alteration omitted) (quoting AM. CIVIL LIBERTIES UNION OF WASH. & COLUMBIA LEGAL SERVS., MODERN DAY DEBTORS’ PRISONS: THE WAYS COURT-IMPOSED DEBTS PUNISH PEOPLE FOR BEING POOR 14 (2014))); see also Mitali Nagrecha et al., Ctr. for Cmtv. Alts., First Person Accounts of Criminal Justice Debt: When All Else Fails, Fining the Family 19–20 (2015), http://www.communityalternatives.org/pdf/Criminal-Justice-Debt.pdf ("[I]ndividuals with criminal justice debt survive—and pay—by depending on a network of supports from family. . . . Put another way, it is not just the individual who is being punished. It is also the incarcerated individual’s friends and family who become, in effect, a parallel welfare state. This reality runs counter to the stated purpose behind many fees and fines: They are put in place to ‘make the criminal pay for his time in the system’ and not to tax already poor urban communities by forcing them to band together to support loved ones."). Based on my experience, New York City does not engage in the levels of aggressive imposition and collection of court-related fees and fines as do other counties in New York or other states; nonetheless, indigent defendants do struggle to pay mandatory costs out of very limited incomes.

Over-enforcement of minor offenses affects employment, schooling, housing, and has the potential to break up families. As the Department of Justice concluded in its investigation of Ferguson, Missouri, even citations for minor municipal offenses can lead to imprisonment, loss of employment, and loss of housing. We cannot effectively address expanding income gaps, poverty, and inequality when the policing of vulnerable populations imposes barriers to success that are not faced by the population at large. Broken Windows policing criminalizes conduct of those who can least afford it—the same conduct that is largely ignored in more affluent communities.

For example, New York’s commitment to zero-tolerance policing has led to enormous increases in marijuana arrests (despite state decriminalization of simple possession). These increases have been marked by clear racial disparities. Because any offense involving a

32 See DOJ INVESTIGATION OF FERGUSON POLICE DEPT., supra note 18, at 3 (recounting the arrest of a man for sitting in a parked car, which led to eight charges and the loss of employment); MADELINE NEIGHLY & MAURICE EMSELLEM, NAT’L EMPL’T LAW PROJECT, WANTED: ACCURATE FBI BACKGROUND CHECKS FOR EMPLOYMENT 3 (2013), http://www.nelp.org/content/uploads/2015/03/Report-Wanted-Accurate-FBI-Background-Checks-Employment.pdf (finding that people of color are especially disadvantaged by inaccurate criminal history in employment).

33 See DOJ INVESTIGATION OF FERGUSON POLICE DEPT., supra note 18, at 4 (“Minor offenses can generate crippling debts, result in jail time because of an inability to pay, and result in the loss of a driver’s license, employment, or housing.”); see also K. Babe Howell, Broken Lives from Broken Windows: The Hidden Costs of Aggressive Order-Maintenance Policing, 33 N.Y.U. REV. L. & SOC. CHANGE 271 (2009) [hereinafter Howell, Broken Lives].

34 See DOJ INVESTIGATION OF FERGUSON POLICE DEPT., supra note 18, at 4.

35 These barriers include ineligibility for student loans, public housing, professional licenses, suspension of drivers’ licenses, missed work days due to court appearances and arrest delays, and the impact of a criminal record on employment opportunities. See Howell, Broken Lives, supra note 33, at 300–05.

36 See, e.g., People v. Figueroa, 948 N.Y.S.2d 539, 542 (Crim. Ct. 2012) (A review of all adjudicated open alcoholic container summonses for April 2012 involving Brooklyn residents revealed that “the summonses were concentrated in a few precincts located mostly in Black and Latino neighborhoods. More than 85% of the ‘open container’ summonses were given to Blacks and Latinos. Only 4% were issued to Whites”); Jim Dwyer, A Smell of Pot and Privilege in the City, N.Y. TIMES (July 20, 2010), http://www.nytimes.com/2010/07/21/nyregion/21about.html (“[T]he chances of getting arrested on pot charges in Brownsville [Brooklyn]—and nothing else—were 150 times greater than on the Upper East Side of Manhattan.”); see also Sarah Ryley et al., Daily News Analysis Finds Racial Disparities in Summonses for Minor Violations in ‘Broken Windows’ Policing, N.Y. DAILY NEWS (Aug. 4, 2014, 2:00 AM), http://www.nydailynews.com/new-york/summons-broken-windows-racial-disparity-garner-article-1.1890567 (documenting park after hours summonses by neighborhood).

37 See Solomon, supra note 25, at 2 (noting an increase of class B misdemeanor arrests of about 34,000 between 1989 and 1998, largely attributable to marijuana arrests). For a discussion of the demographics of these arrests, see Howell, Prosecutorial Discretion, supra note 12, at 321–26.

38 See Amanda Geller & Jeffrey Fagan, Pot as Pretext: Marijuana, Race, and the New Disorder in New York City Street Policing, 7 J. OF EMPIRICAL LEGAL STUD. 591, 606 (2010) (stating that black New Yorkers are arrested for marijuana at eight times the rate of white New
controlled substance carries harsh immigration consequences, even a lawful permanent resident (including one whose spouse or children are citizens) can face removal based on marijuana offenses.39 For citizens, marijuana convictions can lead to eviction from public housing,40 suspension of drivers’ licenses,41 and ineligibility for student loans.42 The list of legal collateral consequences is seemingly endless.43

Even in cases where a person is not deported, convicted, or legally sanctioned, minor arrests often bear major costs in the form of loss of salary or loss of employment. Although people are not usually at work when they are arrested, zero-tolerance policing is most heavily enforced midweek, and with twenty-four hour arrest to arraignment times, arrestees will typically miss at least a day of work or school.44

Moreover, an arrest even without a conviction can create a bar to obtaining gainful employment.45 All of these direct and collateral

Yorkers, and Latino New Yorkers are arrested at four times the rate of white New Yorkers, despite similar levels of marijuana use across racial groups). For statistics on marijuana use by race, see SUBSTANCE ABUSE & MENTAL HEALTH SERVS. ADMIN. (SAMHSA), U.S. DEP’T OF HEALTH & HUMAN SERVS., RESULTS FROM THE 2011 NATIONAL SURVEY ON DRUG USE AND HEALTH: ILLICIT DRUG USE TABLES (2011), http://www.samhsa.gov/data/NSDUH/2011SummNatFindDetTables/NSDUH-DetTabsPDFWHTML2011/2k11DetailedTabs/Web/PDFW/NSDUH-DetTabsSect1peTabs24to28-2011.pdf (showing that a higher percentage of white people use marijuana during their lifetime than blacks or Latinos).

39 See NEIGHLY & EMSELLEM, supra note 32 (finding people of color are especially disadvantaged by inaccurate criminal history in employment).

40 N.Y.C. HOUS. AUTH., TENANT SELECTION AND ASSIGNMENT PLAN 23 (2015), http://www1.nyc.gov/assets/nycha/downloads/pdf/TSAPlan.pdf (stating that persons convicted of felonies and their families are ineligible for New York City public housing for between five to six years after the sentence is completed, and persons convicted of misdemeanors are ineligible for New York City public housing for between three to four years after the sentence is completed).


42 Federal law makes “[a] student who is convicted of any offense under any Federal or State law involving the possession or sale of a controlled substance” ineligible for federal financial aid for a period of one year upon the student’s first conviction, if the offense occurred while the student was enrolled and receiving federal financial aid. 20 U.S.C. § 1091(r)(1) (2012). Possession of even a small amount of marijuana is a violation under New York Law. N.Y. PENAL LAW § 221.05 (2008).

43 Indeed, the American Bar Association has launched an online database cataloging collateral consequences for each state. See National Inventory of Collateral Consequences of Conviction, AM. BAR ASS’N, http://www.abacollateralconsequences.org (last visited Oct. 11, 2013). For example, Missouri’s collateral consequences have 905 entries, while New York’s has 1,274. See id. (follow directions to enter site; then find Missouri and New York entries by clicking on the corresponding states on the map).

44 See Howell, Broken Lives, supra note 33, at 284–85.

consequences of arrest create an inability to get ahead in our system—a tax on those who can least afford it. And this tax results in children going to bed hungry, electricity being cut off, nonpayment of rent, eviction, burdens on soup kitchens—the list of harms is endless and varied. As the “tale of two cities” campaign recognized, some New Yorkers are poor—a zero-tolerance policing strategy based on Broken Windows makes the disparity between rich and poor that much worse.

Note that since Broken Windows policing is not about policing serious offenses, the disparities in enforcement cannot be attributed to vulnerable New Yorkers engaging in higher rates of serious misconduct. White and economically privileged New Yorkers often engage in precisely the same conduct as vulnerable New Yorkers, without the same threat of enforcement. For example, if you are white, enjoy a bottle of wine in Central Park on a summer evening. If you are white, ride your bike on the sidewalk, if that is the fastest or safest way for you to get home. These are offenses for which black and Latino New Yorkers can be and often are arrested or given a summons. Everyone commits the same “offenses,” but certain groups are far more likely to be arrested or summoned based on appearance and neighborhood demographics.

On December 3, 2014, I attended a symposium at the Benjamin N. Cardozo School of Law at which there was a film series about over-
criminalization and constructive responses to problems of social disorder. It focused on people with substance abuse problems, with mental illness, and who are homeless. That is a part of our problem, but it should not be society’s only focus. Zero-tolerance policing is about policing specific areas and communities. Douglas Husak has referred to policing choices as “justice by geography.” That is, since it is not possible to police every infraction of minor municipal codes everywhere, select neighborhoods and populations are targeted. When a young person of color enters his teens, he can no longer move through the city assuming that if he engages in no serious misconduct, he will not encounter the police if he lives in certain neighborhoods. He cannot have his bike on the sidewalk even for a moment.

The impetus behind selection of targets is not necessarily discriminatory. Target areas are those that are considered “high crime” areas. The impetus may be to protect the “innocent” people in these high crime neighborhoods, but by policing and criminalizing large segments of the community for engaging in behavior that most people would be surprised to learn are crimes, the ability to succeed and thrive in these neighborhoods is thwarted. While the intentions driving Broken Windows policing may not be discriminatory, the effects are visited largely on people of color and may be experienced as

misdemeanor court practice and indigent communities, and a panel on potential solutions. Attorneys and researchers came together to provide a rich and consistent sense of the impacts of aggressive order-maintenance policing in lower criminal courts in New York City.

53 See OVERCRIMINALIZED (Brave New Films 2014).
54 See id.
55 See Fabricant, supra note 31, at 407.
57 This reality is reflected in the need for black parents to have “the conversation” with their children about what to do “when,” not “if,” they are stopped by the police. See Geeta Gandhir & Blair Foster, Opinion, ‘A Conversation with my Black Son’, N.Y. TIMES (Mar. 17, 2015), http://www.nytimes.com/2015/03/17/opinion/a-conversation-with-my-black-son.html.
58 See, e.g., CHAUHAN ET AL., supra note 26, at 66 fig.41 (documenting rates for misdemeanor arrests that have nearly tripled since 1990 for Hispanic and black sixteen and seventeen-year-old males from approximately 4 and 6% respectively to nearly 12 and 18%); Ryley et al., supra note 36 (“You’ll see a disproportionately large percentage of young male blacks and young male Hispanics. . . . It seems that only a certain kind of people are being targeted with [summonses].” (quoting a court employee)).
59 But note that the NYPD has tended to consider neighborhoods of color “high crime” even when empirical evidence does not support that conclusion. See Floyd v. City of New York, 813 F. Supp. 2d 417, 436 (S.D.N.Y. 2011).
60 See Bernard E. Harcourt, Broken-Windows Policing Is a High-Arrest Program, HUFFINGTON POST (Aug. 17, 2015, 4:59 PM), http://www.huffingtonpost.com/bernard-e-harcourt/broken-windows-policing-i_b_8000250.html (noting that “misdemeanor arrests have historically skewed toward African-American and Hispanic persons” and showing the increase in this trend over the past two decades (citing CHAUHAN ET AL., supra note 26)).
discriminatory.\textsuperscript{61} The cost of policing minor violations aggressively and differently based upon location is a loss of legitimacy and trust in law enforcement and the criminal justice system.\textsuperscript{62}

Front line police officers have long recognized that over-policing of minor offenses strains relations with communities.\textsuperscript{63} Indeed, the Patrolmen’s Benevolence Association has challenged quotas as counterproductive and wrong.\textsuperscript{64} While not the loudest critics of Broken Windows policing, some officers have criticized and resisted the shift. According to one police officer:

Cops say that CompStat sometimes gets warped into numbers for numbers’ sake, and it grinds at community relationships. “I grew up in the South Bronx, and in the summer we’d throw a football in the street at night,” an eighteen-year veteran lieutenant says. “The cops would roll by and say, ‘Fellas, just keep it quiet.’ Now we need to make the number, so we write all those kids summonses for disorderly conduct. And they grow up hating cops.”\textsuperscript{65}

Now, with video cameras everywhere, widely disseminated recordings of rude and abusive officers using excessive force make these encounters even more fraught. Even if such encounters are the exception, rather than the rule, increased public awareness of the potential dangers of these encounters will increase tensions on both sides. Officers and community alike are now more aware of the animosity, distrust, and fear that has the potential to affect every encounter with police.\textsuperscript{66} Given these dynamics, pursuing Broken

\textsuperscript{61} See Michael Greenberg, ‘Broken Windows’ and the New York Police, N.Y. REV. OF BOOKS, Nov. 6, 2014, at 22 (“The debate about the broken windows method of policing unavoidably turns around the question of racial injustice. By an overwhelming majority, New Yorkers who are arrested for low-level infractions—‘rule-breaking’ may be a better term—are young black and Hispanic men in poor neighborhoods.”).


\textsuperscript{65} Chris Smith, What’s Eating the NYPD?: Ray Kelly Has Built the Best Police Force in the Country, Now It Is Turning on Him., N.Y. MAG., Apr. 16, 2012, at 24.

\textsuperscript{66} The NYPD’s renewed emphasis on community policing is a response to this distrust. See NYPD Pledges to ‘Reinvigorate Community Policing’ in Effort to Ease Tensions, GUARDIAN (Mar. 3, 2015, 4:53 PM), http://www.theguardian.com/us-news/2015/mar/03/nypd-outlines-community-programs-tension.
Windows arrests and summonses for minor offenses creates numerous unnecessary encounters each day that can erupt in violence.67

The cost to the legitimacy of the criminal justice system cannot be overstated either. Broken Windows policing affects courts, prosecutors, and defense attorneys. From the perspective of a defendant or observer, these three players in the criminal justice system collaborate to process the hundreds of thousands of additional arrests with little to no regard for substantive justice, procedural justice, or constitutional constraints on police conduct.

Trust has never been high between public defenders and those they struggle to defend, and zero-tolerance policing makes the problem that much worse. Believing that the process is the punishment,68 defenders frame the attractiveness of a plea in terms of minimizing process.69 Defenders believe that, generally, defendants just want to get it over with and want to get out of the system.70 But in over-burdened arraignment parts, many defenders resolve cases in minutes, if not seconds, without asking clients if they want to fight zero-tolerance policing as an issue of civil rights, equal treatment under the law, and the liberty to walk the streets unmolested by officers pushed to make arrests and issue summonses.71


68 MALCOLM M. FEENEY, THE PROCESS IS THE PUNISHMENT 241 (1st paperback ed. 1992) (concluding after extensive study of a lower criminal court that, as the title states, the process of arrest and appearances in misdemeanor court is more punishing than the sanctions typically associated with misdemeanor offenses). However, the process need not be as punishing as it is. Defense attorneys talk about clients arriving to court only to wait for hours for court appearances and appearing over and over before a case is eventually adjudicated or dismissed for speedy trial purposes, but defense lawyers can exercise power here. We can ask that our clients be excused so they can go to school, take care of their children, go to work, or look for employment. We can ask that clients be excused unless prosecutors provide forty-eight hours’ notice that they will actually be ready and the court confirms that there is likely to be an available courtroom. Defense attorneys are complicit in accepting that the process is the punishment and accepting our very imperfect brutal system rather than demanding concessions that are consistent with the notion that each defendant is presumed innocent.

69 See Andrew E. Taslitz, Trying Not to Be Like Sisyphus: Can Defense Counsel Overcome Pervasive Status Quo Bias in the Criminal Justice System?, 45 TEX. TECH. L. REV. 315, 318 (2012). In an underfunded system of assembly-line justice, however, defense counsel might not only fail to serve as a counterweight, but also might herself end up promoting the status quo—a position harmful to her client. See id.

70 See, e.g., AMY BACH, ORDINARY INJUSTICE: HOW AMERICA HOLDS COURT 13 (2009).

71 For descriptions of the limited availability of defense counsel and constraints in lower criminal courts, see, for example, id., and NAT’L ASS’N OF CRIMINAL DEF. LAWYERS, THREE-MINUTE JUSTICE: HASTE AND WASTE IN FLORIDA’S MISDEMEANOR COURTS (2011), https://www.nacdl.org/reports/threeminutejustice.
Nor are prosecutors exercising the discretion that is required by their function. Prosecutors have a duty to seek and serve justice. They have a duty to screen cases and exercise discretion about who and what is charged. Prosecuting ninety-six percent of these cases is not exercising that duty, but delegating that discretion to the police. The standards for prosecutorial conduct do not permit such delegation of screening discretion. Examining whether prosecution outcomes are racially biased once a prosecutor accepts nearly all minor cases brought in by police overlooks the issue of the racial disparity in how laws are enforced. The Brooklyn District Attorney Kenneth Thompson has stepped up and, noting that marijuana arrests affect youth of color in particular and can have consequences for jobs, housing, and school, has adopted a policy of declining to prosecute most of these cases. Like Kenneth Thompson, other district attorneys should conclude that prosecuting hundreds of thousands of Broken Windows arrests is inconsistent with the duty to serve justice, because justice cannot be served without equal applications of law.

Half measures, such as deferred dismissals, do not satisfy the prosecutors’ duty to serve justice or the defense counsel’s duty to provide competent representation. A deferred dismissal that may minimize process in a single case is not costless either. It is an open arrest that creates a record. A defendant who is looking for work may have trouble getting a job in the next six months or year until the case against him is officially dismissed. A defendant may lose a job he

72 For a discussion of this duty, see Howell, Prosecutorial Discretion, supra note 12, at 305–21.
73 See BESIKI KUTATELADZE ET AL., VERA INST. OF JUSTICE, RACE AND PROSECUTION IN MANHATTAN: RESEARCH SUMMARY 4 (2014) (finding that the New York County District Attorney’s Office “prosecutes nearly all cases brought by the police, including 94 percent of felonies, 96 percent of misdemeanors, and 89 percent of violations”).
74 Both the American Bar Association (ABA) and National District Attorneys Association standards require the prosecutor to exercise discretion in determining what charges to bring. See CRIMINAL JUSTICE STANDARDS FOR THE PROSECUTION FUNCTION § 3-4.2(a) (AM. BAR ASS’N 2015); NATIONAL PROSECUTION STANDARDS § 4-1.2 (NAT’L DIST. ATT’YS ASS’N 2009).
75 See Stephanie Clifford & Joseph Goldstein, Prosecutor Limits When He’ll Target Marijuana, N.Y. TIMES, July 9, 2014, at A17 (announcing a plan to stop prosecuting most low-level marijuana cases to keep nonviolent people “and especially young people of color” out of the criminal justice system (quoting Thompson)).
76 See N.Y. CRIM. PROC. LAW §§ 170.55–170.56 (McKinney 2007).
77 See Smith v. Bank of Am. Corp., 865 F. Supp. 2d 298 (E.D.N.Y. 2012) (approving employer’s adverse employment action following employee’s adjournment in contemplation of dismissal in shoplifting case, notwithstanding state laws barring unreasonable discrimination based on criminal record). Research going back to the 1960s demonstrates that contact with the criminal justice system, even in the absence of a conviction, negatively impacts employment opportunity. See Richard D. Schwartz & Jerome H. Skolnick, Two Studies of Legal Stigma, 10 SOC. PROBS. 133 (1962); see also R.H. Finn & Patricia A. Fontaine, The Association Between
already has. And, if the client is likely to be stopped for anything else, the open case is used against him. Where are defenders in this? One consequence of the continued commitment to Broken Windows policing is the failure of our criminal justice system to live up to the requirements of the Sixth Amendment and the American Bar Association standards for the defense function. Another consequence is that the prosecutor has not assured that justice is served, but allowed a person to be temporarily branded and treated as a criminal without determining whether or not there is any basis for culpability or whether the conduct merits punishment.

It is naive to believe that an adjournment in contemplation of dismissal (ACD), a type of deferred dismissal, is in the client’s best interest or serves justice when we know, as Professor Kohler-Hausmann’s research shows, that the system is one of escalating penalties. The ACD will show up if a defendant is rearrested and will be taken into account, resulting in escalated punishment on a subsequent arrest. The electronic record of the ACD will still exist and the electronic record of a violation will still exist. There is also a belief subscribed to by courts, prosecutors, and defenders, which I have noticed based on personal experience, that a violation is better than a misdemeanor. But for potential employers, this may make little difference. These costs destabilize families, communities, and undermine employment prospects. Any mark on a criminal record may have an effect. Indeed, the work of Devah Pager suggests that the general criminalization of people of color affects the employment opportunities of even black and Latino job applicants who have no


79 See U.S. CONST. amend. VI; see also Argersinger v. Hamlin, 407 U.S. 25 (1972) (extending the right to counsel to most misdemeanors); Gideon v. Wainwright, 372 U.S. 335 (1963) (holding that counsel must be provided to indigent felony defendants).


81 See Kohler-Hausmann, supra note 78, at 646 (noting the sorting and regulating function of the lower criminal court).

82 Id. at 648, 656–57.

83 An ACD typically results in a case remaining as an open arrest on the record for either six months or a year depending on the original charge. See N.Y. CRIM. PROC. LAW §§ 170.55–170.56 (McKinney 2007). Violations are sealed pursuant to CRIM. PROC. § 160.55 (McKinney 2004). For a discussion of the continued availability of electronic records of both convictions and arrests, see JAMES B. JACOBS, THE ETERNAL CRIMINAL RECORD (2015).

84 This observation is based on eight years as a public defender and two years as a supervising attorney for a defender clinic.

85 See supra notes 32–36 and accompanying text.
Aggressive Broken Windows policing taxes vulnerable communities and reinforces the entrenched poverty and racism that affects everyone in these communities, even those who are not brought into court.

A word about two responses that do not address the problem of Broken Windows policing. Recently, Mayor de Blasio announced that he would like police to issue summonses for marijuana instead of making arrests. This is absolutely not a solution. Summonses do not track race. Summons parts are even more under-resourced than lower criminal courts. Putting these arrests into a system where the courts are more crowded, where cases are handled faster, where defense counsel is often waived—and if provided is even more overwhelmed—and where review for constitutional violations is even less likely to occur, insulates policing from review without ameliorating any of the problems. Nor do “diversion” programs address the problems created by Broken Windows policing. Broken Windows policing is about policing conduct that is so minor that it is ignored in privileged areas of the city. Neither of these responses target the issue of over-policing directly.

The first step in dismantling Broken Windows policing as it has been practiced for twenty years in New York is to recognize the full extent of the costs of this policing. The next step is to further recognize that this policing favors the rich and disfavors the poor, and particularly poor people of color. Policing is a critical contributor to New York’s ongoing “tale of two cities.” Until this regressive policy is addressed, there is little hope of addressing racial or income disparities in our city or our country.


New York City Department of Investigation
Office of the Inspector General for the NYPD (OIG-NYPD)

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June 22, 2016
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* Note to the Reader: Technical Endnotes are indicated by Roman numerals throughout the Report.
I. Executive Summary

Between 2010 and 2015, the New York City Police Department (NYPD) issued 1,839,414 “quality-of-life” summonses for offenses such as public urination, disorderly conduct, drinking alcohol in public, and possession of small amounts of marijuana. There are a number of legitimate reasons to issue such summonses, most notably to address community concerns and police the offenses in question. Further, maintaining order is a goal in and of itself. Addressing disorder is a basic government function, and writing summonses may be a necessary tool toward that end.¹

However, NYPD has claimed for two decades that quality-of-life enforcement is also a key tool in the reduction of felony crime, most recently in the 2015 report, Broken Windows and Quality-of-Life Policing in New York City.² Whether there is systemic data to support the effectiveness of quality-of-life summonses and misdemeanor arrests for this particular purpose is a question of considerable importance. New York City is a safer city today than it was in years past. In the period reviewed, 2010 through 2015, felony rates continued to decline and remain at historic lows. What factors contributed to this safer city is a worthy inquiry because identifying what works will help the Department become more strategic and more efficient. It is equally important to identify which factors are not supported by evidence. Issuing summonses and making misdemeanor arrests are not cost free. The cost is paid in police time, in an increase in the number of people brought into the criminal justice system and, at times, in a fraying of the relationship between the police and the communities they serve.

So that future discussion of this issue can take place in the clear light of objective data, the Department of Investigation’s Office of the Inspector General for the NYPD (OIG-NYPD) undertook to examine what, if any, data-driven evidence links quality-of-life enforcement—defined narrowly for purposes of this Report as quality-of-life criminal summonses and quality-of-life misdemeanor arrests—to a reduction in felony crime.³

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¹ NYPD acknowledges that disorder reduction may not always require issuing summonses or making misdemeanor arrests (See e.g., William J. Bratton, BROKEN WINDOWS AND QUALITY-OF-LIFE POLICING IN NEW YORK CITY 1 (2015), available at http://www.nyc.gov/html/nypd/downloads/pdf/analysis_and_planning/qol.pdf), and may include other police activities like educating people about quality-of-life regulations, creating partnerships with community members and organizations, conducting graffiti clean-up programs, and enhancing lighting or closing parks. These tactics, commonly characterized as situational crime prevention or problem-oriented policing strategies, may be more effective at reducing disorder than issuing summonses or making arrests (which are defined in this Report as “quality-of-life enforcement”)—See Anthony A. Braga and Brenda J. Bond, POLICING CRIME AND DISORDER HOT SPOTS: A RANDOMIZED CONTROLLED TRIAL, 46.3 CRIMINOLOGY (2008)—but this Report focuses exclusively on quality-of-life enforcement as a crime reduction tactic rather than these other forms of disorder reduction.
² See Bratton, supra note 1, at 3.
³ Obviously, an increased police presence in a neighborhood has the potential to reduce crime. Moreover, there has certainly been anecdotal reporting to support the theory that aggressive use of quality-of-life summonses will reduce violent crime: stories about individual quality-of-life summonses that lead to arrests for gun possession, for instance, occur with some frequency. It is also important to recognize that a great deal of quality-of-life policing activity is
This Report looks *solely* at the question of whether quality-of-life enforcement has any measurable relationship to felony crime. 4 This Report does not speak to the use of quality-of-life enforcement to maintain order, nor does it speak to any type of quality-of-life enforcement other than quality-of-life summons and misdemeanor arrest activity.5

While it is not possible to know conclusively whether quality-of-life summonses and misdemeanor arrests impact violent crime, OIG-NYPD, after a months-long analysis of six years of summonses, arrest, and complaint data over time, can now state: OIG-NYPD’s analysis has found no empirical evidence demonstrating a clear and direct link between an increase in summonses and misdemeanor arrest activity and a related drop in felony crime. Between 2010 and 2015, quality-of-life enforcement rates—and in particular, quality-of-life summons rates—have dramatically declined, but there has been *no commensurate increase in felony crime*. While the stagnant or declining felony crime rates observed in this six-year time frame may be attributable to NYPD’s other disorder reduction strategies or other factors, OIG-NYPD finds no evidence to suggest that crime control can be directly attributed to quality-of-life summonses and misdemeanor arrests. This finding should not be over-generalized to preclude the use of summonses and misdemeanor arrests for the purpose of targeted crime and disorder reduction, but given the costs of summonses and misdemeanor arrest activity, the lack of a demonstrable direct link suggests that NYPD needs to carefully evaluate how quality-of-life summonses and misdemeanor arrests fit into its overall strategy for disorder reduction and crime control.

4 As discussed in more detail in the methodology section of this Report, OIG-NYPD’s analysis focused on violent felony complaints (murder, rape, robbery, and assault) and property felony complaints (burglary, larceny, and grand larceny auto).

5 Though arguably a large portion of quality-of-life policing is in response to community concerns, 911 calls, or 311 complaints (*See* Bratton, *supra* note 1, at 4) and is focused on block-level issues like trash, noise, and disruptive crowds, this Report also does not speak to the question of *why* NYPD responds to quality-of-life conditions, but rather *how*.
OIG-NYPD’s analysis demonstrates the following:

- **Between 2010 and 2015 there was a dramatic decline in quality-of-life enforcement with no increase in felony crime.** In fact, felony crime, with a few exceptions, declined along with quality-of-life enforcement. While stagnant or declining felony crime rates observed in this six-year time frame may be attributable to NYPD’s other disorder reduction strategies, or other factors, OIG-NYPD finds no empirical evidence to suggest that crime control can be directly attributed to quality-of-life summonses and misdemeanor arrests. Whatever has contributed to the observed drop in felony crime remains an open question worthy of further analysis.

  OIG-NYPD’s trend analysis found that the quality-of-life summons rate, the rate of summonses for bicycles on sidewalks, and the open container summons rate all declined in tandem with the violent crime rate in multiple patrol boroughs. An increase in the rate of quality-of-life misdemeanor arrests accompanied a decline in the violent crime rate in Queens North and a marginally declining property crime rate in Manhattan South.

  None of the statistically significant relationships between trends suggests that quality-of-life summonses and misdemeanor arrest rates had a direct influence on the reduction of felony crime over the six-year time frame that OIG-NYPD examined. Instead, OIG-NYPD found that as rates of quality-of-life summonses declined, violent crime rates declined with them for the duration of the entire six-year time period. Not only does this finding run counter to the hypothesis that a decline in quality-of-life enforcement could lead to an increase in violent crime rates, but a visual inspection of the timelines indicates that reductions in quality-of-life summonses do not appear to have directly followed major decreases in violent crime. It does not appear that NYPD’s reduction of quality-of-life summonses was in direct response to its success as a mechanism of reduction of violent crime.

- **Between 2010 and 2015, quality-of-life enforcement had little-to-no temporal relationship with the decline of felony crime rates across New York City, in that there was a limited statistically demonstrable correlation.** Prior reviews of the impact of summons activity on crime have tended to view the issue entirely in geographic terms—relating summons activity in a particular patrol borough to felony crime in that area. This investigation sought to review the question based on both geography and time; looking to see whether a change in quality-of-life summonses or misdemeanor arrest activity correlated with felony crime over time as well as within specific patrol boroughs. That is, where quality-of-life summonses or misdemeanor arrest activity increased, was there a statistically-significant corresponding reduction in felony crime (and vice versa)?

  At a macro level, quality-of-life summonses in New York City have declined precipitously over the past six years. The felony crime rate, as measured by complaints for the seven major felonies (murder, rape, robbery, felony assault, burglary, grand larceny, and grand larceny of

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6 NYPD patrol activities operate under eight umbrella commands, or “patrol boroughs”: Bronx, Queens North, Queens South, Brooklyn North, Brooklyn South, Staten Island, Manhattan North, and Manhattan South.

7 Bratton, *supra* note 1.
motor vehicle), has also declined, with few exceptions. However, when viewed more closely, a statistical review of specific summons categories analyzed over time in specific patrol boroughs showed few temporal relationships between a change in that summons activity and a change in major crime categories. A change in summons activity does not accompany any obvious inverse correlation with a change in major crime activity. This does not demonstrate that issuance of quality-of-life summonses has no impact on felony crime—that conclusion would require additional data and analysis. However, it is clear that broad generalizations about quality-of-life summonses as a panacea are not supported by empirical evidence derived from OIG-NYPD’s analysis.

- **Quality-of-life enforcement is not evenly distributed in its use across the City and over time, in some cases even after adjusting for crime rates.** Some precincts and patrol boroughs have far lower rates of quality-of-life summonses and misdemeanor arrests than others, and some types of summonses have more frequently been given in certain patrol boroughs and at different time frames compared with others. For example, trends involving several specific categories of quality-of-life summonses changed abruptly between December 2011 and January 2012. Some of these changes may have corresponded with then-NYPD Commissioner Raymond Kelly’s order to NYPD officers to cease arrests for small amounts of marijuana and the peak rates of NYPD’s use of “stop, question, and frisk.”

  In 2015, the rate of quality-of-life enforcement in precincts citywide was positively correlated with higher proportions of black and Hispanic residents, New York City Housing Authority (NYCHA) residents, and males aged 15-20. As the representation of these populations increased in a given area, the rate of quality-of-life summonses and misdemeanor arrests also increased. Conversely, precincts with higher rates of white residents had less quality-of-life enforcement.

  When holding constant—or “controlling for”—felony crime rates, however, different patterns emerge. Property crime rates do not explain these demographic disparities; that is, even taking property crime rates into account, there are more summonses issued than expected in precincts with large black and Hispanic populations. Similarly, total felony crime rates do not explain the increased summonses (with a narrow exception for the rate of misdemeanor arrests in precincts with high proportions of black residents). However, higher violent crime rates do

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8 As noted throughout this Report, these counts are not necessarily fully indicative of quality-of-life enforcement efforts citywide. In areas with higher rates of felonies, for instance, it is possible that quality-of-life stops will turn into arrests for more serious crimes at higher rates—for example, if the individual stopped has open warrants. OIG-NYPD’s counts of quality-of-life summonses and misdemeanors in those areas may be masked by more serious crime, and thus potentially underestimated.

9 Summonses for marijuana possession—a lesser penalty—increased substantially after this order.

10 A person who identifies as Hispanic can be of any race. See U.S. EQUAL EMPLOYMENT OPPORTUNITY COMM’N, EEO-1 Instruction Booklet, EEOC.GOV, app. at 4 (Jan. 2006), available at http://www.eeoc.gov/employers/eeo1survey/2007instructions.cfm (“Hispanic or Latino - A person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture or origin regardless of race.”).

11 *Id.*
potentially explain higher quality-of-life enforcement rates in precincts with higher proportions of Hispanic and NYCHA residents. Precincts with higher rates of residents who are black or males aged 15-20 received lower rates of quality-of-life enforcement than their higher violent crime rates would predict, while precincts with more white residents received higher rates of quality-of-life enforcement than their lower violent crime rates would predict. OIG-NYPD stresses that these findings, standing alone, should not be read as either proof or disproof of racial bias. Rather, this analysis suggests that there is no simple understanding of this complex issue.

Consistent with its findings, OIG-NYPD recommends that NYPD take several important initial steps, addressing three key areas for improvement to NYPD’s approach to quality-of-life enforcement in New York City:

- **NYPD should rely on a more data-driven approach to determine the relative impact of quality-of-life summonses and misdemeanor arrests on the reduction of felony crime, objectively comparing the statistical impact of quality-of-life enforcement on crime with other disorder reduction strategies.**

  1. NYPD should assess the relative effectiveness of quality-of-life summonses, quality-of-life misdemeanor arrests, and other disorder reduction strategies in reducing felony crime, demonstrating whether statistically significant relationships exists between specific disorder reduction tactics and specific felony crimes.

  2. NYPD should conduct an analysis to determine whether quality-of-life enforcement disproportionately impacts black and Hispanic residents, males aged 15-20, and NYCHA residents.

- **NYPD should expand its data reviews to longer time frames in order to separate long-term trends from short-term trends or transient impacts of quality-of-life policing efforts across New York City.**

  3. NYPD should expand consideration of quality-of-life enforcement beyond short-term real-time conditions.

- **NYPD has recently made incident-level data available to the public through CompStat 2.0. OIG-NYPD welcomes the launch of this interactive tool and recommends that NYPD additionally release more granular crime data to allow the public to better understand and analyze the relationships between quality-of-life enforcement and crime.**

  4. NYPD should release incident-level and geographically coded data on summonses and misdemeanor arrests.

  5. NYPD should release historical incident-level and geographic data.
6. NYPD should ensure that data currently released in yearly formats also include more granular temporal data, including month-to-month formats and incident-level data.

7. All incident-level crime data, from felony arrests and complaints to misdemeanor arrests and summonses, should be released in the same accessible spreadsheet formats.

Finally, OIG-NYPD notes that on May 25, 2016, the New York City Council passed the Criminal Justice Reform Act of 2016, which Mayor Bill De Blasio signed into law on June 13, 2016. The Criminal Justice Reform Act is a collection of eight bills that requires NYPD to establish written, public guidance for officers on how to enforce five different categories of quality-of-life offenses as defined by New York City municipal law (as opposed to the New York State Penal Law): 1) possession of an open container of alcohol in public; 2) the violation of parks rules and other parks offenses; 3) public urination; 4) littering; and 5) unreasonable noise. Overall, the Criminal Justice Reform Act reflects an effort to decriminalize certain quality-of-life offenses and look to other, non-criminal methods of enforcement. More specifically, the Criminal Justice Reform Act recognizes the importance of officer discretion in addressing quality-of-life offenses and provides officers with a new option to issue civil summonses that would be handled by the Office of Administrative Trials and Hearings (OATH), rather than criminal summonses that place recipients into the criminal justice system. The decision on enforcement in individual instances will still ultimately rest with NYPD officers, although the “legislative findings and intent” section of this bill reflects the Council’s opinion “that criminal enforcement of these offenses should be used only in limited circumstances and that, in the absence of such circumstances, civil enforcement should be utilized.” Obviously, NYPD continues to possess the ability to issue criminal summonses which may remain appropriate in certain circumstances. The data and analysis in this Report should assist in NYPD’s thinking on when such criminal summonses are needed.

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12 See NYC Administrative Code §10-125(b), §16-118(1), §16-118(6), §24-218(a), §18-146; §18-146; §18-147, and New York City Charter § 533(a)(9).
II. Introduction

*NYC Department of Investigation Commissioner Mark G. Peters and Inspector General for the NYPD Philip K. Eure thank the staff of OIG-NYPD for their efforts, persistence, and insight in helping to produce this Report, especially Sandra Musumeci, Deputy Inspector General; Asim Rehman, General Counsel; Nicole Hanson, Senior Policy Manager; Rebecca Engel, Assistant Counsel; David Rozen, Assistant Counsel; Christopher Telfet, Investigative Attorney; Adrian Amador, Policy Analyst; Kanika Khanna, Policy Analyst; Justyn Richardson, Policy Analyst; Alessandra Sienna-Canas, Policy Analyst; Matthew Polistina, Policy Analyst; Arturo Sanchez, Senior Investigator; Michael Acampora, Special Investigator; Patrick Cahill, Special Investigator; Angel Rendon, Special Investigator; John Kim, Special Investigator; Cameron Watkins, Special Investigator; Betty Diop, Data Assistant; Justin Ramos, Data Assistant; and Senora Harvey, Clerical Assistant, as well as other current and former staff. The contributions made by Lesley Brower, First Deputy Commissioner, Richard Condon, Special Commissioner, and Michael Carroll, Chief of Investigation are also appreciated. Our gratitude is also extended to the New York City Police Department and other agencies and organizations noted for their cooperation during the preparation of this Report.

In this Report, quality-of-life enforcement is defined as both quality-of-life summonses and quality-of-life misdemeanor arrests. It does not include other activities that might colloquially be called “enforcement.”

In the mid-1990s, crime in New York City began to fall dramatically for the first time in decades. Between 1993 and 1997, the number of shootings throughout the City dropped from 5,269 incidents a year to 1,759. During the same time, between 1994 and 1996, robberies dropped by more than 35,000 incidents citywide. Overall, index crime rates fell by almost half between 1993 and 1999, and with few exceptions, they have continued to decline.

What caused or contributed to the City’s decline in crime has been a continuing debate. In 1994, the New York City Police Department (NYPD) began targeting what it characterized as “quality-of-life offenses” such as marijuana possession and urinating in public, to drive down felony-level crime. The policy stemmed, in part, from the Broken Windows criminological theory, first coined by George Kelling and James Q.

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15 Index crimes are the crimes the Federal Bureau of Investigation (FBI) tracks to produce its Uniform Crime Reporting (UCR) program. These offenses are: murder and non-negligent manslaughter, forcible rape, robbery, aggravated assault, burglary, larceny-theft, motor vehicle theft, and arson. See FBI, UCR Frequently Asked Questions, https://www2.fbi.gov/ucr/ucr_general.html (last accessed June 16, 2015).

16 See Tackling Crime, supra note 14, at 3.

17 In 1994, in “Police Strategy No. 5: Reclaiming the Public Spaces of New York,” NYPD described how quality-of-life policing was needed in New York City. “Aggressive panhandling, squeegee cleaners, street prostitution, ‘boombox cars,’ public drunkenness, reckless bicyclists, and graffiti have added to the sense that the entire public environment is a threatening place.” NYPD, POLICE STRATEGY NO. 5: RECLAIMING THE PUBLIC SPACES OF NEW YORK 3 (1994), available at https://www.ncjrs.gov/pdffiles1/Photocopy/167807NCJRS.pdf. More recently, NYPD has described quality-of-life policing as “enforcing a variety of laws against street drug dealing, public drinking, public marijuana smoking, open-air prostitution, and other minor offenses . . . .” Tackling Crime, supra note 14, at 2.
Wilson in a 1982 article in *The Atlantic*, which holds that the preservation of general order in an environment reduces more serious crime in that environment.

While NYPD employs multiple techniques intended to reduce disorder, one of the more publicly discussed is quality-of-life policing, or the concentration of police resources on minor crimes and violations, including the issuance of quality-of-life summonses and misdemeanor arrests (what this Report collectively terms *quality-of-life enforcement*). But there is a cost to this practice. In addition to using police resources and bringing more people into the criminal justice system, some have argued that quality-of-life enforcement hurts police-community relations, causes distrust in the police department’s motives, and makes even law-abiding community members feel unsafe.

For this Report, the Office of the Inspector General for the NYPD (OIG-NYPD) examined whether there is a statistically

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19 Based on interviews with NYPD officials, NYPD does not have a single official definition for what it considers a “quality of life offense.”

20 In its *Broken Windows and Quality-of-Life Policing in New York City* report (supra note 1, at 7), NYPD cites a Quinnipiac University poll as confirmation that “the public wants and requests quality-of-life policing.” However, this poll only surveyed self-identified registered voters. For the purpose of understanding how individuals living in areas most impacted by crime and quality-of-life policing view the practice, this may represent a skewed sample.

21 As an initial step in its investigation, OIG-NYPD conducted individual and group interviews with 140 participants working or residing in communities that are likely to be highly impacted by quality-of-life policing. These communities included the 25th Precinct (Manhattan), 103rd Precinct (Queens), 120th Precinct (Staten Island), 40th and 46th Precincts (Bronx), and 73rd and 75th Precincts (Brooklyn). These precincts were selected by ranking both the raw number and rate of total misdemeanor arrests. All precincts in the top 30 of both lists were selected, and their felony crime rates were then examined to identify precincts with high rates of both lower-level and felony crime. Three precincts—the 13th, 14th, and 18th—were eliminated because their rates of only one serious felony—grand larceny—were higher than average, while other felony crime rates were markedly lower. Notably, these are precincts in midtown Manhattan with high transient, commuter, and tourist traffic. Interviews were conducted with court-involved youth, LGBTQ communities, and homeless individuals. Youth, LGBTQ, and homeless participants were recruited via assistance from BOOM! Health, Streetwise and Safe, Picture the Homeless, and the Justice Scholars Program, the Sylvia Rivera Law Project, the Audre Lorde Project, and other organizations, while precinct-based participants were recruited via cooperation with Precinct Community Councils. All interviews were analyzed using textual analysis software HyperRESEARCH and qualitative coding principles (See Johnny Saldana, *The Coding Manual for Qualitative Researchers* (2nd ed. 2013)). The average age of survey participants who answered a post-focus group survey was 49.6 years old (N = 95). Of these 140 participants, only five indicated having a history of arrest. Participants of multiple races and ethnicities were represented in the focus groups. Participants in OIG-NYPD’s interviews expressed skepticism that quality-of-life summonses were affecting serious crime in their communities and believed that quality-of-life enforcement is potentially harmful in their communities in that it interferes with more positive police-community relations. While participants’ opinions cannot be used to draw overarching conclusions about citywide impressions of quality-of-life enforcement, their responses comprise a targeted review of the thoughts, feelings, and reported experiences of a focused range of New Yorkers from heavily impacted precincts regarding quality-of-life policing.
significant relationship between summonses issued for quality-of-life offenses, quality-of-life misdemeanor arrests, and felony crime. OIG-NYPD utilized data from every precinct in New York City from 2010-2015. This Report focuses solely on the use of quality-of-life enforcement as a mechanism to reduce felony crime rates. It does not discuss the policy implications of issuances of summonses or arrests for misdemeanor crimes with respect to order maintenance, nor does it speak to the various methods NYPD may use to address disorder. In this Report, OIG-NYPD describes in detail both the nature of data collection and analysis, the results revealed by the analysis, and proposed improvements to how NYPD measures the effectiveness of quality-of-life enforcement.

<table>
<thead>
<tr>
<th>Quality-of-Life Policing versus “Broken Windows”</th>
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While some use the terms “quality-of-life policing” and “Broken Windows Theory” interchangeably, these concepts are not synonymous, and they are not used synonymously in this Report.

Kelling and Wilson’s Broken Windows Theory states that disregarding small offenses will lead to more felony crimes because criminals assume that felony crimes will be similarly disregarded. Broken Windows policing is about focusing police attention on signs of neighborhood disorder before they evolve into felony crime.

Quality-of-life enforcement, including the targeting of low-level “quality-of-life” offenses for increased summons activity, is merely one aspect of disorder reduction under the Broken Windows Theory.

Importantly, neither Broken Windows nor quality-of-life policing should be conflated with stop, question, and-frisk, or Terry stops. A stop (a brief detention) requires reasonable suspicion of involvement in a crime, while a frisk requires reasonable suspicion of weapon possession. Quality-of-life summonses or arrests target low-level offenses and require the higher standard of probable cause.

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22 This Report does not challenge the validity of Broken Windows Theory or question whether disorder reduction leads to crime reduction. Similarly, it does not examine long-term historical trends in quality-of-life policing or consider whether such tactics were responsible for the decline in crime observed in New York City following peak rates in the mid-1990s. Rather, it has a narrow focus of examining explicitly whether quality-of-life summonses and misdemeanor arrests have a statistical relationship with felony crime over the past six years, 2010 through 2015.


III. Analysis

OIG-NYPD’s examination of quality-of-life enforcement patterns investigates the statistical relationship between quality-of-life enforcement and felony crime.

Any discussion regarding the efficacy and impact of quality-of-life enforcement should begin with an understanding of how the policy has been employed across the various precincts, patrol boroughs, and demographically-diverse areas of New York City. Rather than merely focusing on how quality-of-life enforcement and crime rates relate to each other in the present, examination of these relationships should include a perspective that reflects changes over time. Looking at trends in both quality-of-life criminal violations and felony crimes over several years allows for chronological comparisons and more context than prior analyses which: 1) examined annualized totals, 2) overlaid current rates of felony arrests and complaints, misdemeanor arrests, and summonses, or 3) examined cumulative summonses and misdemeanors arrests rather than specific quality-of-life categories.

This Report begins with a descriptive analysis of the current distribution of quality-of-life enforcement in New York City. For the purposes of this Report, quality-of-life enforcement is narrowly defined as only summonses and misdemeanor arrests with strong intended impact on broader public disorder. This Report then analyzes the connection between quality-of-life enforcement and felony crime complaints over the past six calendar years, with trends spanning from 2010 through 2015.

A. Methodology: Data Collection, Sources, and Preliminary Analysis

OIG-NYPD began its analysis by requesting and receiving numerous data sets from NYPD. First, for the study period of January 1, 2010 through December 31, 2015, OIG-NYPD obtained precinct-level monthly raw numbers of felony complaints for the “seven major” felonies:

- Murder
- Rape
- Assault
- Robbery
- Grand Larceny
- Burglary
- Grand Larceny Auto

In addition, OIG-NYPD obtained precinct-level monthly raw numbers of all misdemeanor arrests and C-class (criminal) summonses, separated by the type of

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25 As stated repeatedly above, there are other aspects of and bases for quality-of-life policing not considered here.

26 Felony crime complaints are generated when a crime incident is observed by or reported to NYPD, and recorded in NYPD’s crime databases. The number of felony complaints reflects reported felony crime.

27 OIG-NYPD also obtained precinct-level monthly raw numbers of felony arrests for murder, rape, assault, and robbery (“violent” felony arrests) from NYPD. These data were not used in the correlational analyses, and were exclusively obtained to provide context for the descriptive comparison between violent felony crime and quality-of-life enforcement rates analyzed in OIG-NYPD’s bubble charts beginning on page 29.
To calculate precinct-level demographic-specific crime rates, OIG-NYPD also collected data from two publicly-available sources: the United States Census\(^2^9\) (U.S. Census) and the New York City Housing Authority (NYCHA). From the U.S. Census, OIG-NYPD obtained block-level data on resident sex, age, race, ethnicity, and total population. From NYCHA’s 2015 Data Development Book, OIG-NYPD obtained the resident population of each NYCHA development in New York City.\(^3^0\) NYCHA populations were obtained for analysis because violent crime

rates within the purview of NYPD’s Housing Bureau, which serves residents of public housing, are higher than those in the rest of New York City.\(^3^1\) For instance, rates of shooting incidents reported by NYPD’s Housing Bureau are approximately four times higher than citywide shooting incidents.\(^3^2\) This factor led OIG-NYPD to examine precinct-level populations of NYCHA residents as part of the analysis.

To account for differences in population across precincts and patrol boroughs,\(^3^3\) raw number crime counts were translated into rates per 10,000 residents.\(^3^4\) Given prior research on gender and the age-crime curve.

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\(^{28}\) OIG-NYPD conducted analyses at precinct and patrol borough levels to speak to citywide trends. More granular incident-level or block-level data could reveal within-precinct patterns that are different than the patterns found with aggregated data. Using a smaller unit of analysis, however, would require additional resources to evaluate the vastly larger number of data points, result in rates with very small values, and create difficulties in analyzing correlation results. Correlations at the precinct level offer a more easily interpretable picture of variable relationships.

\(^{29}\) Census rates are an imperfect approximation of precinct populations. Criminal offenses do not always occur in the precinct in which either the offender or the victim resides, and Census rates do not take into account homeless populations, commuters, or tourists—population fluctuations that may have a substantial effect on crime rates in particular precincts.

\(^{30}\) Official NYCHA residential estimates are an approximate measure of NYCHA populations, and do not take into account individuals living in NYCHA housing who may not be on official residency rosters.

\(^{31}\) The NYCHA populations per precinct were determined by drawing precinct boundaries into a program called NYCityMap, mapping the address of each NYCHA development and then summing the number of NYCHA residents per precinct. This allowed OIG-NYPD to calculate the proportion of each precinct’s population residing in NYCHA housing. See New York City, NYCityMap, http://maps.nyc.gov/doitt/nycitymap/.


\(^{33}\) Precinct populations and demographic data used in analyses were calculated from the 2010 U.S. Census by obtaining total populations by Census block. See 2010 Census Summary File, Table: Sex by Age, All Counties in New York City, prepared by the U.S. Census Bureau, 2011, http://factfinder.census.gov. OIG-NYPD then mapped Census blocks to precincts with Arc-GIS, a commonly-used mapping software. Annual estimates were derived for patrol boroughs by aggregating 2010 precinct populations into patrol boroughs and then determining the proportion of the population that each patrol borough contributed to the total borough population. OIG-NYPD then used that ratio to convert annual Census estimates for each borough of New York City into annual NYPD patrol borough populations.

\(^{34}\) These rates were calculated by determining the number of arrests per the total population and multiplying that number by 10,000. These rates are a best estimate aimed at allowing comparisons across differently-populated precincts, patrol boroughs, and City boroughs. As OIG-NYPD did not collect incident-level data, however, it is unknown whether individuals who were arrested or given summonses reside in the precinct in which they were arrested or issued a summons. See Todd C. Warner, Olive Lu, Adam G. Fera, Ervin M. Balazon, and Preeti Chauhan,
establishing that young men in their mid-to-late teens are most at risk of criminality. U.S. Census data on sex and age were condensed into one age-gender variable that had the highest potential to predict crime rates: the proportion of the population of each precinct and patrol borough that was male and 15-20 years old. Race and ethnicity data were calculated for the proportion of the population of each precinct and patrol borough that self-reported in the U.S. Census as being solely black, solely white, or Hispanic.

After receiving and organizing data from their various sources, OIG-NYPD then organized NYPD crime data into the following categories for analysis:

<table>
<thead>
<tr>
<th>Crime Category</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Felony Crime</td>
<td>An aggregation of complaints for felony murder, rape, robbery, assault, burglary, grand larceny, and grand larceny auto.</td>
</tr>
<tr>
<td>Violent Crime</td>
<td>An aggregation of complaints for felony murder, rape, robbery, and assault.</td>
</tr>
<tr>
<td>Property Crime</td>
<td>An aggregation of complaints for felony burglary, grand larceny, and grand larceny auto.</td>
</tr>
<tr>
<td>Violent Felony Arrests</td>
<td>An aggregation of arrests for felony murder, rape, robbery, and assault.</td>
</tr>
<tr>
<td>Total Quality of Life Misdemeanors</td>
<td>An aggregation of misdemeanor arrests related to controlled substances, marijuana, alcohol, tobacco, and gambling; property damage; trespassing; lewdness; promoting/patronizing prostitution; petit larceny; and resisting arrest.</td>
</tr>
</tbody>
</table>

Mapping Mobility of Individuals Arrested for Misdemeanors, 2006-2014, REPORT PRESENTED TO THE CITIZENS CRIME COMMISSION (June 2016), for more information on this issue.

35 The age-crime curve refers to the relationship between criminal activity and a person’s stage in life. Crime is most likely to occur during the teen years. See e.g., Terrie E. Moffitt, Adolescence-Limited and Life-Course Persistent Antisocial Behavior: A Developmental Taxonomy, 100 PSYCHOLOGICAL REVIEW 674 (1993); T.E. Moffitt and A. Caspi, Childhood predictors differentiate life-course-persistent and adolescence-limited antisocial pathways among males and females, 13 DEVELOPMENT AND PSYCHOPATHOLOGY 355 (2001).

36 The NYCHA populations per precinct were determined by drawing precinct boundaries into a program called NYCityMap, mapping the address of each NYCHA development, and then summing the number of NYCHA residents per precinct. This allowed OIG-NYPD to calculate the proportion of each precinct’s population residing in NYCHA housing. See NYCityMap, supra note 31.

37 It is important to note that there are limitations to this approach. The U.S. Census gives respondents the ability to select up to six races in varying combinations of mixed-race identification, and separately records Hispanic status apart from other race data. This means that OIG-NYPD was unable to separate residents who identify as Hispanic white from those who identify as Hispanic black. In addition, OIG-NYPD did not count any individuals who are some combination of black and other races, or those who are white and other races. The issue of U.S. Census racial identification is a common one in related research and is not easily resolved.

38 These crime categories have numerous sources, such as the New York Penal Law, the New York City Administrative Code, and Parks Department violations.

39 For a complete list of misdemeanor arrests included in this count, see Appendix 4 at the end of this Report.
| **Total Quality of Life Criminal ("C") Summonses** | An aggregation of C-summonses for disorderly conduct, disorderly person in park, disorderly premise licensed to sell alcohol, urinating in public, urinating/defecating in public, consumption of alcohol, consumption of alcohol in park, consumption of alcohol in vehicle, possession of marijuana, trespass, bicycle (other), bicycle infraction (commercial), bicycle no safety helmet, bicycle on sidewalk, bike in park, other administrative code violation, noise (animal), noise (device), noise (engine exhaust), noise (horn/alarm), noise (unreasonable), littering all, loitering, panhandling, windshield washers, spitting in public, exposure of person, sex in park, jaywalking, graffiti, no tax stamp, and vending: no tax stamp. |
| **Specific Quality of Life Summons Categories** | C-summonses for the categories of open container, disorderly conduct, possession of marijuana, urinating/defecating in public, and riding a bicycle on a sidewalk. |

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40 These five categories were selected due to their more frequent occurrence and frequent reference in the literature on quality-of-life policing. See, Bratton, supra note 1, at 27.
41 This includes summonses for consumption of alcohol, consumption of alcohol in a public park, and consumption of alcohol in a vehicle.
42 This includes summonses for disorderly conduct, disorderly person in a public park, and maintaining a disorderly premise licensed to sell alcohol.
43 This includes summonses for urinating in public and urinating/defecating in a public park.
OIG-NYPD selected the “quality-of-life” categories based on:

- NYPD “Quality of Life” memo book inserts;\(^4^4\)
- examination of the existing literature on quality-of-life policing;\(^4^6\) and
- consultation with former members of service of NYPD.

While quality-of-life summonses and misdemeanor arrests do not represent the full range of NYPD activities aimed at reducing disorder, these variables were chosen specifically to investigate the relationship between NYPD’s use of criminal summonses and misdemeanor arrest strategies for controlling disorder and the felony crimes they are said to prevent.\(^4^7\)

Next, OIG-NYPD used the statistical software program SPSS to carry out preliminary statistical analyses. For each precinct, OIG-NYPD computed the proportion of the precinct’s population that was black, white, or Hispanic; the proportion that was male aged 15-20; and the proportion that resided in NYCHA developments.\(^4^7\) Rates per 10,000 residents were calculated for all crime measures. Use of proportions and rates allowed for the comparison across precincts and patrol boroughs with different populations, and comparisons between smaller geographic areas (like precincts) and larger areas (like the entire City of New York).

The 22\(^{nd}\) Precinct (otherwise known as Central Park Precinct or “CPP”) and the 41\(^{st}\) Precinct (in the South Bronx) were eliminated from some aspects of the descriptive and correlation analyses due to their status as outliers, or data points with such extreme values on particular variables that they tend to skew the depiction of true data patterns.\(^vi\) The 22\(^{nd}\) Precinct, mainly encompassing Central Park in Manhattan, has 25 residents, according to 2010 U.S. Census counts.\(^4^8\) This low population makes it appear that CPP has the highest crime rate in New York City because every crime in Central Park is weighed against the 25 residents of this precinct. The 41\(^{st}\) Precinct had extreme raw numbers of violent crimes compared with its low population, likely due to the fact that the Riker’s Island correctional facility was counted within the territorial confines for the 41\(^{st}\) Precinct until 2014.

After carrying out these initial statistical analyses, OIG-NYPD then performed two more complex analyses that formed the foundation of its quantitative study: a correlational analysis and a trend analysis.

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\(^{4^4}\) Inserts are topical reference pages added to NYPD memo books. See NYPD, COMMON SUMMONSES VIOLATIONS QUICK REFERENCE GUIDE, PD 160-103 (Feb. 1997), the most up-to-date version.

\(^{4^5}\) See Bratton, supra note 1, at 1-2.


\(^{4^7}\) See Bratton, supra note 1, at 3.

Quantitative findings are separated into two general categories of inquiry: the demographic and geographic distribution of quality-of-life enforcement in New York City at present, and a six-year retrospective analysis examining relationships between felony crime and summonses and misdemeanor arrests for quality-of-life offenses.

B. Quality-of-Life Enforcement and Crime in New York City Today

In this analysis, OIG-NYPD sought to answer the following questions:

1) How are quality-of-life summonses and quality-of-life misdemeanor arrests distributed geographically across New York City?
2) What are the most frequently issued quality-of-life summonses?

As an initial step in the analysis, OIG-NYPD examined the distribution of quality-of-life summonses and quality-of-life misdemeanor arrests in New York City in 2015. NYPD organizes precincts into eight patrol boroughs—high-level units of command operating in each of New York’s five boroughs. Staten Island and the Bronx each comprise their own patrol boroughs, whereas Queens, Manhattan, and Brooklyn are each divided into two patrol boroughs. A map of the precincts assigned to each patrol borough is seen in Figure 1, NYPD Precincts by Patrol Borough.

All data in OIG-NYPD’s quantitative analysis were collected and examined at both the precinct level and by NYPD patrol borough.

As depicted in Figures 2 and 3, quality-of-life enforcement is unevenly distributed citywide, with different precincts exhibiting highly varied rates of quality-of-life summonses and misdemeanor arrests.

In 2015, quality-of-life summons rates ranged from 33 per 10,000 residents to 1,106 per 10,000 residents.\(^{49}\) The 14\(^{th}\) Precinct had the highest rate of quality-of-life summonses (approximately 1,106 per 10,000), followed by the 25\(^{th}\) Precinct (approximately 914 per 10,000), and the 40\(^{th}\) Precinct (approximately 683 per 10,000).

Quality-of-life misdemeanor arrests ranged from 25 per 10,000 residents to 762 per 10,000 residents. The 14\(^{th}\) Precinct had the highest rate of quality-of-life misdemeanor arrests (approximately 762 per 10,000), followed by the 25\(^{th}\) Precinct (approximately 466 per 10,000), and the 40\(^{th}\) Precinct (approximately 422 per 10,000).

\(^{49}\) When precinct-level data is discussed, rates were calculated using the population of the precinct. When patrol borough rates are discussed, rates were calculated using the population of the patrol borough.
FIGURE 1
Total Quality-of-Life Summons Rate by Precinct, 2015

Legend
QOL Summons Rate Per 10,000 Residents
0.00 - 101.91
102.91 - 216.82
216.83 - 373.55
373.56 - 683.41
683.42 - 1106.23

14th Precinct: 1,106 per 10,000 residents
40th Precinct: 683 per 10,000 residents
41st Precinct: 650 per 10,000 residents
25th Precinct: 914 per 10,000 residents

Figure 2
OIG-NYPD further disaggregated quality-of-life summonses into five of the most common categories for further analysis:

- open container violations;
- disorderly conduct;
- possession of marijuana;
- public urination; and
- bicycle riding on a sidewalk.

These five categories of violations made up 81.5% of the total number of quality-of-life summonses issued in 2015. The five categories, when examined at the patrol borough level, also evidenced disproportionate distribution patterns across New York City. The following infographic and Figures 4 – 8 depict these data.
Open Container Summons Rates by Precinct, 2015

Legend
Omitted Precinct
Rate Per 10,000 Residents
Open Container
0.00 - 72.74
72.75 - 141.49
141.50 - 204.50
204.51 - 305.73
305.74 - 506.15

22nd Precinct: 550 per 10,000 residents
42nd Precinct: 462 per 10,000 residents
90th Precinct: 306 per 10,000 residents
103rd Precinct: 245 per 10,000 residents
25th Precinct: 550 per 10,000 residents

FIGURE 4
AN ANALYSIS OF QUALITY-OF-LIFE SUMMONSES, QUALITY-OF-LIFE MISDEMEANOR ARRESTS, AND FELONY CRIME IN NEW YORK CITY, 2010-2015

FIGURE 5

Disorderly Conduct Summons Rates by Precinct, 2015

Legend
Omitted Precinct
22
Rate Per 10,000 Residents
Disorderly Conduct
0.00 - 1.65
1.66 - 3.86
3.87 - 7.88
7.89 - 13.32
13.33 - 27.32

40th Precinct: 17 per 10,000
25th Precinct: 14 per 10,000
6th Precinct: 27 per 10,000 residents
48th Precinct: 20 per 10,000 residents
AN ANALYSIS OF QUALITY-OF-LIFE SUMMONSES, QUALITY-OF-LIFE MISDEMEANOR ARRESTS, AND FELONY CRIME IN NEW YORK CITY, 2010-2015

Figure 6

Possession of Marijuana Summons Rates by Precinct, 2015

Legend
Omitted Precinct
Rate Per 10,000 Residents
Possession of Marijuana
0.00 - 1.34
1.35 - 1.90
1.91 - 2.99
2.90 - 4.77
4.78 - 8.56

25th Precinct: 86 per 10,000 residents
48th Precinct: 75 per 10,000 residents
41st Precinct: 67 per 10,000 residents
105th Precinct: 58 per 10,000 residents
Public Urination Summons Rates by Precinct, 2015

Legend
Omitted Precinct
22
Rate Per 10,000 Residents
Public Urination
0.00 - 11.22
11.23 - 25.33
25.34 - 42.57
42.58 - 77.37
77.38 - 156.10

25th Precinct: 156 per 10,000 residents
115th Precinct: 119 per 10,000 residents
10th Precinct: 110 per 10,000 residents
40th Precinct: 94 per 10,000 residents

Figure 7
Figure 8
Citywide, open container violations made up nearly 70% or more of quality-of-life summonses in these five categories, and at least 60% of quality-of-life summonses given out in each patrol borough in 2015.

Public urination was the second most frequently issued summons category in Staten Island, Queens North, Brooklyn North, Brooklyn South, and Manhattan South. Possession of marijuana was the second most frequently issued summons in Queens South, the Bronx, and Manhattan North.

Brooklyn South received the highest percentage of public urination summonses, and Queens South had the highest percentage of bicycle on sidewalk summonses issued.

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50 As previously noted, the rates that were calculated for this analysis are based on resident population counts that exclude commuters, tourists, and other impermanent groups.
Diversity in the distribution of quality-of-life enforcement is to be expected. Different New York City neighborhoods have differing quality-of-life challenges as well as differing sets of criminal conditions, and each precinct has its own unique rate of petty, violent, and property crime. Increased rates of quality-of-life enforcement would be expected to coincide with rates of felony crime complaints as officers in higher-crime precincts respond to felony crime conditions with disorder reduction strategies and greater police presence overall. The maps in Figures 9, 10, and 11 depict rates of felony crime complaints in New York City in 2015.

Many of the same precincts that have higher rates of quality-of-life enforcement also have higher rates of violent and property crime complaints. This is especially true for violent crime. Precincts with the high violent crime rates also have some of the highest rates of quality-of-life enforcement in the City: 25th, 40th, 41st, and 73rd Precincts.
A further precinct-level comparison of the various relationships that exist between violent crime, violent felony arrests, and quality-of-life summons activity is depicted in Figures 12-16, which are borough-level bubble charts. This depiction is important to understanding how quality-of-life summons rates relate to a precinct’s violent crime, and how precincts within boroughs compare. Each bubble represents a precinct. The size of each bubble increases as the rate of quality-of-life summonses in a precinct increases. Bubbles toward the lower left corner of the graph represent precincts with lower rates of violent crime as measured by both violent crime complaints and arrests, whereas bubbles on the upper right of the graph are precincts with higher rates of violent crime. If there is a relationship between quality-of-life summons activity and violent crime, each graph would depict smaller bubbles toward the lower left of the graph, and bubbles would increase in size at an exponential rate as they approach the upper right hand side of the graph.

This is the relationship that is most often seen, though there are several exceptions.
Point of Information:
In “bubble” charts like these, the larger bubbles indicate higher rates of quality-of-life summonses. Larger bubbles would be expected in precincts with higher rates of violent crime and/or police enforcement activity and should appear at the top right of the chart. Conversely, smaller bubbles should appear at the bottom left of the chart.

HOW TO READ BUBBLE CHARTS

Size of the bubble matters:
The bigger the bubble, the higher the rate of quality-of-life summonses

Where the bubble is on the chart matters:
Upper right of chart: high violent crime rates
Lower left of chart: low violent crime rates

In this example chart, the quality-of-life summons rate is lowest in precincts with lower violent crime rates (measured by both violent felony arrests and violent felony complaints), and highest in precincts with higher violent crime rates. This graph is an example of what would be expected if quality-of-life summonses rates are related to violent crime rates.
The 6th and 14th Precincts have higher rates of quality-of-life summonses, 445.0 and 1106.2 respectively, than would be expected given their rates of violent felony arrests (44.3, 63.9) and complaints (35.6, 80.3).

**Figure 12**
The 94th Precinct has a higher rate of quality-of-life summonses (322.2) than would be expected given its rates of violent felony arrests (17.8) and complaints (32.5).

**Figure 13**
The 100th Precinct has a higher rate of quality-of-life summonses (240.6) than would be expected given its rates of violent felony arrests (35.7) and complaints (43.2).
The 47th Precinct has a higher rate of quality-of-life summonses (170.4) than would be expected given the rates of violent felony arrests (56.3) and complaints (68.7).

**Figure 15**
AN ANALYSIS OF QUALITY-OF-LIFE SUMMONSES, QUALITY-OF-LIFE MISDEMEANOR ARRESTS, AND FELONY CRIME IN NEW YORK CITY, 2010-2015

FIGURE 16

Staten Island has only four precincts.

The 120th Precinct has a higher rate of quality-of-life summonses (571.3) than would be expected given its rates of violent felony arrests (64.3) and complaints (46.0).
1. Correlation Analysis: The Connection between Quality-of-Life Enforcement and Demographic Factors

In this analysis, OIG-NYPD sought to answer the following questions:

1) Are there demographic disparities in how quality-of-life summonses or quality-of-life misdemeanor arrests are distributed in New York City?
2) If so, do higher crime rates potentially explain these disparities?

New York City is a diverse area with a large degree of variance in demographic statistics. An examination of 2010 U.S. Census demographic estimates reveals that the proportion of precinct residents who identify as Hispanic, for instance, ranged from 4.2% to 74.8% across precincts, while the proportion of black residents ranged from 0.8% to 88.4% across precincts, and the proportion of white residents ranged from 0.9% to 85.0% across precincts. The proportion of precinct residents who were males aged 15-20 ranged from 0.5% to 8.0%, and precincts’ proportions of NYCHA residents ranged from 0.0% to 34.1%.

Following the examination of 2015 crime and quality-of-life offense distribution across all five boroughs, OIG-NYPD ran correlations to identify any trends in the relationship between quality-of-life enforcement and demographic background. OIG-NYPD ran two types of correlations: a bivariate correlation, which allows comparison of two variables, and a partial correlation, which allows comparison of two or more variables while controlling for the influence of others.\textsuperscript{vii}

A bivariate correlation was run to examine whether precincts with higher proportions of people of color, young men, or NYCHA residents also have higher rates of quality-of-life enforcement or felony crime. Because OIG-NYPD did not analyze incident-level data, the demographics of individuals who received summonses or who were arrested is unknown.\textsuperscript{vii} NYPD senior officials have stated that NYPD does not deploy resources based on race, nor does it target particular types of people or neighborhoods. OIG-NYPD’s findings should not be taken to indicate otherwise. The precinct-level unit of analysis employed in this analysis cannot be

\textsuperscript{vii} A correlation analysis is a statistical analysis of two variables that explains how the variables trend together. Correlations are important to establish whether apparent relationships between two numbers of interest (for example, the rate of quality-of-life summonses and precincts’ proportion of residents who are black) are associated in a way that is statistically significant.

\textsuperscript{vii} Incident-level data on race and ethnicity on C-summonses was not available for the majority of the study period. Until recently, demographic information of summons recipients has been inconsistently recorded. New York City Mayor Bill de Blasio and Chief Judge Lippman of the New York City Court of Appeals announced an overhaul to the summons system on April 14, 2015. The changes include a redesigned summons form that will capture this demographic information. http://www1.nyc.gov/office-of-the-mayor/news/235-15/mayor-de-blasio-chief-judge-lippman-justice-reboot-initiative-modernize-the.
used to determine whether specific individuals of any race are disproportionately impacted by quality-of-life enforcement.

A summary of the variables used in the bivariate correlational analysis can be found in Table 1. Once these initial variable relationships were observed, OIG-NYPD sought to determine whether precincts with higher proportions of people of color, young men, or NYCHA residents and higher rates of quality-of-life enforcement had felony crime rates that were proportionate with their rates of quality-of-life policing. In other words, are clusters of higher rates of quality-of-life enforcement explained by higher rates of felony crime in these communities? To determine this, OIG-NYPD conducted a statistical analysis of partial correlations to explore whether any relationships between demographic variables and rates of quality-of-life enforcement are explained by commensurately higher or lower rates of felony crime. A summary of the variables used in the partial correlational analysis can be found in Table 1.

<table>
<thead>
<tr>
<th>Variables in the Bivariate Correllational Analysis</th>
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<tr>
<td><strong>Demographic Variables</strong></td>
<td><strong>Quality-of-Life Enforcement Variables</strong></td>
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<tr>
<td>- Proportion of Population that is Hispanic</td>
<td>- Quality-of-Life Summons</td>
<td></td>
</tr>
<tr>
<td>- Proportion of Population that is Black</td>
<td>- Quality-of-Life Misdemeanor Arrests</td>
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<tr>
<td>- Proportion of Population that is White</td>
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<tr>
<td>- Proportion of Population that is Male aged 15-20</td>
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<tr>
<td>- Proportion of Population that resides in NYCHA housing</td>
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<tbody>
<tr>
<td><strong>Demographic Variables</strong></td>
<td><strong>Quality-of-Life Enforcement Variables</strong></td>
<td><strong>Control Variables</strong></td>
</tr>
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<td>- Proportion of Population that is Hispanic</td>
<td>- Quality-of-Life</td>
<td>- Felony Crime</td>
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<td>- Proportion of Population that is Black</td>
<td>Summons</td>
<td>Complaints</td>
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<td>- Quality-of-Life Misdemeanor Arrests</td>
<td>Property Crime Complaints</td>
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<tr>
<td>- Proportion of Population that is Male aged 15-20</td>
<td></td>
<td>Violent Crime Complaints</td>
</tr>
<tr>
<td>- Proportion of Population that resides in NYCHA housing</td>
<td></td>
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</tbody>
</table>

TABLE 1

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53 It is important to note that by conducting this analysis, OIG-NYPD is not stating that a higher crime rate is a justification for increasing the use of summonses. That is a complex judgment. Rather, this analysis solely seeks to determine whether a correlation exists between quality-of-life enforcement and felony crime.
2. Correlation Findings

Key Findings:

- Precincts with higher proportions of black and Hispanic residents, males aged 15-20, and NYCHA residents had generally higher rates of quality-of-life enforcement; conversely, precincts with higher proportions of white residents had lower rates of quality-of-life enforcement.

- Property crime rates do not explain the demographic disparity of quality-of-life enforcement.

- Higher rates of violent crime may account for why quality-of-life enforcement rates are higher in precincts with higher proportions of Hispanic and NYCHA residents.

- Precincts with higher rates of residents who are black or males aged 15-20 received lower rates of quality-of-life enforcement than these precincts’ higher violent crime rates would predict.

- Precincts with more white residents received higher rates of quality-of-life enforcement than these precincts’ lower violent crime rates would predict.

(Note: As explained in footnote 53 above, this analysis does not consider the policy question of whether an increase in violent crime justifies an increase in summons activity; it only considers whether a correlation exists.)

OIG-NYPD’s bivariate correlations indicated statistically significant relationships between demographic characteristics and crime complaints.\textsuperscript{ix} Precincts with higher proportions of black and Hispanic residents, males aged 15-20, and NYCHA residents had higher rates of quality-of-life summonses and quality-of-life misdemeanors. Conversely, precincts with higher proportions of white residents had much lower rates of quality-of-life enforcement. The strength of these relationships are depicted in Figure 18.

Bar graphs in this section depict relationship strength in terms of correlation coefficients. The correlation coefficient is a figure between zero (meaning that there is no correlation between variables) and one (meaning that the variables are perfectly correlated). The farther the number is from zero, in either a positive or negative direction, the stronger the correlation. When two variables are positively correlated, both variables move in the same direction—either both increase in tandem or decrease in tandem—and the strength of this relationship tells us how likely it is that the link is non-random, or that one variable influences the other. When two variables are negatively correlated, the variables move in opposite directions—as one increases, the other decreases.

The second bar graph, Figure 19, depicts the strength of relationships found in the partial correlation analysis, in which OIG-NYPD controlled for effects of felony crime rates on the relationship between demographic variables and quality-of-life enforcement rates. A number of relationships between demographic variables and quality-of-life enforcement remained statistically significant when controlling for aggregate felony crime.\textsuperscript{x} Precincts with higher rates of black and Hispanic residents, males aged 15 to 20, and NYCHA residents continued to have higher rates quality-of-life enforcement, even when controlling for total felony crime rates in those precincts. Only one relationship was accounted for by higher
rates of total felony crime. Higher rates of quality-of-life misdemeanor arrests in precincts with higher proportions of black residents are accounted for by higher rates of aggregate felony crime.

These findings indicate that, generally, higher rates of aggregate felony crime do not explain why there are higher rates of quality-of-life summonses or, in most cases, quality-of-life misdemeanor arrests in precincts with higher proportions of black and Hispanic residents, males aged 15 to 20, and NYCHA residents. In short, these precincts experienced higher rates of quality-of-life enforcement than would be expected given their rates of combined felony crimes.

Conversely, precincts with higher rates of white residents remained negatively correlated with quality-of-life summonses and misdemeanor arrests when controlling for total felony crime. This indicates that these precincts are receiving less quality-of-life enforcement than would be expected given their rates of aggregate felony crime—in short, lower rates of total felony crime in these precincts do not explain why their rates of quality-of-life summonses and quality-of-life misdemeanor arrests are so low.
How to Read Correlations Charts

Positive correlations appear above zero. As the demographic variables increase, the quality-of-life variable (in this case, Quality-of-Life Misdemeanor Arrests per 10,000 residents) also increases. The variables move in one direction.

Negative correlations appear below zero. As the demographic variable (in this case, Proportion of Residents who are White) increases, the quality-of-life variable (in case, Quality-of-Life Misdemeanor Arrests per 10,000 residents) decreases. The variables move in opposite directions.

When there is no bar for a demographic variable, there is no correlation between the demographic variable and the quality-of-life variable.

Figure 17

AN ANALYSIS OF QUALITY-OF-LIFE SUMMONSES, QUALITY-OF-LIFE MISDEMEANOR ARRESTS, AND FELONY CRIME IN NEW YORK CITY, 2010-2015

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Quality-of-Life Misdemeanor Arrest Rate per 10,000 residents
As the proportion of residents who are black, Hispanic, living in NYCHA housing, or males aged 15-20 increases in a precinct, the rate of quality-of-life enforcement also increases.

As the proportion of white residents in a precinct decreases, the proportion of quality-of-life enforcement also decreases.

- Precincts with higher rates of residents who are black, Hispanic, living in NYCHA housing, or males aged 15-20 residents continue to have higher rates of some quality-of-life enforcement even after controlling for aggregate felony crime rates. This means that the higher rates of quality-of-life enforcement are not explained by commensurately higher total crime rates in these precincts.

- Precincts with higher rates of white residents continue to have lower rates of quality-of-life enforcement even after controlling for felony crime rates, meaning that the lower rates of quality-of-life enforcement are not explained by commensurately lower total crime rates in these precincts.

- Aggregate felony crime rates do explain the relationship between quality-of-life misdemeanor arrests and the proportion of black residents in precincts, which is why the blue bar is missing on this variable.

What does this mean?
The lower rates of quality-of-life enforcement in precincts with higher proportions of white residents and the higher rates of some quality-of-life enforcement in precincts with higher proportions of black, Hispanic, NYCHA, or 15-20 year-old male residents is not likely due to the rates of aggregated felony crime in those precincts. However, the higher rates of misdemeanor arrests in precincts with higher proportions of black residents may be explained by the commensurately higher rates of felony crime in these precincts.
Aggregate felony crime rates do not appear to explain why rates of quality-of-life enforcement are lower in precincts with higher rates of white residents and generally higher in precincts with higher rates of residents who are black, Hispanic, males aged 15-20, or living in NYCHA developments. Once these relationships were discovered, OIG-NYPD conducted a subsequent round of partial correlational analysis, controlling for either violent crime or property crime instead of all felony complaints to examine whether quality-of-life enforcement rates might be explained by different types of crime. The strengths of these relationships are depicted in Figure 20 and Figure 21.

Controlling for property crimes results in similar relationships observed when using aggregate felony crimes as a control variable. Specifically, precincts with higher rates of black and Hispanic residents, males aged 15 to 20, and NYCHA residents continued to have higher rates of quality-of-life enforcement, and precincts with higher rates of white residents continued to have lower rates of quality-of-life enforcement. Property crime rates do not appear to explain precincts’ higher or lower rates of quality-of-life summonses and quality-of-life misdemeanors, either.

However, different relationships emerge when controlling for violent crime rates. Higher violent crime rates appear to explain the higher rates of quality-of-life enforcement in precincts with higher rates of residents who are Hispanic or living in NYCHA developments. Further, in precincts with higher rates of white residents, there appear to be higher quality-of-life summonses and quality-of-life misdemeanor arrest rates than would be expected given these precincts’ generally lower rates of violent crime. Conversely, in precincts with higher rates of residents who are black or males aged 15-20, there appear to be lower quality-of-life summonses and quality-of-life misdemeanor arrest rates than would be expected given these precincts’ generally higher rates of violent crime.

It is important to note that these findings do not imply any causal—or even temporal—relationships. It is unclear, for instance, whether NYPD’s quality-of-life enforcement in precincts follows spikes in violent crime, or whether spikes in violent crime lead to more quality-of-life enforcement due to increased police attention in these precincts, or neither. In order to shed additional light on patterns of quality-of-life enforcement and felony crime, the temporal relationships among these variables must be examined. OIG-NYPD’s next phase of investigation, a trend analysis, explores these relationships in detail.
Statistically Significant Relationships between Demographic Categories and Quality-of-Life Summons and Misdemeanor Arrests in New York City in 2015, controlling for Property Crime Complaints

**What does this mean?**

The lower rates of quality-of-life enforcement in precincts with higher proportions of white residents and the higher rates of quality-of-life enforcement in precincts with higher proportions of black, Hispanic, NYCHA, or 15-20 year-old male residents are not likely due to the rates of property crime in those precincts.
Higher quality-of-life enforcement rates in precincts with higher proportions of residents who are Hispanic or living in NYCHA developments may be related to violent crime rates in those precincts. However, precincts with higher proportions of white residents receive higher rates of quality-of-life enforcement, and precincts with higher proportions of residents who are black or males aged 15-20 receive lower rates of quality-of-life enforcement than would be anticipated given these precincts’ violent crime rates.
C. Trend Analysis: Six-Year Trends of Quality-of-Life Enforcement and Crime

Key Findings:

➢ Between 2010 and 2015, quality-of-life enforcement rates—in particular, quality-of-life summons rates—have dramatically declined, but there has been no commensurate increase in felony crime. While the stagnant or declining felony crime rates observed in this six-year time frame may in part be attributable to NYPD’s other disorder reduction strategies, OIG-NYPD finds no evidence to suggest that crime control can be directly attributed to quality-of-life summonses and misdemeanor arrests.

➢ No evidence was found to support the hypothesis that quality-of-life enforcement has any impact in reducing violent crime. As quality-of-life summonses decreased, violent crime also fell in the vast majority of patrol boroughs.

While examining present-day correlations between quality-of-life enforcement, crime, and demographics across New York City is key to understanding relationships among these variables, this kind of cross-sectional analysis does not reflect how crime rates change over time. To assess whether changes in quality-of-life summons and misdemeanor arrest rates relate to temporal shifts in crime rates, OIG-NYPD conducted a six-year trend analysis.

Examining trends and interactions between quality-of-life enforcement and felony crime rates over time can indicate whether changes in quality-of-life summonses and misdemeanor arrest rates are followed, temporally, by shifts in crime. For example, it would be less likely that quality-of-life enforcement has an effect on felony crime if a precinct experiences a dramatic increase in summons activity in a particular precinct and major crime does not decrease. Of course, there is no definitive way to tell whether quality-of-life enforcement has a causal impact on crime rates, because many variables interact to make crime more or less likely to occur at particular times and in particular locations, and it is impossible to control for them all.54

A trend analysis of categories of quality-of-life summonses in different patrol boroughs allows for better visualization of shifts in policing tactics, and for examination of subsequent shifts in crime rates in those areas as well. In addition, a trend analysis can determine whether overall trends of quality-of-life enforcement are statistically related to felony crime trends.\textsuperscript{xii}

The goal of OIG-NYPD’s trend analysis was to determine whether there are any empirical trends that indicate that quality-of-life enforcement may have an effect on felony crime.

1. Preparing the Data

For this analysis, OIG-NYPD divided the crime data into monthly segments from January 2010 to December 2015. OIG-NYPD analyzed these data for New York City as a whole and for each of New York City’s eight patrol boroughs.\textsuperscript{xiii} To account for the fact that population changes over time may impact crime rates,\textsuperscript{xiii} OIG-NYPD

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54 OIG-NYPD did not examine all potentially confounding variables, including the declining rates of stop, question, and frisk, which has seen a steady and dramatic decline from its peak in 2011.
calculated crime rates based on the annual population estimate for each patrol borough, resulting in a population-adjusted time series.

Crime data are heavily affected by seasonal variation. Generally, more crimes occur in the summer months, and fewer in the winter months.\textsuperscript{55} Because of this variation, OIG-NYPD applied a Holt-Winters seasonal adjustment statistic to the crime data.\textsuperscript{56} Holt-Winters seasonal adjustments are commonly used to minimize the seasonal “noise” of time series data, reducing variation and making the underlying trends of the data easier to examine.

To determine whether observed trends were statistically significant, OIG-NYPD used a Mann-Kendall approach.\textsuperscript{xiv} The Mann-Kendall is a test that allows directionality (i.e., increasing or decreasing rates of crime) to be analyzed for statistical significance.\textsuperscript{xv} Put simply, Mann-Kendall allowed OIG-NYPD to verify that the direction in which crimes trend over time is not due to random chance. Mann-Kendall also allows for additional adjustment for seasonal crime trends, referred to as a Mann-Kendall seasonal adjustment.\textsuperscript{xvi} This measure further removes the effects of seasonal variation, allowing clearer trends to emerge.


In this analysis, OIG-NYPD sought to answer the following question:

How have quality-of-life summonses changed between 2010 and 2015 across patrol boroughs?

OIG-NYPD first determined whether enforcement of quality-of-life summonses categories differed among patrol boroughs from January 2010 to December 2015. OIG-NYPD then examined quality-of-life summonses data for any discontinuity which could indicate decisions made by NYPD to increase or decrease enforcement of particular quality-of-life offenses at particular times.\textsuperscript{xvii} To do so, OIG-NYPD plotted monthly data for each of five selected quality-of-life summons categories (Public Urination, Possession of Marijuana, Disorderly Conduct, Open Container, and Bicycles on Sidewalks) on a timeline, and visually examined these plots for points of discontinuity in trendlines.\textsuperscript{xviii}

The rate of quality-of-life summonses generally decreased between January 2010 and December 2015.\textsuperscript{xix} Rates of summonses for Urinating in Public,\textsuperscript{57} Disorderly Conduct, Open Container, and Bicycles on the Sidewalk all experienced statistically significant decreases until 2015, when patterns began to shift across the patrol boroughs.\textsuperscript{xx}

Possession of Marijuana increased across the city until early 2015. These shifts were hardly continuous, however.

Open Container summonses in all patrol boroughs were issued at an extremely high rate during the summer of 2010, followed by steady decreases in the subsequent months. Across patrol boroughs, the peak rates (during the period of May through July of 2010) ranged from 9.1 per 10,000 residents in Staten Island to 50.9 per 10,000 residents in Brooklyn North, with the remaining boroughs and New York City as a whole averaging a peak rate of approximately 24 per 10,000 residents. However, in 2015, the downward trend ceased and the Open Containers summons rate increased markedly across all of the boroughs, notably in Manhattan South and citywide. Disorderly Conduct rates experienced a similar spike in the summer of 2011 across all patrol boroughs, followed by a dramatic decline. The peak rates for these summonses (in May and June of 2011) ranged from 8.5 per 10,000 in Staten Island to 42.6 per 10,000 in Brooklyn North, with an average of 22.5 per 10,000 for the remaining patrol boroughs and New York City as a whole.

Rates of summonses for Bicycle on the Sidewalk were generally steady until the beginning of 2014, when all patrol boroughs and New York City as a whole experienced precipitous drops. However, small elevations in the summons rate were observed in early 2015 in a number of patrol boroughs, including Brooklyn South and Queens North.

Rates of Public Urination summonses experienced an abrupt and sustained decline in December 2011 in the patrol boroughs of Queens North, Manhattan South, Manhattan North, and Brooklyn North, and in New York City as a whole. In Queens South, Brooklyn South, and the Bronx, rates declined less dramatically, but more steadily. In Staten Island, summonses for Public Urination experienced a sustained increase beginning in December 2011, a trend which continued until February 2015. Rises were notable across many of the other patrol boroughs throughout the remaining months of that year.

Possession of Marijuana experienced a dramatic and sustained (yet heavily seasonal) increase until 2015, when it diminished citywide. Possession of Marijuana summonses abruptly increased in November and December of 2011 across

\textsuperscript{57} Urinating in Public summonses significantly decreased in every patrol borough, except for Staten Island, between 2010 and 2014. In Staten Island, the rate of Public Urination summonses increased during this same period.
AN ANALYSIS OF QUALITY-OF-LIFE SUMMONSES, QUALITY-OF-LIFE MISDEMEANOR ARRESTS, AND FELONY CRIME IN NEW YORK CITY, 2010-2015

June 2016

all patrol boroughs and New York City. This increase may be explained by an internal order given by then-Commissioner Raymond Kelly in September 2011 requiring police to cease arresting people for small amounts of marijuana possession, provided the marijuana was not in plain view.\textsuperscript{58} For at least a period of three years, NYPD shifted to a tactic of issuing summonses rather than arresting those who possessed small amounts of marijuana.

The maps that follow the timeline graphs depict percent change between 2010 annualized rates and the 2015 annualized rates for the five quality-of-life summonses categories.

Of the five quality-of-life summonses categories examined:

- Open Container made up the majority of summonses issued in both 2010 and 2015 (50% in 2010 to 69% in 2015); however, the overall number of Open Container summonses issued decreased with each passing year.
- Public Urination was the second most issued summons in 2015.
- Disorderly Conduct was the second most commonly issued summons in 2010.
- The rate of Possession of Marijuana summonses remained steady citywide and in the patrol boroughs until January 2012, when it began to rise significantly. That shift lasted until December 2012, after which the rate steadily declined through 2015. In 2014, NYPD decriminalized possession of marijuana in quantities below 25 grams, which likely further contributed to the decline observed.
- Bicycle on Sidewalk summonses decreased in 2015, as compared to 2010 (9% in 2010 to 3% in 2015).

The total number of quality-of-life summonses issued in 2015 decreased overall, compared to 2010 (386,094 in 2010 versus 258,008 in 2015). The following maps illustrate the percentage change of summonses activity by category on a precinct level.\textsuperscript{59} The shifts depicted in these maps correspond with citywide changes in summonses administered.

Sixty-seven precincts saw a decrease in Open Container summonses in 2015 compared to 2010. The highest percentage increase in Open Container summonses was found in the 66\textsuperscript{th} Precinct, which had an 84.9% increase in summons activity over the six-year period. The 108\textsuperscript{th} Precinct had the sharpest decline, with a 75.7% decrease in Open Container summonses over the six-year period.\textsuperscript{60}

No precincts experienced an increase in Disorderly Conduct summonses activity when comparing 2010 and 2015 rates. The 77\textsuperscript{th}, 76\textsuperscript{th}, 24\textsuperscript{th}, 42\textsuperscript{nd}, and 50\textsuperscript{th} Precincts all had a 99% decrease in Disorderly Conduct summonses activity. The 6\textsuperscript{th} Precinct saw the

\textsuperscript{59} These percentages compare annualized rates of certain quality-of-life summonses in 2010 to annualized rates in 2015.
\textsuperscript{60} For all summonses categories, OIG-NYPD could not calculate the percentage change for the 121\textsuperscript{st} Precinct for 2010 to 2015 because it was created in 2013. Previously, that area was under the jurisdiction of the 120\textsuperscript{th} Precinct (all enforcement activity occurring in the 121\textsuperscript{st} Precinct in 2010 appeared in the 120\textsuperscript{th} Precinct’s rates). This change makes it appear that the 120\textsuperscript{th} Precinct had substantially higher rates of summonses activity in 2010.
AN ANALYSIS OF QUALITY-OF-LIFE SUMMONSES, QUALITY-OF-LIFE MISDEMEANOR ARRESTS, AND FELONY CRIME IN NEW YORK CITY, 2010-2015

June 2016

The lowest decline in Disorderly Conduct summonses, with a 71.3% decrease in that category.

Eighteen precincts saw an increase in Public Urination summonses in 2015 compared to 2010. The 34th Precinct had a 61.0% increase in Public Urination summonses issued, followed by the 70th Precinct at 55.9%. The 19th Precinct had an 86% decline in Public Urination summonses in 2015, compared to 2010.

The most dramatic change in summons activity between 2010 and 2015 was in the issuance of Possession of Marijuana summonses. Sixty-six precincts experienced an increase in summons activity for this category; 41 out of the 75 precincts examined saw Possession of Marijuana summonses rise over 100%. The largest change occurred in the 115th Precinct, which had a 1,387% increase in Possession of Marijuana summonses in 2015 compared to 2010, followed by the 66th Precinct with a 1,288% increase. The 19th Precinct had the largest drop in issuances in the category, with a 66.2% decrease in summonses.

No precinct had a rise in Bicycle on Sidewalk summons activity when comparing 2010 and 2015 rates. The 111th Precinct experienced no change in summonses activity. The 101st, 123rd, 100th, 1st, and 102nd Precincts all saw a 100% decrease in Bicycle on Sidewalk summonses.

Why are there two vertical axes on these timeline graphs?

When the rate of one variable is much higher than another, putting the rates on the same timeline graph can obscure how the rate changed over time. For this example, the number of quality-of-life summonses per 10,000 residents is much greater than the number of violent felony complaints per 10,000 residents, which flattens out the movement in the violent complaint line, making it hard to see how the rate changed in a given month.

To solve this problem, OIG-NYPD put the lower-rate variable (here, the rate of violent felony complaints) on a right-side axis. This allowed OIG-NYPD to zoom in on the rate of violent felony complaints and compare how the two rates moved over time.
AN ANALYSIS OF QUALITY-OF-LIFE SUMMONSES, QUALITY-OF-LIFE MISDEMEANOR ARRESTS, AND FELONY CRIME IN NEW YORK CITY, 2010-2015

Figures 22 and 23 show the comparison of QOL summons category offenses, NYC and Bronx, 2010-2015. The graphs illustrate the rates of various offenses over time, with specific events noted in the figures:

- Oct. 2011: An interim order was issued from NYPD command to patrol officers, which ordered them to stop arresting members of the public for possession of marijuana.
- Nov. 2014: Persons found to possess less than 25 grams of marijuana can no longer receive possession of marijuana summonses.

The graphs indicate changes in the rates of various offenses, such as possession of marijuana, disorderly conduct, and open container, among others.
AN ANALYSIS OF QUALITY-OF-LIFE SUMMONSES, QUALITY-OF-LIFE MISDEMEANOR ARRESTS, AND FELONY CRIME IN NEW YORK CITY, 2010-2015

JUNE 2016

Comparison of QOL Summons Category Offenses, Queens North, NYC, 2010-2015

**Figure 24**

Comparison of QOL Summons Category Offenses, Queens South, NYC, 2010-2015

**Figure 25**
AN ANALYSIS OF QUALITY-OF-LIFE SUMMONSES, QUALITY-OF-LIFE MISDEMEANOR ARRESTS, AND FELONY CRIME IN NEW YORK CITY, 2010-2015

JUNE 2016

Comparison of QOL Summons Category Offenses, Brooklyn North, NYC, 2010-2015

Oct. 2011: An interim order was issued from NYPD command to patrol officers, which ordered them to stop arresting members of the public for possession of marijuana

Jan. 2014: NYPD begins issuing violators of riding bike on a sidewalk moving violation rather than criminal court summons

Nov. 2014: Persons found to possess less than 25 grams of marijuana can no longer receive possession of marijuana summons

FIGURE 26

Comparison of QOL Summons Category Offenses, Queens South, NYC, 2010-2015

Oct. 2011: An interim order was issued from NYPD command to patrol officers, which ordered them to stop arresting members of the public for possession of marijuana

Jan. 2014: NYPD begins issuing violators of riding bike on a sidewalk moving violation rather than criminal court summons

Nov. 2014: Persons found to possess less than 25 grams of marijuana can no longer receive possession of marijuana summons

FIGURE 27

52
AN ANALYSIS OF QUALITY-OF-LIFE SUMMONSES, QUALITY-OF-LIFE MISDEMEANOR ARRESTS, AND FELONY CRIME IN NEW YORK CITY, 2010-2015

Comparison of QOL Summons Category Offenses, Manhattan North, NYC, 2010-2015

- Oct. 2011: An interim order was issued from NYPD community patrol officers, which ordered them to stop arresting members of the public for possession of marijuana.
- Nov. 2014: Persons found to possess less than 25 grams of marijuana can no longer receive possession of marijuana summonses.

Comparison of QOL Summons Category Offenses, Manhattan South, NYC, 2010-2015

- Oct. 2011: An interim order was issued from NYPD community patrol officers, which ordered them to stop arresting members of the public for possession of marijuana.
- Nov. 2014: Persons found to possess less than 25 grams of marijuana can no longer receive possession of marijuana summonses.
AN ANALYSIS OF QUALITY-OF-LIFE SUMMONSES, QUALITY-OF-LIFE Misdemeanor ARRESTS, AND FELONY CRIME IN NEW YORK CITY, 2010-2015

JUNE 2016

FIGURE 30

Comparison of QOL Summons Category Offenses, Staten Island, NYC, 2010-2015

- Oct. 2011: An interim order was issued from NYPD command to patrol officers, which ordered them to stop arresting members of the public for possession of marijuana.
- Nov. 2014: Persons found to possess less than 25 grams of marijuana can no longer receive possession of marijuana summonses.

Figures 30

54
AN ANALYSIS OF QUALITY-OF-LIFE SUMMONSES, QUALITY-OF-LIFE MISDEMEANOR ARRESTS, AND FELONY CRIME IN NEW YORK CITY, 2010-2015

Percentage Change in Open Container Summons by Precinct, 2010 and 2015

Legend
- Omitted Precincts
- Open Container
  - 75.65% to -50%
  - 49.99% to -25%
  - 24.99% to 0%
  - 0.01% to 30%
  - 30.01% to 100%

1st Precinct: 56.3% increase
66th Precinct: 84.9% increase
105th Precinct: 56.3% increase

FIGURE 32
Figure 33: Percentage Change in Disorderly Conduct Summons by Precinct, 2010 and 2015

Legend
- Omitted Precincts
-69.71% to -77.75%
-77.49% to -79.55%
-71.99% to -81.46%
-84.25% to -83.29%
-83.28% to -71.33%

6th Precinct: 71.3% decrease
66th Precinct: 79.8% decrease
106th Precinct: 88.9% decrease

June 2016
Figure 34: Percentage Change in Public Urination Summonses by Precinct, 2010 and 2015.
Percentage Change in Bicycle on Sidewalk Summonses by Precinct, 2010 and 2015

Legend
- Omitted Precincts
- Bicycle on Sidewalk
  - -100% to -94.88%
  - -94.87% to -87.72%
  - -87.71% to -78.95%
  - -78.94% to -56.88%
  - -56.87 to 0%

111th Precinct: 0% increase
104th Precinct: 56.8% decrease
63rd Precinct: 58.6% decrease
3. Correlations between Quality-of-Life Enforcement and Felony Crime in New York City

In this analysis, OIG-NYPD sought to answer the following question:

Are there any statistically significant correlations between quality-of-life enforcement trends and felony crimes over the six-year study period?

OIG-NYPD examined whether any particular shift in quality-of-life enforcement rates accompanied an inverse shift in felony crime. While this analysis cannot confirm that felony crime rates were impacted by changes in quality-of-life enforcement,xxi it does allow for a clear portrayal of trends that are related to each other in a statistically significant way. If trends are correlated, there is a greater chance that shifts in issuing quality-of-life summonses may have affected felony crime.

As an initial step in this process, timeline graphs were produced for each patrol borough and New York City as a whole for the following crime variables:

- Quality-of-Life Summonses
- Quality-of-Life Misdemeanor Arrests
- Violent Felonies
- Property Felonies
- Felony Assault
- Felony Robbery
- Felony Burglary
- Felony Grand Larceny

OIG-NYPD first visually examined these timeline graphs for discontinuity, trends, and patterns in the data, examining how crime rates changed alone and in relation to each other. OIG-NYPD then ran a Mann-Kendall statistical trend analysisxxii for each trend line for each patrol borough and New York City as a whole, in order to quantify and compare the directionality and magnitude of observed trends and to determine which observed trends were statistically significant.

OIG-NYPD sought to determine whether quality-of-life enforcement and felony crime trends increased or decreased in relation to each other and in a way that was not the result of random chance.
Graphs depicting borough and citywide rates of quality-of-life summonses and misdemeanor arrests and felony complaints appear below.

**Figure 36**

The total quality-of-life summons rate in New York City appears to have risen and fallen in a cyclical manner between January 2010 and December 2015, over periods that are evenly spaced. Quality-of-life misdemeanor arrests increased in much of 2014, then fell through 2015. Property complaint rates and total quality-of-life summons rates grew together between August and October 2015, while violent complaints increased. Notably, the property complaint rate increased most significantly in late 2015.
In the Bronx, all offense categories were in line with the City overall. However, the decline in the rate of total quality-of-life summonses that was observed in all other patrol boroughs was less pronounced in the Bronx.
For Queens North, total quality-of-life misdemeanor arrest rates experienced much less variability. After falling until January 2013, the rate increased to a peak of just 6.95 per 10,000 residents in November 2014. Quality-of-life summonses diminished to 10.45 per 10,000 residents in April 2015, after which they increased; matching the trend of the City overall. Violent and property complaints held stable.
In Queens South, the total quality-of-life misdemeanor arrest rate showed significant change from 2010 to 2015. Violent and property complaints remained stable. From November 2014 until July 2015 the summons and misdemeanor levels fell markedly. The total quality-of-life summonses rate began to increase after July 2015.
Brooklyn North had a property felony complaint rate that was significantly higher than those measured in other areas of the City. As observed elsewhere, the total quality-of-life summons rate fell dramatically from 2010 onward, but rose to a peak of 32.3 summonses issued per 10,000 residents in November 2015. Violent complaints remained stable for much of the period between January 2010 and December 2015.
In Brooklyn South, the May 2015 quality-of-life summons rate measured 7.7 offenses per 10,000 residents. In the next five months, the rate would nearly double, rising to 15 offenses per resident in November. The change in Brooklyn South was one of the greatest shifts in the patrol boroughs.
FIGURE 42

In Manhattan North, the total quality-of-life summons rate reflected the trends observed in the City overall. Complaint rates remained stable for the 2010 to 2015 time period.
**Figure 43**

For Manhattan South, the rate of quality-of-life misdemeanor arrests was markedly higher than those measured citywide. While the distribution of quality-of-life summonses diminished overall, the rate of 19.5 per 10,000 individuals in March 2015 was still higher than in the City overall. The property complaint rate was also greater than that of other patrol boroughs. Violent complaint rates remained stable through 2015.
In Staten Island, the total rates of quality-of-life summonses and misdemeanor arrests remained stable for much of the period between 2010 and early 2015. The quality-of-life summons rate fell to its lowest level of 3.2 per 10,000 residents in May 2015, after which point it more than tripled to a peak of 12.3 per 10,000 residents in November of the same year. Violent and property complaints held steady at rates in the single digits.

**Figure 44**

The majority of the observable trends (80%) were found to be statistically significant trends. In other words, the observed upward or downward direction of the trendlines are mostly indicative of statistical trends rather than random fluctuations.

OIG-NYPD then ran bivariate linear correlations on the significant trends, testing the relationships between quality-of-life enforcement and property and violent crime complaints. These findings are depicted in Table 2, with the numbers representing correlation coefficients. The further the coefficient is from zero in either direction, the stronger the relationship. As noted earlier in this Report, when two variables are positively correlated, both variables move in the same direction—either increasing or decreasing in tandem—and the strength of this relationship tells us how likely it is that the link is non-random, or that one variable influences the other. When two variables are negatively correlated, the variables move in opposite directions—as one increases, the other decreases.

Only eleven (17.7%) of the correlations between trends were found to be statistically significant. Bicycle on Sidewalk summonses were positively correlated with violent crime complaints in Manhattan North, Brooklyn North, Brooklyn South, Queens South, and New York City as a whole. This would indicate that as Bicycle on Sidewalk summonses rates decreased citywide between January 2010 and December 2015, violent crime complaints also decreased, and that this relationship is not due to random chance.

### Table 2

<table>
<thead>
<tr>
<th>Patrol Borough</th>
<th>Open Container Summonses per 10,000 Residents</th>
<th>Disorderly Conduct Summonses per 10,000 Residents</th>
<th>Urinating in Public Summonses per 10,000 Residents</th>
<th>Possession of Marijuana Summonses per 10,000 Residents</th>
<th>Bicycle on Sidewalk Summonses per 10,000 Residents</th>
<th>Quality-of-Life Summonses per 10,000 Residents</th>
<th>Quality-of-Life Misdemeanor Arrests per 10,000 Residents</th>
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</thead>
<tbody>
<tr>
<td>New York City</td>
<td>0.61</td>
<td></td>
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<tr>
<td>Bronx</td>
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<tr>
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<td>0.61</td>
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<td>Queens South</td>
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<td>Staten Island</td>
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</table>

<table>
<thead>
<tr>
<th>Correlated with Violent Crime Complaints per 10,000 Residents</th>
<th>New York City</th>
<th>Bronx</th>
<th>Manhattan North</th>
<th>Manhattan South</th>
<th>Brooklyn North</th>
<th>Brooklyn South</th>
<th>Queens North</th>
<th>Queens South</th>
<th>Staten Island</th>
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<td></td>
<td>0.61</td>
<td></td>
<td>0.64</td>
<td>0.70</td>
<td>0.64</td>
<td>0.64</td>
<td>0.61</td>
<td>0.64</td>
<td>0.68</td>
</tr>
<tr>
<td>Correlated with Property Crime Complaints per 10,000 Residents</td>
<td>New York City</td>
<td>Bronx</td>
<td>Manhattan North</td>
<td>Manhattan South</td>
<td>Brooklyn North</td>
<td>Brooklyn South</td>
<td>Queens North</td>
<td>Queens South</td>
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<td>0.57</td>
<td>0.57</td>
<td>0.57</td>
</tr>
</tbody>
</table>

**Note:** The table indicates the correlation coefficients between various types of summonses and arrests, with colors representing different correlation types: Negative Correlation (red), Positive Correlation (blue), and No Correlation (gray).
Open Container summons rates were positively correlated with violent crime rates in Manhattan North, indicating that these offenses also declined together.

The total quality-of-life summons rate was positively correlated with violent crime complaints in Manhattan North, Brooklyn North, and Queens South, indicating that as the overall quality-of-life summons rate decreased during the six-year period OIG-NYPD examined, the violent crime complaint rate declined with it.

The only variable that increased as the violent crime complaint rate decreased was that of quality-of-life misdemeanor arrests, and then, only in Queens North. Similarly, as the property crime complaint rate remained largely stagnant in Manhattan South, that patrol borough’s quality-of-life misdemeanor rate increased.

None of the statistically significant relationships between trends indicates support for the conclusion that quality-of-life enforcement has a clear influence on the reduction of felony crime over the six-year time frame that OIG-NYPD examined. For the most part, as indicated by the overwhelmingly gray boxes in Table 2, there is no statistically significant relationship between quality-of-life summons activity and reported crime rates. OIG-NYPD’s analysis finds no empirical evidence that one generally impacts the other.

Further, in some instances, OIG-NYPD found that as rates of quality-of-life summonses declined, violent crime rates declined with them for the duration of the entire six-year time period. Not only does this finding run counter to the hypothesis that a decline in quality-of-life enforcement could lead to an increase in violent crime rates, but a visual inspection of the timelines indicates that reductions in quality-of-life summonses do not appear to have directly followed major decreases in violent crime. It does not appear that NYPD’s reduction of quality-of-life summonses was in direct response to its success as a mechanism of reduction of violent crime. Between 2010 and 2015, quality-of-life enforcement rates—in particular, quality-of-life summons rates—have dramatically declined, but there has been no commensurate increase in felony crime. While the stagnant or declining felony crime rates observed in this six-year time frame may be attributable to NYPD’s other disorder reduction strategies, OIG-NYPD finds no evidence to suggest that crime control can be directly attributed to quality-of-life summonses and misdemeanor arrests. (OIG-NYPD notes that this finding should not be over-generalized. It deals only with the relationship of quality-of-life summons and misdemeanor activity to felony crime; OIG-NYPD does not suggest that police activity more generally has no impact on reported crime.)
IV. Recommendations

OIG-NYPD’s recommendations on quality-of-life enforcement are designed to address three key areas for improvement to NYPD’s approach to quality-of-life enforcement in New York City. First, NYPD should use data to analyze the relationship between quality-of-life enforcement and felony crime. Second, NYPD should approach quality-of-life enforcement as strategically as any other offense and analyze data to determine both short- and long-term trends. Third, NYPD should continue to release data to the public through the new CompStat 2.0 portal, increasing transparency and allowing greater opportunity for public study of NYPD data.

- NYPD should rely on a more data-driven approach to determine the relative impact of quality-of-life summonses and misdemeanor arrests on the reduction of felony crime, objectively comparing the statistical impact of quality-of-life enforcement on crime with other disorder reduction strategies.

1) NYPD should assess the relative effectiveness of quality-of-life summonses, quality-of-life misdemeanor arrests, and other disorder reduction strategies in reducing felony crime, demonstrating whether statistically significant relationships exist between these particular disorder reduction tactics and specific felony crimes.

OIG-NYPD found no evidence that the drop in felony crime observed over the past six years was related to quality-of-life summonses or quality-of-life misdemeanor arrests. This suggests that there are other strategies that may be driving down crime. Between 2010 and 2015, quality-of-life enforcement rates—in particular, quality-of-life summons rates—have dramatically declined, but there has been no commensurate increase in felony crime. While the stagnant or declining felony crime rates observed in this six-year time frame may perhaps be attributable to NYPD’s other disorder reduction strategies, OIG-NYPD finds no evidence to suggest that crime control can be directly attributed to quality-of-life summonses and misdemeanor arrests. Whatever has contributed to the observed drop in felony crime remains an open question worthy of further analysis.

Part of NYPD’s stated quality-of-life policing strategy involves the issuance of quality-of-life summonses and misdemeanor arrests, but as OIG-NYPD’s analysis shows, merely indicating that quality-of-life enforcement occurs in the same areas as felony crime is insufficient without review of the data over time and in comparison with other NYPD quality-of-life activities. Instead, NYPD should determine whether localized shifts in quality-of-life enforcement strategies are statistically related to subsequent shifts in felony crime, and it should use this information to better target quality-of-life enforcement. Further, NYPD should review—objectively and statistically—whether other methods of disorder reduction have a measurable relationship with the reduction of felony crime.
2) NYPD should conduct an analysis to determine whether quality-of-life enforcement disproportionately impacts black and Hispanic residents, males aged 15-20, and NYCHA residents. OIG-NYPD’s analysis suggests that precincts with higher proportions of these groups generally had more quality-of-life summonses and quality-of-life misdemeanor arrests. This analysis was undertaken at the precinct level, and thus cannot determine disproportional impact with regard to individuals. NYPD should further examine this issue to determine whether these groups are being disproportionately targeted within each precinct with a more precise analysis that clearly delineates the impact of quality-of-life enforcement patterns.

➤ NYPD should expand its data reviews to longer time frames to separate long-term trends from short-term trends or transient impacts of quality-of-life policing efforts across New York City.

3) NYPD should expand consideration regarding quality-of-life enforcement beyond short-term real-time conditions. While NYPD’s tactical decisions regarding quality-of-life policing are often, appropriately, based on real-time conditions, such short-term analysis of crime data, absent tests of statistical significance, is not enough to determine the impact that specific summonses and misdemeanor arrests have on specific felony crimes. NYPD should strengthen evidence-based predictive policing approaches to better determine the most effective quality-of-life strategies and minimize the potential for collateral consequences that can harm police-community relations. To do so, NYPD should analyze longer-term statistical trends to determine the likely effects of quality-of-life enforcement on specific crimes while separating out effects of short-term fluctuations in crime rates. This would allow NYPD to break down potential cause-and-effect relationships between quality-of-life summonses and misdemeanor arrests, and the felony crimes they are intended to prevent. This information could then be used to improve deployment and tactics, as well as make each precinct more responsive to community concerns. A review of this sort would permit NYPD to predict possible impact on a more nuanced level, allowing for more targeted deployment of police resources.

➤ NYPD has recently made incident-level data available to the public through CompStat 2.0. OIG-NYPD welcomes the launch of this interactive tool and recommends that NYPD additionally release more granular crime data to allow the public to better understand and analyze the relationships between quality-of-life enforcement and crime.

4) NYPD should release incident-level and geographically coded data on summonses and misdemeanor arrests. NYPD has released felony categories, shooting incidents, and certain misdemeanor offenses on CompStat 2.0. This information has allowed for greater transparency to the public. OIG-NYPD encourages NYPD to release more data (information that NYPD already collects) so that members of the public and institutions can further add to the conversation and help inform future policy discussions. Only felony crime categories are currently available as geocoded (precise location) incident level data. The inclusion of similarly detailed data on all misdemeanor arrests and summonses would help clarify to the public which activities
NYPD focuses on as part of its quality-of-life enforcement efforts, and which communities are most frequently targeted for increased attention to low-level crimes. These data can be integrated into the existing CompStat 2.0 platform. In turn, this increased transparency and the resulting possibility of more open dialogue with the public would improve police-community relations and collaboration.

5) **NYPD should release historical incident-level and geographic data.** Long-term data is currently available to the public for some felony categories, shooting incidents, and certain misdemeanor offenses. NYPD should make available historical incident-level and geographic data for all misdemeanor arrest and summons categories to make CompStat 2.0 more robust, and ultimately, more complete. The release of such long-term data would enable public examination of the potential impact of quality-of-life enforcement efforts over time.

6) **NYPD should ensure that data currently released in yearly formats also include more granular temporal data, including month-to-month formats and incident-level data.** NYPD publicly releases much of its long-term data in the form of annualized numbers by precinct. It would be beneficial if that data were released in month-to-month and incident-level formats, both for enhanced transparency and to allow the public to conduct better analysis of the data. While larger periods of time are useful, yearly data does not allow comparison of different periods of time within the year.

7) **All incident-level crime data, from felony arrests and complaints to misdemeanor arrests and summonses, should be released in the same accessible spreadsheet file format (.csv or similar file format).** NYPD currently releases some data (for instance, C-summons and misdemeanor arrest data) in publicly-downloadable spreadsheets that are formatted to be easily analyzed by external parties. Other crime categories are not as accessible, requiring considerable time and effort to convert into a usable format. With a combined release of long-term, granular datasets as outlined in Recommendations 4-7, members of the public, police oversight practitioners, and others would be able to examine for themselves the possible long-term impact of quality-of-life enforcement in New York City.
Please contact us at:

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New York City Department of Investigation
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For OIG-NYPD’s Press Office, please call (212) 806-5225 or email press@oignypd.nyc.gov

For OIG-NYPD’s Community Outreach Unit, please call (212) 806-5234 or email communityoutreach@oignypd.nyc.gov
Appendices
Appendix 1

Bivariate Correlation Results, Correlation Coefficients

<table>
<thead>
<tr>
<th>Variables of Interest</th>
<th>Proportion Males, Aged 15-20</th>
<th>Proportion Hispanic</th>
<th>Proportion White</th>
<th>Proportion Black</th>
<th>Proportion NYCHA Residents</th>
<th>Total Quality-of-Life Summons Rate</th>
<th>Total Quality-of-Life Misdemeanor Arrest Rate</th>
<th>Total Violent Felony Complaint Rate</th>
<th>Total Property Felony Complaint Rate</th>
<th>Total Felony Complaint Rate</th>
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</thead>
<tbody>
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<td>0.571</td>
<td>-0.728</td>
<td>0.624</td>
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<td>-</td>
<td>-</td>
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<tr>
<td>Proportion Hispanic</td>
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<td>-0.540</td>
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<tr>
<td>Proportion White</td>
<td>-0.728</td>
<td>-0.540</td>
<td>-0.673</td>
<td>-0.271</td>
<td>-0.503</td>
<td>-0.450</td>
<td>-0.732</td>
<td>-</td>
<td>0.309</td>
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</tr>
<tr>
<td>Proportion Black</td>
<td>0.624</td>
<td>0.234</td>
<td>-0.673</td>
<td>0.518</td>
<td>0.434</td>
<td>0.383</td>
<td>0.799</td>
<td>-</td>
<td>-</td>
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<tr>
<td>Proportion NYCHA Residents</td>
<td>0.316</td>
<td>0.297</td>
<td>0.271</td>
<td>0.518</td>
<td>0.449</td>
<td>0.497</td>
<td>0.552</td>
<td>0.305</td>
<td>0.429</td>
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<tr>
<td>Total Quality-of-Life Summons Rate</td>
<td>0.355</td>
<td>0.417</td>
<td>-0.503</td>
<td>0.434</td>
<td>0.449</td>
<td>0.810</td>
<td>0.813</td>
<td>0.498</td>
<td>0.764</td>
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<tr>
<td>Total Quality-of-Life Misdemeanor Rate</td>
<td>0.228</td>
<td>0.358</td>
<td>-0.450</td>
<td>0.383</td>
<td>0.497</td>
<td>0.810</td>
<td>0.787</td>
<td>0.585</td>
<td>0.814</td>
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<tr>
<td>Total Violent Felony Complaint Rate</td>
<td>0.574</td>
<td>0.448</td>
<td>-0.732</td>
<td>0.739</td>
<td>0.552</td>
<td>0.813</td>
<td>0.787</td>
<td>0.431</td>
<td>0.761</td>
<td>0.872</td>
</tr>
<tr>
<td>Total Property Felony Complaint Rate</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>-</td>
<td>0.305</td>
<td>0.498</td>
<td>0.585</td>
<td>0.431</td>
<td>0.761</td>
<td>0.872</td>
</tr>
<tr>
<td>Total Felony Complaint Rate</td>
<td>-</td>
<td>-</td>
<td>-0.309</td>
<td>0.412</td>
<td>0.429</td>
<td>0.764</td>
<td>0.814</td>
<td>0.761</td>
<td>0.872</td>
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</tr>
</tbody>
</table>

Note: The bivariate correlation results provided in Appendix 1 reflect use of the Spearman’s rank correlation method, which is most frequently applied when the relationships between the variables being examined are not normally distributed or nonlinear in nature. Further examination of the differences between the Spearman’s and the more commonly applied Pearson’s coefficients can be found in the 2011 paper entitled, “Comparison of Values of Pearson’s and Spearman’s Correlation Coefficients on the Same Sets of Data,” by Jan Hauke and Tomasz Kossowski, Quaestiones Geographicae, Volume 30(2), 87-93.
### Appendix 2

#### Partial Correlation Results, Correlation Coefficients

<table>
<thead>
<tr>
<th>Correlate</th>
<th>With</th>
<th>Controlling for</th>
<th>r</th>
</tr>
</thead>
<tbody>
<tr>
<td>Proportion of Male Residents, Aged 15-20</td>
<td>Total Quality-of-Life Misdemeanor Arrests</td>
<td>Total Felony Complaints</td>
<td>0.217</td>
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<td>Total Quality-of-Life Summons</td>
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<td>Total Quality-of-Life Misdemeanor Arrests</td>
<td>Violent Felony Complaints</td>
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<td>Total Quality-of-Life Summons</td>
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<td>-0.233</td>
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<tr>
<td></td>
<td>Total Quality-of-Life Misdemeanor Arrests</td>
<td>Property Felony Complaints</td>
<td>0.433</td>
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<tr>
<td></td>
<td>Total Quality-of-Life Summons</td>
<td></td>
<td>0.535</td>
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<tr>
<td>Proportion of Residents who are Hispanic</td>
<td>Total Quality-of-Life Misdemeanor Arrests</td>
<td>Total Felony Complaints</td>
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<tr>
<td></td>
<td>Total Quality-of-Life Summons</td>
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<td>0.517</td>
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<tr>
<td></td>
<td>Total Quality-of-Life Misdemeanor Arrests</td>
<td>Violent Felony Complaints</td>
<td>No correlation identified</td>
</tr>
<tr>
<td></td>
<td>Total Quality-of-Life Summons</td>
<td></td>
<td>No correlation identified</td>
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<td></td>
<td>Total Quality-of-Life Misdemeanor Arrests</td>
<td>Property Felony Complaints</td>
<td>0.543</td>
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<td>Total Quality-of-Life Summons</td>
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<td>0.563</td>
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<td>Proportion of Residents who are White</td>
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<td>Total Felony Complaints</td>
<td>-0.360</td>
</tr>
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<td>Total Quality-of-Life Summons</td>
<td></td>
<td>-0.435</td>
</tr>
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<td></td>
<td>Total Quality-of-Life Misdemeanor Arrests</td>
<td>Violent Felony Complaints</td>
<td>0.299</td>
</tr>
<tr>
<td></td>
<td>Total Quality-of-Life Summons</td>
<td></td>
<td>0.232</td>
</tr>
<tr>
<td>Total Quality-of-Life Misdemeanor Arrests</td>
<td>Property Felony Complaints</td>
<td>-0.561</td>
<td></td>
</tr>
<tr>
<td>-----------------------------------------</td>
<td>----------------------------</td>
<td>--------</td>
<td></td>
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<tr>
<td>Total Quality-of-Life Summonses</td>
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<td>-0.585</td>
<td></td>
</tr>
<tr>
<td>Proportion of Residents who are Black</td>
<td>Total Quality-of-Life Misdemeanor Arrests</td>
<td>Total Felony Complaints</td>
<td>No correlation identified</td>
</tr>
<tr>
<td>Total Quality-of-Life Summonses</td>
<td>Violent Felony Complaints</td>
<td>-0.477</td>
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<tr>
<td>Total Quality-of-Life Misdemeanor Arrests</td>
<td>Total Quality-of-Life Summonses</td>
<td>Property Felony Complaints</td>
<td>0.352</td>
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<tr>
<td>Total Quality-of-Life Misdemeanor Arrests</td>
<td>Total Quality-of-Life Summonses</td>
<td>0.406</td>
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<tr>
<td>Proportion of Residents in NYCHA Housing</td>
<td>Total Quality-of-Life Misdemeanor Arrests</td>
<td>Total Felony Complaints</td>
<td>0.281</td>
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<td>Total Quality-of-Life Summonses</td>
<td>Violent Felony Complaints</td>
<td>No correlation identified</td>
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</tr>
<tr>
<td>Total Quality-of-Life Misdemeanor Arrests</td>
<td>Total Quality-of-Life Summonses</td>
<td>No correlation identified</td>
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<tr>
<td>Total Quality-of-Life Misdemeanor Arrests</td>
<td>Total Quality-of-Life Summonses</td>
<td>Property Felony Complaints</td>
<td>0.412</td>
</tr>
<tr>
<td>Total Quality-of-Life Misdemeanor Arrests</td>
<td>Total Quality-of-Life Summonses</td>
<td>0.360</td>
<td></td>
</tr>
</tbody>
</table>

Note: Each rate that was used to obtain the computed correlation values was calculated per 10,000 residents.
### Appendix 3

**Mann-Kendall Coefficients**

<table>
<thead>
<tr>
<th>Patrol Boroughs</th>
<th>Total Quality-of-Life Summons</th>
<th>Total Quality-of-Life Misdemeanors</th>
<th>Total Violent Felony Complaints</th>
<th>Total Property Felony Complaints</th>
<th>Total Quality-of-Life Felony Complaints</th>
</tr>
</thead>
<tbody>
<tr>
<td>MS</td>
<td>-0.600</td>
<td>0.289</td>
<td>-0.422</td>
<td>-0.344</td>
<td>-0.378</td>
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<tr>
<td>MN</td>
<td>-0.933</td>
<td>-0.511</td>
<td>-0.756</td>
<td>No trend identified</td>
<td>No trend identified</td>
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<tr>
<td>BS</td>
<td>-0.889</td>
<td>-0.522</td>
<td>-0.256</td>
<td>-0.233</td>
<td>No trend identified</td>
</tr>
<tr>
<td>BN</td>
<td>-0.822</td>
<td>-0.833</td>
<td>-0.422</td>
<td>No trend identified</td>
<td>-0.178</td>
</tr>
<tr>
<td>QS</td>
<td>-0.822</td>
<td>-0.611</td>
<td>No trend identified</td>
<td>-0.333</td>
<td>-0.256</td>
</tr>
<tr>
<td>QN</td>
<td>-0.900</td>
<td>0.289</td>
<td>-0.522</td>
<td>-0.233</td>
<td>-0.400</td>
</tr>
<tr>
<td>BX</td>
<td>-0.844</td>
<td>-0.711</td>
<td>0.189</td>
<td>-0.278</td>
<td>No trend identified</td>
</tr>
<tr>
<td>SI</td>
<td>-0.489</td>
<td>-0.344</td>
<td>0.511</td>
<td>0.244</td>
<td>0.378</td>
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<td>NYC</td>
<td>-0.944</td>
<td>-0.656</td>
<td>-0.278</td>
<td>No trend identified</td>
<td>-0.189</td>
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</table>

Note: All Mann-Kendall statistics were considered statistically significant at the p<.10 level.
## Appendix 4

### Misdemeanor Arrest Types Considered throughout Analysis

<table>
<thead>
<tr>
<th>Misdemeanor Offense Categories, as technically defined by NYPD</th>
<th>Drugs, Tobacco, and Gambling</th>
<th>Property Damage</th>
<th>Trespass</th>
<th>Catchall</th>
<th>Resisting Arrest</th>
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</thead>
<tbody>
<tr>
<td>C/P MARIHUANA-5TH:25 GRAMS</td>
<td>CRIM MIS: DESTROY ABANDON BUILDING</td>
<td>CRIM TRES 3/RAILROAD/HATE CRIM</td>
<td>LEWDNESS-EXPOSE BODY IN PUBLIC</td>
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<tr>
<td>C/P MARIHUANA-5TH:PUBLIC PLACE</td>
<td>CRIM MIS: INTENT DAMAGE PROPERTY</td>
<td>CRIM TRES 3/SCHOOL/HATE CRIME</td>
<td>LEWDNESS-INTENT TO BE SEEN</td>
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<tr>
<td>CRIM POSS CONTRL SUBST-7TH</td>
<td>CRIM MIS: RCKLS PROP DAM &gt; $250</td>
<td>CRIM TRES 3:SCHOOL/HATE CRIME</td>
<td>LOIT: PROSTITUTION OFFENSE 2ND</td>
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<td></td>
</tr>
<tr>
<td>CRIM POSS MARIHUANA-4TH:2 OZ</td>
<td>MAKING GRAFFITI</td>
<td>CRIM TRES 3RD/HATE</td>
<td>LOIT: PROSTITUTION SOLICITATION</td>
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<tr>
<td>CRIM SALE MARIHUANA-4TH</td>
<td>POSSESSION OF GRAFFITI INST</td>
<td>CRIM TRES 3RD/HATE CRIME</td>
<td>PATRONIZE PROSTITUTE-3RD</td>
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<tr>
<td>CRIM SALE MARIHUANA-5TH:2 GRAM</td>
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<td>CRIM TRESPASS 3RD/HATE CRIM</td>
<td>PERMITTING PROSTITUTION</td>
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<tr>
<td>MFGR/SELL ALC BEV W/O LICENSE</td>
<td></td>
<td>CRIM TRESPASS 3RD:RAILROAD</td>
<td>PETIT LARCENY</td>
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<td>MISC LIQUOR/GAMBLING VIOL</td>
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<td>CRIM TRESPASS 3RD:SCHOOL</td>
<td>PROMOTING PROSTITUTION-4TH</td>
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<td>POSS/TRANS TOBACCO- TAX UNPAID</td>
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<td>CRIM TRESPASS 3RD:ENCLSD PROP</td>
<td>PROSTITUTION</td>
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<td>POS GAM DEV:OTH THAN SLOT-MACH</td>
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<td>CRIM TRESPASS 3RD:PUB HOUS VIO</td>
<td>PUBLIC LEWDNESS</td>
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<td>POS GAM DEVICE:SLOT MACHINE</td>
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<td>CRIM TRESPASS 3RD:PUB HOUSING</td>
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<td>POSS GAM DEV:COIN OPER/INT USE</td>
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<td>CRIM TRESPASS 3RD:SCHOOL</td>
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<td>Misdemeanor Offense Categories, as technically defined by NYPD</td>
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</tr>
<tr>
<td>Drugs, Tobacco, and Gambling</td>
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<tr>
<td>Property Damage</td>
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<tr>
<td>Trespass</td>
<td></td>
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<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Catchall</td>
<td></td>
<td></td>
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<td></td>
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</tr>
<tr>
<td>Resisting Arrest</td>
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<tr>
<td>POS GAM REC-2ND:BOOKMAKING</td>
<td>CRIM TRESSPASS 3RD:SCHOOL</td>
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<td>POS GAM REC-2ND:POLICY/LOTT</td>
<td>CRIMINAL MISCHIEF-4</td>
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<td>POSS GAM REC-2ND: POS FLASH PAP</td>
<td>CRIMINAL TRESPASS 2ND</td>
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<td>POS/SELL UNSTAMPED CIGARETTES</td>
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<td>PROMOTING GAMBLING-2ND</td>
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<td>SELL/Buy CIGARETTES BELOW COST</td>
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<td>WHOLESALE BUY CIGS BELOW COST</td>
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</tr>
</tbody>
</table>
Technical Endnotes

i Precinct-level analysis is not without its caveats. Some precincts have several condition-specific neighborhoods within their boundaries, and some neighborhoods cross precinct boundaries.

ii While OIG-NYPD refers to felony complaints as “crimes” for the purposes of estimating “crime rates,” no measure of criminal activity is without error. Crimes that never become known to the police, for example, are not measured in this review. Further, these data reflect retrospective data obtained from NYPD, and so reflect adjustments made to complaint categories following NYPD review of crime classifications.

iii While NYPD, the New York Penal Law, and the United States Supreme Court generally define burglary as a violent crime, the FBI’s Uniform Crime Report (UCR), the National Crime Victimization Survey, the Bureau of Justice Statistics, and a preponderance of criminological studies define burglary as a property crime. Given that a recent report for the United States Department of Justice concluded that nationally, “the majority of burglaries do not involve physical violence and scarcely even present the possibility of physical violence,” OIG-NYPD classified burglary as a property crime for purposes of this analysis. See Richard F. Culp, Phillip M. Kopp, et al., Is Burglary A Crime Of Violence? An Analysis of National Data 1998-2007, https://www.ncjrs.gov/pdffiles1/nij/grants/248651.pdf (last visited Sept. 13, 2015). Importantly, the felony burglary data used in this analysis was aggregated into a single Felony Burglary statistic, and as such the number of violent acts occurring during these burglaries is unknown.

iv 2015 population estimates were not available at the precinct level, so 2010 population counts were used to calculate these proportions. Given that the ratio of the population of each patrol borough to that of New York City as a whole remained fairly constant over the study period, with no ratio changing more than .20%, 2010 estimates were deemed to be reasonably reliable.


vi For all the correlations, OIG-NYPD used Spearman’s correlation coefficient to determine the magnitude of how two variables (for example, Bicycle on Sidewalk summonses and Property Felony Complaints) are related. This number is always between 0 and 1, with a value of 0 meaning that there is no relationship between the variables, and a value of 1 meaning that there is a perfect relationship between variables—that increases or decreases in one variable are always accompanied by increases or decreases in the other. (However, neither of these two situations occur frequently in real-life relationships). The necessity of this measurement is warranted because the data OIG-NYPD compiled is not normally distributed. That is, not all crime rates fall evenly close to an average crime rate. For more information on Spearman’s coefficients and non-normal distributions, see United Nations Educational, Scientific, and Cultural Organization, “Non-Parametric Measures of Bivariate Relationships,” available at http://www.unesco.org/webworld/idams/advguide/Chapt4_2.htm.

vii The significance level or p-value is a number between 0 and 1. It represents the possibility that the trend was observed by random chance (or as a fluke) alone. The p-value was less than .10 for all significant correlation tests, meaning that there is less than a 10% chance that these patterns were detected only by random chance. While the selection of a p-value of .10 increases the risk of concluding that there is a relationship between variables when, in fact, there is not, OIG-NYPD chose to err on the side of inclusiveness of all possible relationships rather than risk concluding that there is no such relationship when there may, in fact, be one. Tables of all correlation coefficients for the performed statistical tests appear in the appendices.

viii OIG-NYPD’s unit of analysis was precincts, which is a relatively small sample size of 76. (The 22nd Precinct was excluded from correlational analysis). In small samples, minor effects or relationships are very difficult to detect, meaning that there is a risk that the power of relationships are underestimated.

x Controlling for rates of felony crime is essentially setting rates of felony crime equal to 0 in all precincts. This eliminates the “influence” of felony crime in order to expose the relationship between race or ethnicity and quality-of-life summonses or quality-of-life misdemeanor arrests beyond such crime rates.

xi There are limits to this sort of analysis, given the relatively arbitrary temporal beginning and end points. OIG-NYPD’s analysis is limited to a six-year time frame and should not be generalized to longer time frames.

The significance level or p-value is a number between 0 and 1. It represents the possibility that the trend was observed by random chance (or as a fluke) alone. The p-value was less than .10 for all significant correlation tests, meaning that there is less than a 10% chance that these patterns were detected only by random chance. While the selection of a p-value of .10 increases the risk of concluding that there is a relationship between variables when, in fact, there is not, OIG-NYPD chose to err on the side of inclusiveness of all possible relationships rather than risk concluding that there is no such relationship when there may, in fact, be one. Tables of all correlation coefficients for the performed statistical tests appear in the appendices.
This method was used because more granular population estimates, such as Census blocks which are easily converted into precincts, are not available from the Census for 2010-2015. OIG-NYPD assumed that the 2010 proportions would hold for subsequent years, and used 2011-2015 Census estimates of borough populations to determine patrol borough populations for these years. For example, the annual population estimate for Queens was obtained for 2011, 2012, 2013, 2014 and 2015. See 2010 Census Summary File, Table: Annual Estimates of the Resident Population: April 1, 2010 to July 1, 2015, All counties in New York City, available at http://factfinder.census.gov. Queens North accounts for approximately 52.3% of the total Queens population, while Queens South accounts for approximately 47.7%. For each year, the total estimated Queens population was divided by the percentage of each individual patrol borough, resulting in an annual population estimate for each patrol borough for the duration of the study period. OIG-NYPD examined the proportion of the population that each patrol borough contributed to the population of the borough where it sits.

For more information on the use of Mann-Kendall tests in time series analyses, see U.S. Department of Energy, Visual Sample Plan, “Mann-Kendall Test For Monotonic Trend,” http://vsp.pnnl.gov/help/Vsample/Design_Trend_Mann_Kendall.htm (last visited Sept. 16, 2015). The article outlines the purpose of the Mann-Kendall test, which statistically detects the presence of trends in the data for a variable being examined over time. The Mann-Kendall technique is the best test available to statistically determine the presence and directionality of significant trends in the temporal data OIG-NYPD analyzed, and is an especially helpful tool for datasets that are non-normally distributed or contain large amounts of variance over time—like New York City crime data. Use of the approach is cited throughout a number of trend analyses conducted by academic and governmental entities (See, e.g., Claudia Libiseller & Anders Grimvall, Performance of Partial Mann-Kendall Tests for Trend Detection in the Presence of Covariates,” Environmetrics 13:1 (2002).

A key statistic used in this comparison was “Kendall’s tau,” which is a measurement of correlation between two quantities. In this case, OIG-NYPD measured the correlation between time and crime rates. A negative Kendall tau coefficient represents a general decreasing trend over time, while a positive one denotes a general increasing trend over time.

OIG-NYPD used non-seasonally adjusted data for this analysis in order to examine major shifts in quality-of-life enforcement tactics, apart from more consistent changes in seasonal crime rates.

A number of the timeline graphs depict quality-of-life summons rates as falling beneath the boundaries of the X-axes and trending toward the negative. The negative values result from the application of a smoothing technique to the data in the series to increase the interpretability of the relationships being examined. “Smoothing” is a broad term which describes a range of statistical processes (in this case the Holt-Winters) in which the variability in a dataset is reduced mathematically to produce diagrams which more accurately reflect the likely behavior of possible associations in ideal conditions. For more information on smoothing as a practice, See Tom O’Haver “Smoothing,” A Pragmatic Introduction to Signal Processing, http://terpconnect.umd.edu/~toh/spectrum/Smoothing.html and Charles Holt, “Forecasting Seasonals and Trends by Exponentially Weighted Moving Averages,” International Journal of Forecasting 20:1 (2004).

See Appendix 3 for a table of results of Mann-Kendall tests, including Kendall’s tau coefficients. For a definition of Kendall’s tau, see supra, note xv.

The p-value in a Mann-Kendall correlation test is a measure of statistical accuracy. The p-value, a number between 0 and 1, represents the probability that OIG-NYPD would observe a trend as extreme as the one that was observed by random chance (or as a “fluke”) alone. The p-value was less than .10 for all significant Mann-Kendall correlation tests, meaning that there is less than a 10% chance that these patterns were detected only by random chance.

There is no definitive way to tell whether quality-of-life enforcement has a clear causal impact on crime rates, because many variables interact to make crime more or less likely at particular times and in particular locations, and it is impossible to control for all of them.

For a definition of the Mann-Kendall approach, see U.S. Department of Energy, supra note xiv. See Appendix 3 for a table of results of Mann-Kendall tests. All Mann-Kendall statistics were considered statistically significant at the p<.10 level.

For a definition of the Mann-Kendall approach, see supra, note xiv. See Appendix 3 for a table of results of Mann-Kendall tests. All Mann-Kendall statistics were considered statistically significant at the p<.10 level.
Broken Windows Policing

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When People Are Property

How strategically choreographed, racialized fear built prisons out of broken windows.
In 1982, George L. Kelling and James Q. Wilson introduced the Broken Windows Theory to a national audience with an article published in *The Atlantic Monthly*. Theorizing about policing in low-income, inner-city, and predominantly black neighborhoods, Kelling and Wilson put forth an argument that cracking down on public disturbances and petty crimes with foot patrol officers would stop larger, more violent crimes from occurring. The essay cites the Newark Foot Patrol Experiment, a study orchestrated by George Kelling and funded by the Police Foundation—created by the Ford Foundation in 1970. Using the study as evidence, Kelling and Wilson admit that while this way of policing shows no reduction in crime or any affect on crime rates altogether, it does give people (some residents and those with commercial interests in the neighborhood) a sense of safety.

Despite mentioning early on that "the foundation concluded, to the surprise of hardly anyone, that [policing during the Newark Experiment] had not reduced crime rates," they go on to argue that this feeling of safety brought by the police presence prevents more violent crimes from occurring.

Occasionally evoking racist tropes, such as referring to people as "animals" or communities as "jungles," Kelling and Wilson argue that the role of the police is to maintain a type of social control:

"We suggest the 'untended! behavior also leads to the breakdown of community controls. A stable neighborhood of families who care for their homes, mind each other's children, and confidently frown on unwanted intruders can change, in a few years or even a few months, to an inhospitable frightening jungle."
The title of the article refers to a theory on deteriorating property that is not tended to: "one unrepaid broken window is a signal that no one cares, and so breaking more windows cost nothing." The idea is that a broken window should therefore be replaced or fixed. Wilson and Kelling then apply this theory about damaged property to living and breathing human beings: "the unchecked panhandler is, in effect, the first broken window." The United States has a long history of implementing systems of control for the black population—from auction blocks and slave patrols, to black codes and sharecropping—resting on the notion that black people are not free or human but rather, someone’s property. These systems of control, depending on free or cheap labor, create great profits for the ownership class. It is quite revealing that the theory behind contemporary urban policing across America still rests on the concept that black people are property—and should be ‘handled’ as such.

Wilson and Kelling go on to detail the other types of humans they have declared damaged property. They argue that a group of young people saying things that aren’t nice deserve to be policed and criminalized simply because they make people uncomfortable: "a gang can weaken or destroy a community by standing about in a menacing fashion and speaking rudely to passersby without breaking the law."

Searching for what is feared in the neighborhood, they zero in on a specific, irrational one—regardless of whether the majority concerns itself with that particular fear.
A “survey, in Baltimore, discovered that nearly half would cross the street to avoid even a single strange youth. When an interviewer asked people in a housing project where the most dangerous spot was, they mentioned a place where young persons gathered to drink and play music, despite the fact that not a single crime had occurred there.”

But instead of pointing out that this is profiling based on race and age (Kelling and Wilson are only discussing black neighborhoods); they use the irrational fear of young, black people to promote policing and criminalizing their existence. Kelling and Wilson want to purge the neighborhood of the undesirable—the homeless, the poor, the loud, the young and black—by harassing, abusing and forcibly removing them so often that they either no longer appear in public or get locked in a cage.

In the end, Kelling and Wilson cannot truly answer their own question, “how can a neighborhood be ‘safer’ when the crime rate has not gone down——in fact, may have gone up?” because it debunks their entire theory. The answer is an obvious one: It cannot. It is not. The Broken Windows method of policing offers nothing more than a false security, centered around irrational biases most likely developed from living in a country that has salivated and feasted on white supremacy for the past five hundred years.

The Newark Foot Patrol Experiment, published in 1981, cites the “burgeoning illicit drug trade” as to why the country is “besieged by criminal activity.” Conveniently, the following year and the same year the Broken Windows Theory was introduced, Ronald Reagan announced that drugs were a “threat to national security.” To put this in perspective, crack cocaine wasn’t found on America’s streets until 1985, when it was smuggled in by Nicaraguan guerilla armies. Years later, the CIA would admit that as they were actively using these armies for their covert war in Nicaragua, they were aware of the crack smuggling and did nothing to stop it. Today, George L. Kelling is a Senior fellow at The Manhattan Institute, a neoconservative think tank and long-time promoter of Broken Windows policing, and has worked with the think tank since the ’80’s. The co-founder of the Manhattan Institute, William J. Casey, was Ronald Reagan’s campaign manager.
during his presidential run and went on to be the Director of Central Intelligence during Reagan's administration from 1981 to 1987.

Reagan's campaign for the presidency advocated for the nation to take a "tough on crime" approach. He promised to restore law and order, a popular Republican campaign point after the 1960's urban riots and political movements. Michelle Alexander, author of The New Jim Crow: Mass Incarceration in the Age of Colorblindness, contends that The War on Drugs was the manifestation of Reagan following through on his campaign promise. The American government established militarized police occupations in black and brown neighborhoods and harsher sentencing for drug offenders, as it simultaneously stripped social services. The results were America's prisons overflowing with black and brown people, while our government rapidly worked to build more—just to fill them up again. And as broken windows policing—a strategy based on manipulating racial fears—was about to be implemented in cities across America, a fear-mongering media frenzy was occurring. Spurred by Robert Sutman, of the Drug Enforcement Agency, the irresponsible media hysteria inaccurately depicted all crack cocaine addicts as black, violent, and dangerous.

By 1994, New York Mayor Rudy Giuliani and his police commissioner, William Bratton were implementing the broken windows theory in New York City. George L. Kelling worked as a consultant for William Bratton as they implemented broken windows policing strategies on New York's subways. Termed the "Quality Of Life initiative", Giuliani referred to the broken windows theory as "an integral part of [his] law enforcement strategy", giving examples such as policing "reckless bicycle riding, noise pollution, littering, [and] panhandling," as well as, jaywalking, street vendors, "squeegee operators and graffiti vandals." They also began to police non-criminal activity like "standing, congregating, sleeping, eating and/or drinking in public spaces" and truancy. According to Christian Parenti, "NYPD planners drew up lists of names and maps of youth hangouts...to hunt down [and criminalize truancy]" with "operations...usually reserved for serious narcotics busts." The racism behind the implementation was apparent: 90 percent of those stopped by the NYPD Street Crime Unit were black or latino. Broken windows policing nourished the drug war. After Giuliani implemented it, marijuana arrests began to steadily double each year. In 1991, there were 774 marijuana arrests in New
York City. By 2000, the number of marijuana arrests were over 51,000. 86% of those arrested for marijuana were black and latino, a statistic that remained static until the end of Giuliani’s administration. Even though black and white people used marijuana at the same rate, black people were eight times more likely to be arrested for marijuana than white people in New York City. Between 1994 and 2002, the percentage of prisoners in New York State who were admitted for drug offenders ranged from 40 to 44.7 percent, second only to New Jersey. The overwhelming majority were nonviolent. By 2002, 94 percent of drug offenders in New York’s prisons were black or latino.

In 1994, the number of civilians shot dead and the number of civilians who died in police custody both increased significantly (34.8% and 53.3% respectively). Between 1992 and 1996, complaints of abuse and brutality at the hands of police officers increased by 60 percent, most of which came from the precincts policing low-income black and latino neighborhoods. On the increase of police brutality during this time period, Amnesty International says of the NYPD, “In many of the cases, examined international standards as well as US laws and police guidelines prohibiting torture or other cruel inhuman or degrading treatment appear to have been violated with impunity” and notes,

“the evidence suggests that the large majority of the victims of police abuses are racial minorities, particularly African-Americans and people of
Latin American or Asian descent. Racial disparities appear to be especially marked in cases involved deaths in custody and questionable shootings.”

It was the rampant abuses during Giuliani’s era, that called for the transparency of stop and frisk under Mayor Bloomberg.

Meanwhile, broken windows policing and similar strategies were being implemented in cities and black neighborhoods across the country, including Tampa, Chicago, Washington D.C., Denver and New Orleans. When William Bratton went on to be the commissioner of the Los Angeles Police Department, he drove up stop and frisk to over 875,000 stops (70% of which were black and latino). These numbers rivaled stop and frisk in New York under Michael Bloomberg. Bratton also introduced predictive policing, which the LA Weekly described as “a sophisticated system developed...by the US military, based on ‘insurgent’ activity in Iraq and civilian casualty patterns in Afghanistan.” Using past crime data to justify occupying specific neighborhoods with police officers, the system simply tracks past arrests of minor property offenses and contributes nothing to predicting or preventing violent crimes such as murder. These surveillance tools help make broken windows policing easier to implement in poor neighborhoods, but won’t actually make the community any safer.

Politicians, police commissioners and think tanks like the Manhattan Institute continue to try and credit the Broken Windows theory for the crime drop in New York City. However, multiple studies have proven this not to be true. New York University sociologist David Greenberg found “no causal connection between officers per capita at the precinct level and reductions in violent crime or between an increase in misdemeanor arrests and a drop in felonies.” Surveys from NYPD retirees working at the time also revealed “police commandeers faced heavy pressure from higher-ups to reduce felonies to misdemeanors—or in some cases to not report crime at all—in order to make the numbers look prettier.” In Bernard Harcourt and Jens Ludwig’s study titled Broken Windows: New Evidence From New York City and a Five City Social Experiment they find “that the declines in crime observed in New York City in the 1990s are exactly what experts would have predicted from the rise and fall of the crack epidemic, with or without broken-windows policing initiatives.”
While some of these great white men have passed away, these policies, theories and mindsets that produced this country’s mass incarceration persist. Over the years, police departments have given it different names: quality of life policing, community policing, hot spot policing, stop and frisk, neighborhood policing, and zero tolerance policing, to name a few. In the comfort of criminal justice classes and textbooks, these descriptions each have a specific definition. However, in practice over the past 30 years, these tactics mirror one another in their reliance on racial profiling and cracking down on petty crimes and ‘disorder’ to yield the same result: criminalizing the poor, black and brown. Those who champion it should be honest with themselves: it’s not crime they’re afraid of—it’s the black body.

As Bernard Harcourt says, “this type of policing is premised on society being divided into two groups, the ‘orderly’ upstanding law-abiding citizen and the ‘disorderly’ criminal-in-the-making.” Even in New York in the 1990s, where racial and economic divides have always been sharp, who is perceived to be law-abiding is most often white; while the disorderly criminal-to-be is black, poor, or both. In the height of gentrification, the racial and economic divide in New York has only increased. The original 1992 theory did not shy away from showing they valued commercial interests over others: “if a dispute erupted
between a businessman and a customer, the businessman was assumed to be right” and at least half of those interviewed on their feelings of safety for the Newark Foot Patrol Experiment were individuals with commercial interests in the neighborhood. Police protect the interests of the developers; therefore, instilling an illusion of white safety becomes of utmost importance. And as the social norms that are expected in neighborhoods are increasingly white and upper class ones, what gets criminalized is the very existence of blackness.

Mayor Bill de Blasio and William Bratton, smiling.

During the mayoral election, Bill de Blasio spoke out against the use of stop and frisk under Bloomberg in the outer boroughs, while telling his Upper West Side audiences that he believes in the “core notions of the broken windows theory.” Conveniently, both stop and frisk and the broken windows theory call for the policing of young, black people. For stop and frisk, they claim they’re looking for guns; for broken windows, they claim they’re keeping the order. After Mayor De Blasio was elected on his anti-stop and frisk stance, he appointed William Bratton as police commissioner at the beginning of the year and Bratton returned to his old job.

In the first half of 2014, reported stop and frisk statistics have gone down. Meanwhile, in a year where homelessness hasn’t been this high since the Great Depression, Bratton made plans to remove homeless people from the subways. The homeless removals are part of a larger
subway crackdown, in which Bratton has created two NYPD special units to patrol the subways. The crackdown, that started at the beginning of 2014, is extensive; arrests on fare dodgers, panhandlers, subway performers and homeless people in subways have increased by 300 percent. The NYPD has even gone as far as to monitor generally obsolete (and originally anti-homeless) MTA rules—such as no sleeping on the train in a way that disturbs other passengers—to the extent that they will brutally arrest and detain a black man for dozing off in a near empty subway train while he is on his way home from work. The recent announcement of Bratton’s plan to put cameras on all subway cars, will be yet another surveillance tool that will aid the police department in cracking down on petty crimes and non-criminal ‘disorder’.
The NYPD arrests on subway performers, that escalated at the beginning of this year, are unrestricted; they target both performers on the subway trains and on the platforms, as well as, performers who both comply and don't comply to the strict MTA rules. However, multiple performers have said that the New York Police Department specifically targets young, black performers. Reports have come out that over 240 subway showtime dancers (who are more often than not, young and black) have been arrested this year, compared to 2 dancers who were arrested in all of 2013. Most of the subway dancers are
charged with reckless endangerment (which can be either a misdemeanor or felony and goes on one’s record regardless); others are charged with disorderly conduct (a violation). Kids who get lite on the subway and people who ask for money, “create a sense of fear” on the subway trains, according to Bratton. However, he admits it “isn’t a serious crime.” His reasoning doesn’t explain why these subway dancers continue to receive a steady income from the same public who ‘fears’ them so much. Nor does it explain why young, black breakdancers are also targeted on the subway platform—a performance that complies with MTA rules—and charged with reckless endangerment. Just like how the drug war “has never been about drugs”, here is the root of mass incarceration: heavily police and incarcerate black and brown people—give the public another reason beside their skin color.
In the first three months of 2014, there were more marijuana arrests than in Bloomberg’s third or fourth quarter of 2013, according to the Marijuana Arrest Research Project. The arrests are dominated in low-income black and latino communities. 500 arrests were made in East New York and 408 arrests were made in Morris Heights between January and April 2014, where residents are 89% and 95% black and latino respectively. Meanwhile, 13 arrests were made in Park Slope and 8 arrests were made on the Upper West Side during those same months. Even in these two majority-white neighborhoods the majority
of those arrested were still black or latino. Of the 9,906 total marijuana arrests made between January and April 2014, 86 percent were black and latino. At this rate, marijuana arrests will continue to be just as high as they've been for the past five years and New York will continue to make more marijuana arrests than any other city in the world. Even though the Brooklyn District Attorney, Ken Thompson, announced plans to dismiss small marijuana charges, Bratton called marijuana decriminalization “a mistake” and declared that the NYPD will continue to make arrests. Bratton even seems to be steadily increasing marijuana arrests during the short amount of time he’s been in office: 4,360 arrests were made in the first two months of 2014 (up from from 3,964 arrests made in November and December 2013) and there were 5,276 arrests in March and April of 2014. De Blasio’s campaign promise to decriminalize seems to have disappeared.

Thirty years later, the power of broken windows policing to sustain mass incarceration and preserve the system of control and ownership indefinitely is harrowing. Michelle Alexander conceived the term “the invisible cage” to describe the life that a person convicted of a felony lives once out of prison:

“the unique set of criminal sanctions that are imposed on individuals after they step outside of the prison gates... These laws operate collectively to ensure the vast majority of convicted offenders will never integrate into mainstream, white society. They will be discriminated against, legally, for the rest of their lives—denied employment, housing, education and public benefits. Unable to surmount these obstacles most will eventually return to prison and then be released again, caught in a closed circuit of perpetual marginality.”

furthermore, those on probation and parole,

“are at increased risk of arrest because their lives are governed by additional rules that do not apply to everyone else. Myriad restrictions on their travel and behavior (such as prohibition on associating with other felons), as well as various requirements of probation and parole (such as paying fines and meeting with probation officers), create opportunities for arrest. Violation of these special rules [can result in a warrant issued for one's arrest and] can land someone right back in prison.”
In fact, in 2011, nearly 40 percent of prison admissions in New York were because of parole violations. Even after someone is released from prison, they remain property of the state. With broken windows policing, those who are already products of the prison industrial complex are more likely to come in contact with the police, increasing their chances of a parole or probation violation. The person selling items on the street without a permit may not be able to get traditional employment because they have a record—and is the same person targeted by police in the name of ‘maintaining order’. Broken windows policing continues to push new people into the carceral system but also continues the cycle of those already locked out of society.

Take, for example, William Bratton’s police raids on homeless shelters. In May, the NYPD raided the Freedom House shelter at 4 a.m. without probable cause and checked everyone for outstanding warrants. The commanding officer of the 24th precinct said the raids, “serve as a deterrent of deviant behavior.” Residents of the shelter describe the raids as, “disruptive and frightening.” Since people with felonies are discriminated against in housing, many have no choice but to go to the city's shelters. During a press conference on the raid, an advocate mentioned that most of the ‘warrants’ justifying the raids are simply from unpaid fines and tickets.

The Manhattan Institute held a forum called The Future of Policing on May 21, 2014 with guest speakers William Bratton and George L. Kelling. Their current relationship is described as follows, “Kelling is assisting Bratton as the Department ponders strategies to answer such transformative questions.” Kelling, who speaks first, mentions that he and Bratton are “taking a look on the impact of traffic enforcements on crime” and asserts “if one is dealing with traffic offenses, one is dealing with crime...and that’s [where] there are additional opportunities for crime control.” Mayor Bill de Blasio and William Bratton recently received $800,000 in federal funds to gear up their launched “Vision Zero” initiative which will crack down on traffic violations and jaywalking. The initiative will also include installing significantly more traffic cameras that are conveniently necessary for certain surveillance tools being put on the policing market.
Kelling eventually introduces William Bratton as "one of the three most important police leaders in the history of policing of the Anglo-Saxon world, my friend and colleague, Commissioner Bratton."

Bratton begins his speech by saying that the Broken Windows theory "has always been the principal of [his] form of policing." Mentioning that people give him a hard time for going after graffiti, he diagnoses graffiti as "the first sign of the disease. The first sign that people are not conforming to what we accept as the principals of modern society."

He goes on to discuss policing disorder and introducing predictive policing to the New York Police Department, as he did in Los Angeles. In a city council hearing in May, Bratton expressed his support for drones—unmanned machines with cameras and microphones that would be used to spy on communities. With surveillance drones, predictive policing, increased traffic and subway cameras, broken windows policing in this new age will grow more effective and therefore, more brutal and dystopian—creating an Orwellian Broken Windows society concerned only with the Quality of Whiteness.

The deadliness of Bratton's Broken Windows policing has surfaced in a short amount of time. Joining Amadou Diallo (23 years old), Mohammed Assassa (55 years old), Nicholas Heyward, Jr (13 years old), Anthony Rosario (18 years old), Hilton Vega (21 years old), Devin Brown (13 years old), Anthony Baez (29 years old) and many more, are Eric Garner and Jerome Murdough.
Eric, a 42-year-old black man, had been arrested in the past for petty infractures like alleged marijuana possession and selling untaxed cigarettes and has long spoken up about constant harassment from the police. As the police approached him last Thursday, his words echo the frustrations and trauma of a person who has been labeled a threat to the social order for the crime of selling loosies: “I didn't do shit. I was just minding my own business... Every time you see me you want to mess with me. It stops today!” A police officer puts him into a choke hold; another slams his head on the sidewalk. Eric exclaims, “I can't breathe” six times before going silent. At the hospital, he is pronounced dead on arrival. The police officers kill a husband, a father of six, and a grandfather of two.

Jerome, a man with black skin and no home, trying to stay warm on a cold winter night, falls asleep in a stairwell. the New York Police Department arrests him, charges him with trespassing, throws him in Rikers. Why? Because he is the broken window. His existence is a threat. Stripped of humanity, he is the state's property. A week later, he dies from overheating in his jail cell.

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editing done by: Charlotte P.

Please contact Raven Rakia at ravennotcrow@gmail.com before reprinting. Thank you.
Further Reading:

Incite Info Sheets on ‘Quality of Life’ Policing: here & here

Reina Gossett and Dean Space: "What Counts As Violence" (video)


Ruth Wilson Gilmore: (1) *The Golden Gulag: Prisons, Surplus, Crisis and Opposition in Globalizing California*, 2007; (2) Globalisation and the US Prison Growth; (3) Mothers and Prisoners in the Post Keynesian California Landscape


Berard E. Harcourt and Jens Ludwig: (1) Broken Windows: New Evidence from New York City and a Five-City Social Experiment (2) Reefer Madness


Jeremy Travis, Invisible Punishment

State of Surveillance: Police Privacy and Technology by the Center for Investigative Reporting (video), partial transcript here.

Broken Windows and the Legislative/Administrative Response

Shontell M. Smith, Director of Counsel and Finance for the Senate Democratic Conference
Broken Widows- A Simple Explanation

• Philip Zimbardo, a psychologist from Stanford University, conducted a field study in 1969, where he abandoned two cars in two very different places: one in Bronx, New York City (in a neighborhood of poverty), and the other Palo Alto, California (in an affluent neighborhood). Both cars were left without license plates and parked with their hoods up.

• In New York City, people who passed by the cars began vandalizing them. The car was first stripped it for parts, then randomly destroyed with the windows being smashed and completely broken. The car was destroyed. In Palo Alto the results was strikingly different; the car remained untouched for more than a week.

• After seeing that the Palo Alto car was untouched for a week, Zimbardo took a sledgehammer, gave the California car a smash and left it unattended. After that, passersby quickly ripped the car apart, just as they'd done in New York.
• This field test by Philip Zimbardo showed that when something is clearly neglected, it can quickly become a target for vandals.

• Thirteen years after the Zimbardo study, criminologists George L. Kelling and James Q. Wilson wrote an article for The Atlantic. They were intrigued by what had happened to Zimbardo's abandoned cars and thought the findings could be applied on a larger scale, to entire communities.

• Zimbardo’s field test, along with the Atlantic article written by Kelling and Wilson, eventually became the basis for one of the most controversial theories of crime and policing in America: "broken windows."
• Broken windows is the idea was that once disorder begins, things can get out of control no matter what neighborhood is affected.

• In the article, Kelling and Wilson believed that signs of disorder or decay — think loitering, graffiti, prostitution or drug use — can send the signal that a neighborhood is uncared for.

• They believed that once a neighborhood is uncared for such an area is vulnerable to criminal invasion. They said that while it is not inevitable, it is more likely that in these neighborhoods, drugs will change hands, prostitutes will be solicited and cars will be stripped.

• The basic premise is this– property is untended or a neighborhood is neglected → there is a sense by people that the neighborhood is uncared for → this leads to untended behavior (crime).
• Kelling and Wilson thought that if police departments addressed minor problems, maybe the bigger crimes might not occur.
• They proposed that police departments change their focus; instead of channeling a majority of their resources into solving major crimes, they should instead try to clean up the streets and maintain order.
• As a result, police focused on lower level crimes—such as keeping people from smoking pot in public and cracking down on subway fare beaters—instead of major crimes.
• The belief was simple → focus on quality of life infractions → make people believe the neighborhood is being tended/cared for → less crime will ensue.
What Are "Broken Windows" Offenses?

- Offenses which "Broken Windows" policing targets includes, but is not limited to:
  - Littering or Loitering
  - Fare evasion
  - Riding a bike on a Sidewalk
  - Performing in the Subway
  - Sleeping or taking up two seats in the Subway
  - Jaywalking
  - Begging
  - Loud music
  - Open container
  - Disorderly conduct
  - Trespass (which can include being in a building without identification)
  - Failure to comply with park signs (i.e. Being in a park after hours)
  - Low-level Marijuana possession
  - Selling 'Loosie' Cigarettes
  - Food Vending
  - Failure to have license for a dog
  - Spitting in public
NYC- A CASE STUDY

• The most apparent application of “broken windows” happened in the 1990 in NYC.

• In 1993, Republican Rudy Giuliani was elected Mayor of New York City and hired William Bratton to serve as his police commissioner. Yes, this is the same William Bratton who served in the NYC Mayor Bill de Blasio.

• Giuliani heavily subscribed to Kelling and Wilson's broken windows theory and enforced police policies that emphasized addressing quality of life crimes throughout the city.

• Specifically, Bratton directed the NYPD to more strictly enforce laws against subway fare evasion, public drinking, public urination, graffiti and squeegee men.
Criticism of Broken Windows

• Many criminologist believe the decrease in crime was not a result of broken windows policing but rather the result of a complex mix of social and demographic changes, including a break in the crack cocaine epidemic, an improving economy, and increased prison terms for proven lawbreakers.

• In fact, many critics of Broken Windows say there’s little evidence that it’s worked as intended.

• Instead critics have argued that broken windows has resulted in aggressive over-policing of minority communities, which often creates more problems than it solves.

• Many have argued that it:
  • Puts a strain on criminal justice systems;
  • Burdens impoverished people with fines for minor offenses;
  • Fractures the relationship between police and minorities; and
  • Sometimes leads to unintended tragedy—such as the death of Eric Garner. In July 2014, a bystander caught on cellphone video the deadly clash between New York City police officers and Garner, an African-American. Eric Garner was approached by the police for selling loose cigarettes on the street. After a verbal confrontation, officers tackled Garner, while restraining him with a chokehold, a practice that is in violation of NYPD policy. Many believe that if the police did not approach Eric Garner for the quality of life offense, Eric would still be alive.
Legislative and Administrative Responses to Broken Windows

• For these reasons stated in the previous slide, there has been increased momentum for the end of broken windows policing and to reverse the impacts that broken widows has had on low income and minority communities over the years.

• **How do you do this?** Ideally, the way to combat broken windows is to decriminalize certain crimes on a State level and ensure that police de-prioritize offenses that are not a threat to public safety.

• For example, the New York State legislature could focus on eliminating certain quality of life criminal offenses.
But NY is Progressive...

• Yes, parts of New York are extremely progressive, while other areas not so much.
• As a result of the composition of the two houses in the legislature are very different.
• The New York State Assembly, which has a Democratic majority, can pass legislation which would decriminalize certain offenses.
• Meanwhile the New York State Senate, which currently has a Republican majority, opposes legislation that decriminalizes certain offenses and does the opposite (passes penalty enhancers).
• As a result, bills that could address broken window offenses are left untouched.
BILL  Same as A 3201  Aubry
03/18 Criminal Procedure Law
Requires police officers and peace officers to issue appearance tickets to individuals charged with certain offenses instead of arresting such individuals.

REferred TO CODES
REferred TO CODES

NAME: MONTGOMERY, SANDERS
CP L

Requires police officers and peace officers to issue appearance tickets to individuals charged with certain offenses instead of arresting such individuals.
De-criminalizes the personal possession of marijuana; relates to certain pleas; specifies requirements with respect to bills affecting correctional populations.

S 7013 \ RIVERA     Same as A 667 \ Rodriguez

ON FILE: 01/03/18 Penal Law

TITLE: De-criminalizes the personal possession of marijuana; relates to certain pleas; specifies requirements with respect to bills affecting correctional populations

01/03/18    REFERRED TO CODES

GUEZ, BLAKE, AUBRY, BICHOTTE, CAHILL, CRESPO, BARRON, LUPARDO, HYNDMAN, MOSLEY, HARRIS, DAVIDLA, JENNE, SEPULVEDA, JOYNER, PEOPLES-STOKES, PICHARDO, WALKER, GOTTFRIED, M-S: Cook, Simon

1.05, 221.05 & 221.10, Pen L; amd §170.56, 440.10 & 160.50, CP L; add §52-a, Leg L

De-criminalizes the personal possession of marijuana; relates to certain pleas; specifies requirements with respect to bills affecting correctional populations.
Legislative and Administrative Responses

• As a result, there has been a lot of legislative and administrative actions either taken or proposed by the following:
  • Brooklyn, Bronx, Manhattan and Queens District Attorney’s Office;
  • NYC Mayor de Blasio; and
  • New York City Council.
Turnstile Jumping

• In February 2018, Manhattan District Attorney Cy Vance announced that he would no longer criminally prosecute most cases of subway turnstile jumping.

• This is a result of a decision by Vance's office in 2017 to begin offering diversion programs and adjournments for most cases of subway fare evasion. Although they were offering diversion programs and adjournments, the NYPD continued making arrests.

• As a result, the Manhattan DA’s office will still prosecute if the person is on a list as a known public safety risk. The office hopes to significantly slow down prosecutions for this low grade crime, which tend to inordinately target low-income and minority residents.
Amnesty Program

- In August 2017, Mayor de Blasio, the NYPD and four of the city’s five district attorneys have signed off a plan that would forgive warrants issued for low-level offenses such as:
  - Drinking Alcohol in Public
  - Disorderly Conduct
  - Public Urination
  - Being in the Park after Closing
  - Riding a Bicycle on the Sidewalk
  - Loitering
  - Unlawful Possession of Marijuana
  - Trespassing
  - Spitting
  - Unleashed dog
  - Littering
  - Failure to Have a Dog License
  - Making Unreasonable Noise
  - Animal Nuisance
  - Unlawful Possession of Alcohol (Under the Age of 21)

- The amnesty program applied to warrants older than 10 years and warrants were not be forgiven if an individual has an open felony case, was the result of a child support warrant summons or a transit warrant summons.

- This resulted in the city tossing 700,000 old warrants seeking arrest for low-level crimes. The tossed warrants were issued over the years mostly against people who failed to appear in court after being hit with summonses for quality of life offenses.

- The amnesty program was an attempt by the Mayor of NYC, in conjunction with the DA’s in Queen, Manhattan, Brooklyn and the Bronx, to move away from the “Broken Windows” method of policing.
In May 2016, the New York City Council passed legislation to create proportional penalties for certain low-level, non-violent offenses.

This package of bills called the Criminal Justice Reform Act was signed by the Mayor de Blasio on June 13\textsuperscript{th} 2016 and was an attempt by the New York City Mayor and City Council to reverse the effects of broken windows policing.

The NYC Council and the Mayor in passing and signing this legislation, relied on research that found in 2015, the NYPD issued over 150,000 criminal summonses for having an open container of alcohol, being in a park after hours, littering, public urination, and unreasonable noise.

Some of these summonses gave offenders a permanent criminal record, and missing one court date often led to an arrest warrant.
Criminal Justice Reform Act con’t

• The Criminal Justice Reform Act would now send a majority of these summons to civil court rather than criminal court. This would save many people from having a permanent criminal record and prevent the courts from issuing warrants for a defendants failure to answer a criminal summons.
• Many of the offenses below already had civil penalty options, which were not being issued by the NYPD.
• The following offenses were impacted:
  • Open Container of Alcohol
  • Parks Rules (being in Park after hours, walking on grass, disobeying signage)
  • Littering
  • Public Urination
  • Unreasonable Noise
What is the Difference between Criminal and Civil Court Summons?

Criminal Court Summons:
• A person may receive a permanent criminal record for some criminal summonses.
• A criminal summons requires a personal court appearance in almost all cases.
• A warrant will be issued if a person does not appear in criminal court. The warrant rate in criminal court for these offenses is between 40% and 50%, resulting in over 1.5 million active summons warrants in the City.

Civil Court Summons:
• A person will not receive a permanent criminal record for civil summonses.
• Fines can be paid online and appearances can be made by phone.
• A warrant will not be issued if a person does not appear in civil court.
• The rate of fines being imposed in civil court is higher than criminal summonses.
Significance of These Actions

• The continuation of broken windows impact:
  • A person’s criminal record;
  • A person’s immigration status;
  • A person’s ability to live in public housing;
  • A person’s ability to go to college; or
  • A person’s ability to work at certain jobs.

• The actions taken by NYC to limit broken window policies will have a significant impact on low income and communities of color by limiting their interaction with police and the criminal justice system.
Children are systematically dehumanized, criminalized, and harmed by our legal system and it is up to us to take action.

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Mark S. Mishler, Esq.¹

Our legal system does not care about the well-being of our children.

The fact that some individual participants in the legal system have positive motivations and sincerely care about children does not alter this terrible reality. Nor does the fact that important reforms have been enacted in recent years.

With the related growth of the carceral state² and neo-liberal austerity³ over the past 40 years, the legal system has increasingly functioned in a manner that causes harm to children (and others). This has become part of the actual work the legal system performs.


² Among the many valuable resources exploring and documenting the rise of the carceral state are: Gottschalk, M., Caught. The Prison State and the Lockdown of American Politics, Princeton University Press, 2015, which provides a comprehensive review of the expanding nature of the carceral state and the politics that have fed this growth; Alexander, M., The New Jim Crow. Mass Incarceration in the Age of Colorblindness (Revised edition), The New Press, 2012, which offers a compelling overview of the particular web of laws and policies that led to the grossly disproportionate incarceration and penal control of African-American men due to the “war on drugs”; and Gilmore, R W. Golden Gulag - Prisons, Surplus, Crisis, and Opposition in Globalizing California, University of California Press 2007, which examines the political, economic and geographic forces that caused the massive expansion of the prison system in California since the 1970's.

³ Wacquant, L., The Punitive Regulation of Poverty in the Neoliberal Age, Center for Crime and Justice Studies 2012 ties together the emergence of neoliberalism with the hyper-incarceration of communities of color.
When the day-to-day functioning of our courts, D.A’s offices, legislative bodies, municipal administrations, police departments, Child Protective Services, juvenile detention centers, probation departments, jails, and prisons is examined, it is difficult to deny that they all work to cause harm to children. And, the harms caused to children in and by the legal system fall disproportionately on children of color and children in poverty.

I understand this assertion - that the legal system essentially functions to cause harm to children - may be perceived as provocative, over-stated, unfair, too broad, and/or absurd.

However, the accuracy of this premise is confirmed when one looks, for example, at:

- the impact of mass incarceration on children and families,
- the impact of aggressive policing on the mental health of Black young men,
- the predatory and powerful nature of prosecutorial offices and the resulting harsh sentences imposed on young people,
- the over-policing of our schools (particularly schools with high percentages of students of color and/or students in poverty),
- the over-criminalization of drug possession and use (and the racially unequal enforcement of drug laws),
- the lack of accessible and affordable drug and alcohol treatment,
- the lack of accessible and affordable mental health treatment,
- the failure of our legal system to protect children from mass school shootings,
• the denial of necessary and proper resources to our public schools,

• the reliance on “zero-tolerance” disciplinary policies in our schools,

• the relative dearth of after-school educational or recreational programs or facilities, or

• the demonization of children of color as somehow inherently violent or out-of-control,

In fact, the only rational conclusion is that our society - as encompassed and governed, broadly speaking, by the structures and entities of our legal system - exists to cause harm to children. And, this has gotten steadily worse over the past 40 years as the inevitable consequence of austerity and the related growth of the carceral state.

What can we do to end the multiple layers of trauma inflicted on our children by the legal system?

I submit, if we truly care about our children, we must be willing to boldly challenge the status quo and to envision and work for a world in which our communities (including our children) are safe and healthy. Here is a brief, and incomplete, list of changes that are both necessary and possible:

1) Treat all children as children in the criminal justice system, with no exceptions. The recently enacted “Raise the Age” legislation in NY is a great step forward, but it does not cover all children or all offenses.\(^4\)


In fact, the best way to protect children would be to keep them out of the legal system altogether, not just keep them out of the adult system. But, raising the age of criminal responsibility to 21 and including all children and all offenses would be an excellent start.
2) Get the police out of our schools.\textsuperscript{5}

3) End aggressive policing that targets young people, and in particular, young people of color, and causes adverse health and mental health consequences.\textsuperscript{6}

4) De-criminalize marijuana.

5) Ensure that substance abuse treatment and mental health treatment are readily available for young people.

\textsuperscript{5} See: Vitale, Alex S., \textit{A Short History of Cops Terrorizing Students}, The Nation 10/28/2015, https://www.thenation.com/article/a-short-history-of-cops-terrorizing-students/ See, also, Vitale, Alex S., \textit{The End of Policing}, Verso 2017 (Examines multiple areas in which police reform efforts are doomed to fail as the underlying problem is the “dramatic and unprecedented expansion and intensity of policing in the last forty years, a fundamental shift in the role of police in society.”)


6) End the criminalization of drug use and mental illness. 

7) Gun control. I mean, is there really anyone who still believes it is okay for our country give higher priority to allowing almost universal access to assault rifles than to protecting the lives of school children?

8) End mass incarceration - if for no other reason than that it causes enormous harm to the millions of children with incarcerated parents. (Even achieving the modest goal of a

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7 For an example of the horrendous consequences that can result when our criminal justice fails to take into account a young person’s mental illness, we can look to the recent tragic and avoidable death of Benjamin Van Zandt. Van Zandt was a teenager in Albany County who suffered from severe mental illness. He was prosecuted for arson as an adult by Albany County D.A. David Soares (although he could have been prosecuted as a youthful offender). The DA refused to consider any option other than a lengthy prison term despite Van Zandt’s youth, lack of a prior record, and his well-documented mental illness - which was directly related to the offense. Van Zandt was sentenced to prison, where he was abused and where he ultimately committed suicide while held in isolated confinement. See: Marshall Project video project at [https://www.youtube.com/watch?v=02pISR2EPjQ](https://www.youtube.com/watch?v=02pISR2EPjQ) (an account of this case as narrated by Van Zandt’s parents) and [https://www.timesunion.com/tuplus-local/article/the-brief-anguished-life-of-a-mentally-ill-inmate-6327006.php](https://www.timesunion.com/tuplus-local/article/the-brief-anguished-life-of-a-mentally-ill-inmate-6327006.php)

8 Is a citation really necessary?

9 As many as 2.7 million children in the US have experienced parental incarceration. When one expands the scope to children who have experienced parental arrest, probation, and other types of criminal justice control, the number may be as high as 10 million. The percentages are significantly disproportionately worse for children of color. Martin, Eric Hidden Consequences: The Impact of Incarceration on Dependent Children, NJ Journal 278, March 2017, [https://nj.gov/journals/278/pages/impact-of-incarceration-on-dependent-children.aspx](https://nj.gov/journals/278/pages/impact-of-incarceration-on-dependent-children.aspx)


-5-
50% reduction in the jail and prison population would significantly improve the lives and well-being of children in this country.)

9) Fully fund our public schools. It can be done. The NY Court of Appeals has ordered it.¹⁰ Yet, the legislature and Governor fail year after year to do it.¹¹

10) End the criminalization of poverty.


12) Hold police officers and police departments accountable for brutalizing young people. How many more young people must be shot by law enforcement officers before we say as a society that it is unacceptable?¹³


¹¹ See: multiple reports and policy statements issued by the Alliance for Quality Education (AQE) regarding the failure, year after year, of New York State to be willing to fully fund the state’s public schools. This has continued even in the 2018 proposed state budget, fifteen years after the Court of Appeals ordered full funding. http://www.aqeny.org/

¹² International human rights law provides guidance as to how children ought to be dealt with in the legal system - for example, mandating that “No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment” and that the “detention or imprisonment of a child shall . . . be used only as a measure of last resort and for the shortest appropriate period of time.” See the full text of the Convention at http://www.ohchr.org/en/professionalinterest/pages/crc.aspx .


-6-
13) Build community and governance structures that are truly democratic, that are not based on models of punishment, violence, privilege or revenge, and that work towards protecting and enhancing the quality of life for all.

The line that separates “broken windows policing” from the many other policies and practices in our legal system which cause harm to young people is not clear or easily defined. I contend that the theory of broken windows policing is inherently flawed, in part because broken windows policing cannot be implemented in a manner that does not directly result in aggressive and unconstitutional policing of poor communities in general and communities of color in particular.

The experience of being subjected repeatedly to unconstitutional and intrusive “stops and frisks” is not easily separated from the experience of being subjected to or witnessing more severe forms of police brutality. (And, “witnessing” is, of course, no longer limited to those who happen to actually be present when an act of police brutality occurs. All of us who have viewed, for example, the police killing of Eric Garner in NYC have “witnessed” his death and have been traumatized by the police actions and the subsequent lack of accountability for his death.)

(Footnote 13 continued)

For an egregious recent local example of the complete lack of police accountability that exists when a Black man is killed by the police, see the report of the NYS Attorney General into the police shooting of Edson Thevenin in Troy, NY, in 2016, which found the existence of a significant cover-up on the part of the Troy Police Department (which conducted, and botched, the initial investigation into the shooting death of Mr. Thevenin). A link to the full report can be accessed at: https://ag.ny.gov/press-release/ags-special-investigations-and-prosecutions-unit-releases-report-death-edson-thevenin

For another egregious recent example of the lack of accountability for the police killing of a Black man, see Jaffe, N., “We Still Can’t Breathe - Justice for Dontay Ivy”, Truth-out.org, http://www.truth-out.org/speakout/item/33648-we-still-can-t-breathe-justice-for-dontay-ivy examining the unconstitutional and unjustified stop of Dontay Ivy by the Albany police in 2015 and the police actions that led to his death.
To a young person of color in NYC “witnessing” Eric Garner’s death on video, for example, how is the killing of Mr. Garner different from the day-to-day incidents of “low level” police harassment the young person has likely directly experienced?

The experience of having your mother and/or father incarcerated is not easily distinguished from the experience of walking into your public school which feels like a place of incarceration due to the aggressive presence of armed police officers.

The knowledge that while marijuana is being de-criminalized in many states, thousands of people (disproportionately, people of color) remain incarcerated in this country on marijuana related convictions makes it difficult to view such reforms as fully positive or fair.

And, the awareness that young people your community are regularly forcibly arrested and prosecuted for relatively minor alleged offenses while police officers who shoot and kill unarmed young Black men (or anyone else) are rarely prosecuted or, if prosecuted, are rarely convicted renders the validity or benefit of any “community policing” type reforms suspect.

There is a continuum that flows from low level police harassment of teenagers based on a “broken windows” model straight to police killings, the lack of police accountability, mass incarceration, and the infliction of terrible harm to our children and young people. If we care about our children, we will take steps to fundamentally alter how they are dealt with by the legal system.

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Attached is a redacted version of an amicus curiae brief I drafted on behalf of a local activist group, Capital Area Against Mass Incarceration, in the case of People v. Marquis A., 145 AD 3d 61 (Third Dept 2016). This brief raised some of the above-referenced concerns in the context of a specific case where a teenager was tried as an adult and, after being convicted, was sentenced as an adult to a nine year prison sentence for an offense that constituted stealing a pair of sneakers from another teenager.
This teen was prosecuted by Albany County D.A. David Soares, who, even in light of strong public opinion against this draconian adult sentence imposed on a teenager, adamantly continued to defend the alleged appropriateness of this nine-year prison sentence. For “Marquis A.” and his family and friends, this mistreatment of a child by the apparatus of the legal system was not an abstract issue of public policy, but a devastating instance of a young person subjected to torture.

***************

Also attached are three poems which express more powerfully than my prose the need for fundamental change in policing and our legal system.

I know it is out of the ordinary to include poetry in CLE materials, but I believe we lawyers may have much to learn by listening to the voices of those deeply impacted by the horrors of the legal system. Poetry provides insight and power that cannot as easily come from legalistic arguments.

Two of these poems - Franny Choi’s “Field Trip to the Museum of Human History” and Martin Espada’s “How We Could Have Lived or Died This Way” offer glimpses of a better world. They imagine a future where justice is not merely a dream, but a reality, and where our descendants will have difficulty comprehending “how we could have lived or died this way” as Espada says, or how it could be that in our America, “there were not greater protections from police than wealth and whiteness” as imagined by Choi.

The third poem - Maesha Meto’s “They Wear Blue” - vividly portrays the agony of having a child subjected to police brutality and the lived experience of children forced to endure random police violence.

***************

May there be more justice, more happy and healthy children, and more poetry. And, may we all commit to the work that is required to make this a reality.
Cracks in the U.S. Constitution
Broken Windows Policing and the Criminalization of Children
Albany Government Law Center Symposium, March 8, 2018

Children are systematically dehumanized, criminalized, and harmed by our legal system and it is up to us to take action.

Mark S. Mishler, Esq.

APPENDIX 1

Field trip to the Museum of Human History

Franny Choi
Field Trip to the Museum of Human History
Franny Choi

Everyone had been talking about the new exhibit, recently unearthed artifacts from a time
no living hands remember. What twelve year old
doesn’t love a good scary story? Doesn’t thrill
at rumors of her own darkness whispering
from the canyon? We shuffled in the dim light
and gaped at the secrets buried
in clay, reborn as warning signs:
a “nightstick,” so called for its use
in extinguishing the lights in one’s eyes.

A machine used for scanning fingerprints
like cattle ears, grain shipments. We shuddered,
shoved our fingers in our pockets, acted tough.
Pretended not to listen as the guide said,

*Ancient American society was built on competition
and maintained through domination and control.*

*In place of modern-day accountability practices,
the institution known as “police” kept order

*using intimidation, punishment, and force.*
We pressed our noses to the glass,

strained to imagine strangers running into our homes,
pointing guns in our faces because we’d hoarded
too much of the wrong kind of property.
Jadera asked something about redistribution

and the guide spoke of safes, evidence rooms,
more profit. Marian asked about raiding the rich,

and the guide said, *In America, there were no greater
protections from police than wealth and whiteness.*
Finally, Zaki asked what we were all wondering:

*But what if you didn’t want to?*

and the walls snickered and said, *steel,*

*padlock, stripsearch, hardstop.*

Dry-mouthed, we came upon a contraption
of chain and bolt, an ancient torture instrument

the guide called “handcuffs.” We stared
at the diagrams and almost felt the cold metal

licking our wrists, almost tasted dirt,
almost heard the siren and slammed door,

the cold-blooded click of the cocked-back pistol,
and our palms were slick with some old recognition,

as if in some forgotten dream we did live this way,
in submission, in fear, assuming positions

of power were earned, or at least carved in steel,
that they couldn’t be torn down like musty curtains,

an old house cleared of its dust and obsolete artifacts.
We threw open the doors to the museum,

shedding its nightmares on the marble steps,
and bounded into the sun, toward the school buses

or toward home, or the forests, or the fields,
or wherever our good legs could roam.

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*Franny Choi is a writer, teaching artist, and the author of *Floating, Brilliant, Gone* (Write Bloody Publishing, 2014). She has received awards from the Poetry Foundation and the Rhode Island State Council on the Arts. Her work has appeared or is forthcoming in *Poetry Magazine, The Journal, Rattle, Indiana Review,* and others. She is a VONA alumna, a Project VOICE teaching artist, and a member of the Dark Noise Collective.*

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Cracks in the U.S. Constitution
Broken Windows Policing and the Criminalization of Children
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APPENDIX 2

How We Could Have Lived or Died This Way
Martin Espada
Martín Espada

How We Could Have Lived or Died This Way

_Not songs of loyalty alone are these,
But songs of insurrection also,
For I am the sworn poet of every dauntless rebel the world over._
_Walt Whitman_

I see the dark-skinned bodies falling in the street as their ancestors fell before the whip and steel, the last blood pooling, the last breath spitting. I see the immigrant street vendor flashing his wallet to the cops, shot so many times there are bullet holes in the soles of his feet. I see the deaf woodcarver and his pocketknife, crossing the street in front of a cop who yells, then fires. I see the drug raid, the wrong door kicked in, the minister's heart seizing up. I see the man hawking a fistful of cigarettes, the cop's chokehold that makes his wheezing lungs stop wheezing forever. I am in the crowd, at the window, kneeling beside the body left on the asphalt for hours, covered in a sheet.

I see the suicides: the conga player handcuffed for drumming on the subway, hanged in the jail cell with his hands cuffed behind him; the suspect leaking blood from his chest in the back seat of the squad car; the 300-pound boy said to stampede barehanded into the bullets drilling his forehead.

I see the coroner nodding, the words he types in his report burrowing into the skin like more bullets. I see the government investigations stacking, words buzzing on the page, then suffocated as bees suffocate in a jar. I see the next Black man, fleeing as the fugitive slave once fled the slave-catcher, shot in the back for a broken tail light. I see the cop handcuff the corpse.

I see the rebels marching, hands upraised before the riot squads, faces in bandannas against the tear gas, and I walk beside them unseen. I see the poets, who will write the songs of insurrection generations unborn will read or hear a century from now, words that make them wonder how we could have lived or died this way, how the descendants of slaves still fled and the descendants of slave-catchers still shot them, how we awoke every morning without the blood of the dead sweating from every pore.

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Mark S. Mishler, Esq.

APPENDIX 3

They Wear Blue

Maesha Meto
They Wear Blue

by Maesha Meto

The mothers come here with dreams,
and their children, the glow of their color
like honey on
shades of silt, sand, and clay.

I can hear it still now, my neighbor pleading to her boy
Be honest, be brave; be kind, be strong, be humble.
Call me if anything goes wrong
You’re the only you I have

They come here with Glock 19s
wearing blue.
Following orders, I’m just following orders,

My neighbor’s boy repeats a mantra

Damn the void of the cop car sirens: the grief they bring,
The ruckus that ensues: the stillness of the block after,

That day
We shoot the American dream between our jump shots
And right hand lay ups,
He free throws me the beauty of the ghetto, and we
Blue and purple bruises together, knees smart on asphalt together,

and We heard them even before they came,
My neighbor’s boy crosses the court,
We hear the fear, the confrontation, the shuffle, and the wound
In succession.

We see his body disappear,
consumed by the blue.

Glory be to my neighbor who
comes home to her roots gone,
Her wails playing a tune to something
like the Star Spangled Banner.

Written for Art Against Broken Windows Policing exhibit, 2016, organized by the Police Reform Organizing Project, http://www.policereformorganizingproject.org/art-broken-windows-policing/
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APPENDIX 4

Redacted *amicus curiae* brief of Capital Area Against Mass Incarceration in *People v. Marquis A.* 145 AD 3d 61 (Third Dept 2016)
SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE DIVISION: THIRD DEPARTMENT

THE PEOPLE OF THE STATE OF NEW YORK,
   Respondent,

   -against-

   Appellate Docket No. 107375
   Albany County Index # DA-273-14

MARQUIS A.,
   Defendant-Appellant.

NOTE: THIS IS A REDACTED VERSION OF THIS
BRIEF, REDACTED TO REFLECT THE GRANTING
OF YOUTHFUL OFFENDER STATUS TO THE
DEFENDANT BY THE APPELLATE DIVISION,
THIRD DEPARTMENT IN THEIR DECISION,
PEOPLE V. MARQUIS A., 145 AD 3D 61 (2016).

BRIEF FOR
CAPITAL AREA AGAINST MASS INCARCERATION,
AS AMICUS CURIAE, IN SUPPORT OF
DEFENDANT MARQUIS A.'S BRIEF AND
FOR REDUCTION OF MR. A.'S SENTENCE

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The TABLE OF CONTENTS and TABLE OF AUTHORITIES are omitted from this redacted version of the brief.
PRELIMINARY STATEMENT

*Amicus curiae* Capital Area Against Mass Incarceration ("CAAMI") is an organization committed to change in the criminal justice system. In particular, CAAMI is concerned and dismayed regarding the detrimental and punitive treatment generally experienced by young people of color in the criminal justice system as shown, in part, by the imposition of harsh adult prison sentences on children.

*Amicus* submits this brief by permission of this Court in support of defendant-appellant Marquis A.’s brief on appeal and, specifically, for a reduction in his sentence. Marquis A. is appealing from his conviction for the offense of robbery 1st degree and the nine year sentence imposed on him by the lower court. A. 277 1.

*Amicus* supports the arguments submitted by Mr. A.’s counsel, Ms. George, in Points I, II, and III of Defendant-Appellant’s main brief on appeal seeking to have Mr. A.’s conviction reversed due to the insufficiency of the evidence, due to the error on the part of the lower court in refusing to charge the lesser included offense of robbery 3rd degree, and due to the fact that Defendant-Appellant’s waiver of his right to testify was not a knowing, voluntary and intelligent waiver of this core constitutional right. We respectfully ask that this Court not reach the question of the unconstitutionally excessive sentence unless the Court rejects the other arguments seeking reversal of the judgment of conviction.

This case has captured the attention of *amicus* because of the nine year adult determinate prison sentence imposed on a child who was 16 years old at the time of the offense.

*Amicus* respectfully submits, as set forth in detail below, that the nine year adult prison sentence imposed on Marquis A. must be modified and reduced.

This nine year adult sentence violates the principle that children are constitutionally different than adults for purposes of sentencing. (See POINT I, below.) In addition, this harsh sentence is contrary to norms and standards of international human rights law, which emphasize that legal actions regarding children must always be based on the best interests of the child. (See POINT II, below.) We also ask this Court to take notice of the unique, and, frankly, disturbing status New York holds as one of only two states which set the age of criminal responsibility lower than age eighteen, as

1 All such references are to the Defendant-Appellant’s Appendix on Appeal.
well as the disparate burden felt by young people of color in the criminal justice system. (See POINTS III and IV, below.) Finally, we bring to this Court’s attention that many community leaders believe that justice demands the reduction of the harsh nine year adult prison sentence imposed on Mr. A. for an offense committed at age 16. (See POINT V, below.)

We support Mr. A.’s request for the modification of this unjust sentence, which, we submit, is unconstitutional and excessive under the circumstances in this case.

**STATEMENT OF RELEVANT FACTS**

The key facts relevant to this brief are as follows. Marquis A. was 16 years old when he arranged to meet with another teenager for the purpose of purchasing a pair of collectible sneakers. A. 88-98. Upon meeting, as arranged, Mr. A. tried on the sneakers. The other teenager (the “seller”) claimed that Mr. A. then reneged on paying for the sneakers. According to the “seller”, Mr. A. then lifted up his shirt, took some steps back, and then walked away. The “seller” claimed that at that point he saw what he thought was a portion of a gun in Mr. A.’s waistband. A.101 - 102.

Mr. A. was indicted on one-count of robbery 1st degree, Penal Law §160.15(4), a class B armed violent felony. A.5.

Mr. A. pled not guilty and, after motion practice, this case was tried before Hon. Thomas A. Breslin, Justice, Supreme Court, in Albany County in November 2014. The jury returned a verdict of “guilty”. A. 267. Mr. A. was sentenced on January 9, 2015.

Although Mr. A. was 16 years old at the time of the offense, and 17 at the time he appeared for sentencing, the record does not reveal that the lower court engaged in any particularized examination or analysis as to the impact of Mr. A.’s age on the question of sentencing. In fact, there is no indication that age was a factor to any degree in respect to the sentencing process or the sentence imposed. See, transcript of sentencing proceedings, A. 269 - 279.

The only references by the Court to Mr. A.’s status as a child were the Court’s clarification that, under the law, as he had been convicted of an armed violent felony, Mr. A. was not eligible for a youthful offender adjudication.

Judge Breslin imposed a determinate prison sentence of nine years, to be followed by five years of post-release supervision. A. 277. This sentence is almost twice
the permissible minimum sentence for this offense, which would have been a five year determinate prison term.

Mr. A. timely appealed the judgment of conviction and sentence. Appellate counsel, Carolyn B. George, Esq., was assigned by this Court to represent Mr. A. on appeal. The appellant’s brief has been filed as has the People’s responding brief and a Reply brief on behalf of Mr. A.. The Court granted the motion of amicus Capital Area Against Mass Incarceration for permission to file an amicus curiae brief in a Decision and Order dated May 16, 2016.

STATEMENT OF INTEREST OF AMICUS CURiae

The lengthy adult prison sentence imposed on Mr. A., a child with no prior criminal convictions, in a case involving the allegation that one teenager took a pair of sneakers from another teenager, has garnered media and public attention in the Albany, NY area and much outrage at the notion that a 16 year old could be sentenced to adult prison for nine years.²

Capital Area Against Mass Incarceration (“CAAMI”) is an unincorporated association based in Albany, NY.

CAAMI engages in public advocacy, organizing, and education regarding the issue of mass incarceration and related issues such as police accountability and racism in the criminal justice system. As stated on CAAMI’s website (www.caami.org), “CAAMI seeks to challenge and dismantle mass incarceration and the systems of

² See, e.g. a series of articles by Albany Times Union columnist, Chris Churchill, including, Punishment sometimes surpasses a crime (TU 1/19/15), Sentences more about poverty than justice (TU 1/24/15), Kalief Browder and Marquis ___ cases are similar, tragic stories (TU 6/13/15), and Marquis ___’s sneaker sentence proves need for reform (TU 7/29/15).

See, also, numerous letters to the editor in the Albany Times Union discussing this case, including, Jim McMahon, Let’s Get ___ the Justice He Deserves (TU 1/31/15), Valerie Dechene, Marquis ___ Case Example of Injustice (TU 7/19/15), Alice Schrade, Where is A.’s Second chance? (TU 7/22/15), Gary Hook, Increase the Age of Criminal Responsibility (TU 4/9/16).

And, see, editorial, Two Wrongs N.Y. Can Right, (TU 1/27/15), expressing the Times Union’s editorial opinion that “Something is wrong . . . when a black teenager is sent to prison for more than half the life he has already lived, for stealing a pair of sneakers.”
oppression that sustain it. We do this through coordinated actions and by opening the
dialogue about mass incarceration and the criminal justice system in a way that is
empowering to all individuals and communities affected by them."

One issue which has been of great interest to CAAMI is the effort to raise the age
of criminal responsibility in New York State. Along with many other organizations,
CAAMI has engaged in legislative advocacy and other organizing efforts in support of
raising the age of criminal responsibility. These activities have occurred on a state-wide
level and locally in the Capital District.

When information about Mr. A. and his nine year adult prison sentence came to
the attention of CAAMI, the organization reached out to Mr. A. and his family and
committed to support them, in part, by helping to focus public attention on what
CAAMI believes to be an excessive and unfair sentence. This work has included
visiting with Mr. A. at the adult correctional facilities where he has been incarcerated,
corresponding with him, and providing support to his mother and other family members.
CAAMI also has reached out to other groups and leaders to join in this effort by
supporting the effort to reduce Mr. A.’s sentence.

CAAMI submits this *amicus curiae* brief in order to share our perspective
regarding what we believe is an unconstitutionally excessive sentence.

*Amicus* supports the arguments included in Mr. A.’s brief, but is also able to
articulate a broader view and context in regard to the issue of lengthy adult sentences
imposed on children.

*Amicus* believes it is both morally wrong and unconstitutional, under the
circumstances of this case, for a 16 year old child such as Marquis A. to serve nine
years in an adult prison. Capital Area Against Mass Incarceration, as *amicus curiae*,
asks this Court to right this wrong.

ARGUMENT

POINT I: THE NINE-YEAR SENTENCE MUST BE MODIFIED
AS THE LOWER COURT FAILED TO COMPLY
WITH THE CONSTITUTIONAL PRINCIPLE THAT
CHILDREN ARE “CONSTITUTIONALLY
DIFFERENT FROM ADULTS” FOR THE PURPOSES
OF SENTENCING.

This Court has recently explicitly adopted the principle that for purposes of sentencing, children are constitutionally different from adults. In the Matter of Dempsey Hawkins v. NYS Dept. Of Corrections and Community Supervision, et al., ___ AD 3rd ___, Slip opinion 521536 (Third Dept., April 28 2016) (This Court, relying on the line of U.S. Supreme Court cases cited above, held that the Parole Board had failed to comply with the constitutionally mandated standard to take the offender’s status as a child at the time of the offense into account in making a parole determination.) The Parole Board was obligated to “consider petitioner’s youth and its attendant characteristics in relationship to the commission of the crime.”, yet failed to meet this constitutional obligation. Hawkins, slip op. at 6 - 7.

The jurisprudence of the U.S. Supreme Court and, now, this Court as well, regarding child sentences and the obligations faced by trial courts when sentencing children, holds that children’s “diminished culpability and greater prospects for reform” are apparent in at least three ways. Children lack maturity, are more vulnerable to negative influences, and a child’s character is less ‘fixed’ than an adult’s. Montgomery v. Louisiana, supra, slip op at 15, Hawkins, supra, slip op at 3-4.

In the Roper, Graham, Miller, and Montgomery line of cases, the Supreme Court relied, inter alia, on developments in psychology and neuroscience which have conclusively established that a young person’s brain, in particular, their prefrontal cortex, is not fully developed until generally the mid-twenties and that this developmental process is significant and relevant for purposes of criminal culpability and sentencing.

A summary of the current state of scientific research regarding the issue of brain development was prepared for amicus by College of St. Rose Professor of Psychology Kathleen Crowley, Ph.D.. Prof. Crowley briefly has encapsulated this status as follows:

Research on neurological development over the past twenty years has convincingly demonstrated that the prefrontal cortex and limbic system regions
of the brain, which play a critical role in impulse control and behavioral regulation, typically do not reach maturity until individuals reach their mid-20s. . . . Taken together, these various lines of research suggest that adolescents and young adults are neurologically different from older adults and substantially less able to regulate their impulses and moderate their own behavior, even in circumstances where they are aware that their actions are risky, inappropriate, or even illegal.

(Excerpted from e-mail communication to counsel from Prof. Crowley, 2/2/16, with citations omitted.)

Amicus does not claim that this line of U.S. Supreme Court cases (or this Court’s decision in Hawkins) directly answers the question of whether imposing a nine year sentence on a 16 year old child, under the circumstances present in this case, is unconstitutional. However, the holdings and the reasoning of the Supreme Court and this Court in these cases makes clear that children must be viewed differently than adults in regard to sentencing.

We argue that applying the rationale of the Roper, Graham, Miller, Montgomery and Hawkins line of cases to the present case, the circumstances here compel the conclusion that Mr. A., a child, was not treated differently than an adult for purposes of sentencing.

There is absolutely no indication in the record that the lower court met its constitutional obligation to consider Mr. A.’s youth and its attendant characteristics in relationship to the commission of the crime and appropriate sentence to impose. See, Hawkins, supra. In fact, a review of the sentencing transcript in this case shows that Mr. A.’s status as a child was simply not a factor in the determination of the sentence. A. A. 269 - 279. The sole references by the Court to Mr. A.’s status as a child were the Court’s clarification that, under the law, as he had been convicted of an armed violent felony, Mr. A. was not eligible for a youthful offender adjudication. There was no acknowledgment or discussion by the Court of the ways in which Mr. A.’s young age, and attendant immaturity, may have played a role in the offense - which was, after all, an especially “youthful” and immature alleged act of stealing of a “collectible” pair of sneakers from another teen.

It is impossible to square the holdings and rationale of the above-cited U.S. Supreme Court cases and this Court’s decision in Hawkins with the imposition of a nine year adult prison sentence on a 16 year old child based on the facts of this case. Neither the nine year sentence nor the process by which it was imposed meet the constitutional test articulated and mandated by the Supreme Court and recognized in Hawkins.
We note that the case-law cited by the People (p. 28 of the People’s Brief) on the issue of the relevancy of a defendant’s youth to the question of whether a sentence is excessive (People v. Bourdieau, 42 AD 3d 585 [3d Dept 2007] and People v. Baker, 27 AD 3d 887 [3d Dept 2006]) is easily distinguishable from Marquis A.‘s case.

First, both of the cases cited by the People were decided prior to the emergence of the series of U.S. Supreme Court cases cited above, and, therefore the issues articulated in that line of cases were not before this Court in either Bourdieau or Baker.

Second, the cases cited by the People were decided prior to this Court’s recent decision in Hawkins, supra, and do not reflect the rationale and principles articulated in Hawkins.

Third, these cases are distinguishable on the facts. The young person in Baker was also 16 at the time of the offense, however, unlike the case at bar, this was not a robbery of sneakers in which no one was physically injured. In fact, the 16 year-old defendant in Baker had stabbed a woman to death and was convicted of manslaughter 1st degree. Her lengthy prison sentence for killing another person is not comparable to the sentence imposed on Mr. A. in an incident in which no one was physically injured.

The young person in Bourdieau, whose age is not specified in the decision, was sentenced to a 4 year term in prison based on guilty pleas to two counts of burglary 2nd degree, that is, two violent felonies. The Court imposed a lower sentence than had been recommended by the People (and, of course, a much lower sentence than was imposed on Mr. A. in the case at bar.) The fact that this Court in Bourdieau did not find that the defendant’s “youth” was an extraordinary circumstance justifying a reduction in his sentence is hardly surprising under the circumstances and, in any event, provides no relevant guidance in regard to the present case.

Amicus submits, in view of the Supreme Court case-law and this Court’s recent decision in Hawkins, that the sentence imposed on Mr. A. violated the constitutional mandate to treat children differently than adults for the purposes of sentencing. This principle was violated substantively - that is, the nine-year adult sentence is substantively excessive - and procedurally, as there is no indication Mr. A.’s status as a child was taken into account in any manner by the lower court in imposing the sentence.

Based on the above, amicus submits that Mr. A.’s sentence must be reduced, if this Court does not otherwise reverse his conviction.
POINT II: THE NINE-YEAR SENTENCE IMPOSED ON THIS CHILD MUST BE MODIFIED AS IT IS IN VIOLATION OF PRINCIPLES OF INTERNATIONAL HUMAN RIGHTS LAW PERTAINING TO THE TREATMENT OF CHILDREN IN THE LEGAL SYSTEM.

Amicus further submits that young Mr. A.’s nine year sentence must be examined in the context of norms and standards of international law.

A primary source of international human rights law principles regarding children is the United Nations Convention on the Rights of the Child. The Convention is considered “the most rapidly and widely ratified international human rights treaty in history”, according to UNICEF, the UN agency relating to the rights of children.

The Convention defines “child” as every human being below the age of eighteen, “unless under the law applicable to the child, majority is attained earlier.” Convention, Art. 1.

The Convention further provides that in all actions concerning children, including those taken by courts of law, “the best interests of the child shall be a primary consideration.” Convention, Art. 3.

The Convention further mandates: “No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment”, and that the “detention or imprisonment of a child shall . . . be used only as a measure of last resort and for the shortest appropriate period of time.” Convention, Art. 37. (Emphasis added)

Finally, as relevant to this matter, the Convention requires that “every child deprived of liberty shall be separated from adults unless it is considered in the child’s

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5 Despite the current status of New York law in which 16 is the age at which criminal responsibility attaches, the age of majority in New York remains at age 18. See, e.g.: CPLR section 105(j), Domestic Relations Law section 2.
best interest not to do so . . . ”. Convention, Art. 37. 6

Based on the specific circumstances of Mr. A. and of the offense in this case, the nine year adult prison sentence imposed on Mr. A. for an offense when he was 16 years old is in clear violation of the standards established in the Convention on the Rights of the Child and other sources of international law.

It certainly cannot seriously be contended, for example, that this nine year sentence in an adult prison is in the “best interests” of the child, Mr. A., which is the standard recognized by international law in regard to every legal action taken regarding a child. Convention, Art. 3. What possible benefit is there to Mr. A. to spend nine years in the formative period of his life locked-up in an adult prison? In view of the harshness of prison life, the well-documented additional risks faced by youth in adult prisons, and the sheer length of time, it cannot be said that this sentence is in his “best interest”.

To the extent any punishment was appropriately imposed in Mr. A.’s “best interest” (as compared with any arguable societal interest in retribution or deterrence), surely a much lesser sentence on this 16 year old child could accomplish whatever positive correctional impact as might be deemed necessary. 7

Nor can it be argued that this lengthy sentence was imposed “only as a measure of last resort” nor only for the “shortest appropriate time”. Convention, Art. 37. In fact, even if nothing else changes in regard to this case, the nine-year adult prison sentence was almost twice as long as the minimum permissible under the law for the offense of which Marquis A. was convicted. Penal Law § 70.02(3)(a). Thus, it was, by definition,  

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6 The norms and standards of international law, such as the U.N. Convention on the Rights of the Child, are relevant and compelling in this case regardless of whether such rules are “binding” on the Courts of New York, although, we submit these principles are binding. Without deciding that question, however, it is beyond dispute that these international standards offer guidance and insight as to the recognized norms as to how children ought to be treated in the criminal justice system. Why would New York not seek to be in compliance with such well-established and well-recognized humanitarian principles? And, shouldn’t this Court also seek to ensure that we, as a state, meet the expectations of international human rights law as applicable to children?

7 Amicus does not necessarily accept the premise that any period of incarceration was necessary or appropriate in this case, when one views it from the vantage point of what is in Marquis A.’s best interest. However, we recognize that he was convicted at trial and that, unless the Court granted the defense motion to set aside the verdict, which it did not (A. 270 - 271), the lower court was required to impose some sentence.
not the “shortest” appropriate period of incarceration that could have been imposed.

Finally, we argue that it violates international norms for Mr. A. to be sentenced in a manner that necessitated that he be incarcerated with adults. Convention, Art. 37.

As a result of these violations of international standards relating to the treatment of children, amicus submits that Mr. A.’s sentence must be reduced, if this Court does not otherwise reverse the conviction in this case.

POINT III: NEW YORK STATE IS OUT OF STEP WITH THE REST OF THIS COUNTRY REGARDING THE AGE OF CRIMINAL RESPONSIBILITY, AND THIS COURT SHOULD TAKE SUCH STEPS AS ARE POSSIBLE IN INDIVIDUAL CASES TO MITIGATE HARSH SENTENCES IMPOSED ON CHILDREN.

Amicus further asks this Court to be cognizant that New York State is one of only two states in which the age of criminal responsibility is set lower than 18 (the other being North Carolina), and that there has been significant momentum in the past several years for New York to raise the age of criminal responsibility. See, e.g., Report of the Governor’s Commission on Youth, Public Safety and Justice (2014), unanimously calling for raising the age of criminal responsibility in most instances to 18.\(^8\)

Appointed in 2014 by Gov. Cuomo, the Commission included experts in law enforcement, including the then District Attorney of Westchester County, Janet DiFiore (now, of course, the Chief Judge of the State of New York) and, as has special relevance to this case arising in Albany, NY, the then Chief of the Albany Police Dept., Steven Kroko, as well as experts in probation and other relevant fields, and was unanimous in their recommendation.

Despite the unanimous recommendations of the Commission in 2014, the NYS

\(^8\) Among other things, the Report cites to the U.S. Supreme Court cases referenced above and notes that the Supreme Court “has found that the ongoing development of adolescent identity makes it ‘less supportable to conclude that even a heinous crime was evidence of irretrievably depraved character’” [citation omitted]. Governor’s Commission Report, p.19.
Legislature has not seen fit to pass “raise the age” legislation to date. That legislative effort remains underway. This case, of course, does not present an opportunity for this Court to “legislate” a raise in the age of criminal responsibility.

The important points are, first, that the existing law in NY is outmoded and bizarrely and uniquely punitive towards children under 18 years of age and, second, that it is appropriate for our Courts - in light of all of the developments in science and law on these issues in recent years - to do everything that is possible within their powers to alleviate particularly egregious examples of excessive and punitive child sentences.

*Amicus* also notes that many of the organizations supporting the “Raise the Age” legislation as currently proposed, also have advanced a broader position, namely, that the age of criminal responsibility ought to be raised to 18 in NY in regard to all offenses, without exception. This would include, for example, violent felonies and armed felonies.

Among the groups advocating this position are the NYS PTA\(^9\); the Association of the Bar of the City of New York\(^11\), and the New York Civil Liberties Union (NYCLU)\(^12\).

\(^9\) The “Raise the Age” legislation, based on the Commission’s recommendations, has garnered significant support within the Legislature and widespread support from legal, public policy and civic organizations throughout New York. Among the many organizations supporting “raising the age” are: Amnesty International, The Children’s Defense Fund, Committee for Modern Courts, Correctional Association of NY, Families Together in NYS, The Legal Aid Society (NYC), The Osborne Association, the NYS Parent Teacher Association, the Association of the Bar of the City of New York, and the New York Civil Liberties Union (NYCLU).


\(^11\) See, *Report on Legislation - Raising the Age of Criminal Responsibility*, March 2015 (“The City Bar believes the reasons for raising the age for the crimes identified in the Proposal [the Commission proposals] are equally applicable for all crimes. We hope that after the Proposal is full implemented and demonstrating success, the Legislature will see fit to amend the law so that it includes all crimes.”) http://www2.nycbar.org/pdf/report/uploads/20072872-RaisingtheAgeofCriminalResponsibility.pdf

\(^12\) See, *Legislative Memo: Regarding Legislation to Raise the Age*, March 2015 (“Raising the age of criminal responsibility should mean that our criminal law recognizes that
In this case, this Court has the opportunity to take a humane and just step of reducing the nine year adult prison sentence imposed on this child, Marquis A. Such a step would, in addition to being the right thing to do, help send an important message that the New York criminal justice system cares about children and this would undoubtedly help to bring New York State to a more enlightened position regarding the issue of youth in the criminal justice system.

POINT IV: MR. A.’S COMMUNITY AND
COMMUNITY LEADERS SUPPORT A
REDUCTION OF THE HARSH ADULT
NINE-YEAR PRISON SENTENCE
IMPOSED ON THIS CHILD.

Amicus also wishes to inform this Court of the broad community support in Mr. A.’s home town of Albany for raising the age of criminal responsibility and, in particular, for addressing the severe and unfair sentence imposed on Mr. A..

We wish to bring to this Court’s attention that the Common Council of the City of Albany unanimously adopted a resolution on September 21, 2015 (Resolution Number 67.92.15R, a copy of which is attached hereto as Exhibit A), calling on the NYS legislature to raise the age of criminal responsibility to 18, and, further, calling on all actors in the criminal justice system to immediately begin exercising “greater discretion, compassion and leniency in the place of imposing harsh adult prison sentences on our young people” even in the absence of state legislative action.

The Albany Common Council Resolution specifically identified the case of Marquis A. as an example of an unfairly harsh sentence imposed on a young person. See, Common Council Resolution, Exhibit A, p. 2.

The broad-based support for the position advocated in this brief is also demonstrated by an extensive list of local community organizations, community leaders, religious leaders, elected officials, and scholars who have stated their support for reducing Mr. A.’s sentence.

young people are categorically different than adults, and should never be treated as adults, no matter what the offense.”) http://www.nyclu.org/content/regarding-legislation-raise-age
These organizations and individuals include the following:

**Organizations:**

Black Lives Matter Upstate NY  
Center for Law & Justice, Albany, NY (Alice P. Green, Ph.D., Executive Director)  
Citizen Action of New York  
Families Together of NYS  
The Free School, Albany, NY  
Fly Write Youth Music & Writing Program, Albany, NY  
Interfaith Impact of NYS  
The Justice Committee of the Sisters of St. Joseph of the Albany Province, Albany, NY  
Kite’s Nest (After-school and leadership training program for youth.) Hudson, NY  
NYS Defenders Association  
NYS Prisoner Justice Network  
Social Justice Center, Albany, NY  
The Social Responsibilities Council of the First Unitarian Universalist Society of Albany  
Staley B. Keith Social Justice Center, Hudson, NY  
Urban Guerilla Theater, Albany, NY

**Members of the City of Albany Common Council**

Hon. Carolyn McLaughlin, President, Albany Common Council  
Hon. Dorsey Applyrs, Member, Albany Common Council  
Hon. Ronald Bailey, Member, Albany Common Council  
Hon. Richard Conti, Member, Pres. Pro Tempore, Albany Common Council  
Hon. Judy Doesschate, Member, Albany Common Council  
Hon. Catherine M. Fahey Member, Albany Common Council  
Hon. Leah Golby, Member, Albany Common Council

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13 Each of the organizations and individuals listed here have specifically asked to be included as supporters of this brief. For the individuals, titles and affiliations are listed for identification purposes only and each person has stated his/her support in their individual capacities only.
Hon. Daniel Herring, Member, Albany Common Council
Hon. Joseph Igoe, Member, Albany Common Council
Hon. Kelly Kimbrough, Member, Albany Common Council
Hon. Vivian D. Kornegay, Member, Albany Common Council
Hon. Judd Krasher, Member, Albany Common Council
Hon. Michael O'Brien, Member, Albany Common Council
Hon. Mark Robinson, Member, Albany Common Council

Other Elected Officials

Hon. Patricia A. Fahy, Member of the NYS Assembly, 109th District

Other Community Leaders

Sue Adler, Albany, NY
Mary Baker, Lic. Mental Health Counselor, Pinnacle Behavioral Health, Albany, NY
Barbara Benedict
Rose M. Brandon, Albany, NY
Gerard D. Deighan, LMSW, Member, Black Lives Matter Task Force, First Unitarian Universalist Society of Albany, former probation officer
Colin Donnaruma, Esq., President, NY Civil Liberties Union - Capital Region Chapter
Shahrokh Falati, Ph. D. (Falati Law Firm)
Edward Hancock, retired educator, Glenmont, NY
Herb Hennings, President, Troy Area Labor Council
Rev. Jim Ketcham, Executive Director, FOCUS Churches of Albany
Jennifer Lange, Albany, NY
Rev. Dr. Glenn D. Leupold, Co-Pastor, First Presb. Church of Albany, NY
Rev. Jeffrey A. Matthews, Pastor, Trinity United Methodist Church, Albany, NY
Anne Pope, NAACP, Albany, NY
Bill Ritchie, President, Albany County Central Federation of Labor, and former Pres. of Albany Public School Teachers’ Association (APSTA) and retired public school guidance counselor
Ellen Roach, Albany, NY
Rev. Frances Wattman Rosenau, Associate Pastor, Westminster Presbyterian Church in Albany
Anne Savage, Albany, NY
Barbara Smith, Author, former Member of the Albany Common Council, Albany, NY
Karen Smith, Retired Acting NYS Supreme Court Justice
Vickie Smith, Member, Board of Education, Albany City School District
Bhawin Suchak, Director, Youth FX, Albany, NY
(An award-winning youth film-making program.)
Ann Von Linden, Albany, NY.
Mojavi Wright, Director, Urban Guerilla Theater

Albany Law School Faculty

Pam Armstrong, Professor
Vincent. M. Bonventure, Professor (Criminal Law and Const. Law)
Melissa Breger, Professor (Juvenile Law, Const. Law, Crim. Procedure, Children’s Rights)
Bridgit Burke, Professor Emeritus
Steven J. Clark, Professor
Joseph M. Connors, Esq., Clinical Professor, Director, Health Law Clinic
Stephen E. Gottlieb, Professor
Peter Halewood, Professor (Human Rights Law)
Michael J. Hutter, Professor
Nancy Mauer, Professor
Sarah Rogerson, Associate Professor
Christian Sundquist, Professor
Donna Young, Professor

Other Scholars / Faculty

Jeffrey Anderson, Lecturer, Law & Society, The Sage Colleges
Kathleen Crowley, Ph.D., Prof. of Psychology, The College of St. Rose
Frank Fitzgerald, Ph.D., Professor of Sociology, The College of St. Rose
Cheryl Anne Frye, Ph.D., Neuroscientist and NYS Clinical Neuropsychologist, Professor of Psychology, University at Albany, and Managing Staff Psychologist at Comprehensive Neuropsychological Services, Albany, NY
Paul Knuudson, Professor of Sociology, The College of St. Rose
Janel M. Leone, Ph.D., Assoc. Prof. in Law & Society, The Sage Colleges
Jennifer McErlean, Ph.D., Professor of Philosophy, Siena College
Kerry Mulligan, Ph.D., Ass’t. Prof. in Law & Society, The Sage Colleges
Jean E. Poppei, PhD, LCSW-R Prof. Emerita, Psychology The Sage Colleges

Of course, neither the views of CAAMI as *amicus curiae*, nor the support of the organizations and individuals listed above, nor the unanimous views of the Albany Common Council as set forth in the attached Resolution are binding on this Court. However, these all indicate broad community support for the position we advocate in this brief, namely, for the reduction of Mr. A.’s sentence.

**POINT V: THIS COURT SHOULD ALSO BE COGNIZANT OF THE EXTREME RACIAL DISPARITIES REFLECTED IN HOW CHILDREN ARE TREATED IN THE CRIMINAL JUSTICE SYSTEM AND THIS FACTOR ALSO SUPPORTS REDUCING MR. A.’S SENTENCE.**

*Amicus* also respectfully submits that the treatment of children as “adults” in New York’s criminal justice system has a particular and disproportionate impact on children of color, who are vastly over represented in our state’s jails and prisons. Over 70% of the 16 and 17 year olds arrested in New York State are African-American or Latino. And, of children sentenced to incarceration in New York State, more than 80% are African-American or Latino. As these statistics make clear, being an African-American or Latino 16 or 17 year old significant increases the likelihood of being arrested in New York and, once arrested, of being sentenced to incarceration.

For example, outside of New York City 21.1% of African-American 16 and 17 year olds arrested received sentences to prison or jail as compared to only 8.7% of white 16 and 17 year olds arrested.\(^1\)

These gross and unacceptable racial disparities in arrest rates and incarceration rates of 16 and 17 year olds were recognized by the Governor’s Task Force, cited above, as a significant problem necessitating changes in policies and practices in the criminal justice system. See: Report of the Governor’s Commission on Youth, Public

\(^{1}\) All of the statistics cited here are taken from a special report prepared by the NYS Division of Criminal Justice Service, Criminal Justice Case Processing of 16-17 Year Olds, January 4, 2013.
Mr. A., who is African-American, is representative of this racially disparate impact. We submit this is an issue of justice that this Court must also take into consideration and that this provides further support to reducing Mr. A.’s sentence.

CONCLUSION

For all of the reasons set forth above and in POINT IV of Defendant-Appellant’s brief - and if this Court does not reverse Mr. A.’s conviction as requested in Mr. A.’s brief - Capital Area Against Mass Incarceration, as amicus curiae, respectfully asks this Court to exercise its discretion and reduce the excessive, unduly harsh and severe, and unconstitutional nine year determinate sentence imposed by the lower court on Mr. A..

Dated: June 1, 2016
Albany, NY

Respectfully submitted,

/s/
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750 Broadway
Albany, NY 12207
(518) 462-6753

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15 The Report states: “...the impacts of processing all 16- and 17-year olds in the criminal justice system fall disproportionately on young men of color. Young men of color are substantially overrepresented among youth who are arrested at age 16 or 17 and who end up incarcerated as a result of the offense. These impacts are felt not only by the young men themselves, but also by communities of color around the State.” Report, p. 2.
PRESENCE OF POLICE OFFICERS IN SCHOOLS


Introduction

Over the past 50 years, schools—particularly in poor Black and Latino communities—have become sites of increased criminalization of young people. Coupled with the rise of mass incarceration came a punitive turn toward adolescents and the extension of youth policing from neighborhood block to street corner, to playground, and finally, to the classroom. Politicians, law enforcement, and the media created a false panic about youth crime epidemics that justified the targeted and punitive policing of low-income Black and Latino youth. Later, fears of another Columbine massacre misguidedely drove the expansion of infrastructure that ensured the permanent placement of police in schools. As this report outlines, the permanent presence of police in schools does little to make schools safer, but can, in fact, make them less so.

Like other criminal justice policies that have fueled mass incarceration, at its origins, school policing enforced social control over Black and Latino youth who could no longer be kept out of neighborhoods and schools through explicitly discriminatory laws. Today, police officers assigned to patrol schools are often referred to as “school resource officers,” or SROs, who are described as “informal counselors” and even teachers, while many schools understaff real counselors and teachers. Their power to legally use physical force, arrest and handcuff students, and bring the full weight of the criminal justice system to bear on misbehaving children is often obscured until an act of violence, captured by a student’s cellphone, breaks through to the public. Police in schools are first and foremost there to enforce criminal laws, and virtually every violation of a school rule can be considered a criminal act if viewed through a police-first lens. Schools offer an ideal entry point for the criminal justice system to gather intelligence, surveil young people, and exercise strong-arm policing tactics to instill fear and compliance. The capacity for school policing to turn against students instead of protecting them has always existed, and it continues to pose a first-line threat to the civil rights and civil liberties of young people.

* * *

The Origins of School Policing

Demands for Equality Met With Calls for Law and Order

During the first half of the 20th century, millions of Black men and women fled the
violent repression of the Jim Crow South, heading north and west seeking economic opportunity. Arriving in industrial towns from New York to Chicago to Los Angeles, Black families were confronted with rampant discrimination. White residents used a variety of mechanisms, including racial covenants (contracts that prohibited the sale or rental of property to Black Americans and other marginalized residents) zoning regulations, tax codes, and scare tactics, to maintain the lines of segregation in neighborhoods and schools. As de jure forms of segregation were dismantled by the efforts of civil rights leaders, white residents turned to violence and vandalism, which spilled over into newly integrating schools. In 1948, the Los Angeles School Police Department had its genesis as a security unit designed to patrol schools in increasingly integrated neighborhoods.

Across the country over the next decades, policing proliferated in neighborhoods where the promise of civil rights was undermined by overt opposition as well as structural discrimination in housing, jobs, and education. Politicians and academics diagnosed entrenched socioeconomic inequality, rising poverty rates, and the ensuing uprising of urban residents as a lack of “law and order” caused by Black and Latino residents themselves rather than the discriminatory systems they confronted. In schools, too, white communities argued that desegregation could not occur too quickly, claiming that a lack of discipline among Black children would bring disorder to white schools. In place of policies and programs to promote equitable access to housing, employment, and schooling, public officials pursued a program of social and economic control. Strategies aimed at policing Black and Latino youth were essential to this punitive framework. Relying on a law enforcement response, no matter the stated intention, came with clear costs. For example, although a committee formed to study juvenile justice proposed in 1957 to station uniformed police officers in every city public school, efforts were directed almost exclusively at poor Black and Latino neighborhoods. Representatives of the New York City Police Department (NYPD) depicted Black and Latino students in low-income neighborhoods as “dangerous delinquents” and “undesirables” capable of “corroding school morale.” Then as now, education advocates, parent groups, and teachers’ unions recommended that if there were funding to spend on staffing up law enforcement in every public school, that money should instead go to hiring “reading teachers, psychologists, guidance counselors, and others.” The guidance counselors never came. Today, New York City public schools are patrolled by 5,200 full-time police officers and employs just

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6 Ibid.
7 Ibid.
over 3,000 guidance counselors.8

By 1967, fictionalized news reports published by local and national media demonized young people of color as “roving bands of Negro youth”9 taking “over certain areas and terrorizing residents” and maintaining “continual youth warfare.”10 In exaggerated fashion, newspapers described youth violence as “constantly expanding” into “systems of terror over neighborhoods.”11 The President’s Commission on Law Enforcement and Administration of Justice of 1967 identified youth as the biggest impediment to overall crime reduction, stating, “America’s best hope for reducing crime is to reduce juvenile delinquency and youth crime.”12 Though on the surface this applied to all young people, contemporary critics of the elevation of youth policing noted that “While acknowledging that the children of middle-class, suburban families often violate the law and antagonize public officials, anti-delinquency policies usually proceed upon the premise that ‘delinquency’ is the sole property of lower-classes. Suburban youth commit crimes; urban youth become delinquent.”13

In the same moment that Black and Latino students were fighting for equal educational opportunities, public officials blamed students’ “welfare state outlook” for the deterioration of schools.14 Violent attacks on Black students in Los Angeles, Boston, and elsewhere were presented as a time bomb that Black students created.15 Public officials suggested that a closer relationship between schools and law enforcement would result in student accountability.” In 1966, the police department in Tucson, Arizona, had stationed police on six junior high school campuses.16 In the following year, Baltimore City Public Schools asked for over 20 full-time police for its schools.17 And in Washington, D.C., eight armed and 25 unarmed policemen undertook random check-ins at the city’s 136 elementary schools as part of their regular beats.18 In 1979, in Boston, during the mandatory desegregation of South Boston High School, while white students rioted uninterrupted in the hallways, police refused to allow 10 Black students whom they identified as “potential troublemakers” to enter the school.19 By 1972, urban school districts in 40 states had some form of policing within their schools.20 As a result, youth

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11 Ibid.
13 Ibid., 3.
16 Hinton, From the War on Poverty to the War on Crime: The Making of Mass Incarceration, 92.
of color were policed in neighborhoods, in bodegas, in housing project stairwells, and now, in classrooms.

In some areas, leaders argued that “positive” interactions between police and youth of color were essential to better community relations. That was the narrative that public officials in New Jersey’s Somerset County used to form a partnership between the school district and the county police in 1973. The program sought to staff two low-income schools with full-time officers to quell tensions surrounding school desegregation. According to the superintendent, “[i]nvestigation and enforcement is not the school resource officer’s primary role. We’re trying to do just the opposite—to build confidence in the individual.”21 Programs such as the one in Somerset County developed in states as disparate as Arizona, California, and Michigan, though all were concentrated in urban areas, where the policing of low-income communities of color had become routine. The positive rhetoric surrounding these initiatives normalized a sustained, increasingly invasive, and often hostile police presence in low-income educational institutions.

Making Delinquency

The expansion of police presence in schools corresponded with a broader shift toward viewing youth through the lens of criminal justice. Classifying Black and Latino youth as “delinquent” or “potentially delinquent” rationalized an expanding police presence for the expressed purposes of preventing future crime.22 By the late 1960s, youth crime prevention programs were initiated in many of the nation’s biggest cities. Many of these were funded federally pursuant to the Omnibus Crime Control and Safe Streets Act of 1968, which offered grants through the Law Enforcement Assistance Administration to jurisdictions to engage in programming that encouraged youth to have “respect for law and order.”23

In Kansas City, Missouri, for example, a program allowed teachers and school administrators to label students as young as nine years old as “pre-delinquent”—which then subjected children without any history of wrongdoing to a variety of police contacts and marked them subject to further interrogation.24 In Oakland, California, a “juvenile control coordinator” was hired to monitor and share information among school and law enforcement officials about youth who had contact with city agencies. Oakland police would track students whom school administrators deemed delinquent, detaining young students irrespective of whether or not a crime was reported.25 As early as 1970, the Chicago Police Department had begun preventative patrols in the South Side schools,

cruising surrounding neighborhoods and sending plainclothes officers onto school campuses.\textsuperscript{26}

Programs that gave teachers and administrators, as well as law enforcement, the authority to identify students as “pre-delinquent” are at the origins of what is now called the “school-to-prison pipeline.” The extension of punitive agencies into virtually every aspect of the lives of Black and Latino children and the criminalization of common youth behaviors like “insubordination”—a vague term that became a catchall for any behavior and that has since been applied in racially discriminatory ways—predisposed school teachers, law enforcement, and other officials to treat students as ripe for future criminal activity and virtually ensured a rise in juvenile crime rates.

With the passage of the Juvenile Justice and Delinquency Prevention Act of 1974, the authority of law enforcement to engage youth based on assumptions of future behavior was fully incorporated under federal law.\textsuperscript{27} In the years that followed, programs that targeted “predelinquent” youth proliferated throughout major cities. Baltimore City Public Schools allowed researchers to test some 4,500 students whom teachers had identified as “pre-delinquent” or as having “maladaptive” behavior, to the outrage of parents, educators, and child advocates.\textsuperscript{28}

Some school districts lacked any definition of pre-delinquency. Others defined pre-delinquency by reference to behaviors—“short attention spans . . . [and] quick temper[s]”—recognized today as likely associated with learning or cognitive disabilities.\textsuperscript{29} This left room for teachers to label any student who misbehaved or struggled as pre-delinquent. Though many of these programs had components that sought to encourage student self-esteem, they simultaneously branded students with a “red flag” that reinforced prejudgments of criminality by teachers and law enforcement alike.

Critics of school policing continued to argue that it was impossible to “dispense education under armed guard\textsuperscript{30}” and decried the creation of a “push-out” phenomenon as a turn away from civil rights promises.\textsuperscript{31} In 1975, the Washington, D.C., Superintendent of Public Instruction warned that many schools had already established a “police state atmosphere” that, in some parts of the country, more closely resembled a prison than a learning environment.

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\textsuperscript{26} “Preventative Patrol Polices Schools,” \textit{Chicago Tribune}, November 19, 1970.
\textsuperscript{29} \textit{Los Angeles Times}, “Almansor Center Gets $7,000 Grant for Pre-Delinquent Youth Program,” October 28, 1984.
\textsuperscript{31} \textit{Juvenile justice and delinquency prevention and runaway youth: Hearing before the Committee on Education and Labor, Subcommittee on Equal Opportunities, 93\textsuperscript{rd} Cong. 2\textsuperscript{nd} (1974) (Statement of House Representative Shirley Chisholm).
The School-Police Partnership Puts Students’ Rights at Risk

School policing is not driven by educational objectives. The concept of the school-police partnership was developed by law enforcement and continues to be shaped and controlled by law enforcement and a criminal justice response to youth. A 2001 COPS guide explains that “[a] primary objective of partnering is to share the burden of crime and/or disorder problems among partners and appropriate stakeholders,”32 namely educators and students. The greater degree of control that school systems exercise over students can be used to further law enforcement objectives, undermining students’ rights in the process. These collaborations are in tension with the common understanding that schools act to protect and educate the children in their charge.

Privacy Rights

Schools are entrusted with a significant amount of private information about children, including discipline reports, video recordings, and a growing body of digital information. The Family Educational Rights and Privacy Act (commonly referred to as FERPA) sets limits on school employee access to and use of this information in order to protect student privacy.33 Additionally, under the Fourth Amendment’s protections against unreasonable search and seizure, police are required to have a warrant or a specific legal exception to access private records. School-police collaborations violate the spirit, and potentially the letter, of these laws and invite police overreach. For example, school officials are encouraged to collaborate with law enforcement by assessing student records for potential criminal activity, such as information from a counselor about challenges at home, medical records, and behavioral records. Some school districts designate their surveillance camera footage as a law enforcement record, meaning that videos of students in the classroom may be shared and used among law enforcement entities and that it is more difficult for parents to access footage of their children relied on to administer discipline and make criminal charges. In some cases, even students may be recruited to gather intelligence and investigate classmates.

Police stationed in schools often function to gather information that can be shared with other law enforcement. In Lakewood, Colorado, school police prepared a bulletin to “share” information about problem juveniles,” including the juveniles’ “names, dates of birth, and home addresses, and sometimes their photographs,” with outside law enforcement.

enforcement.

South Carolina’s 2014-2020 strategic plan identifies school resource officers as “an excellent source of intelligence” on gangs. Similarly, in Lincoln, Nebraska, school resource officers are tasked with “monitoring known gang members and their associates.” In Utah, school police worked with outside law enforcement to stage a gang sweep of a high school.

School police can also assist in furthering federal policing objectives. Under the federal Countering Violent Extremism program, a partnership was created with Minneapolis schools to monitor children in the lunchroom and report to the FBI about their thoughts and beliefs. These practices carry a high risk of violating students’ constitutional rights and invite insidious racial profiling. The infrastructure of school police makes such surveillance of students more feasible. In the past, some school-based police have also reported students to Immigration and Customs Enforcement, a practice that jeopardizes the safety of immigrant students and discourages their participation in school, in violation of their constitutional rights.

Law enforcement agencies also feed information into schools, relying on educational partners to extend punitive consequences beyond the formal reach of the criminal justice system. The Chicago Police Department sends daily reports to schools for any student arrested offsite. Hence, crimes committed outside of school are used to discipline students in school environments as well.

Criminalizing Adolescent Conduct

When adolescent behaviors are criminalized, students in policed schools may find themselves at greater risk of entanglement with the criminal justice system merely by virtue of attending school. For example, the San Bernardino City Unified School District, in California, makes more juvenile arrests than do municipal police in some of California’s largest cities, and 91 percent of these arrests are for misdemeanors like disorderly conduct. In the Jefferson Parish Public School System, the largest in

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38 Susan Ferriss, “An Epidemic of Questionable Arrests by School Police,” Huffington Post, December 11,
Louisiana, the Southern Poverty Law Center found that the most common cause of student arrests was “interference with an educational facility.” These findings are consistent with American Bar Association assessments of the juvenile justice systems in many states; the assessments found that school-based referrals and arrests had increased dramatically by the mid-2000s, with schools using the juvenile justice system as a “‘dumping ground’ for youth with special needs.”\(^{39}\) In one North Carolina county, a full “two-thirds of delinquency case complaints came from the public school system,” and across the state, “[c]hildren as young as six and seven are referred to court for issues that seem clearly to relate to special education status.”\(^{40}\) Similarly, reviewers in Maryland found that “in interviews, many law enforcement officials across several counties reported a spike in juvenile arrests during the school year due to the presence of school resource officers.”\(^{41}\)

In South Carolina, the misdemeanor crime of “disturbing schools” is consistently among the leading charges made against young people, sending thousands of youth into the criminal justice system for offenses as vague as acting “obnoxiously.”\(^{42}\) In 2015, this law was used to criminally charge a student who had taken out her phone in class, as well as her classmate Niya Kenny, who criticized the actions of a police officer when he violently ripped the young girl from her desk.

Students in policed schools are criminalized for behaviors that annoy adults but are a typical part of adolescent development. Additionally, research has shown that police officers are more likely to arrest juveniles than adults engaging in similar behaviors, and more likely to exercise authority over perceived disrespect by juveniles.\(^{43}\) This dynamic can mean that a perceived school rule violation ends up treated as a crime. Examples are all too common. In New Mexico, a student was charged with disturbing schools for fake burping. In South Carolina, students have been charged with disorderly conduct for

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\(^{42}\) S.C. Code §16-17-420.

cursing in school.

Even more serious-sounding criminal laws may be applied to not-so-serious behavior. A middle schooler in Virginia was charged with assault and battery with a weapon—after she threw a baby carrot at a teacher. Another student was charged with drug possession after carrying a maple leaf to school. At times, students are charged with crimes in circumstances entirely beyond their control. In Clarksville, Tennessee, police conducted a random, warrantless search of a high school senior’s car in which they found a fishing knife left by his father, a commercial fisherman. Just months from graduation, David was charged with the crime of possession of a weapon on school property and faced a 90-day suspension from school. In Texas, a 13-year-old student faced two to 10 years in prison on felony forgery charges after paying for lunch with a $10 bill that turned out to be fake. The student, who qualified for the free and reduced-price lunch program and whose parents offered to repay the $10, was also sent to an alternative school.

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**Discrimination**

Students of color are more likely to be viewed as acting criminally. The Department of Education reports that nationwide, Black students are more than twice as likely as white classmates to be referred to law enforcement. These disparities in school arrests for minor infractions like “disorder” and “disturbance” are consistent with research suggesting that bias is more likely to play a role in categories of discipline that are harder to define objectively, such as “disrespect.” Consistently, there is no evidence that racial

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disparities in discipline are the consequence of “differences in rates or types of misbehavior” by Black/Latino and white students.

Deeply concerning racial disparities permeate all stages of the juvenile justice system. Recognizing this, the Juvenile Justice and Delinquency Prevention Act requires states to track and respond to racially disproportionate contact with the juvenile justice system (referred to as Disproportionate Minority Contact, or DMC). State and local education agencies are also required to ensure equal educational opportunities for students regardless of race. The enforcement of criminal laws and discipline selectively against students of color contributes to the problem of disproportionate contact. States and local jurisdictions must be attuned to disparities and discriminatory outcomes produced by school policing in complying with these federal laws.

Students of color who have disabilities face compounded discrimination. As the Center for Public Integrity reported, in the 2012-2013 school year “about 26 percent of all students referred to law enforcement nationally were special-needs kids — kids with physical or learning disabilities — even though these kids represent only 14 percent of U.S. enrollment.” When a student exhibits behaviors related to a disability, especially when police officers are called upon to respond and have neither the training nor information to recognize a student’s disability, a student may be treated as criminally disruptive. Federal civil rights laws prohibit schools from punishing students for behaviors associated with a disability. Law enforcement officers also must comply with the Americans with Disabilities Act, which prohibits discrimination against individuals with disabilities. Here too, schools and law enforcement must take into account these obligations when examining their approach to student behavior and the role of police in schools.

Abusive Use of Force

Police are more likely to use force in interactions with young people than with adults.

3. http://www.indiana.edu/~atlantic/wp-content/uploads/2014/03/Implicit-Bias_031214.pdf. (“The more subjective the category of the offense – i.e., insubordination, disobedience, disruption, defiance – the greater the risk that bias (either explicit or unconscious) will seep into the process.”).

51 Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 4000d et seq.


and the school setting does not shield young people. In fact, police in schools often carry weapons including guns, Tasers, pepper spray, and batons. At times, thanks to a federal grant program, they have even been equipped with military-grade assault rifles, grenade launchers, and military vehicles. As one teacher told Rolling Stone, “It’s hard for students to believe that their education institutions want, encourage, and are trying to develop them . . . when, on the other side, you’re talking to a highly militarized entity.”

Age and the unique circumstances of adolescent development factor into the consideration of the reasonable force a police officer may apply in making an arrest or investigatory stop. 55 Recognizing the vulnerability of young children, the International Association of Chiefs of Police has identified strategies for avoiding escalation and improving interactions with youth, such as “approach youth with a calm demeanor,” “be patient,” and “model the respect you expect in return.” 56 Additionally instructive best practices for juvenile facilities prohibit force techniques that create a risk of injury. The Juvenile Detention Alternatives Initiative, the most widely recognized source of national best practices for juvenile detention, provides standards that prohibit force, including:
- Use of chemical agents, including pepper spray, tear gas, and mace;
- Use of pressure point control and pain compliance techniques;
- Hitting youth with a closed fist, throwing youth into a wall or the floor, kicking or striking youth, pulling a youth’s hair, or using chokeholds or blows to the head on youth; and
- Using physical force or mechanical restraints for punishment, discipline, retaliation, or treatment. 57

Each of these forms of force has been used by police against young people in schools. Within just a two-year span from 2014 through 2016, the ACLU identified 141 complaints of abusive use of force by school police covered by local and national news outlets across the country. These are the stories we know, often only because students and

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55 See Graham v. Connor , 490 U.S. 386, 396 (1989) (“[P]roper application [of the test of reasonableness under the Fourth Amendment] requires careful attention to the facts and circumstances of each particular case, including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether he is actively resisting arrest or attempting to evade arrest by flight.”)


their families were brave enough to share them publicly. The stories show alarming applications of force against young bodies. In addition to the use of pepper spray and Tasers, police officers beat schoolchildren with batons, punched them, kicked them, placed them in chokeholds, and in some instances, sexually harassed and assaulted them.\(^5\)

**Pepper Spray (and Other Chemical Agents).** The use of pepper spray has been prohibited or strongly discouraged in enclosed settings, like detention centers, where the chemical spray is likely to impact many people, including those who may have respiratory or other illnesses. The same risk is present in schools. In one North Carolina high school, a police officer dispersed pepper spray to break up a fight. The pepper spray entered the school ventilation system and contaminated the cafeteria food, a consequence the school principal described as the more significant disruption of the school day. School police have also used pepper spray to address challenging but non-threatening adolescent behavior. At a Bibb County, Georgia, school serving students with emotional and behavioral disorders, a school police officer used pepper spray on a 15-year-old student who had locked herself in a bathroom stall. In Birmingham, Alabama, a court found that police officers used excessive force when they resorted to chemical spray to deal with “normal – and, at times, challenging – adolescent behavior.”

**Tasers.** At times, school police resort to the use of Tasers against students, including when intervening in disciplinary incidents. In Victoria, Texas, a 16-year-old student was tased by school police officers. Following the incident, the school released a statement saying that the student had become “physically agitated,” “irate,” and was “causing damage” to the school after learning that he was being suspended, and that after the student “repeatedly continued to resist,” officers had to forcibly detain and tase him. However, security footage later released showed the boy walking the halls of the school, during which he can be seen punching a wall once and standing physically calm against a wall for several moments before police officers encircled him and tased him. In Marshalltown, Iowa, a school police officer was called to respond to a 15-year-old student who was “acting out in class.” According to police, the student resisted and tried to flee when the officer moved to detain him, at which point the student was tased. The student was taken to a juvenile detention center and charged with assault, disorderly conduct, and interference. Similarly, an eighth grader in Virginia was tased after a school resource officer intervened in his “disruptive” behavior. When the middle schooler

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resisted the officer, he was tased and subsequently charged with felony assault on a police officer. In each of these incidents, officials defended the officers’ actions as justified.

**Pain Compliance Techniques.** Police officers also employ pain compliance techniques against students, resulting in the painful twisting and hyperextension of limbs, and even broken bones. These include incidents like one in Kissimmee, Florida, where a 13-year-old Black boy was arguing with his mother in the front office of the school when a school police officer intervened. The police officer flung the small boy to the ground and held his arm twisted behind his back while the boy cried out in pain. In another example from Los Angeles, an 11-year-old Latino elementary school student, a previous student of the year, had his wrist broken by a police officer who forcibly twisted his arm behind his back to handcuff and arrest him. The police alleged the boy had been involved in an earlier argument; the boy said he had been a witness.

**Hitting, Kicking, Slamming, Choking.** Police in schools also resort to punching, kicking, choking, and slamming the bodies of young students. In one example, a teenage girl in Tampa, Florida, was accused of having mace in her bookbag—an allegation that proved unfounded. But a school police officer became involved in the incident, and Britney ended up with a concussion, bruises, and a broken jaw. Even after hospitalization for her injuries, the young girl was suspended from school and faced criminal charges for resisting arrest and disrupting a school function. Police argued that Britney had injured herself by falling to the ground after being handcuffed. In Pasadena, Texas, a 16-year-old student was arguing with school staff over the return of his phone. After the boy used profanity, a school police officer told him that he was under arrest. In the course of detaining the student, the officer struck him 18 times with a metal nightstick; half of the strikes occurred after the student was on the ground.

**Using Handcuff Restraints for Punishment and Treatment.** Handcuffing of students in school is not an isolated occurrence. In some schools and jurisdictions, handcuffing is a routine practice when police detain a student. Police also frequently apply handcuffs in an effort to subdue students with emotional and behavioral disabilities.

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**School Climate**

Schools are generally safe spaces for students. In a national survey, neither law enforcement nor school officials cited levels of violence within their schools as a reason for starting a school resource officer program. However, for school officials, the fear of

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school violence, generated by national media attention, was the most common specified reason to adopt a school resource officer program. The fear-based decision to bring police into school can result in concrete harms to the education environment and to the achievement of students.

Zero Tolerance and Punitive Learning Environments

Zero-tolerance discipline was adopted under the assumption that punitive measures would discourage future misbehavior and create better learning environments for students. However, national studies have shown that zero-tolerance discipline—that is, automatic suspensions or expulsions for certain misbehavior and contact with law enforcement as a central authority to school discipline—can have deleterious effects on students, teachers, and the broader school environment.60

According to anthropologist Victor Rios, the extension of policing into schools has the effect of transforming school administrators, teachers, guidance counselors, and other members of the school community into “agents of the criminal justice system,” as they become more and more reliant on law enforcement for classroom management.61 As Rios found in a study of Oakland youth, the common denominator in how teachers handled student misbehavior was that every single teacher invoked their ability to involve the police when faced with student conflict.62

Even a teacher’s ability to threaten a student with an arrest or involve the school’s police officer in disciplinary decision making conflicts with some of the most basic tenets of education systems. Instead of focusing resources on a positive and supportive school climate, zero tolerance and school policing exacerbate challenging behaviors and the racial disparities in how punishment is meted out. Indeed, these practices, according to Henry Giroux, “relieve educators of exercising deliberation and critical judgment”63 by

62 Ibid. 81.
outsourcing the moral and ethical judgment school discipline should require when 
considering a student’s individual circumstances.\textsuperscript{64} As researchers have argued, “the 
expectation of school crime in fact creates it” in that the decision to treat minor 
behavioral issues (e.g., cafeteria shouting match, writing on desks, etc.) as criminal 
narrows available solutions to disciplinary matters.\textsuperscript{65} As Paul Hirschfield argues, the 
presence of police in schools has a “net-widening effect” that “reflects increased 
collaboration between schools and the juvenile justice system,” while “erod[ing] the 
traditional boundaries between the two institutions.”\textsuperscript{66} The result is an “evidence loop” 
wherein students of color are arrested or detained for trivial offenses that are presented as 
proof of failing schools and of the failure of students themselves.

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Empirical research reveals that arresting students increases high school attrition rates 
(doubling the chances of a student dropping out), particularly when a student is made to 
appear in court (when it quadruples the chances of dropping out). For those students who 
do drop out of high school as a result of an arrest, the chances that they will serve time in 
prison increase exponentially.\textsuperscript{67} The consequences of a school arrest include the loss of 
access to higher education and funding, job eligibility, access to public housing, and 
potential penalty enhancements if a student comes into contact with law enforcement in 
the future. This paradigm is astutely identified by a sophomore student at the Maya 
Angelou Public Charter School in Washington, D.C., who summed up the impact of 
police in schools by asking, “How can you tell us we can be anything if they [the police] 
treat us like we’re nothing?”\textsuperscript{68}

Following the shooting of unarmed teenager Michael Brown in Ferguson, Missouri, the 
Department of Justice offered a scathing indictment of the consequences associated with 
in-school policing. The Department of Justice criticized the Ferguson Police Department 
for “police action that [was] unreasonable in a school setting.”\textsuperscript{69} The frequency by which 
school police officers arrested students for minor behavioral offenses demonstrated “a 
lack of understanding of the negative consequences associated with such arrests,” found

\textsuperscript{64} Na and Gottfredson, “Police Officers in Schools: Effects on School Crime and the Processing of 
Offending Behaviors,” 1-32.
\textsuperscript{65} Bernadine Dohrn, “‘Look Out Kid, It’s Something You Did:’ The Criminalization of Children,” in \textit{The 
Public Assault on America’s Children: Poverty, Justice, and Juvenile Violence}, ed. Valerie Polakow (New 
York: Teachers College Press, 2001), 164.
\textsuperscript{67} Vincent Schiraldi, Bruce Western, and Jason Ziedenberg, “Education and Incarceration,” \textit{Justice Policy 
Institute}, 2003, 7.
\textsuperscript{68} James Foreman Jr., “Children, Cops, and Citizenship: Why Conservatives Should Oppose Racial 
Profiling,” in \textit{Invisible Punishment: The Collateral Consequences of Mass Imprisonment} eds. Meda 
\textsuperscript{69} U. S. Department of Justice, Civil Rights Division, “Investigation of the Ferguson Police Department,” 
March 4, 2015, 37,
https://www.justice.gov/sites/default/files/opa/pressreleases/attachments/2015/03/04/ferguson_police_dept 
artment_report_1.pdf
And consequences are myriad, say child psychologists and education experts. Child psychologists point to the fact that teenage brains are not fully formed—they have a harder time resisting peer pressure, and they have poor impulse control. When the response of schools is to punish through exclusion and arrest, children are alienated, experience anxiety and rejection, and become distrustful of school adults. It also impacts a child’s understanding of justness and fairness, eliminating important legitimacy for young people who are stopped or arrested for non-criminal behavior. It is not just arrests that have an impact on future student behavior, but more broadly, constant police contact in institutional spaces that are supposed to be safe and nurturing. Says sociologist Carla Shedd, “[t]here are indications that frequent police contact, even of a minor nature, has a great impact on the perceptions” Black and Latino youth have of themselves, school, and law enforcement. If school socializes children to believe that they, themselves, are the target of police in their schools, students no longer see schools as places that nurture their development or teachers as adults who care about their future. For students with risk factors—that is students living in poverty, without access to healthcare or healthy food, or in places where they are unsafe—police contact at schools can accelerate future misbehavior, truancy, and drop-out rates. Children disengage where they are not safe, and for many, schools have become unsafe places.

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70 Ibid., 38.
72 Ibid.
74 Ibid., 86.
75 Ibid., 114.
ARRESTS
There were 375 school-based arrests in the second quarter of 2016.

- 54.4% of school arrests were conducted by NYPD Patrol, while 13.3% were conducted by school safety agents.
- 61.6% of arrests were because of school-related incidents; the remainder were arrests due to incidents that occurred off school grounds.
- 73.3% of those arrested identified as male students.

Breakdown by borough
22.7% Manhattan
22.7% Brooklyn
27.2% Bronx
21.1% Queens
6.4% Staten Island

Breakdown by race
58.9% Black students
30.9% Latino students
4.3% white students

Breakdown by age (data excludes students over 21)
24% 14 or under
71% 15-18
4.5% 19-21

Top charges
38.4% assault [144]
14.9% robbery [56]
7.2% criminal possession of a weapon [27]
5.3% grand larceny [20]
4.0% petit larceny [15]

- In 86.6% of arrests, students were placed in handcuffs.
- 89.5% of students restrained when arrested were Black or Latino (a rate disproportionate to their arrests).

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1 DOE enrollment statistics were retrieved from the October 31st Audited Register.
SUMMONSES
There were 247 summonses issued to students in the second quarter of 2016.

- 60.3% of summonses were issued by NYPD Patrol, 38.1% by Uniformed Task Force agents (police officers assigned to the School Safety Division) and only 1.6% by school safety officers.
- 94.7% of summonses were school-related.
- 67.6% of those issued summonses identified as male students.

Breakdown by borough
33.6% Brooklyn
32.4% Bronx
18.2% Manhattan
9.3% Queens
6.5% Staten Island

Breakdown by race
61.9% Black students
32.4% Latino students
1.1% white students

Breakdown by age (data set excludes students over 21)
91% 16-18
9% 19-21

Top charges
The disorderly conduct category below includes a wide range of behaviors such as fighting, creation of hazardous conditions, refusing lawful order, unreasonable noise and obscene language or gesture.

43.7% disorderly conduct [108]
24.7% possession of marijuana [61]
14.9% possession of a knife [37]
9.7% possession of a box cutter [24]
2.0% other administrative code violations [5]

JUVENILE REPORTS
Juvenile reports are taken for students under 16 who allegedly committed an offense that, if they were an adult, would be criminal. The report substitutes for an arrest or summons and students are detained during the time it takes to collect details.

- 255 juvenile reports issued in schools in the second quarter of 2016.
- 92% of juvenile reports were issued to Black and Latino students.
- 20% of students were handcuffed during the investigation.
- 100% of students handcuffed were students of color.
HANDCUFFS
There were 564 incidents where children were put in handcuffs in the second quarter of 2016.

- 92.4% involved Black and Latino students.

Breakdown by borough
34.0% Bronx
23.6% Brooklyn
17.4% Manhattan
17.0% Queens
5.7% Staten Island

Breakdown by related incident
57.4% arrest
15.6% child-in-crisis (defined below)
9.2% juvenile report
7.8% mitigation [defined below]
6.6% summons
1.1% PINS (usually a family court warrant for a “Person in Need of Supervision”)

Handcuffs used in child-in-crisis incidents
Child-in-crisis refers to incidents where a student “displaying signs of emotional distress” is removed from the classroom and taken to the hospital for a psychological evaluation. The NYPD only reports child-in-crisis incidents where handcuffs are used.

- Handcuffs were used in 94 child-in-crisis incidents.
- 97% were of Black or Latino students.

Handcuffs used in mitigation incidents
Mitigation refers to incidents where a student commits an offense but the NYPD releases the student to the school for discipline. The NYPD only reports on mitigation incidents where handcuffs are used.

- Handcuffs were used in 44 mitigated incidents.
- Black and Latino students made up 100% of these incidents.

OTHER HIGHLIGHTS

- 75% of all incidents (arrests, summons, handcuffs, juvenile reports, children-in-crisis, mitigations and PINS) were school-related.
- Of those classified as non-school related (the remaining 25%), 71% were incidents that occurred off school grounds, while 29% occurred on school grounds.
OBSTACLES TO HOLDING SCHOOL RESOURCE OFFICERS ACCOUNTABLE

Qualified Immunity

As sworn officers for local police departments, School Resource Officers are entitled to qualified immunity against civil rights suits. Courts have determined that this protection grants government acting under the color of state law “an immunity from suit rather than a mere defense to liability.” *Pearson v. Callahan*, 555 U.S. 223, 237 (2009) (quotation marks and citation omitted).

Civil suits, brought under 42 U.S.C. § 1983, therefore must overcome a significant hurdle before providing relief to an aggrieved plaintiff. The following cases demonstrate the varying degrees of success student plaintiffs have experienced in bringing suit against a school resource officer for an unlawful seizure:


*Gray ex rel. Alexander v. Bostic*, 458 F.3d 1295 (11th Cir. 2006)


*Williams v. Morgan*, 652 F. App’x. 365 (6th Cir. 2016)

*Hayenga v. Nampa Sch. District No. 131*, 123 F App’x. 783 (9th Cir. 2005)

*J.H. ex rel. J.P. v. Bernalillo Cty.*, 806 F.3d 1255 (10th Cir. 2015)

Treatment as Police Officer Instead of School Employee

Despite purportedly serving many roles within school environments, School Resource Officers are typically limited to the same administrative discipline system as officers stationed outside of schools. The ACLU has noted that School Resource Officers are often governed by a Memorandum of Understanding which fails to make any distinction for the setting in which a School Resource Officer operates. In other words, though a school setting, and its discipline code, may give officers more opportunities to negatively interact with a student, the officer’s placement in the school rarely provides an aggrieved student with additional avenues for filing a complaint or holding an officer accountable. Rather, families of students must file a complaint with a civilian agency board or police department. It is not unheard of for a MOU reached between school districts and police departments to forbid school district personnel from having any authority to hear or adjudicate complaints against officers. When combined with the obstacles to prevailing in a lawsuit against officers, these institutional barriers inhibit accountability.
School-to-Prison Pipeline

Kaweeda G. Adams
Katrina Charland
Jasmine Gripper
Prof. Areto Imoukhuede
The School-to-Prison Pipeline

Albany Government Law Review Symposium

City School District of Albany
Mrs. Kaweeda G. Adams, Superintendent
March 8, 2018
To examine contributing factors to the school-to-prison pipeline

To analyze best practices which facilitate breaking the cycle of the school-to-prison pipeline

To engage participants in a practical discussion action steps which support schools and work collaboratively to improve student achievement/success

“As educators, it is our responsibility to believe in the possibilities of all of our students, all of the time.”

- Marva Collins
Essential Question
How do we build a culturally responsive education system which provides equitable opportunities for all our students?

Key Focus Areas
• Quality instruction and accountable leadership
• Community and family engagement and empowerment

Measurable Outcomes (targets set from baseline data)
• Increase student achievement
• Increase student engagement
• Reduce disproportionality

“As educators, it is our responsibility to believe in the possibilities of all of our students, all of the time.”

- Marva Collins
• How did we get here?
• What are the symptoms?
• What are we missing?
Case Study Analysis

- Children Defense Fund
- American Bar Association
- Education Law Center
City School District of Albany

**Vision Statement**
The City School District of Albany will be a district of excellence with caring relationships and engaging learning experiences that provide equitable opportunities for all students to reach their potential.

**Mission Statement**
We will work in partnership with our diverse community to engage every learner in a robust educational program designed to provide the knowledge and skills necessary for success.

**Goals**
- Increase **student achievement**
- Enhance the delivery of **quality instruction**
- Build our **leadership capacity** and increase **accountability**
- **Empower families** to support the success of their children
- Partner with our diverse **community**
Breaking the School-to-Prison Pipeline

- Data Analysis
- Research and Best Practices
- Culturally Responsive Teaching and Learning
- Student Voice and Student Choice
- CSDA Code of Conduct
- Professional Development
- Wrap Around Services
- Community Partnerships
- Measurable Outcomes
- Progress Monitoring
- Ongoing Assessment of Programs and Services
Next Steps

Essential Question
How do we build a culturally responsive education system which provides equitable opportunities for all our students?

Develop a multi-year strategic planning and monitoring process aligned with the vision, mission, focus areas, and goals of the district

Enhance the use of data-driven structures to improve our instructional and professional practices

Build relationship and leadership capacity at all levels throughout our organization, families, and community
What is the school to prison pipeline (STPP)?

- The concept of school policies contributing to further legal involvement for students with disciplinary matters (hence putting them on a trajectory towards prison)

Areas of concern/contributing factors to the STPP:

- Zero tolerance policies
- Exclusionary disciplinary measures (suspensions and expulsions)
- Misuse of School Resource Officers (SROs)
WHAT CAN BE DONE?

- Overhaul NYS Public Education Law 3214
  - Alternatives to exclusionary disciplinary measures
    - The current disciplinary protocols laid out in 3214 are not working
    - They exclude students who are in most need of intervention
    - Primary methods of “discipline” are suspensions and expulsions
  - Revisions to 3214 should include restorative justice options
    - Youth Courts/Teen Courts/Peer Courts
    - Student Courts
    - Circles
    - Mediation

Positive Behavioral Intervention and Supports (PBIS): A school-wide, triaged approach to addressing student behavior.

First: Establish school wide expectations that are presented in a positive way to both students and faculty.
- Ex: SMART (Self Control, Manners, Accountability, Respect, Task)

Second: Recognize that despite positive applications, some students will continue to have behavioral issues.
- Assessments and identification of root causes of ongoing behavioral issues at this point is key
  - Whether it's trauma, a learning disorder, or mental health issue, identification of root cause(s) of behavior and addressing it early on could change a child's trajectory in life

Third: If problematic behavior continues, use of diversion programs and other restorative justice practices.
- The use of exclusionary disciplinary practices, such as suspensions and expulsions do not promote positive behavior or school connection, rather they push a student out, distance them from any positive connections they may have had in the school setting, and promote anti-social behavior which perpetuates the school to prison pipeline.

http://www.nyspbis.org/
POSITIVE BEHAVIORAL INTERVENTIONS AND SUPPORTS

Supporting Social Competence & Academic Achievement

4 PBS Elements

Supporting Staff Behavior

Supporting Student Behavior

Supporting Decision Making

OUTCOMES

SYSTEMS

PRACTICES

DATA
RESTORATIVE JUSTICE PRACTICES

- Youth/Teen/Peer Courts
- Student Courts
- Circles
- Mediation
Youth/Teen/Peer Courts

- Usually address chargeable offenses and are often used beyond school settings to include community based offenses
- First time, low-level offenses
  - Intervention at early onset of criminal contact
- Common offenses include:
  - Unlawful possession of marijuana, petit larceny, criminal mischief, etc.
- Keeps youth out of traditional court system
- Holds youth accountable for their actions
- Age appropriate intervention

Student courts

- Usually address school policy violations that do not rise to the level of criminal involvement
- Common offenses include:
  - Truancy, cell phone use, status offenses, disrespect or incorrigibility
  - Avoids school based sanctions such as suspensions or referrals to probation/family court
- Holds youth accountable in a more constructive way
- Includes student in decision making process
- Avoids exclusionary discipline measures

Commonality: Peer led diversion
RESTORATIVE PRACTICES

Circles
- Based on Native American conflict resolution principles
- Holds youth accountable, but gives them an opportunity to tell their side of the story

Mediation
- Conflict resolution that aims to address root cause of the problem.
- Contracts between involved parties are usually an end result
HOW DO WE GET RESTORATIVE PRACTICES IN SCHOOLS?

- Revise NYS Public Education Law 3214 to allow more diverse disciplinary measures to be included as options
- Educate future policy makers on restorative practices
- Urge schools to adopt school-wide models that address *prevention* in addition to *intervention*
The Fundamental Right to Public Education and the School to Prison Pipeline

Albany Government Law Review Symposium, March 8, 2018
Albany Law School

Areto A. Imoukhuede, Professor of Law
Nova Southeastern University Shepard Broad College of Law
PRESENTATION SUMMARY

I. THE RIGHT TO PUBLIC EDUCATION
II. ZERO TOLERANCE AND THE PRISON PIPELINE
III. VICTIMS OF THE PIPELINE
The Right to Public Education

Defining Fundamental Rights

Rights that are so rooted in the nation’s history and traditions that they are fundamental to ordered liberty.
THE RIGHT TO PUBLIC EDUCATION

Education is Essential to Liberty

Up until the Civil War, education in the South was largely seen as an enterprise for the privileged few.

With passage of the Reconstruction Amendments, freed slaves recognized education as essential to maintaining their freedom.

Areto A. Imoukhuede, EDUCATION RIGHTS AND THE NEW DUE PROCESS, 47 Ind. L. Rev. 467 (2014)
THE RIGHT TO PUBLIC EDUCATION

Goals Of Public Education

• American Dream

• Produce educated, productive and responsible citizens

• Safety of students, teachers, staff

Adapted from 2015 Nova Law Review Symposium Presentation by Catherine E. Johnson, Disability Rights Attorney, Disability Rights Center of Kansas, Inc.
THE RIGHT TO PUBLIC EDUCATION

San Antonio v. Rodriguez

No fundamental right to public education under the U.S. Constitution.

However...

THE RIGHT TO PUBLIC EDUCATION

Due Process Protections


“Held that students subject to expulsion or suspension from school were entitled to due process protections prior to either suspension or expulsion.”

And...

State Constitutions

Each state recognizes the right, including New York.

*The legislature shall provide for the maintenance and support of a system of free common schools, wherein all the children of this state may be educated.*

- New York State Const. Art. 11, § 1

And...

The Right to Public Education

Federal Laws Protect the Right

• Individuals with Disabilities Education Act (IDEA)
• Section 504 of the Rehabilitation Act of 1973
• Americans with Disabilities Act

Yet...

Adapted from 2015 Nova Law Review Symposium Presentation by Catherine E. Johnson, Disability Rights Attorney, Disability Rights Center of Kansas, Inc.
The Right to Public Education

Inequality and Oppression

Unequal educational resource distribution and is itself a violation of the government’s duties to its citizens.

ZERO TOLERANCE AND THE PIPELINE

Defining the School-to-Prison Pipeline

• the trend of directly referring students to law enforcement for committing certain offenses at school; or

• conditions at school under which students are more likely to become involved in the criminal justice system.
ORIGIN OF POLICIES

- Initially created in 1994 after the Safe Schools Act (Federal Gun Free School Act of 1994)
- Dealt with Firearms
- Policies have exploded to include wide range of violent and non-violent behaviors
- 90% of U.S. Schools have some form of ZT policy
OTHER CONTRIBUTING FACTORS

- Legislative bodies have provided funding for strict security measures and police officers in schools (SROs)

- Courts have weakened students’ Fourth and Fourteenth Amendment rights
Zero Tolerance and the Pipeline

Impact of Arrest

- Even if a student is not convicted and detained, the consequences are severe:
  - School may refuse to readmit student
  - Students suffer emotional trauma, stigma, and embarrassment.
  - More closely monitored by school officials, teachers, and SROs.
  - Have lower test scores (trauma, missed school, unfocused)
  - Less likely to graduate
  - More likely to become involved in the justice system later

Adapted from 2015 Nova Law Review Symposium Presentation by Jason P. Nance, Associate Professor of Law, University of Florida Levin College of Law
IMPACT OF EXCLUSION FROM SCHOOL

- Students lose valuable instruction time
- Decreases the odds that a student will graduate
- Not graduating increases the odds for:
  - unemployment
  - poverty
  - bad health
  - immediate involvement in the juvenile justice system
  - future involvement in the justice system

Adapted from 2015 Nova Law Review Symposium Presentation by Jason P. Nance, Associate Professor of Law, University of Florida Levin College of Law
SCHOOLS ARE OVER-DISCIPLINING STUDENTS

- Over-disciplining emerged parallel to a larger “tough on crime” movement
- Series of high-profile incidents of school violence
  - This led to zero-tolerance policies and statutes mandating referral of students to law enforcement for certain offenses
- Over-disciplining is correlated with student race
  - Explicit bias
  - Implicit bias
- High-stakes testing

Adapted from 2015 Nova Law Review Symposium Presentation by Jason P. Nance, Associate Professor of Law, University of Florida Levin College of Law
ZERO TOLERANCE AND THE PIPELINE

ZERO TOLERANCE DOES NOT CURB VIOLENCE

- United States Department of Education found no evidence of success
- Statistics indicate that juvenile crime was decreasing prior to 1994 Act.
- In 1999, United States Department of Juvenile Justice & Delinquency Prevention reported a 31% decrease in juvenile violence between 1993-1997

Adapted from 2015 Nova Law Review Symposium Presentation by Catherine E. Johnson, Disability Rights Attorney, Disability Rights Center of Kansas, Inc.
**VICTIMS OF THE PIPELINE**

**DISPROPORTIONATE IMPACT ON STUDENTS OF COLOR**

Several empirical studies show that disparities are not explained by more frequent or more serious misbehavior by minority students.

Adapted from 2015 Nova Law Review Symposium Presentation by Jason P. Nance, Associate Professor of Law, University of Florida Levin College of Law
“In our investigations we have found cases where African-American students were disciplined more harshly and more frequently because of their race than similarly situated white students. In short, racial discrimination in school discipline is a real problem.”
- Dear Colleagues Letter at 3.

Adapted from 2015 Nova Law Review Symposium Presentation by Jason P. Nance, Associate Professor of Law, University of Florida Levin College of Law
Students receiving suspensions and expulsions, by race and ethnicity

NOTE: Detail may not sum to 100% due to rounding. Totals: Enrollment is 49 million students, in-school suspension is 3.5 million students, single out-of-school suspension is 1.9 million students, multiple out-of-school suspension is 1.55 million students, and expulsion is 130,000 students. Data reported in this figure represents 99% of responding schools.

Adapted from 2015 Nova Law Review Symposium Presentation by Jason P. Nance, Associate Professor of Law, University of Florida Levin College of Law.
# Victims of the Pipeline

## No Tolerance

### Nationwide Suspension Rates at U.S. Schools (2011-12)

<table>
<thead>
<tr>
<th>Category</th>
<th>Percent of Students (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>All</td>
<td>10.1%</td>
</tr>
<tr>
<td>American Indian</td>
<td>11.9%</td>
</tr>
<tr>
<td>Pacific Islander</td>
<td>7.3%</td>
</tr>
<tr>
<td>Asian</td>
<td>0.5%</td>
</tr>
<tr>
<td>Black</td>
<td>23.2%</td>
</tr>
<tr>
<td>Latino</td>
<td>10.8%</td>
</tr>
<tr>
<td>White</td>
<td>6.7%</td>
</tr>
<tr>
<td>English Learner</td>
<td>11.0%</td>
</tr>
<tr>
<td>With Disability</td>
<td>18.1%</td>
</tr>
</tbody>
</table>

Adapted from 2015 Nova Law Review Symposium Presentation by Kevin Johnson, Education Leadership, Nova Southeastern University Abraham S. Fischler College of Education
VICTIMS OF THE PIPELINE

DISPARITY

Disparate Discipline Rates

Adapted from 2015 Nova Law Review Symposium Presentation by Kevin Johnson, Education Leadership, Nova Southeastern University Abraham S. Fischler College of Education
EMERGENCE OF ZERO TOLERANCE POLICIES

- 1980’s, 1990’s
- Backlash against rehabilitation of youth
- Trend was moving toward retribution
- Decade saw longer sentences for youth, more youth transferred to adult court, lower minimum age for prosecution as adults
- Juvenile courts/system forced to address mental health related issues

Adapted from 2015 Nova Law Review Symposium Presentation by Catherine E. Johnson, Disability Rights Attorney, Disability Rights Center of Kansas, Inc.
VICTIMS OF THE PIPELINE

ZERO TOLERANCE FAILS STUDENTS WITH DISABILITIES

- Punitive approach, disruptive to education
- No individualized consideration of student’s disability
- Frequency suffer serious emotional harm from inappropriate discipline, punishment and treatment by school officials, SRO
- Higher dropout rate
- Creates negative associations with school, teachers, students, learning
- Lead to increase of school-arrest being filed against students for in-school behaviors

Adapted from 2015 Nova Law Review Symposium Presentation by Catherine E. Johnson, Disability Rights Attorney, Disability Rights Center of Kansas, Inc.
LEGAL POLICY AND SCIENCE

Age of majority?
Age of criminal responsibility? Sentencing factors?
Reasonable adolescent standard?
Application to admissibility of evidence (prior bad acts)?
Loss of intentional torts against minors?

Reasonable accountability.
QUESTIONS AND DISCUSSION
In Rochester City School District, like many other places around the country, young people are routinely subjected to extreme discipline and kicked out of school for behavior that used to get students sent to the principal’s office or guidance counselor. This trend towards harsh discipline is known nationally as the school-to-prison pipeline. The overuse of suspension, expulsion, and school-based arrest has real consequences for our schools and communities: suspension increases the possibility that a student will repeat a grade, drop out of school, and become involved in the juvenile justice system.

The school-to-prison pipeline is a nationwide problem: the U.S. Department of Education estimates that over 3 million students are suspended from school every year. In New York State, there were over 100,000 out-of-school suspensions – which means that on average, 565 students are being suspended every school day. Overall, 4% of New York students were suspended in 2012-2013. But the numbers are much worse in Rochester. Over 10% of students in Rochester were suspended and Rochester students missed over 54,000 days of school during the 2012-2013 school year because of suspensions.
ROCHESTER STUDENTS ARE SUSPENDED TOO FREQUENTLY, OFTEN FOR MINOR INFRACTIONS.

Rochester students are suspended at alarmingly high rates: in 2012-2013, 1 in 10 RCSD students were suspended. The majority of suspensions in Rochester are not for weapons, serious fights, or drugs: 88% of the 6,373 RCSD suspensions in 2012-2013 were for being disruptive and for incidents involving no physical contact.

Suspensions often result from minor incidents that escalate due to a lack of resources, training, and effective alternatives. K, a 13 year old 8th grade student was late to class one day. Her teacher gave K a lunchtime detention. K felt the punishment was too harsh and did not go. As a result she was given an in-school suspension (ISS). When K arrived at the ISS room there was no work for her to do and the attending teacher did not provide any instruction. When K began chatting with some other students out of boredom she was told to be quiet. K became frustrated and began to argue with the teacher. Now her punishment was increased to a 2-day out-of-school suspension (OSS). This only made K more upset. Her apparent “attitude” at the continually escalating punishments over what began as being late to class led to K missing an entire week of school (a 5-day OSS).

M, a high school student, felt like she was constantly in trouble in part because she had no relationship with the staff at her school. “I have changed since 7th grade but they’ve always treated me like I was the ‘loud girl’ that I was back then. It was never, ‘M’s having a good day’ or ‘M hasn’t gotten in trouble this week.’ It was 24/7. What’s M doing now? What is she getting into? I had no relationship with the administrators. There were no adults in the school who I felt had my back.”

M was eventually suspended for multiple months: “There was a big fight on the 4X Genesee bus and they couldn’t see who was in the fight on the camera so they suspended and long-termed everyone—about 35 students. I wasn’t in the fight, but I was standing on a seat trying to see. When the fight happened on the bus, the administrators added it up to ‘if she’s always in ISS, then she had to be involved.’ Some [students] went to I’m Ready [alternative school] where students go when they’re long-term suspended and other people were sent home because there weren’t enough slots at I’m Ready or other places. They never found me a spot, so I stayed home. They should’ve allowed me to get my work instead of pushing my wishes to the side. When I did get work sent home, it was just a few worksheets.”

Teachers and administrators recognize that suspension doesn’t effectively address student behavior, and that they need the resources to provide real supports for struggling students.

“Three weeks into September S arrived in our elementary classroom. [On her first day] she repeatedly kicked the principal in the shins as he tried to remove her from the playground. Kicking your principal in the shins is one of the surest ways to earn a suspension from school [but] my principal said, ‘Let’s not suspend her yet. I’ll go to her house before school tomorrow and see if we can find out what is going on with her.’ The next week I visited her home after another rough day at school. In her subsequent conversation with the school counselor, S marveled that at this school the principal and teachers cared enough about her to come to her house… Although her behavior in school is not perfect, it continues to improve. I cannot help but think that her behavior would have gone in a much worse direction if she had been suspended. Sometimes forming a strong school-home connection and building a relationship with a student is what is needed. My principal made a great call on S’s first day of school!”

- RCSD Teacher

IN 2012-13, 1 IN 10 RCSD STUDENTS WERE SUSPENDED

49% OF SUSPENSIONS WERE FOR OTHER DISRUPTIVE INCIDENTS

88% OF SUSPENSIONS WERE FOR NON-VIOLENT OFFENSES

SUSPENSIONS ARE HIGHEST IN 9TH GRADE;
3 IN 10 9TH GRADERS WERE SUSPENDED IN 2012-2013
The school-to-prison pipeline is a civil rights issue: nationally in 2011-2012, Black students were three times more likely to be suspended than their white peers. These disparities exist in Rochester as well, and students of color and students with disabilities are more likely to be suspended than their white and general education peers. Black students with disabilities bear the highest burden of these unfair suspensions: despite federal laws that mandate that schools address behaviors directly instead of relying on exclusionary discipline, Black students with disabilities were 2.6 times more likely to be suspended than their white peers. In our Rochester schools:

- Black students are 2.29 times more likely to be suspended than their white peers
- Latino students are 1.45 times more likely to be suspended than their white peers
- Students with disabilities are 1.3 times more likely to be suspended than their non-disabled peers
- Black students with disabilities are 2.6 times more likely to be suspended than their white peers

These differences are not because students of color are behaving differently or worse. Students of color receive harsher punishments for the same behavior and are punished more often for subjective offenses. Subjective offenses are ones that are not clearly defined and based on adult perceptions – like being rude or disrespectful to a teacher, or being disruptive. Providing training around implicit bias, as well as eliminating the use of harmful school exclusions in response to these perceived behaviors, can go a long way towards reducing these disparities.

In 2012-2013, Rochester students lost 54,619 days of instructional time due to suspension – that is over 300 school years missed because of suspensions. When students miss school because of suspension, they are not only missing those class days, but are more at risk of being suspended again, falling behind in school, and eventually dropping out. Students who received just one suspension in 9th grade are two times more likely to drop out of school.

"I got caught in the hall sweep twice and after the second they gave you five days ISS [in-school suspension] where you don't learn at all...I fell behind in school and it was hard for me to catch up. I gave up and eventually stopped coming. I cried when they told me I was suspended but after that it just triggered everything...I mean we could have talked about the behavior. They didn't know what was going on, they just jumped to a conclusion assuming that I was just skipping and hanging in the hall. I didn't really learn anything except for kind of to be badder, because I wasn't misbehaving, wasn't a bad kid, I just was late. They should have talked to me first."

- L.N., 12th grade student

"When I was suspended for having gummy bears in the classroom my parents had to take off work and come to the school. I had to stay after school to get all the work in and was far behind the rest of my class."

- R.W., 9th grade student
Rochester students are arrested for behavior that can be better handled by the schools.

In addition to facing suspension or expulsion, some students are arrested in school. The majority of the offenses are non-violent misdemeanors, such as disorderly conduct, harassment, or trespassing on school grounds. These behaviors should be dealt with by school administrators and not the police. Any unnecessary contact with the juvenile justice system puts a student at risk of continued system involvement, and just one court appearance more than quadruples a student’s likelihood of dropping out of school.¹ Too many students in Rochester are criminalized for behavior that can be handled by administrators, counselors, or other school staff.

During the 2012-2013 school year, Rochester City Police Department reported 166 arrests on school grounds. Close to half of those arrests were for “public order” or “other” offenses. Another 38% were for simple assault.

a. Only 3% of the reported arrests were for serious felonies
b. In 2013 – 2014, arrest data reported to the school board showed that 75% of the arrests were for non-violent incidents like disorderly conduct, harassment, petit larceny, and trespassing

These arrests happen even to very young students in RCSD. During an elementary school class, while working on an art project, a third grade student was holding up child safety scissors. The teacher, concerned that they were fighting, requested a sentry to take him out of the room. The vice principal talked to the police officer stationed in the building, who charged the student with assault with a deadly weapon, handcuffed him, and walked the student out of the building.

3% of the reported arrests were for serious felonies
75% of the arrests were for non-violent incidents

It is time to make a change. Rochester students deserve better. The federal government and the New York State Attorney General have both given guidelines about how to ensure that all students can be treated fairly during the school discipline process. Rochester City School District should make changes to ensure that we develop safe, quality schools that get to the root of behavior issues, prevent and address real violence, assist educators with needed training and resources to help student learning, and keep students in school and learning whenever possible.

Recommendations

1. The code of conduct must be changed to eliminate suspensions for minor, non-violent, and vague, subjective offenses so that no student is unnecessarily caught in the school-to-prison pipeline. RCSD must create a discipline matrix, that is child centered, developmentally appropriate and based on relevant research, that clearly defines the interventions and consequences appropriate for each behavior, using suspension only as a last resort. RCSD must ensure that the community is involved in making decisions around school discipline and school climate by including community members in policymaking task forces and by holding public hearings during deliberations about changes in the code of conduct.

2. Administrators, teachers, parents, and students need support, training, and meaningful alternatives like restorative justice to get to the root of the problem so that teachers can teach and students can learn. School personnel must learn how to respond to students who are traumatized, alienated, and in need of support. Schools must also provide resources to help students develop key social and emotional competencies.

3. The RCSD and Police must reform the memorandum of understanding (MOU) to make sure that the role of the police is well-defined and that students are not being arrested for incidents that must be handled by the school. RCSD has an MOU with Rochester police which allows for police in schools and defines their role. This MOU needs to ensure that police roles are limited so that they are not acting as disciplinarians, that students are not being arrested or referred for minor incidents, and that school police receive all necessary training.

4. Provide mandatory training for all administrators and teachers on relevant topics like implicit bias, cultural competency, classroom management, and the impacts of the school-to-prison pipeline.

5. Data collection within RCSD needs to be improved. RCSD should collect more complete data around school culture, school climate, student discipline and school-based arrests. The data should motivate schools to take proactive steps to reduce their reliance on exclusionary discipline. RCSD should make the data and analysis publicly available on a quarterly basis.

6. New York State law needs to be changed to eliminate zero tolerance and racial disparities and support common sense school discipline around the state.

Conclusions

“...in a building that is a war zone.” – S, 16 year old RCSD student

“There were a lot of things they could’ve done differently [instead of imposing long term suspensions]. Kicking us all out accomplished nothing. It didn’t make us think differently about fights. There should’ve been a mediation for the students who were fighting but there wasn’t any. They should’ve sat down with the kids who were there to talk about what happened instead of it just spreading around the school between the students. It’s stupid to leave us doing nothing at home just watching TV and staying in bed.” – M, 16 year old RCSD student

ABOUT US

Founded in 1965, Metro Justice is Rochester’s leading grassroots, member-driven, progressive organization working for social and economic justice. When we join together to demand a more fair and just society, our individual voices are louder, our efforts more effective, our power greater. http://www.metrojustice.org/

The mission of the Center for Teen Empowerment is to empower youth and adults as agents of individual, institutional, and social change. Teen Empowerment (TE) inspires young people, and the adults who work with them, to think deeply about the most difficult social problems in their communities, and gives them the tools they need to work with others in creating significant positive change. At TE’s youth organizing sites, youth and adult staff bring authentic youth voice into the dialogue about improving their communities, mobilize the energy of urban youth to create meaningful change, and facilitate mutually respectful relationships between youth and adults. http://www.teenempowerment.org/

The Alliance for Quality Education (AQE) is a coalition mobilizing communities across the state to keep New York true to its promise of ensuring a high quality public education to all students regardless of race, income or zip code. Combining its legislative and policy expertise with grassroots organizing, AQE advances proven-to-work strategies that lead to student success and echoes a powerful public demand for a high quality education for all of New York’s students. http://www.aqeny.org/

Advancement Project is a national, next generation, multi-racial civil rights organization that supports grassroots movements that aim to dismantle the school-to-prison pipeline. Advancement Project is an innovative civil rights law, policy, and communications “action tank” that advances universal opportunity and a just democracy for those left behind in America. We believe that sustainable progress can be made when multiple tools—law, policy analysis, strategic communications, technology, and research— are coordinated with grassroots movements. http://advancementproject.org/ and http://safequalityschools.org/

HOW TO GET INVOLVED

https://www.facebook.com/pages/AQEMetro-Justice-Education-Committee/910617848953777
Metro Justice (585) 325-2560

End Notes


* All Rochester data used and analyzed throughout this report has been openly provided by Superintendent Bolgen Vargas and the Rochester City School District and is on file with authors.
The story of how a young man’s untimely death and grassroots community organizing resulted in transformative change toward ending Buffalo’s School-to-Prison Pipeline.
ABOUT US

Citizen Action of New York is a statewide grassroots membership organization advocating for progressive policy around quality education, dismantling racism and promoting racial justice, guaranteed quality affordable health care, public financing of campaigns, and a more progressive tax policy. Citizen Action of Western New York is one of eight chapters around the state. For the past three years, Citizen Action of Western New York has been organizing for safe, quality schools where discipline policies focus on keeping students in school and learning and are applied equally to all students.

The Alliance for Quality Education (AQE) is a coalition mobilizing communities across the state to keep New York true to its promise of ensuring a high quality public education to all students regardless of race, income or zip code. Combining its legislative and policy expertise with grassroots organizing, AQE advances proven-to-work strategies that lead to student success and echoes a powerful public demand for a high quality education for all of New York’s students. Since its inception, AQE has been fighting for adequate and equitable funding for public schools. In more recent years, AQE has also taken up the fight for keeping students in school, reducing out of school suspensions and providing them with the social, emotional, and academic supports they need to succeed in school and as adults.

The Public Policy and Education Fund of New York works to address critical social, economic, racial and environmental issues facing low and moderate income New York State residents. PPEF has worked on a variety of issues including health care, education, after-school programs, voter participation, economic development and consumer issues. PPEF uses many tools in its work, including grassroots organizing, research and policy development, public education on a wide range of policy issues, and community outreach.

Advancement Project is a national, next generation, multi-racial civil rights organization that supports grassroots movements that aim to dismantle the School-to-Prison Pipeline. Advancement Project is an innovative civil rights law, policy, and communications “action tank” that advances universal opportunity and a just democracy for those left behind in America. We believe that sustainable progress can be made when multiple tools—law, policy analysis, strategic communications, technology, and research— are coordinated with grassroots movements.

For the past ten years, Advancement Project has focused on the use and devastating effects of harsh school discipline policies and practices and the increased role of law enforcement in public schools. We work at both the national level and on the ground with our community partners to examine, expose, and reform practices that lead to the criminalization of students.
In June 2010, Jawaan Daniels, a freshman at Lafayette High School in Buffalo, New York, was shot and killed at a bus stop near his school, after having been suspended from school for insubordination while roaming the halls. Jawaan’s untimely passing brought attention to the zero tolerance, punitive nature of Buffalo Public School’s (BPS) discipline policies, which for many years exacerbated the School-to-Prison Pipeline in Buffalo. Under these policies, many students, especially students of color, were suspended and expelled out of school for minor, non-violent infractions. The Buffalo community deserved and demanded better.

Outraged by this situation, Citizen Action of Western New York and Alliance for Quality Education (AQE) launched a Solutions, Not Suspensions campaign, and have led the fight to improve BPS ever since. Over the next five years, Citizen Action and AQE, in partnership with Advancement Project, galvanized a community to action through organizing, door knocking, rallies, protests, policy drafting, and community education. In April 2013, these efforts resulted in BPS adopting a new Code of Conduct, one of the most progressive in the country, replacing punitive zero tolerance with positive interventions and responses. And while BPS still has a long way to go, the data shows these policies have helped BPS achieve significant progress in just the last two years.

In the 2014-2015 school year, improvements in the discipline rates continue, showing the commitment of BPS and the continued success of the Citizen Action and AQE accountability model.

Restoring Justice captures Citizen Action’s, AQE’s, and Advancement Project’s efforts so that our story can serve as an example for others. In this report, we share background regarding the city of Buffalo and its schools, and then provide a brief national overview of the School-to-Prison Pipeline. We follow with a timeline of the Solutions, Not Suspensions campaign, and an overview of the changes that made Buffalo’s Code of Conduct one of the best in the country. We end by looking at the data, showing how far we have come, how far we have left to go, and our plan to make the situation even better. We hope our story motivates, inspires, and challenges others who are working to end the School-to-Prison Pipeline, by showing how a local grassroots group can lead the way to change and create a more just democracy for all.
Buffalo is located in Western New York, about 20 miles away from Niagara Falls. Buffalo is the second largest city in New York state, with a population in 2010 of approximately 260,000 people. According to the 2010 census, the city was majority White (50%), with African Americans (39%) and Latinos (11%) being the largest racial/ethnic groups.

Buffalo’s students are served by Buffalo Public Schools, a district which enrolls approximately 30,000 students, 70% of whom are Black or Latino. Despite integration efforts following a desegregation order in the 1970s and 1980s, The Buffalo News reported that in 2012 about 70% of Buffalo’s schools were still segregated, and that Black and Latino students were more often than not concentrated in high-poverty, low performing schools.

Today, Buffalo Public Schools is fighting to ensure that its schools remain public, locally controlled, and well-funded. Public accountability and community voice will help create school transformation that provides a quality education for all of Buffalo’s youth.

“I was born and reared on the east side of Buffalo, and am a graduate of the BPS system, having attended both predominantly African American and predominantly White BPS schools. I eventually returned to BPS as an elementary school teacher; during this time I noticed that African American students were treated more harshly than their White counterparts. I have always felt racism was pervasive within BPS and have sought ways with Citizen Action, AQE, and other local groups to make the situation better.”

– James Payne, Chair of Citizen Action of WNY

**IN DECEMBER 2013, BPS HAD THE FOLLOWING DEMOGRAPHICS:**

<table>
<thead>
<tr>
<th>NUMBER OF STUDENTS</th>
<th>33,932</th>
</tr>
</thead>
<tbody>
<tr>
<td>Percentage eligible for free/reduced lunch (2011-2012)</td>
<td>77%</td>
</tr>
<tr>
<td>Percentage of Special Education students</td>
<td>20%</td>
</tr>
<tr>
<td>Percentage of English Language Learners</td>
<td>13%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>RACIAL/ETHNIC ORIGIN OF BPS STUDENTS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Black or African American</td>
</tr>
<tr>
<td>White (Non-Hispanic)</td>
</tr>
<tr>
<td>Hispanic or Latino</td>
</tr>
<tr>
<td>Asian or Native Hawaiian/Other Pacific Islander</td>
</tr>
<tr>
<td>Multiracial</td>
</tr>
<tr>
<td>American Indian or Alaska Native</td>
</tr>
</tbody>
</table>
The following is an Advancement Project infographic on the School-to-Prison Pipeline, illustrating the many ways that it can impact student lives. You can find this and other resources about ending the School-to-Prison Pipeline at www.safequalityschools.org.
There is a national civil rights crisis in school discipline: the School-to-Prison Pipeline. The School-to-Prison Pipeline is the combination of policies and practices that directly and indirectly lead to students being pushed out of school and into the juvenile and criminal justice systems. These harmful policies and practices include an overuse and overreliance on suspension, expulsion, and school-based arrest to respond to student behavior. The Departments of Justice (DOJ) and Education (ED) recognize that “the increasing use of disciplinary sanctions such as in-school and out-of-school suspensions, expulsions, or referrals to law enforcement authorities creates the potential for significant, negative educational and long-term outcomes.”

Nationally, in the 2011-2012 school year, there were close to three and a half million students who missed out in instructional time due to suspension or expulsion. Students of color, students with disabilities, and students who identify as lesbian, gay, bisexual, transgender, or queer (LGBTQ) are disproportionately affected. Black students are suspended or expelled at three times the rate of White students. Students with disabilities are twice as likely to be suspended or expelled as their non-disabled peers. Perhaps most alarming, students of color who also have disabilities are suspended and expelled at extraordinarily high rates: more than one in four Black boys and one in five Black girls with disabilities are suspended or expelled from school. These disparities start early. Black students in preschool – ages three and four – were also three times more likely to be suspended than their White peers.

The effects of the School-to-Prison Pipeline are devastating for young people, and the consequences are falling most heavily on the
shoulders of children of color. DOJ and ED issued guidance to school districts instructing them to address racial disparities and to stop the use of harmful school exclusion policies because of the correlation between these policies and “an array of serious educational, economic, and social problems, including school avoidance and diminished educational engagement; decreased academic achievement; increased behavior problems; increased likelihood of dropping out; substance abuse; and involvement with juvenile justice systems.”

Excluded students are more likely to become involved with the juvenile or adult criminal systems. A multi-year, longitudinal study in Texas found that young people who were suspended from school were two times more likely to drop out of school and three times more likely to end up in the criminal justice system. In Florida, ninth graders who were suspended only once more than doubled their chances of not graduating from high school.

Communities around the country are fighting to break this School-to-Prison Pipeline and return common sense to their public schools. This report highlights the important work to reverse the School-to-Prison Pipeline in Buffalo, New York where Citizen Action and AQE fought to change the policies and practices that were disproportionately pushing students of color out of school for minor, non-violent offenses.
TIMELINE

2010

Death of Jawaan and debate about need for change

Jawaan Daniels was a 15 year-old African American freshman at Lafayette High School in Buffalo, New York. On June 10, 2010, Jawaan was suspended for walking through the halls without a hall pass. Soon after, while waiting at a nearby bus stop to go home, Jawaan was shot twice in the abdomen. Jawaan died an hour later.

“Certainly the penalty outweighed the “crime.” I was there from the first day of our efforts, speaking at board meetings, community forums, and even at the family reunion of the President of the Principal’s Union. We were a well-trained cadre of people who knew the issues and the importance of a new Code of Conduct for our students. We wanted to make sure Jawaan’s unfortunate death was not in vain, but an opportunity for transformative change for our city.”
- James Payne, Chair of Citizen Action of WNY

2010-2012

Actions and community education

The Buffalo community was outraged by Jawaan’s death. Citizen Action and AQE soon learned that Jawaan’s suspension was part of a School-to-Prison Pipeline which pushed students, especially students of color, out of BPS for minor, non-violent infractions, under punitive, zero tolerance policies. Citizen Action and AQE launched a Solutions, Not Suspensions campaign consisting of organizing, door-knocking, signature gathering, phone banking, protests, actions, and community education as a vehicle for change.

“One big goal we had was community awareness. We held many meetings at local community centers like the Bell Center and Delavan Grider Center, and invited students, whose voices are often ignored or forgotten, to come out and share their personal stories about being pushed out of school. We needed to open our eyes, our minds, our ears to learn about the most needed changes for our community.”
- Gayla Thompson, Board Member of Citizen Action of WNY and Parent, BPS Student

2012-2013

Code drafting

A key demand that developed from the Solutions, Not Suspensions Campaign was the need to rewrite BPS’ Code of Conduct, which had not been significantly changed for over thirty years. Citizen Action and AQE, with assistance from Advancement Project, worked with BPS Associate Superintendent Will Keresztes and Erie 1 BOCES to rewrite the Code, with the goal of keeping students in school, getting to the root of any issues, and promoting positive interventions and supports like Restorative Justice. The rewriting included best practice national examples from leading cities such as Denver and Baltimore where similar policy changes had led to sustained positive outcomes, especially for students of color.

“Everyone agreed that for a very long time, the district was far too casual about student suspensions. Our purpose now is to be far more progressive, far less casual, and to be prepared to offer the kinds of interventions so that they don’t have these challenges in the first place.”
- Will Keresztes, BPS Chief of Student Support
Public reflection and education meetings

During the Code rewriting process, Citizen Action and AQE organized several community forums and meetings. Citizen Action and AQE used this opportunity to educate the community on its Solutions, Not Suspensions campaign and the School-to-Prison Pipeline, to brainstorm ideas for changes, and to solicit feedback regarding the Code rewriting process. These meetings were attended by a broad array of stakeholders, including board members, administrators, teachers, parents, students, community members, and other community activists.

“Given that suspension rates were through the roof, these meetings were important as a space to tell everyone about the importance of the Code of Conduct, to win over key allies, and to develop broad support. As a kindergarten parent of twins enrolled in BPS, these efforts also had tons of personal, lasting significance.” - Angelica Rivera, Chair of Education Committee of Citizen Action of WNY and parent of two BPS students

A new Code of Conduct

Following many months of drafting, meetings, and revisions, the Buffalo Board of Education unanimously approved the new Code of Conduct in April 2013. Hailed as one of the most progressive Codes of Conduct in the country, the new Code calls for the use of positive interventions and supports like Restorative Justice, limits the use of suspensions, eliminates zero tolerance, clarifies due process procedures for parents and students, and increases accountability through data collection and training.

Monthly meetings, Restorative Justice pilot programs, and a focus on school attendance

Passing policy is tough, but making sure it is implemented is even tougher. Citizen Action and AQE, with assistance from Advancement Project, have since been involved in monthly meetings with BPS and Dr. Keresztes to monitor implementation of the new Code. During these meetings, we analyze key data, discuss issues we are seeing and hearing, and brainstorm next steps to make the process even better. These collaborative spaces represent a way in which public institutions and community groups can effectively work together to end the School-to-Prison Pipeline in their communities.

Beginning in the 2014-2015 school year, BPS piloted two whole school Restorative Justice programs and the Erie County Restorative Justice Coalition will be working with a third school. Citizen Action and AQE look forward to being a part of the implementation and evaluation of these programs.

Citizen Action and AQE are also partnering with Attendance Works! and BPS on the “Present Students, Future Leaders” campaign to ensure that schools are supporting students and creating an environment where every student wants to be in school every day.

“Dr. Keresztes acknowledged that Citizen Action and AQE have been extremely helpful in this process, that we have made him a better, more effective administrator by offering him not just complaints, but concrete solutions to the problems we were seeing. The transparency Dr. Keresztes has offered in terms of data, policy, and challenges have been invaluable throughout these meetings. We have come to develop a mutual trust and respect.” – Sue Gillick, Vice-Chair of Citizen Action of WNY
In response to the school discipline crisis in Buffalo, leaders from Citizen Action and AQE worked with BPS on a new, progressive discipline Code that addresses the dramatically high out-of-school suspension rate and creates a system of school discipline that keeps children safe, in school, and accountable for their actions.

The discipline Code is aptly titled “Developing Safe and Supportive Schools: Standards for Community Wide Conduct and Intervention Supports,” and...
Restoring Justice

Concerns arise, schools have a variety of options to respond that do not exclude students from the learning environment. These range in intensity, from holding a student-teacher conference to participating in Restorative Justice harm circles. Before being suspended for a behavior such as “minor fighting,” under the new Code, the school will intervene with the students involved and use a Restorative Justice process to get at the root of the problem.

A. Prevention & Intervention Strategies

In order to ensure that student misbehaviors are addressed and all students can attend school in a safe, orderly environment, the Code prioritizes the use of a variety of classroom and school level prevention and intervention strategies. The goals of these strategies are two-fold. First, the Code instructs schools to use programs that will help prevent misbehavior from occurring. For example, schools can use Positive Behavior Interventions Support (PBIS) and other classroom management techniques that help students engage in learning in a productive way. Second, when behavior concerns arise, schools have a variety of options to respond that do not exclude students from the learning environment. These range in intensity, from holding a student-teacher conference to participating in Restorative Justice harm circles.

B. The Behavior Matrix

The Code of Conduct clearly defines the misbehaviors that violate the Code and the consequences attached to them. BPS and Citizen Action utilized a behavior matrix that is an easy to understand tool for parents, students, and school staff to show what consequences effectively respond to inappropriate or disruptive behaviors. Consequences and responses are divided into four levels: classroom support, administrative support, short-term removal from school, and long-term removal from school. The matrix, as shown in Figure 2 below, delineates which level of response is appropriate for the given behavior.

Figure 2 - Discipline Matrix

<table>
<thead>
<tr>
<th>INAPPROPRIATE OR DISRUPTIVE BEHAVIOR</th>
<th>LEVEL 1</th>
<th>LEVEL 2</th>
<th>LEVEL 3</th>
<th>LEVEL 4</th>
<th>MAY BE REFERRED TO POLICE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tardiness</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>* Persistent or excessive tardiness to class or school</td>
<td>✔️</td>
<td>✔️</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Technology Acceptable Use Policy Violation</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>* Refer to page 31 of these Standards for details</td>
<td>✔️</td>
<td>✔️</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Threat Against School Personnel, Written or Verbal</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
C. Limits on the Use of School Exclusion

An important goal of the Solutions, Not Suspensions campaign included ending the overuse of suspension and expulsion. The Code of Conduct accomplishes this by both eliminating school removal as a response to student behaviors that are non-violent or relatively minor and by removing zero tolerance. Under the new Code, students can never be suspended for behaviors like being late to class, violating the dress code, misbehaving in the hallway, or using offensive or profane language. Also, suspension is not required for any offense except those mandated by state or federal law. School staff can utilize responses from multiple levels, and are instructed to start with the lowest level first. The response to student behavior escalates in proportion to the severity and frequency of the behavior.

Under the Code of Conduct, if a student makes a threat against school personnel, the first appropriate response is a Level 2 response which is an administrative response like notifying the parent, participating in a Restorative Justice conference, or taking away a student privilege. If the threats escalate in severity or if they are repeated, school staff have the option to use a Level 3 or 4 response, which includes removal from school in conjunction with an intervention designed to address the problem.

D. Due Process Protections

The Code of Conduct includes some offenses for which suspension or expulsion is allowed, but recognizes that school removal is a severe consequence that entitles students to strong due process protections, including the opportunity to receive notice and to be heard. The Code contains easy to follow due process charts and timelines, like the one shown in Figure 3, so that students, parents, and families know their rights and can

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Figure 3- Due Process Protections

- 24 Hours
  - Use the appropriate level of notification
  - Use appropriate level of notification
  - Use appropriate level of notification
- 24 hours from request
  - A Level 2 response is initiated
  - A Level 2 response is initiated
  - A Level 2 response is initiated
- Principal’s Conference
  - A Level 2 response is initiated
  - A Level 2 response is initiated
  - A Level 2 response is initiated
- Suspension Begins
  - A Level 2 response is initiated
  - A Level 2 response is initiated
  - A Level 2 response is initiated
- Appeal to Superintendent
  - A Level 2 response is initiated
  - A Level 2 response is initiated
  - A Level 2 response is initiated
advocate for themselves when facing unfair discipline.  

E. Accountability Measures

The Code of Conduct also contains requirements for school staff and the BPS administration to make sure that it is implemented and that it accomplishes the goals of reducing the high rates of suspension, addressing and eliminating racial disparities, and creating a positive, welcoming school environment for all members of the community. The Code requires that school staff receive mandatory trainings in things like cultural competency, child development and age-appropriate responses, and Restorative Justice.  

The Code also requires BPS to collect and publish data about how the Code of Conduct is being implemented. BPS must, on an annual basis, publish a report that includes among other things the number and type of disciplinary infractions, disaggregated by race, gender, age, grade, disability, ELL status. BPS must also do an analysis to make sure the Code is being implemented consistently, and, if appropriate, make changes to the Code to ensure that its goals are met. 

Since the Code has been published, BPS had made suspension and attendance data publicly and easily accessible on a monthly basis on its website. A sample of that page is located here—http://www.buffaloschools.org/Attendance.cfm?subpage=107560
The 2013-2014 school year was the first year under the new Code of Conduct, and we saw some great results.

**SHORT TERM SUSPENSIONS**

<table>
<thead>
<tr>
<th>Year</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>2010-11</td>
<td>12,916</td>
</tr>
<tr>
<td>2011-12</td>
<td>11,935</td>
</tr>
<tr>
<td>2012-13</td>
<td>10,651</td>
</tr>
<tr>
<td>2013-14</td>
<td>8,293</td>
</tr>
</tbody>
</table>

Across the district, students GAINED at least 7,353 more instruction days compared to 2012-2013.

- **22% DECREASE** Short term suspensions are down 2,358 this year compared to 2012-2013.
- **36% DECREASE** Short term suspensions are down 4,623 overall since 2010.
- **60%** of schools saw a **DECREASE in short term suspension** use compared to 2012-2013, with some schools decreasing as much as 78% compared to 2012-2013.
- **50%** of schools saw a **DECREASE in long term suspension** use compared to 2012-2013, with some decreasing as much as 81% compared to 2012-2013.
**What Can BPS Do Better?**

Although both short term and long term suspensions are down, the vast majority of suspensions continue to be given out for vague, non-violent behaviors that should be handled in school, such as defiance of authority, disrespectful behavior, disruptions, and minor physical altercations.

Although most schools saw decreases in the use of short and long term suspensions, some schools saw huge, problematic increases, some by almost double compared to the year before.

<table>
<thead>
<tr>
<th>DEFIANCE OF AUTHORITY</th>
<th>DISRESPECTFUL BEHAVIOR</th>
</tr>
</thead>
<tbody>
<tr>
<td>DISRUPTIONS</td>
<td>MINOR PHYSICAL ALTERCATIONS</td>
</tr>
</tbody>
</table>

Suspensions for vague behaviors have decreased, but still need to be addressed.

**Racial Disparities**

Racial disparities continue to be a problem, especially for Black and Latino students.

Black and Latino students are only about 70% of the total student population, but make up almost 80% of all short term suspensions and 80% of all long term suspensions.

Black and Latino students are more likely to receive a short term and long term suspension than their white peers.

Black students are **6.5 times more likely** than their white peers to receive short term suspension and long term suspension.

Latino students are **3.7 times more likely** than their white peers to receive short term suspensions and 3.6 times more likely to receive long term suspension.
1. Continue Reducing the Number of Suspensions For Non-Violent Behaviors.

Buffalo Public Schools has made great strides in reducing the number of suspensions for non-violent offenses, but there is more work to be done. To ensure that no student is unnecessarily suspended, BPS should:

a. Conduct regular trainings for principals and other administrators on the Code of Conduct to prevent unnecessary suspensions.
Under the 2013-2014 Code, there are numerous options for intervening in and responding to student behavior. There are many offenses for which suspension is not an option. When suspension is a permitted response, it should only be used as a last resort. In order to ensure that BPS is not overusing suspensions, trainings should address that students should never be suspended for Level 1 and Level 2 offenses and how to respond in cases where suspension is permitted, but not required. Trainings should also provide school staff with resources and tools to respond to student behavior in a positive manner.

b. Create administrative accountability systems to ensure that the Code of Conduct is being implemented across all campuses.
The data reflects that while many schools reduced their suspension rates this year, some schools are still suspending too many students. BPS should create a system of accountability to review what is happening at schools with high levels of suspension, and to support those schools in reducing suspension rates and implementing alternatives.

BPS should also collect and publish more detailed data on short term suspensions disaggregated by offense and conduct periodic central office reviews of campus-level short-term suspensions. Currently, unless a student appeals their suspension, there is no oversight of short-term suspensions; principals make the final decision with no review by central office administrators. By reviewing records of short-term suspensions, the reasons leading to the suspension, and the other steps the school staff has taken to address behavior, BPS will be in a stronger position to create effective trainings, troubleshoot with school staff who may be over relying on exclusionary discipline, and ensure that the Code of Conduct is being implemented correctly.

2. Address and Eliminate Racial Disparities in Suspension Rates.

Although suspension rates have dropped across the District, the rate of disparity remains the same, and Black and Latino students are more likely to be suspended than their white peers. BPS must take
steps to intentionally name these racial disparities and create a plan to end them. BPS should collect and analyze more specific data on race and discipline, including school and teacher level referral data. BPS should also provide training for teachers and school staff about implicit bias and how it influences decisions about school discipline.

3. Invest in Community Schools that Support Safe, Welcoming Schools for Everyone.

Reducing the District's reliance on suspension is not enough to see real, sustained change in our community. BPS and the city of Buffalo should also scale up their investment in programs that create safe, welcoming schools for students, parents, and teachers. Community Schools integrate academics, services, and supports to meet the full spectrum of student needs. Programs like Restorative Justice meet students where they are, help get to the root of behavior issues, and hold students accountable for their actions while making sure they can continue to access their education.

a. BPS should make sure staff at every school building is trained in and is using Restorative Justice techniques in their classrooms and in response to student behavior. We are excited that BPS supported two model Restorative Justice schools for the 2014-2015 school year. Staff at all campuses should be trained in Restorative Justice and Restorative Justice programs should be fully implemented.

b. BPS should continue to work with the Buffalo community to focus on increasing school attendance. School attendance is critical to ensuring success. In addition to stopping the excessive use of suspensions that remove students from their school, schools should proactively take steps to address absenteeism and make sure students are in school and learning every day. By working with community groups, service providers, parents, young people, and teachers, BPS can ensure that more students are on the pathway to success.

c. The Buffalo Public Schools Board of Education should invest in Community Schools. The Board of Education should continue to block proposals to privatize Buffalo's public schools and invest resources to ensure that all students benefit from strong academics and a welcoming school culture. Community Schools provide engaging and culturally relevant curriculum, a positive school climate, wraparound health services, social and emotional services, positive discipline practices such as Restorative Justice, and transformational parent and community engagement. These schools become centers for their communities, providing students and families with a broad spectrum of services and supports right at their school.


Buffalo Public Schools’ work on reforming its Code of Conduct is groundbreaking in the state of New York. Unfortunately, many state laws and policies still call for schools to suspend or expel student even in response to non-violent behaviors. Buffalo should join with other cities across New York to demand that the State pass a new law that encourages schools to develop a positive
climate, places limits on when schools can issue suspensions and expulsions, create and fund alternatives to exclusionary school discipline, limit law enforcement interaction with students, create a strong due process system, and provide training to all school staff on best practices in school discipline. They should also support efforts to fund and promote community schools, with engaging and culturally relevant curriculum, wraparound health services, social and emotional services, positive discipline practices, and transformational parent and community engagement.

Endnotes

1 http://citizenactionny.org/
2 http://www.ajeny.org/
3 http://advancementproject.org/ and http://safequalityschools.org/
4 http://quickfacts.census.gov/qfd/states/36/3611000.html
6 Document on file with authors
8 Guidance Letter, http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201401-title-vi.html#fn8
14 Guidance Letter, http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201401-title-vi.html#fn8
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29 Page 47
A, B, C, D, STPP:
How School Discipline Feeds the School-to-Prison Pipeline
ACKNOWLEDGMENTS

This report was written by Samantha Pownall. It was edited by Johanna Miller, Art Eisenberg, Donna Lieberman, Mike Cummings, Alexis Karteron and Helen Zelon, and reviewed in part by Rebecca Shore of Advocates for Children. It was designed by Li-Wah Lai.

Data analysis was performed by Sara LaPlante and the New York City Independent Budget Office. Graphics were constructed by Sara LaPlante and Abby Allender. Mapping software courtesy of Columbia University.

The author wishes to thank Bingham McCutchen for their generous support of her two-year Equal Justice Works Fellowship at the NYCLU, where she has worked to protect the rights of New York City public school students.

This report is dedicated to all students and to the educators, parents and advocates who strive to safeguard the right of all students to a quality education.

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EXECUTIVE SUMMARY

Overly punitive school discipline feeds the school-to-prison pipeline and contributes to the failure of New York’s public school system to educate the city’s most disadvantaged students.

Research consistently demonstrates the importance of keeping students with the greatest academic and economic needs in school. Under Mayor Michael R. Bloomberg, these are the same students who are at greatest risk of being pushed out through suspensions and arrests. Black students, who are disproportionately arrested in school compared with white students, are the least likely to graduate from high school with a Regents Diploma. Black students and students with special needs are disproportionately suspended from city schools. And black students with special needs have the highest suspension rate of any group. Low-income students are also disproportionately suspended. This report reviews the policies and practices that produced these results and provides recommendations to help end the school-to-prison pipeline (STPP) in New York City.

Suspensions

The total number of annual suspensions has more than doubled during the Bloomberg administration, from less than 29,000 in 2001 to nearly 70,000 in 2011. Black students and students with special needs served an outsize proportion of these suspensions.

Black students, who represent less than a third of total public school students, served half of all 2010-11 suspensions. White students, who make up 14 percent of total enrollment, served only 7 percent.

School suspension patterns citywide echo NYPD stop-and-frisk patterns: Independent of where they attend school, youth who live in many areas where stop, question and frisk is ubiquitous, such as East New York, Brownsville, Mott Haven, Jamaica and Harlem, experience higher rates of suspensions than youth in other neighborhoods.

New York City school districts enrolling a higher percentage of low-income children suspend a higher
percentage of students, on average, than schools serving a lower percentage of low-income students. In 15 of the city’s 19 school districts where the suspension rate exceeded the city average, the percentage of students eligible for free or reduced-price lunch (FLE) also exceeded the city average. The district with the highest proportion of low-income students, District 7 in the Bronx, had the highest suspension rate in the city (at least 85 percent FLE; 8 percent of students suspended – about twice the city average). The average suspension rate in New York City in the 2010-11 school year was a little more than 4 percent; citywide, 64 percent of students are eligible for free or reduced-price lunch.

Students with special needs are suspended twice as often as general education students. But average suspension rates mask troubling racial disparities: Black students with disabilities serve 14 percent of overall suspensions, yet represent only 6 percent of total enrollment. Black general-education students, without special needs, are suspended far more frequently than special-needs white students.

Among all students, boys are suspended almost twice as often as girls. “Altercations and/or physically aggressive behavior” and “insubordination” – offenses that range from talking back in class to a fight – accounted for 40 percent of suspensions in 2011.

Arrests

Over 60 percent of all school arrests in New York involve black youth. Black and Latino students, who represent roughly 70 percent of total public-school enrollment, were involved in more than 90 percent of school arrests from 2011-13, a rate that is 20 percent higher than the national average. In the first quarter of 2013, more than 60 percent of in-school summonses were issued for “disorderly conduct,” considered a subjective, catch-all violation. More summonses in 2011-12 were issued in the Bronx, home to the greatest proportion of students of color, than in any other borough. Citywide, 48 percent of all summonses were issued in the Bronx, which contains only 21 percent of the city’s middle and high schools.

Young people of color are far more likely to be stopped by police than are their white peers. Youth who live in areas where stop, question and frisk is pervasive, such as Mott Haven, in the Bronx, experience higher rates of suspension than youth in neighborhoods with low stop-and-frisk rates, like the Upper East Side.

Recommendations

1. Close loopholes in the Student Safety Act to improve public disclosure of comprehensive data on school suspensions and law enforcement activity, including every instance a student is handcuffed at school. Under current law, the NYPD and New York City’s Department of Education (DOE) must report relevant demographic information about student suspensions, summonses and arrests. But amendments are needed to plug significant loopholes in the law. For example, the NYPD currently does not report data on handcuffing in schools, arrests and summonses in schools by NYPD officers who are not members of the School Safety Division, data on a school-by-school level, or students’ language or Special Education status. The DOE does not report suspension data where the number is between zero and nine occurrences in a category, which results in gaping holes in the publicly available data released, including a complete
lack of information regarding schools that fail to file required reports. Incomplete data does not serve the interests of the children of New York City, the adults who work with them or the city leaders who make decisions about the schools.

2. Eliminate zero tolerance in the discipline code and in practice. Zero tolerance has been widely discredited as discriminatory and ineffective.\textsuperscript{30} It equates the most serious misbehavior with the most trivial. Eliminating zero tolerance means eliminating mandatory suspension from DOE’s discipline code and correcting the culture of zero tolerance that has proliferated under that code. To maintain safe schools, DOE must mandate positive discipline strategies as a first-line response and suspension as a last resort.

School districts across the country, from Los Angeles to Baltimore, are working to end the use of overly harsh school discipline.\textsuperscript{31} Most recently, the Los Angeles Unified School District, the nation’s second-largest urban school district, voted to abolish the subjective “willful defiance” infraction from its discipline code which accounted for almost half of all L.A. school suspensions in the 2011-12 school year.\textsuperscript{32}

The DOE has communicated its faith in positive discipline by piloting programs around the city and including positive-discipline language in the revised discipline code and elsewhere. But without a mandate and meaningful training, the effective use and staying power of these alternatives remains questionable. For many years, the DOE instructed principals to use zero-tolerance discipline for many types of infractions in the discipline code, from bullying to possession of prohibited items. Without that same strong leadership from the DOE to replace zero tolerance with positive alternatives, these changes will not happen in most schools.

The next mayor must re-examine the long list of behaviors treated as serious by the New York City discipline code. For example, Mayor Bloomberg’s ban on possession of cell phones: In schools with metal detectors, a student caught with a phone may be treated as though she has smuggled in drugs or a weapon. This overreaction to minor student misbehavior has no positive impact on the school climate and exerts a disproportionate effect on students of color.

3. End the criminalization of school discipline. This requires overhauling the agreement between the NYPD and DOE to limit the role of school safety officers (SSOs) and ensure that their activities are consistent with sound educational practices. Arresting and handcuffing students in school for minor misbehavior does not make schools or students safer. Flashpoints of confrontation between students and SSOs escalate quickly with the result that the student may be handcuffed, arrested, issued a summons or suspended. These interactions foster a hostile school climate and push out students who need the most support from educators.\textsuperscript{33}

In order to return the balance of power in school discipline matters to educators, SSOs must always work in consultation with school officials, and their responsibilities should be limited to confronting serious safety concerns. Educators, not SSOs, should be responsible for enforcing school rules. Other jurisdictions—the states of Connecticut, Texas, and Florida, and districts in California, Georgia, Colorado, Alabama and other states—have begun to more closely restrict police involvement in student misbehavior.
because the potential harm to students is so great.

In April 2013, former New York State Chief Judge Judith Kaye’s School Justice Partnership Task Force laid important groundwork for a local solution. Comprised of a diverse group of stakeholders, the task force recommends that the DOE and NYPD work together to implement positive discipline strategies and to reduce reliance on suspensions, summonses and arrests. In September 2013, the Student Safety Coalition released “A New Vision for School Safety,” which outlines nine guiding principles for creating a safe school environment that is conducive to learning. The Coalition proposals have gained support from many elected officials. In this context, the next mayor has a viable opportunity to restore school discipline to the hands of educators.

4. Ensure adequate training for SSOs to be supportive members of the school community. SSOs must be meaningfully trained alongside educators from their assigned schools in topics including child and adolescent development and psychology, cultural competency, de-escalation and conflict resolution, and restorative justice approaches. Recent research clearly demonstrates that schools that provide culturally competent training to members of the school community are able to reduce both overall suspensions and racial disparities.

Students and SSOs in the Bronx, the borough with the highest number of student arrests, have already started to see the preliminary benefits of such a training. Last spring, the Bronx School Justice Working Group coalition and the New Settlement Parent Action Committee, both members of the Dignity in Schools Campaign-New York, hosted trainings with SSOs. It is vital that the next mayor bring this type of training to scale.

5. Inform parents and students of their rights, and honor due process and special-education protections. While students are guaranteed protections before their right to an education can be taken away through a suspension, those protections are often ignored or simply not communicated to families in the first place. Fundamental due process rights include the right to written notice within 24 hours of a suspension and the right to receive alternate instruction. They also include the right to a hearing within five days of a superintendent’s suspension, appropriate notice of special-education protections and information on how to access surveillance footage that may provide valuable evidence of a student’s innocence. These rights should be explained in the discipline code.

The DOE must support schools to meet the needs of students with disabilities and those with behavioral challenges, including due process and procedural rights created by special education laws. The DOE must create a meaningful system for parents to communicate with the DOE about their child’s school placement and whether it is appropriate. The DOE must also facilitate the process for students to transfer to other schools if their assigned or zoned school does not offer appropriate services.

6. Implement positive behavioral supports in all schools, and train all adults in each building. Studies of other large, urban school districts such as Los Angeles, Baltimore, Buffalo and Denver have documented that these supportive approaches to school discipline—positive behavior interventions, restorative practices, counseling, mentoring and others—help foster a safe learning environment and contribute to higher graduation rates for all students. The next mayor must ensure that positive behavior supports are available in every building, and that all adults in the building are part of making the system work.

The systematic implementation of positive discipline alternatives makes schools safer, calmer and more
effective places for young people to learn. In New York City, schools such as the Urban Academy and Vanguard High School have created a safe and nurturing school climate by implementing alternatives to harsh discipline. But gaps in the management, supervision and training of SSOs mean that officers are not always aware of how their actions affect the success of positive discipline programs. School staff must also be trained to better identify and refer students with unmet mental health needs to special education and other services. Because students are best served in their home community setting, schools should hire more mental health professionals, instead of making referrals to hospitals via EMS transport. Increasing access to “mobile mental health teams,” psychiatrists and other mental-health professionals who serve a group of schools in a particular community, is a first step towards filling this critical gap in services in city schools.

As the largest school district in the country, New York City is uniquely poised to serve as a national model for dismantling the STPP. The next mayor will have the opportunity to overhaul DOE’s ineffective, disproportionately punitive school discipline system – and implement meaningful reforms that keep our most vulnerable students in school and connected to resources that support learning, regardless of their academic ability, ZIP code or skin color.
I. EMERGENCE OF THE SCHOOL-TO-PRISON PIPELINE

In 1954, the U.S. Supreme Court in *Brown v. Board of Education* held that equal access to public education is essential to the progress of a democratic nation. By law, race could no longer be used to exclude children from school. *Brown*’s promise of equal educational opportunity has never been fully realized. It continues to be impeded by school districts across the country that have enacted harsh disciplinary policies that disproportionately exclude black students, Latino students and students with disabilities from classrooms. As a result, these students are denied *Brown*’s guarantee of equal access to an education – adding to their greater risk of being pushed through the school-to-prison pipeline (STPP) and into the criminal justice system.

HOW NEW YORK CITY FEEDS THE STPP

New York City public school students face two different kinds of suspensions:

**Principal’s suspension.** Students may be suspended for up to five days at the discretion of their school’s principal. There is no limit to the number of principal’s suspensions a student may serve, although families and students may appeal the suspension/s, as outlined in Chancellor’s Regulation A-443 in the NYC Department of Education discipline code.

**Superintendent’s suspension.** Some infractions carry the consequence of a superintendent’s suspension, which can be imposed for up to a full academic year, or 180 days of instruction. (The average superintendent’s suspension is 23 school days – about a month of instruction.) All students serving superintendent’s suspensions are entitled to a hearing, where evidence and witnesses may be presented, as outlined in Chancellor’s Regulation A-443. Students with disabilities are entitled to additional protections.

**Expulsion.** DOE permits expulsion only for students without disabilities who turned 17 – the age at which a young person may leave high school – before July 1 of the current academic year. A year-long superintendent’s suspension, while not a formal expulsion, keeps younger students out of their assigned schools for a full academic year. Other school districts consider a 10-day suspension an expulsion.

**Arrests and summonses.** Students may be arrested in schools for a wide range of behavior. There were 2,548 arrests and summons – more than 11 per day – during the 2011-12 school year. Aggressive policing tactics and racial disparities persist.

Studies document that students separated from school are more likely to drop out – and are at greater odds for involvement with the juvenile justice and criminal justice systems.
The school-to-prison pipeline describes the disciplinary and school safety practices that force children out of the classroom and into the criminal justice system.

The STPP describes the disciplinary and school safety practices that force children out of the classroom and into the criminal justice system. Students are pushed into the pipeline indirectly, through suspensions and expulsions, and directly, when police respond to student misbehavior. The correlations between these policies and students’ chances at academic success are startling: A longitudinal study of 1 million students in Texas found that 23 percent of students who were involved in the school disciplinary system also had contact with the juvenile justice system. Of students who had no involvement in the school disciplinary system, only 2 percent had contact with the juvenile justice system. Other studies suggest students who are arrested for the first time are twice as likely to drop out of high school; and a first-time court appearance quadruples those odds. More than two-thirds of state prison inmates are high-school dropouts.

Nationwide, more than 3 million children are suspended from school each year on average. This number is alarming in both scale and impact: For many students, suspension is the entry point into the STPP.

But not all students share the same risk of being suspended. Suspensions of non-white students have increased by more than 100 percent since 1970. Black students are suspended more
often for behaviors that involve subjective or discretionary judgments by school authority figures, such as disrespect, excessive noise and threatening behavior. White students more often face consequences for objective offenses that don’t require individual judgment or opinion, such as bringing a weapon into school. This different treatment results not from differences in students’ behavior but from how school personnel perceive their students.

The city’s Department of Education failed to accurately report school discipline incidents to the U.S. DOE.

Federal data shows that children with disabilities are suspended about twice as often as their non-disabled peers. This translates to the suspensions of one in every four black students with a disability every year.

School districts that use suspensions and school police officers to enforce discipline often rely on a theory of “zero tolerance,” which requires that certain behaviors are immediately punished, without considering the circumstances or seeking the student’s perspective. Under zero tolerance, a student who talks back to a teacher may receive the same swift punishment as a student who brings drugs or a weapon to school. If a school safety officer (SSO) is involved—even in minor incidents—the likelihood that the student will be arrested or issued a ticket increases significantly. The majority of school districts nationwide operate with zero-tolerance discipline policies.

THE SUPPORTIVE SCHOOL DISCIPLINE INITIATIVE

In 2011, the U.S. Department of Education and the U.S. Department of Justice (U.S. DOE and DOJ) created the Supportive School Discipline Initiative (SSDI) to help end the school-to-prison pipeline in the United States. This marks the first time that the federal government has taken a position on the STPP. One important component of the SSDI is to “increase and enhance the school discipline data available through the U.S. DOE” to ensure that disciplinary policies “support students and are administered in a non-discriminatory manner.”

This is particularly significant for large urban districts like New York City, which submitted “seriously flawed” data to the U.S. DOE. Even though New York City, bound by the Student Safety Act, tracks and reports suspension and arrest data to the City Council, the city’s Department of Education failed to accurately report school discipline incidents to the U.S. DOE. Startlingly, the city’s DOE reported to the U.S. DOE that there were zero arrests in schools in 2010, despite the fact that hundreds of student arrests were reported under local law that same year. Faulty reporting means that New York City’s students, who form the largest school district in the nation, lose the benefits of federal oversight, and that the NYC DOE effectively escapes official notice.
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SANDY HOOK

In December 2012, Adam Lanza shot and killed 20 first-graders and six adult staff members at Sandy Hook Elementary School in Newtown, Connecticut. This tragedy sparked much debate about how best to prevent gun violence in schools. In response to calls for arming educators or placing more armed guards in schools, the American Federation of Teachers (AFT) stated that public schools “should not be armed fortresses” and the presence of armed guards would “undermine our ability to provide a safe and nurturing learning environment for students.”

The AFT recommends instead that schools ensure students have proper access to counselors, psychologists and social workers. Even Mayor Bloomberg said that armed guards would risk turning schools into prisons — a comparison many students in New York City suggest describes the everyday presence of SSOs.

An open letter from the Interdisciplinary Group on Preventing School and Community Violence attempted to refocus the issue on the motivation behind the shooting, rather than its location, stating:

The Connecticut tragedy is referred to as a school shooting, but it is better described as a shooting that took place in a school. It is also relevant to consider the hundreds of multiple casualty shootings that occur in communities throughout the United States every year. Few of them occur in schools, but of course are especially tragic when they occur. Yet children are safer in schools than in almost any other place, including for some, their own homes.

Gun control is not the focus of this report. But the proposals concerning school safety in the wake of the Sandy Hook shooting have the potential to seriously impact school climate and students’ ability to learn in school. There is no doubt that school districts will do everything they can to protect children from harm. Such efforts must embrace a recognition of the importance of school climate to students’ well-being and success.

Even as fewer New York City youth are suspended each year, racial and ability disparities persist.

National data indicate that school violence was steadily and significantly declining even before zero-tolerance discipline swept the country: Violent crimes at school dropped by 30 percent from 1992 to 1999, according to the U.S. DOE. Experts point to the 1999 Columbine High School shootings as the start of the zero-tolerance wave. The mounting proof of harms associated with zero-tolerance discipline, coupled with a lack of evidence that it actually makes students safer, has since caused schools and districts to abandon the policy. Recently, New York City shortened the list of behavior infractions in its discipline code that require an automatic suspension. But there is a long road ahead, starting with changing the culture of zero tolerance that remains in place, despite the welcome alterations to the discipline code. Even as fewer New York City youth have been suspended in the last two reporting periods, racial and ability disparities persist.
II. NEW YORK CITY’S SCHOOL-TO-PRISON PIPELINE

Suspensions: Temporary Disruptions, Lasting Effects

Zero Tolerance in New York State

New York state law, dating from 2000, requires school districts to establish minimum suspension terms for pupils deemed “substantially disruptive” or “violent.” Under this law, a student may be immediately suspended for possessing “what appears to be” a knife, gun or other dangerous instrument, or “knowingly and intentionally damaging school property.” Thus a student who brings a water gun to school or who doodles on her desk may be suspended from school just as readily as one who brings a real gun, or causes serious damage to school property.

Zero Tolerance in New York City

Mayor Bloomberg brought a harsh brand of zero tolerance to New York City in 2003, when he announced a new disciplinary plan calling for “an immediate, consistent minimum response to even the most minor violation of a school’s disciplinary policy,” including a “three-strikes-and-you’re-out policy.”

Josiah Kennedy started seventh grade at IS 204 in Queens in September, 2011.

An honor-roll student in grade school, Josiah’s transition to middle school was hard.

“Everybody used to find a flaw in me and make fun of it,” Josiah said.

In the first week of school, he was jumped by a group of students, suffering cuts and bruises to his face. The next day, his mother, Melida Kennedy, called the school; no one responded to her phone call or to notes she sent to the school’s disciplinary dean.

Josiah continued to endure beatings and bullying. The dean’s secretary’s phone notes say that “some eighth graders are hitting Josiah every day.”

Ms. Kennedy, who immigrated to the U.S. from Panama, visited Josiah’s school every Wednesday afternoon for two months, seeking a meeting with the dean or the school principal. Neither official responded to Ms. Kennedy’s requests; the dean spoke with her, briefly, when she stopped him in the school office’s lobby.

Classmates continued to bully Josiah. His teachers did not report or remark on the bullying, nor did they look to Josiah’s increasingly angry outbursts as expressions of an underlying difficulty.

On October 21, an assistant principal reported that a group of boys beat up Josiah while traveling to school on the school bus. Josiah received no intervention, mediation or support. On October 26, Ms. Kennedy again visited her son’s school, waited in the lobby and asked the dean for help. . . .
The number of infractions in the New York City school discipline code that result in an immediate suspension from school has more than doubled since 2001. Correspondingly, the number of suspensions has more than doubled during the Bloomberg administration, from under 29,000 in 2001 to nearly 70,000 in 2012 (More than 73,000 suspensions were imposed in 2008 and 2010, representing more than a 100 percent increase since Mayor Bloomberg took office.)

Suspending students for complaints of “insubordination” and “profane language,” are by definition non-violent. However, many infractions which may capture violent behavior may also be used to suspend students for non-violent behavior. For example, the most frequently-cited reason for a suspension, “altercation and/or physically aggressive behavior,” may describe a fight – or a playful shove between friends.

Attorneys who represent students in suspension proceedings report that they have seen an increase in the number of students suspended for mid-level infractions in 2012-13, the same year suspensions were eliminated as a disciplinary option for most low-level misbehavior.

The current discipline code lists 62 infractions for which a student may be punished. These infractions, ranked in increasing severity from level one to level five, include disciplinary responses that range from “admonishment by staff” to suspension for a full academic year or expulsion from school. Of the 62 infractions, 42 could lead to a suspension from school; 27 can result in a yearlong suspension and 16 require mandatory suspension.

Nearly half of all suspensions in 2010, more than 32,000, were for non-violent infractions. Five of the top ten infractions with the most suspensions, such as “insubordination” and “profane language,” are by definition non-violent.
evidence and academic research show that some administrators will find an infraction to suit the situation when they want to suspend a student. As a result of the culture of zero tolerance that the DOE has built over the last decade, even major revisions to the discipline code have limited effect on the heavy reliance on suspensions.

**Disproportionate Suspension Rates**

As on the national level, black students in New York City’s public schools are suspended significantly more often than their white and Asian peers. At least some of the discrepancy is attributable to how “offenses” are perceived. While some misbehavior is clear by any objective standard – smoking at school, for example – other behaviors are more subjectively assessed. Studies repeatedly confirm that subjective infractions, like talking back or disrespect for authority, may be interpreted differently depending on the teacher’s and student’s race. This sheds some light on why New York City’s suspension rates are disproportionate among certain groups.

The disproportionality in school discipline reinforces the challenges faced by many students who, at the statistical level, are already less likely to graduate. Less than one in three students with diagnosed special-education needs graduates with a Regents diploma in four years. And black students consistently lag behind their white and Asian peers in achievement and graduation. The New York City discipline system creates additional hurdles for these children. For example, in the 2010-11 academic year:

- Students eligible for free and reduced-price lunch (FLE) constituted two-thirds of the New York City student population but three-fourths of total suspensions.
- Students with special needs accounted for 17 percent of the student population, but 29 percent of suspensions.
- Black students comprised less than a third of students overall, but served half of all school suspensions.
- Black students with special needs, who represent 6 percent of all students citywide, represented 14 percent of the total number of students suspended.

These suspensions are the first “push” into the school-to-prison pipeline. When students with the greatest academic and economic needs are removed and thus excluded from school, they are much more likely to fall behind, spend time on the street and become involved with the criminal justice system.

**School Police, Street Police**

Zero tolerance also manifests in the DOE’s reliance on SSOs who patrol New York City schools and whose actions directly push students into the school-to-prison pipeline. Currently, there are at least 5,000 unarmed NYPD personnel serving as SSOs and 192 armed police officers patrolling the city’s schools. Their mandate is broad and abstract: enforce the penal law in schools. As a result, student misbehavior can also be interpreted as a violation of criminal law.
Mayor Bloomberg’s persistent focus on raising the high-school graduation rate has yielded progress: Now, more than 60 percent of public-school students graduate from high school on time\textsuperscript{17} — far more than at the start of the mayor’s first term. This is still well below the state’s graduation rate of 85 percent. But the gains are not equal across the City’s diverse student population.

As a result, children of all ages, from kindergarteners who throw tantrums to high school seniors who skip class, are potentially subject to handcuffs, criminal court summonses and possible arrest.

The 2010-11 school year was the first time detailed school-arrest data was reported to the New York City Council, even though the police presence in the schools dates to 1998.\textsuperscript{108} The data show that police arrested or ticketed more than 11 students per day at school.\textsuperscript{109} Of the 882 school-based arrests, 63 percent involved black students, who constitute less than a third of students citywide.\textsuperscript{110}

The law-enforcement tactics that criminalize black students don’t stop at the schoolhouse door. In 2011, young black and Latino men accounted for 4.7 percent of the city’s population but accounted for 42 percent of all people stopped and frisked by the NYPD.\textsuperscript{111} That same year, 21 percent of all NYPD street stops were of children and youth aged 8 to 18 years old. Black and Latino youth constituted 89 percent of these stops; white youth comprised only 7 percent.\textsuperscript{112} Almost two-thirds of police stops of young people resulted in a frisk, lawful only if the officer has reasonable suspicion that the person is carrying a weapon.\textsuperscript{113}

As with suspensions and arrests, physical force during a street-stop is disproportionately used against black
or Latino youth compared to their white peers (23 percent of stops, compared with 15 percent). Strikingly, 90 percent of all youth stops resulted in no further action by the police – neither an arrest nor a summons. In other words, the officer’s suspicion turned out to be wrong in the vast majority of cases. More than 130,000 times last year, a young person who was stopped was not charged with any behavior that could constitute a crime or even a non-criminal violation of the law. In addition to fostering distrust, the excessive use of stop-and-frisk exposes youth to aggressive law-enforcement tactics even when they have done nothing wrong.

Students who live in many neighborhoods with high stop-and-frisk rates, such as East New York, Brownsville, Mott Haven, Jamaica and Harlem, experience higher rates of suspensions than youth in neighborhoods with low stop-and-frisk rates, like the Upper East Side. In this way, the STPP and street policing policies work together to expose young people to excessive police contact, limiting their ability to succeed.

In explicit acknowledgement of the profound need faced by a generation of city youth – and the anticipated burden that thousands of high school dropouts will place on the city and state economy – Mayor Bloomberg created The Young Men’s Initiative in 2011. The YMI, a $43 million effort to “tackle the crisis facing young black and Latino men in New York City,” aims to address low graduation rates, high unemployment and disproportionate involvement in the criminal justice system of black and Latino young men. In fact, this is the same crisis exacerbated by Mayor Bloomberg’s zero-tolerance policies in schools. The YMI is at best a Band-Aid so long as zero-tolerance arrests and suspensions remain a way of life in many schools. The Young Men’s Initiative’s existence is evidence that the city’s schools under Mayor Bloomberg have failed young men of color.

In 2011, 21 percent of all NYPD street stops were of children and youth 8 to 18 years old.
Stops of School-Age Youth by Police Precinct
New York City, July 2010-June 2011

Precincts with the Most Stops
Precincts with the Least Stops

Source: NYPD stop-and-frisk database
Stops shown represent stops of school-age youth (ages 8-18) between July 2010 and June 2011.
Suspension patterns mirror stop-and-frisk in four of five New York City boroughs.

Student Suspension Rates by ZIP Code
New York City, July 2010-June 2011

Source: IBO data provided to the NYCLU
Rates shown represent the percentage of students living in a particular ZIP code who were suspended.
III. SUSPENSIONS UNDERMINE STUDENTS’ RIGHTS TO EDUCATION

Josiah’s angry outbursts got him sent to the dean’s office almost every week.

He began to show outward signs of distress: writing on his clothing and on his body, tracing letters with ink or the sharp end of a bobby pin: “God, love me,” “Jesus, help me.” He thought his messages would protect him.

“I’d get a bobby pin and not cut but scratch,” he said. “My skin would turn red. It didn’t bleed.”

At home, Josiah tried to wash off the scratch-marks in the shower.

“I was being bullied for a long time, so I told my ma, and my ma told the dean, and the dean said he was gonna do something, but he never did,” Josiah said.

On November 9, in art class, a girl named Rosa teased Josiah, as she and others had done since the first week of school. The taunting escalated. Josiah and Rosa traded insults and threats, until Josiah asked his art teacher for a pair of scissors, which she gave him.

Josiah stepped behind Rosa and held the opened scissor to her neck.

“I didn’t want to hurt her. I got full up with anger and I lost control of myself.”

Josiah began to cry. His teacher took the scissors away, and Josiah buried his face in her arms, sobbing and shaking until the dean sent him to the main office lobby to wait for his mother.

The school dean insisted that Josiah immediately be admitted to a psychiatric day-treatment program at Elmhurst Hospital. Ms. Kennedy missed three days of work to get Josiah enrolled into the Elmhurst program.

A day after Josiah’s breakdown, the dean told Ms. Kennedy that Josiah was suspended for 90 days, and that a hearing was scheduled for the next day, November 11.

An Uneven Playing Field

In 2011, students in New York City served 69,591 suspensions. But that number, and its recent downward trend, actually clouds the effects of suspensions on students’ access to education. A closer look at the data demonstrates the vast challenges certain students must overcome to succeed in schools. Black students, students with disabilities, students from poor households and students from neighborhoods where stop, question and frisk policing is ubiquitous are all more likely to be excluded from District 7 in the South Bronx has both the highest suspension rate in the city and the largest proportion of low-income students.
Children in grades 7 through 10 served 63 percent of school suspensions citywide.

In 2010, black students, who represent fewer than 1 in 3 students citywide, served half of all suspensions; white students, who make up 14 percent of total students, served about 7 percent. Among general-education students, the differences are equally stark: 6 percent of black general-education [non-disabled] students were suspended, compared with less than 2 percent of white general-education students. Black special-needs students with individualized education programs (IEPs) are suspended the most frequently, at an annual rate approaching 11 percent – nearly three times the rate for white students with IEPs (4 percent). Boys account for two-thirds of all suspensions and nearly three-quarters of school-based arrests.

Low-income children are suspended more often than students from middle- or upper-income households. Most of the districts where suspensions exceed the citywide average enroll a higher proportion of low-income (FLE) students. Four of the five districts with the lowest suspension rates have lower-than-average FLE enrollments. District 7 in the South Bronx has both the highest suspension rate in the city and the largest proportion of low-income students (over 85 percent).

The same New York City neighborhoods that experience the highest stop, question and frisk rates citywide are home to students who are most often suspended from school.

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**Student Suspension Rates by Race and IEP Status**

*New York City, 2010-11*

- **White**
  - Overall: 2.1%
  - IEP: 3.9%
  - No IEP: 1.8%

- **Black**
  - Overall: 7.2%
  - IEP: 6.4%
  - No IEP: 10.5%

- **Latino**
  - Overall: 4.0%
  - IEP: 6.4%
  - No IEP: 3.4%

Source: IBO data provided to the NYCLU.
More than half of school suspensions in the 2010-11 academic year were served by children at critical academic junctures. Children in grades 7 through 10 served 63 percent of school suspensions citywide. The early teen years are particularly pivotal for academic growth and achievement. At 12 and 13 years old, seventh-graders sit for statewide standardized tests that will determine their high-school placement; eighth-graders are preparing for entrance exams, interviews and auditions for the city’s specialized and competitive-admission high schools, where students are disproportionately white and Asian. At 14 and 15, ages with the highest number of suspensions — more than 13,200 in the 2010-11 academic year — students take Regents examinations, which determine who will graduate from high school and who will drop out or be left behind.

Younger students can be suspended at times when they need to build trust, stability and connections to school. For example, 93 4-year-olds were suspended in the 2010-11 school year, of whom a third had an IEP. Very young students are much less likely to understand the connection between the suspension and the behavior. As the city’s youngest and most vulnerable children, young children must be connected to, not separated from, school supports.

Suspensions at these crucial moments are immediately disruptive. Josiah, removed from school, was not able to prepare with his classmates for the state standardized tests in English and math, which are used to determine high school admission. Like all students under 16 years old, seventh-graders sit for statewide standardized tests that will determine their high-school placement; eighth-graders are preparing for entrance exams, interviews and auditions for the city’s specialized and competitive-admission high schools, where students are disproportionately white and Asian. At 14 and 15, ages with the highest number of suspensions — more than 13,200 in the 2010-11 academic year — students take Regents examinations, which determine who will graduate from high school and who will drop out or be left behind.

Ruben Claudio, a student at Port Richmond High School in Staten Island, was suspended for a full academic year after a confrontation with an SSO. His suspension was later reduced to 72 days (nearly half a year of instruction).

At the time of Ruben’s suspension, there was no ALC high school site on Staten Island. He was assigned to the alternate learning center at William E. Grady High School in Coney Island, Brooklyn, a two-hour, three-bus commute that includes 76 route stops. (DOE routinely grants transfers to students whose one-way commutes exceed 90 minutes— but Ruben was assigned to an ALC two hours away from his original school.)

Ruben did not attend school at the Brooklyn ALC; he did not graduate from high school on time.

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suspended students, Josiah missed vital instructional time, undermining his access to a quality education.  

Uneven Odds

Suspensions temporarily deprive students of their constitutionally guaranteed right to an education. And because suspensions can last up to a year, “temporary” deprivations can be deeply injurious. The average length of a superintendent’s suspension is 23 school days, or almost 5 weeks of instruction—two and a half times longer than the maximum suspension in many other jurisdictions. Moreover, the average suspension length has not decreased significantly over the last 5 years; in 2008, suspended students missed 25 school days, on average.

To ensure that students are not unfairly denied an education, schools are legally required to follow certain procedures. The school must provide students with an explanation of the charges against them, an opportunity to defend themselves in a fair hearing before an impartial decision-maker, and the right to see the evidence against them. But educators, SSOs and suspension hearing officers regularly ignore these basic elements of fairness. Attorneys and advocates who represent students in these proceedings believe that informal suspensions—where a student is simply told to leave school, with no formal process or notice—are a large and growing problem.

Parents and students are often unaware of their rights concerning suspensions, which are not discussed fully in the discipline code. For example, the 2013-14 code states that students have the right to “due process of law in instances of disciplinary action.” However, the code offers minimal explanation of what “due process” means. The code states that students have the right to appeal the suspension, that they must receive alternate

Josiah attended the day program at Elmhurst Hospital until early December. Upon his release, the psychiatrist wrote of Josiah’s “history of trauma, depression and disruptiveness.” He also wrote: “Josiah has no history of violence towards others and if ever there was aggression towards others, it was in response to provocation by his peers, who bully him.”

Shortly after his release, Josiah began to serve his suspension at I.S. 126’s alternative learning center...
instruction and have an opportunity for a hearing. But the code makes no mention of the right to request a conference with the principal (for principal suspensions) or the important timelines associated with any of these procedures, including filing an appeal. Without this detailed information, parents and students are easily denied the opportunity to fairly challenge suspensions.

The vast majority of parents and students at formal suspension hearings lack legal training or representation, leaving them at a distinct disadvantage. Hearings do not even occur in most cases, because parents and students are often pressured to sign “no contest” pleas. In 2010-11, only 3,000 suspension hearings were held, though there were nearly 15,000 long-term suspensions.¹⁴⁶

Josiah’s story is not unique. His mother received no notice of her rights at the suspension hearing and no notice of federal special-education protections available to Josiah, which include an expedited special education evaluation for children who are suspected of having a disability and are subject to disciplinary action at school.¹⁴⁷ As a result, Josiah was not evaluated in compliance with the required timeline. Psychiatric assessment after his suspension documented “emotional and behavioral problems including a history of trauma, depression and disruptiveness due to impulsivity and inadequate social skills,” compounded by having “been a victim of bullying by peers.”¹⁴⁸

Parents and students are often unaware of their rights concerning suspensions.
ACCESS TO SURVEILLANCE

One in three New York City public school buildings is equipped with digital surveillance cameras. Surveillance footage is often used by schools in suspension hearings, yet parents are regularly denied access to this critical evidence, because families only have access to the footage at the school’s discretion. They may review it if the school chooses to share it, or if it will be used as evidence against the student. Families are not entitled to footage when that evidence could help the child’s case. Denying parents access to surveillance footage that could help their child is fundamentally unfair, and raises serious due process concerns, with substantial repercussions to a child’s right, under New York State law, to a public education.

Occasionally, the DOE cites privacy concerns of other students as the basis to deny access to surveillance footage. However, case law suggests that a suspended student’s due process right to defend himself outweighs the privacy concerns of other students also on the video. In a New York case, Matter of Rome City School District v. Grifasi, a judge held that a student who was involved in a fight with several other students had the right to view and use the surveillance tape in contesting his suspension.

AT JOSIAH’S suspension hearing, testimony was offered that Ms. Kennedy knew to be incorrect. For example, school officials said Josiah had been suspended previously. He had not, but Ms. Kennedy did not know when or how to challenge that assertion.

When the hearing began, the hearing officer reviewed the rules and procedures, but Ms. Kennedy had no opportunity to ask questions. Because she did not understand the difference between fact-finding and cross-examination and presenting information, she made mistakes. When she tried to speak up, the judge scolded her.

“I did feel humiliated,” Ms. Kennedy said. “She was only finger-pointing at us. She didn’t give me the right to defend my son.”

“When my mom would make a mistake, the hearing officer would talk back in a rude voice. She wouldn’t explain it. She would get mad and say, that’s not what we’re supposed to do,” Josiah said.

Repeatedly, the hearing officer interrupted Ms. Kennedy to redirect her. When Ms. Kennedy challenged a statement by the dean, calling him a liar, the judge rebuked her. But when the art teacher accused Ms. Kennedy of not telling the truth, the judge did not challenge the teacher’s opinion, which remains in the official record.

“It made me feel really angry when they said something that wasn’t true, when I see them lying,” Josiah said. “It amazed me. My jaw dropped at the tall tales they was giving. It made me feel really angry.”

Ms. Kennedy said that the hearing officer did not let her ask why the school had ignored her repeated requests for support, or been so inattentive to her son’s distress.

“At one point, I say, ‘Ok, you tell me what to do, you ask the question,’ because any time I open my mouth, you’re gonna say you’ll terminate the hearing,” Ms. Kennedy said. “I didn’t feel that was fair. I didn’t feel we had the equal opportunity.”...
If an evaluation had occurred before Josiah was suspended, he could have been provided with services that would have enabled him to make meaningful progress in school, and his mother would have had additional information and resources to help him cope. In failing to investigate aggressive, escalated incidents of bullying – despite documentation and ongoing requests from his mother for intervention and support – the school failed Josiah.

During Josiah’s hearing, due-process protections were routinely ignored. The hearing officer prevented Ms. Kennedy from presenting important evidence, reviewing her son’s records and cross-examining witnesses. As a result, Josiah was subjected to a lengthy suspension when he would have benefitted greatly from a more positive intervention and appropriate services.

The NYCLU represented Ms. Kennedy to appeal the suspension based on the school and hearing officer’s violations of the law. Almost a full year after Josiah was suspended, the family finally received a decision, stating that Josiah’s suspension would be expunged – provided he did not have any additional outbursts in the following school year.

The inability of ALCs to provide appropriate support for students with special needs was the subject of a lawsuit filed by Advocates for Children in 2003, *E.B. v. City of New York*. Following settlement negotiations, the DOE signed a memorandum of understanding in October 2012, agreeing to implement appropriate academic programs, intervention services and small-group instruction, with a focus on improving students’ individual progress at ALCs. As a result, there have been meaningful improvements for students with disabilities at these schools including an increased number of staff at ALCs. Yet a 2011 article profiled students who fell behind because some ALCs were unable to provide adequate instruction for all students. And because of gaps in the system, some students, like Josiah, still fall between the cracks.

**CONTESTING SUSPENSIONS**

Principal's suspensions can be more difficult to contest, because the student is not entitled to a hearing before an impartial body. A student or family may challenge a principal’s suspension through a meeting with the principal or through an appeal to the DOE’s office of legal services, which can take at least two weeks to resolve – far longer than the actual suspension. On the other hand, principals who seek superintendent suspensions are required to prove their case at a hearing within five days of the suspension, where a hearing officer issues a recommendation to the superintendent, who reviews the evidence and the whether the principal complied with due process. There is no additional due process “check” following a principal’s suspension and there is no limit to the total number of principal’s suspensions that may be imposed on a student in a single year. During the 2010-11 school year, the most recent for which data is available, more than 6,000 students served three or more principal’s suspensions.
Josiah attended classes at the ALC to which he’d been assigned. His classwork improved and he received recognition and awards for good behavior.

A transfer to a new middle school was arranged. Ms. Kennedy asked the ALC principal for his grades and was informed that they were sent to the new school. But administrators there said they did not have Josiah’s grades. Yet they gave Josiah a report card for the period covering his suspension, with failing grades in every subject. When Ms. Kennedy challenged the report card, she confirmed that Josiah’s ALC grades had not been transmitted to the new school—because, according to the ALC, the new school had never requested them. The assistant principal of the new school changed the F grades to 65, across the board. (The minimum score from promotion to the next grade is 65.)

“They put ’65’. But that’s not enough. He did his work—I made sure. He did his homework. Why did they put 65s, when he had done all that work?”

Josiah’s suspension was overturned on appeal.

That fall, Josiah enrolled in a third middle school, on Long Island—a private school that provides a smaller and more structured environment, with tuition subsidized by the NYC DOE.
IV. SUSPENSION AND STUDENTS WITH SPECIAL NEEDS

Students with disabilities who are suspended from school are more likely to be pushed into the STPP. The outcomes for this already-vulnerable group can be especially stark: One study found that over 30 percent of incarcerated youth have learning disabilities, and in some states, as many as 60 percent of juvenile offenders have a disability.

Shawn, a student with a disability, is reading aloud in class. When he makes a mistake another student taunts him. Frustrations boil over, a fight begins and SSOs are summoned. The two students are handcuffed, escorted from the classroom and suspended for 30 days for fighting. Because Shawn is a student with a disability, he is entitled to an additional review after the suspension hearing. Federal and state laws require that the student’s parents and special-education and school staff who are familiar with the student meet to assess whether the perceived misbehavior was a manifestation of his disability. The team must also consider whether the school failed to implement the student’s IEP. If the team finds that the behavior was a manifestation of the disability, Shawn will be immediately reinstated. If not, he may serve the full 30-day suspension. Here, the principal and her staff conclude that Shawn’s behavior was not a manifestation of his disability and he is suspended for 30 school days.

Despite the protections of the second review, parents commonly report that schools discount their perspectives and gloss over important documents. In some cases, schools have determined the behavior under review was not a manifestation of the child’s disability even before the review takes place. In 1985, before zero-tolerance took hold, a federal circuit court affirmed a local hearing officer’s decision that a learning-disabled student’s vulnerability to peer-pressure – which convinced him to serve as a go-between among drug dealers at school – was a manifestation of his disability. The circuit court stated that the child’s role stemmed from his susceptibility to peer pressure, related to his loss of self-image due to his disability, and that the principal should not have excluded him from school. In New York’s zero-tolerance climate, it is highly unlikely that a student facing similar charges would receive the same consideration. In practice, New York’s zero-tolerance approach to discipline has eroded the implementation of federal protections that require schools to carefully examine the connections between disability and behavior.

Special-education students, who DOE data show are less likely to graduate with a Regents diploma, are especially harmed by a zero-tolerance school climate. When an immediate suspension is imposed, these students are suddenly disconnected from important services and resources. Only 27 percent of students with disabilities graduated from high school on time in 2011. This graduation rate is less than half the on-time graduation rate of 61 percent for non-disabled students. In addition, fewer than 5 percent of students placed in self-contained special education classrooms graduate from high school on time.

Students’ academic and emotional difficulties are compounded by aggressive discipline: Students with disabilities are twice as likely to be suspended than are general-education students. Nearly one-third of
all suspensions are served by students with disabilities, who represent about a sixth of total enrollment.\textsuperscript{169} Black students with disabilities experience the highest suspension rate of any group. While black students with disabilities represent 6 percent of total student enrollment, they serve 14 percent of all suspensions.\textsuperscript{170} Citywide, one in seven schools suspends 25 percent of enrolled black students with IEPs.\textsuperscript{171} Despite the federal Individuals with Disabilities Education Act (IDEA)\textsuperscript{172} designed to protect special-education students, these youth are consistently and disproportionately excluded from school.

### Special Education Reforms

Before the IDEA was passed in 1975, students with disabilities were, in the words of the Supreme Court, “simply warehoused in special classes or were neglectfully shepherded through the system until they were old enough to drop out.”\textsuperscript{173} New York City was no different. For decades, students with disabilities traveled long distances to attend schools with appropriate resources that separated them from their non-disabled peers.\textsuperscript{174} Students were sometimes separated into self-contained classes or placed in District 75 schools, which provide highly specialized, fully segregated programs in separate, special-education schools.\textsuperscript{175}

Under Mayor Bloomberg, the DOE has attempted to improve education outcomes for these students by restructuring the special-education system three times, in 2003, 2007 and again in 2010.\textsuperscript{176} While reforms to the system were necessary and well-intentioned, the frequent overhauls lacked adequate planning and community input.\textsuperscript{177} Students, parents and advocates have found that the serial reforms caused substantial disruptions in the provision of services to students with disabilities and inadvertently compounded existing problems.\textsuperscript{178} At the same time, Bloomberg’s aggressive zero-tolerance disciplinary approach worked against the reforms, because students were suspended from the services these new reforms aimed to provide.

In 2009, the New York State Comptroller published a comprehensive report on the impact of Mayor Bloomberg’s 2003 and 2007 reform efforts.\textsuperscript{179} The report, called \textit{Waiting for Special Education},\textsuperscript{180} found that thousands of students were denied their right to an education because evaluation and placement processes were taking too long to meet students’ needs—in violation of federal timing requirements. Too many students were waiting too long for appropriate evaluation, services and instruction.\textsuperscript{181}

The DOE’s stated goals under the most recent reform are for students to attend their zoned school or the school of their choice while still receiving appropriate services, and to increase access to the general-education curriculum for students with disabilities. Part of the reform includes shifting the responsibility to find and fund special education services from the DOE to individual schools.\textsuperscript{182} As with previous reforms, school psychologists may face increasing pressure to re-evaluate students or even delay evaluations until appropriate resources are in place at the school, increasing the risk of pushout for students who most need to
EMS TO THE PSYCH ER

The implementation of special-education reforms may have indirectly contributed to an increased reliance on emergency psychiatric referrals. A 10-year-old special-education student at P.S. 67 in the Bronx was physically restrained and sent to the ER, where he was observed, released and returned to school the next day, as he had been “several times” that year.

In April 2012, P.S. 67 was one of the pilot schools in the DOE’s 2010 special-education reform. Emily Grimball, then the school’s principal, explained to The New York Times that she ran out of money in her budget to deliver the special services this student required.

“A lot of times it goes down to funding and what it is that the school is able to provide for the child,” have said that many schools like P.S. 67 lack sufficient resources to work with students.

The media have profiled several instances where SSOs and school administrators have called 911 to tantrums to actual emergencies. Students – some as young as 5 years old – are restrained, handcuffed and transported from school to hospital emergency rooms for psychiatric evaluation.

Forcible EMS removals, like suspensions and arrests, are by-products of zero-tolerance discipline. stretcher and forced into an ambulance following an outburst at his public school in Brighton Beach, brought his mother and great-grandmother to school; another call summoned the NYPD. When his then pushed the boy’s 80-year-old great-grandmother to the ground when she attempted to climb was released with no need for evaluation or treatment.

Calling EMS inflicts steep economic and psychic costs. The city and the family incur undue expense for needless medical transport and children and parents can suffer trauma from the extreme response. Most significantly, children who may actually benefit from mental health services (and continued evaluation is lost.

Dr. Charles Soulé, Chair of the DOE’s School-Based Mental Health Committee, testified before the City are best evaluated in their communities and schools. Without sufficiently trained personnel available, or an escalating temper tantrum—and have limited tools to deescalate the situation while keeping the

As with suspensions and arrests, low-income students are disproportionately harmed by a lack of resources are available to New York City public school students, due in part to diminished 2012, there were only 190 programs. Historically, some of the most underserved areas for child

As the number of SBMH centers has decreased, calls to EMS have climbed. During the 2009-10 ideation.” During 2010-11, that number jumped to 978. In that same year, 3,631 children, or 20 percent of these cases, psychiatric evaluation revealed that the children did not require in-patient

Experts recommend that city school leaders and staff be trained to better identify and refer students to reduce the number of suspensions in their schools, the DOE must provide real support for
The implementation of special-education reforms may have indirectly contributed to an increased reliance on emergency psychiatric referrals. In April 2012, a 10-year-old special-education student at P.S. 67 in the Bronx was physically restrained and sent to the ER, where he was observed, released and returned to school the next day, as he had been “several times” that year. P.S. 67 was one of the pilot schools in the DOE’s 2010 special-education reform. Emily Grimball, then the school’s principal, explained to The New York Times that she ran out of money in her budget to deliver the special services this student required.

The media have profiled several instances where SSOs and school administrators have called 911 to request an ambulance when students exhibit disruptive behavior, running the gamut from temper tantrums to actual emergencies. Students – some as young as 5 years old – are restrained, handcuffed and transported from school to hospital emergency rooms for psychiatric evaluation.

Forcible EMS removals, like suspensions and arrests, are by-products of zero-tolerance discipline. In March 2012, G.R., a 5-year-old kindergartener with autism, was handcuffed, strapped to a stretcher and forced into an ambulance following an outburst at his public school in Brighton Beach, Brooklyn. (The boy had pushed a paraprofessional teacher’s aide.) A call to the child’s home mother attempted to intervene, the NYPD officer handcuffed her and shoved her aside. Officers pushed the boy’s 80-year-old great-grandmother to the ground when she attempted to climb into the ambulance to comfort the terrified boy. She suffered a fractured rib. At the hospital, G.R. was released with no need for evaluation or treatment.

Calling EMS inflicts steep economic and psychic costs. The city and the family incur undue expense for needless medical transport and children and parents can suffer trauma from the extreme response. Most significantly, children who may actually benefit from mental health services (and their parents) may be so repulsed by the EMS experience that the potential benefit of treatment or mental health services in schools. Despite profound need, very limited school-based mental health funding since 2010. In 2010, there were 300 SBMH programs across 1,100 school campuses. By mental health are Harlem, South Bronx and East Brooklyn.

school year, there were at least 868 involuntary removals via EMS from school for “suicidal students per day, were involuntarily removed from school for “behavioral disturbances.” In 97 hospitalization.

with unmet mental health needs to appropriate onsite and offsite services. As principals are told alternatives, or options like calling EMS will fill the void.
be kept in school. In addition, principals’ ratings (which affect job security) are impacted by the number of special education students placed in least-restrictive environment (LRE) settings. School progress reports, the powerful metrics that determine school survival, explicitly reward schools for moving students into LRE classes.

In practice, the current reform may have had the opposite effect for some students with disabilities: Referrals to self-contained special education schools in District 75 have increased since the reform began, likely because schools do not have the resources to meet all students’ needs. These self-contained schools are meant to educate students with the most acute special education needs, and are the opposite of an LRE placement.

To date, Bloomberg’s special-education reforms have had no demonstrable effect on the suspension rate of students with disabilities. While the overall suspension rate has decreased over the last school year, one-third of all suspended students are students with a disability; this has been the case since 2000. And a minority of schools continue to suspend disproportionately large numbers of students with special needs. In 2011, 7 percent of schools in New York City suspended at least 25 percent of their IEP enrollment.

Anecdotal evidence suggests this problem, like many others, is worse in the Bronx. A letter to the DOE from Edward Gardella, Borough Principal of alternate learning centers in the Bronx, indicated that many suspended students were students with IEPs. Nearly two-thirds of the schools Gardella described had suspended 50 to 90 percent of their students with IEPs. Of 570 students who were suspended or awaiting suspension hearings in the Bronx in 2010, 40 percent had IEPs. Twenty-six of the 40 Bronx schools Gardella wrote about used suspension as a common disciplinary practice in 2010. At one school, 85 percent of all superintendent suspensions involved students with special needs; at another, students with special needs accounted for 83 percent of all suspensions.

Encouraging schools to provide comprehensive educational opportunities for all students is an important goal. But, as with changes to the discipline code, the best-intended special education reforms do little to improve the experiences or achievement of students in schools steeped in a zero-tolerance disciplinary approach. Worse, the DOE consistently ignores the systemic impact of its zero-tolerance policies on children with disabilities. The newest wave of reforms does not aim to correct that imbalance.
V. UNDER-PREPARED SCHOOL SAFETY OFFICERS, UNNECESSARY ARRESTS

Invasive searches of students’ persons and belongings, arrests without probable cause of a crime, and use of physical force and restraints against students all implicate their right to an education. During the Bloomberg administration, the number of police officers in schools has increased by 35 percent, bringing the total to at least 5,200 officers.\textsuperscript{220} The groundwork for this steady increase was laid in late 2003, when Mayor Bloomberg imported the NYPD’s “broken windows” approach to patrolling New York City streets to patrolling its public schools, in a program called Impact Schools.\textsuperscript{221}

In a 2003 press release, Mayor Bloomberg cited “cursing” and “disorderly behavior” as precursors to serious school violence, and indicated that the NYPD and DOE would bring order to schools by showing zero tolerance for minor incidents. Shortly after the program started, the NAACP Legal Defense Fund called this approach “among the most aggressive and explicit School-to-Prison Pipeline policies in the country.”\textsuperscript{222} In addition to flooding the schools with police officers and metal detector scanning, more than 20,000 surveillance cameras have been placed in city schools on Mayor Bloomberg’s watch, with little regulation of the way they are used or who can access the footage.\textsuperscript{223}

School safety data did not support the Mayor’s aggressive measures.\textsuperscript{224} In fact, school crimes had begun declining before the 1998 transfer of school safety to the NYPD.\textsuperscript{225} From 2001 to 2003, major crimes in schools continued to decline, from 1,575 in 2001 to 1,214 in 2003.\textsuperscript{226} Other criminal incidents decreased by 30 percent during the same time period.\textsuperscript{227}

No evidence clearly links the continued decline in major crimes in city schools to the expanded police presence.\textsuperscript{228} In a 2001 joint school-safety and education committee report, 67 percent of principals reported “no change” in school safety since 1998, when the NYPD assumed control of school security.\textsuperscript{229} National studies document the lack of improved school safety with increasing numbers of SSOs\textsuperscript{230} and suggest a possible reverse effect.\textsuperscript{231} In addition, studies have found that harsher disciplinary responses are more common in schools that employ at least one full-time law enforcement officer.\textsuperscript{232} [All New York City schools have at least one SSO.] Regardless of their impact on school crime and misbehavior, SSOs have an enormous impact on the school environment.

The increasing number of metal detectors in schools also criminalizes the school environment and creates a potential flashpoint of confrontation between SSOs and students. The use of metal detectors requires
October 2001, Brooklyn: No ID, No Access

When 14-year-old Raymone, a student at Prospect Heights High School in Brooklyn, tried to enter school without his ID, an SSO asked him to leave. Even though the SSO knew Raymone was a student at the school, the officer repeatedly said he would not be admitted.

“I walked through those doors every day, but he didn’t care. So I got mad and pulled away from him,” Raymone said.

The next thing Raymone knew, he was tussling with the SSO, who was joined by nine other officers. The SSO accused Raymone of punching him. Raymone was arrested and taken to the 71st precinct.

“My heart dropped when I got to the precinct,” Raymone’s mother said. “My child’s neck, wrists, and back were bruised. Buttons were torn off his shirt. Just because he didn’t have an ID?” If the school had called her, she said, she would have picked him up. Instead, she and Raymone spent four hours in the precinct.

The school ultimately expelled Raymone, who was convicted of assault and placed on six months’ probation and in court-mandated counseling.

“There is no ending to this,” Raymone’s mother said. “Once a child gets caught up in the system, it follows them for life. He’s branded now, and nothing I can do will erase that.”

a daily interaction between police and students that would not otherwise occur in school and increases the likelihood that a student will be suspended or arrested. Historically, schools with metal detectors tend to suspend and arrest students more than schools without them.

In the 2006-07 school year, nearly 94,000 students attending at least 88 schools had to pass through permanent metal detectors to enter their school buildings each day. Data from the 2012-13 school year shows that 118,017 students (12 percent of the student population) passed through permanent metal detectors every day at 232 schools and 76 school buildings. This is an increase of 24,259 students (26 percent). During this same period, student enrollment decreased by 6,025 students.

Black students are significantly overrepresented in this dataset: Roughly half of students who attend metal-detector schools are black, even though they represent only 28 percent of the student population. To a lesser extent, low-income and Latino students are also disproportionately impacted. (See Appendix C for a complete list of New York City public schools with permanent metal detectors.)

SSOs are more likely to be involved in “non-criminal incidents” at metal-detector schools than at schools without them. According to DOE data, most items
confiscated at metal detectors include cell phones, hair pins, cameras, and school supplies — not weapons or "dangerous instruments."  

Though the Fourth Amendment protects people from unreasonable police searches, the Chancellor’s Regulations state that SSOs only need “reasonable suspicion” to search a student. SSOs retain substantial police powers — and can subject students to serious criminal consequences.

Unlike NYPD officers, who undergo six months of training, SSOs receive only 15 weeks of instruction, with little information on youth development, adolescent psychology, special education, the use of non-punitive discipline techniques in schools, or the key differences between keeping a school safe and policing on the street.

Making matters even more challenging for students, the

**RUBEN** didn’t understand why SSO Gonzales was fixated on him: First, in Ruben’s freshman year, Gonzales combed school records for Ruben’s mom’s cell phone number – against regulations, earning the officer a two-week suspension without pay. A year later, when Ruben had been summoned to a dean’s office to run an errand, Gonzales challenged him, pushing Ruben into a sofa. The SSO twisted Ruben’s arm behind his back, alerting other officers to help restrain the boy. As a result of the confrontation, Ruben received a five-day principal’s suspension. (The dean, who had observed the conflict, did not intervene). The next fall, an hour after SSO Gonzales was overheard cautioning other SSOs that Ruben was a troublemaker, Ruben was arrested – after initially refusing to remove his hat in class and scuffling with officers who sought to restrain him: School video shows an SSO jumping on Ruben’s back. Two SSOs wrestled Ruben to the floor, where a teacher held his neck and a dean held his knees.

**November 2011, Manhattan: No ID, No Access**

Sara Davis, a straight-A senior at one of the city’s top high schools was rushing to rehearsal for the upcoming school musical, where she held second chair for trumpet. On her way into the building, she was stopped by an SSO, who asked for her ID. Unfortunately, Sara didn’t have one, because she had lost her ID card, which the school was in the process of replacing.

The SSO, a large man who towered above the teen, physically blocked her in a vestibule between a classroom and the hallway. He refused to listen to her explanation or let her pass. When Sara tried to walk around him, he pushed her backwards onto the floor and handcuffed her while she was on the ground. A police officer from the local precinct was called to the scene and issued Sara a summons for disorderly conduct. In addition, the school dean tried to suspend Sara for 90 days. None of the consequences listed in the discipline code for failing to produce a school ID permit the school to issue a suspension, much less execute a violent arrest.

The dean later reported to the student’s mother that the SSO was not disciplined for his excessive use of force.

At court, the disorderly conduct charge was dismissed and the superintendent immediately reinstated Sara to school. But the dean who sought to suspend Sara subsequently barred her from participation in the school musical. Sara was traumatized by the experience and feared returning to classes that she loved.
A document that purports to govern SSO activity in schools is outdated, vague and sends the wrong message. In 1998, the NYPD and then-Board of Education signed a memorandum of understanding (MOU), or a contract between agencies, that transferred the responsibility of school safety to NYPD officers, or SSOs. The contract makes no distinction between enforcing penal laws and responding to disciplinary issues. In fact, the MOU encouraged SSOs to "enforce rules, regulations or procedures of the Board [of Education] and its schools," even though SSOs are not educators, and often have little connection to the school or students.

Testimony at a 2013 City Council hearing revealed a lack of clarity on the subject of whether and how SSOs are expected to work as an integrated part of the school’s mission. Councilmembers, students and teachers stated that SSOs are not trained to follow the standards established by federal or local laws, or even the rules and school culture set by individual principals. A Bronx Councilmember shared complaints from principals in his district that SSOs were “out of control” and that “principals don’t have power to order school safety to do something.”

As a result, nearly all infractions in the discipline code have the potential to be treated as crimes: A teen who

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**Demographics of Metal Detector Schools: Black and Latino Enrollment**

New York City, 2012-13

- **65.4%** Schools without Permanent Metal Detectors
- **87.5%** Schools with Permanent Metal Detectors

Source: NYCLU original research, InsideSchools, DOE’s J-Form

“I started to get really embarrassed because they were laughing at me in front of my peers, and I never felt so low in my whole life. I did not want to get suspended at all, so I just went along and did everything they told me.”
shoves a peer might be arrested and charged with assault, as well as suspended from school. In 2012, 1,072 summonses issued to students cited disorderly conduct, accounting for nearly two-thirds of all summonses issued that year. Outcomes vary, depending on the school climate, the principal’s attitude toward discipline and the race of the student.

“BEING GOOD” IS NOT ENOUGH

During the April 2013 City Council oversight hearing on school climate, 16-year-old Benia Darius testified that her bobby pins set off the metal detectors in her school. She explained that the SSOs at the metal detector made fun of her hair style, asking her who had done her hair that morning? When she replied that it was her mother, they taunted her.

“They scanned me and made me walk through the machine for about eight or nine times that morning. I started to get really embarrassed because they were laughing at me in front of my peers, and I never felt so low in my whole life. . . I started to cry because I thought that [the SSO] shouldn’t have gotten on such a person[al] level with me. . . I didn’t know how to express the anger I felt. I did not want to be sent to the dean’s office and miss a whole day of my classes, so I kept my mouth shut and didn’t say anything, and just cried. I did not want to get suspended at all, so I just went along and did everything they told me.”

“I was very naïve in thinking that being quiet and getting good grades would keep you from being harassed by school safety agents established within our schools. How do you expect me to feel safe in my school if I am afraid of those that are supposed to protect me?”

Earlier that year, students and educators at a Brooklyn high school with no history of disciplinary issues or high rates of suspension received some surprising news. A week before classes were scheduled to begin, the NYPD and DOE announced that the entrance to Bushwick Community High School (BCHS) would be closed off, and that students would be required to enter school through metal detectors located on another side of the building, which BCHS shared with another school. BCHS, which never had metal detectors, prides itself on its small size and attentive faculty, who have created a welcoming environment that students trust. The last-minute decision to reroute students through metal detectors disrupted the start of the school year.

DOE Learning Environment Survey data document that 96 percent of BCHS parents and students feel safe at school; 97 percent say there is no bullying at the school and 100 percent of students say they can trust adults at BCHS. In 2010-2011, less than 10 students were suspended from BCHS. But the DOE stated that if one school’s students had to walk through metal detectors, so did any other school’s students.

BCHS students, of whom 98 percent are black and Latino, continue to experience what a school dean describes as a “police lockup” every morning.

“Honestly,” one student told The New York Times, “these detectors add to my stress and isolation.” Another explained: “The guards tell us, ‘When someone cracks an orange juice bottle over your head, you’ll feel different.’ [I said] Really? When I came here last year, I remember feeling one thing: This is family, and [that’s what] makes me feel safe.”

shoves a peer might be arrested and charged with assault, as well as suspended from school. In 2012, 1,072 summonses issued to students cited disorderly conduct, accounting for nearly two-thirds of all summonses issued that year. Outcomes vary, depending on the school climate, the principal’s attitude toward discipline and the race of the student.
The demographic composition of school-based arrests closely mirrors rates of suspensions, with black and Latino students comprising 95 percent of arrests. In the 2011-12 school year, black students were arrested 14 times more often than white students. More than 11 students a day were ticketed or arrested by SSOs, on average. Nearly 2 out of 3 school arrests involved black youth. In the first quarter of 2013, the number of arrests and summonses declined to 6 per day, however black and Latino students still accounted for 94 percent of arrests.

Geography is a factor in student arrests and summonses. A disproportionate number of summonses in the 2011-12 school year were issued in the Bronx, home to a higher percentage of students of color than any other borough. Though it accounts for only 21 percent of the city’s middle- and high-school enrollment, close to 48 percent of school-based summonses were issued in the Bronx.

Students with disabilities are particularly vulnerable to aggressive policing in schools. The MOU does not mention any specific training required before SSOs work with students with disabilities; whether SSOs currently undergo adequate training to prepare them for work with youth with disabilities is not publicly documented. While some parents prefer that SSOs are aware of their child’s disability and accommodations, others fear that their child could become a target, particularly where SSOs have little experience working with challenged children. Adequate training on how disabilities affect student behavior would help address these concerns – but would require a comprehensive training program that clearly identifies how SSOs and school staff must work together in addressing all types of student behavior.

While the Student Safety Act requires that NYPD report the number of students with disabilities who are arrested or issued a summons in schools, the Police Department has yet to develop a mechanism for tracking these interactions. By failing to track this information, the NYPD is out of compliance with the law, and students with disabilities are exposed to yet another obstacle to succeeding in school. In addition to failing to report demographics of student arrests and summonses, the NYPD does not report any information on arrests and summonses issued by uniformed NYPD officers in schools. Students and attorneys frequently report that SSOs call uniformed NYPD officers from the local precinct to issue a summons or execute an arrest, a tactic that suggests that the total number of arrests and summonses in schools is likely a significant undercount.

Recent data suggest that arrests and summonses in schools are on the decline, due in part to collaboration between advocacy groups and the NYPD’s School Safety Division, but community members, school personnel and students continue to express concern about SSOs’ role in schools. Without adequate training on how best to address normal misbehavior, and what constitutes the line between criminal and merely disruptive, SSOs have dragged students to police precincts for the entire range of adolescent misconduct.
Consequences

There is no clearer demonstration of the STPP than when a disciplinary interaction with an SSO leads to a student’s arrest and detention in jail.277 Studies show that students who have appeared in court for the first time are four times more likely to drop out of school.278

In New York City, a police officer can issue a summons for violations that are not criminal acts, such as riding a bicycle on the sidewalk or disorderly conduct.279 The summons is a receipt-sized slip of paper, which instructs a person to appear before a judge at the date and time listed. There is no right to counsel in summons court,280 and a missed court date can result in the issuance of an arrest warrant.281 In 2011, more than 170,000 of these warrants were ordered.282

The maximum penalties for violations are fines of up to $250283 or up to 15 days in jail.284 Students without sufficient funds whose cases are not dismissed can face jail time.285 Even students whose cases are ultimately dismissed can spend hours out of school, waiting in court. Parents must take time off work to accompany their children to court. (Sara, the trumpet player who was punished for trying to enter school without her ID, spent half a day in court with her mother before the charges were dismissed.)

Despite explicit language in the MOU preserving school discipline as a “pedagogical function,” the presence of SSOs and other NYPD

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**Nick Sutton**, a 17-year old student from Crown Heights, Brooklyn, was issued a summons for riding his bike on the sidewalk. He misplaced the ticket – not an unheard-of act for a teenager. Nick went to summons court on what he believed was the correct date and time. (It wasn’t.) He received a piece of paper from the court clerk. No one explained to Nick that he had to return on another day to respond to the summons. Nick believed that appearing in court was all that was required. The paper he received from the clerk, a half-page print-out of codes and numbers did not provide instructions. Nick believed the matter was closed. But a few months later, when Nick had a disagreement with a student at school and an SSO got involved, Nick was handcuffed and detained at school. Instead of receiving a summons, he was taken to the local precinct—because the warrant database revealed that he had not appeared on his first summons, and that a warrant had been issued for his arrest. The NYPD held Nick in jail until his arraignment, which occurred around midnight. Nick spent a day in jail and missed two days of school, riding a bike on the sidewalk — and losing the paper summons.
personnel in the schools has been linked with greater numbers of summonses and arrests of students. The Mayor’s decision to import broken-windows policing into the public schools, via his Impact Schools initiative, has fed the STPP with a steady flow of students who face outsize consequences, including summonses, hearings, arrests and hours in precinct jails, for behavior that is more appropriately—and far less disruptively—addressed by educators. Criminalizing the academic environment by overly aggressive policing threatens already-fragile connections to school for some students – often, the same youth at greatest risk of dropping out.
VI. CONCLUSION AND RECOMMENDATIONS

Mayor Bloomberg’s disciplinary and school safety practices consistently reinforce the school-to-prison pipeline that harms New York City’s most vulnerable youth. Black general- and special-education students have been most profoundly impacted over the last decade. Black youth are disproportionately represented in suspensions, arrests and school-discipline practices that criminalize school climate and culture – effects that strongly echo the NYPD’s racially disproportionate patterns in its stop-and-frisk practices, and set the stage for the disproportionate representation of black men in the criminal justice system. These students tend to live in low-income neighborhoods and often attend schools with fewer resources, which have been stretched all the more by recent changes in school funding, mental health access and special education.

Many New York City public schools do not fit this picture. Suspension and arrest rates vary greatly, even within school districts—a symptom of the DOE’s gross lack of clear instruction and oversight. This leadership vacuum may explain why some schools arrest and suspend significantly more high-need students, and more black students, than others. While a majority of city schools suspend less than 5 percent of students with special needs, more than 6 percent – more than 100 schools – suspend 1 in 4 IEP students every year. Fourteen percent of schools suspend at least 1 in 4 black students with IEPs, severely limiting these students’ right to a free public education. The churn of ‘innovation’ and reform that has characterized the Department of Education under Mayor Bloomberg has led to policies and practices that foster inconsistent access to education in New York City.

Recommendations

1. Close loopholes in the Student Safety Act to improve public disclosure of comprehensive data on school suspensions and law enforcement activity, including every instance a student is handcuffed at school. Under current law, the NYPD and DOE must report some demographic information about students who receive suspensions or summonses, or who are arrested (including the race, age, gender, special education and English Language Learner status of the student). But amendments are needed. Incomplete data does not serve the interests of the children of New York City, the adults who work with them, or the city leaders who make decisions about the schools.
The Student Safety Act’s added transparency, coupled with advocates’ and researchers’ findings, has led to some moderation of the DOE’s most strident positions on student misbehavior and has begun to reduce the frequency of suspensions. Unfortunately, the Act has serious limitations, primarily the excessive censorship of key data points due to a misapplication of student privacy law. Expanded reporting must include meaningful data points that are currently missing, including all school summonses and arrests, with demographic information and the name of the school; all suspensions, with demographic information, not just for those schools that suspend more than nine students; and every use of handcuffs on students, with school and demographic information. Additionally, the DOE must be notified of all summonses and arrests by the NYPD in DOE schools.

The NYPD is not currently required to report data in several key categories, such as arrests and summonses recorded by officers outside of the School Safety Division. This omission results in a probable undercount of arrests. The NYPD has also failed to report information in several required categories, including students’ special-education status. More pressing, the Act permits redactions of fewer than 10 suspensions in any particular category of information. Effectively, this means that if nine students at one school are suspended for fighting, the DOE will not report any student suspensions for fighting at that school. This allows the DOE to regularly omit data under the guise of protecting student privacy. Through these excessive redactions, the DOE effectively censors 97 percent of the data it reports under the Student Safety Act.

Protecting student privacy is a vital responsibility, but excessive redactions have no logical basis. The Family Educational Rights and Privacy Act (FERPA) mandates that “personally identifiable information” not be shared in any way that would compromise a student’s anonymity. But the Federal Committee on Statistical Methodology, an interagency committee of the United States Office of Management and Budget, recommends a method of de-identifying confidential records by redacting a minimum cell size of five. Under such a policy, a reasonable person in the school community could not identify a student with reasonable certainty, which is the standard required under FERPA regulations. Guidance from the U.S. DOE recommends using a case-by-case basis to determine whether release of large data sets of student information would compromise a particular student’s privacy rights.

2. Eliminate zero tolerance in the discipline code and in practice. Zero tolerance has been widely discredited as discriminatory and ineffective. It equates the most serious misbehavior with the most trivial. Eliminating zero tolerance means eliminating from the text of the New York City Department of Education’s discipline code vague infractions that carry mandatory suspension, and correcting the one-strike culture that has proliferated under this system. It also means eliminating the practice of immediately suspending students from school without considering potential extenuating circumstances or attempting other interventions.

The DOE must mandate positive discipline as a first-line response and suspension as a last resort. The systematic implementation of positive discipline alternatives makes schools safer, calmer and more effective places for young people to learn. The DOE has communicated its faith in positive discipline by
piloting programs around the city and including positive-discipline language in the revised discipline code and elsewhere. But without a mandate and meaningful training, the effective use of these alternatives remains questionable. For many years, the DOE instructed principals to use zero-tolerance discipline for many types of infractions in the discipline code, from bullying to possession of contraband. Without that same strong leadership from the DOE to replace zero tolerance with positive alternatives, these changes will not happen in most schools.

Evidence-based alternatives to punitive discipline have been proven to keep schools safe, including positive-behavioral intervention and supports (PBIS), conflict resolution and restorative justice. In New York City, schools such as the Urban Academy and Vanguard High School have created safe and nurturing school climates by implementing alternatives to harsh discipline. In helping some city schools implement PBIS and other restorative justice practices, New York City has taken a step in the right direction, but these tools, and the training to use them, must be available to the city’s 1,800 public schools.

School districts across the country, from Los Angeles to Baltimore, are working to end the use of overly harsh school discipline. Most recently, the Los Angeles Unified School District, the nation’s second-largest urban school district, voted to abolish the subjective “willful defiance” infraction from its discipline code. This infraction, similar to New York City’s “defying authority” infraction, accounted for almost half of all L.A. school suspensions in the 2011-12 school year.

3. End the criminalization of school discipline. This requires overhauling the agreement between the NYPD and DOE to limit the role of SSOs and ensure that their activities are consistent with sound educational practices. Arresting and handcuffing students in school for minor misbehavior does not make schools or students safer. Flashpoints of confrontation between students and SSOs escalate quickly with the result that the student may be handcuffed, arrested, issued a summons, or suspended. These interactions foster a hostile school climate and push out students who need the most support from educators.

In order to return the balance of power in school discipline matters to educators, SSOs must always work in consultation with school officials, and their responsibilities should be limited to confronting serious safety concerns. Educators, not SSOs, should be responsible for enforcing school rules. Other jurisdictions -- the states of Connecticut, Texas, and Florida, and districts in California, Georgia, Colorado, Alabama and other states -- have begun to more closely restrict police involvement in student misbehavior because the potential harm to students is so great.

In April 2013, former New York State Chief Judge Judith Kaye’s School Justice Partnership Task Force laid important groundwork for a local solution. Comprised of a diverse group of stakeholders, the task force recommended that the DOE and NYPD work together to implement positive discipline strategies and to reduce reliance on suspensions, summonses and arrests. In September 2013, the Student Safety Coalition released “A New Vision for School Safety,” which outlines nine guiding principles for creating a safe school environment that is conducive to learning. The Coalition proposals have gained support from many elected officials. In this context, New York’s next mayor has a viable opportunity to restore school discipline to the hands of educators.
4. Ensure adequate training for SSOs to be supportive members of the school community. Recent nationwide research on school suspensions clearly demonstrates that schools which provide culturally competent training to members of the school community are able to reduce both overall suspensions and racial disparities. But current SSO training is handled almost completely by the NYPD, and includes no contact with students or school staff, no adequate cultural competency training, and scant training on the missions, goals or organization of the school system.

Community activists in the Bronx, the borough with the highest number of student arrests, have started to make some progress with training SSOs. Last spring, the Bronx School Justice Working Group coalition and the New Settlement Parent Action Committee, both members of the Dignity in Schools Campaign-New York, hosted trainings for SSOs. The training focused on contact between SSOs and students, giving all parties a chance to humanize abstract issues and better understand each other. This is the first time parents and students have been included in an SSO training on youth development; the new mayor should study the effectiveness of this and similar trainings in other jurisdictions and incorporate those strategies for all SSOs.

5. Inform parents and students of their rights, and honor due process and special-education protections.

Students’ due process rights should be explained in the Discipline Code. In addition, the notice of suspension letter parents receive must include, in accessible language, explanations of these rights -- at minimum, the right to written notice within 24 hours, the right to receive alternate instruction, the right to a hearing with representation within five days of a superintendent’s suspension, appropriate notice of special education protections and information on how to access surveillance footage to defend themselves in suspension hearings and appeals. Current procedure, which restricts students’ access to only that footage which will be used to make the school’s case, but not exculpatory footage, is fundamentally unfair.

The DOE must support schools to help meet the needs of students with disabilities and behavioral challenges, including their due process rights and procedural rights created by special education laws. The DOE must create a meaningful system for parents to communicate with the DOE about their child’s school placement and whether it is appropriate. The DOE must also facilitate the process for students to transfer to other schools if their assigned or zoned school does not offer appropriate services.

6. Implement positive behavioral supports in all schools, and train all adults in each building. Many New York City Schools are already implementing these practices with meaningful results, though funding and support from the DOE is often unpredictable. Unfortunately, schools are sometimes only able to train a few adults on a particular program. And gaps in the management, supervision, and training of SSOs mean that officers are not included in these trainings, and are not aware how their actions affect the success of positive discipline programs. The next mayor must ensure that positive behavior supports are available in every building, and that all adults in the building are part of making the system work.

School staff must also be trained to better identify and refer students with unmet mental health needs to special education and other services. Because students are best served in their community setting, schools should hire more mental health professionals, instead of making referrals to hospitals via EMS transport. Increasing access to “mobile mental health teams,” psychiatrists and other mental-health professionals who are able to provide medical treatment and ongoing support to students in their own schools, is an excellent step towards dismantling the STPP.
professionals, who serve a group of schools in a particular community, is a first step towards filling this critical gap in services in city schools.\textsuperscript{315}

As the largest school district in the country, New York City is uniquely poised to serve as a national model for dismantling the STPP. Students, teachers and advocates have achieved important disciplinary and school safety reforms in New York City. Through public testimony, training, and meetings with the DOE and the NYPD, advocacy groups like the Dignity in Schools Campaign and the Bronx School Justice Working Group have succeeded in reducing the number of suspensions and arrests in schools over the last year.

The next mayor must follow these grass-roots examples and commit to an overhaul of this ineffective and overly punitive system that has harmed students for over a decade. The next administration must examine suspension and arrest data and implement meaningful reforms that keep our most vulnerable students in the classroom and connected to resources that support learning, regardless of their academic ability, ZIP code or skin color.

The next administration must implement meaningful reforms that keep our most vulnerable students in the classroom and connected to resources that support learning, regardless of their academic ability, ZIP code or skin color.
APPENDIX A

Glossary

The ABCs of Discipline and Special Education

Parents of students who are disciplined by school safety officers and school administrators, or whose children qualify for special education services and instruction, must master an alphabet soup of abbreviations and acronyms to support their children in the city schools.

This knowledge is particularly crucial for parents who represent themselves “pro se” – without a lawyer – in disciplinary matters. Most parents appear pro se, without professional representation.

ALC  Alternate Learning Center. A site where students who have been suspended receive instruction. High-school students must receive a minimum of two hours of instruction daily, compared to a 6-hour school day.

BIP  The Behavior Intervention Plan outlines different approaches teachers and administrators can take to reduce future ‘problem’ behavior.\(^{316}\)

DOE  Department of Education. Created by Mayor Bloomberg in his first term; replaced the independent New York City Board of Education. Under mayoral control of the public schools, the Mayor names the Chancellor and the majority of the Panel for Education Policy, which votes on proposed reforms.

FAPE  A free and appropriate public education, including instruction and special services to meet the needs of all disabled and challenged students.

FBA  The Functional Behavioral Assessment process articulates the behavior of a special-needs student that led to suspension.\(^{317}\)

GED  A general education diploma, often earned by older students who are no longer eligible for public education (the right to public high school education ends when a student turns 21).

IDEA  The federal Individuals with Disabilities Education Act, which guarantees the rights of all disabled students to a free and appropriate public education, encompassing students with various cognitive, emotional, behavioral and physical impairments, such as learning disabilities and emotional disturbances.\(^{318}\)

IEP  Individualized Education Plans, developed to address special-needs students’ academic, emotional and/or medical deficits and related learning needs.

LRE  Least Restrictive Environment. The goal of current DOE special education reform is to place students in the least restrictive environments possible, for the greatest amount of instructional time.

MDR  Manifestation determination review, a meeting to assess school discipline, that includes the parent/s or guardian of a student with an IEP, the committee on special education, and
relevant members of the student’s IEP team to determine whether the student’s behavior was a manifestation of the student’s disability or a result of the school’s failure to properly implement the student’s IEP.\footnote{319}

**MOU** Memorandum of Understanding, originally agreed between Mayor Rudolph Giuliani and the NYPD and renewed by Mayor Bloomberg, placing NYPD officers in the city’s public schools.

**SSDI** A project of the US Department of Education to gather and analyze school discipline data “to ensure disciplinary policies...are administered in a non-discriminatory manner.”\footnote{320}

**SSO** School Safety Officer – employees of the New York Police Department placed at public schools. SSOs receive 14 weeks of training (NYPD cadets train for 6 months) and no specific training on working with youth, adolescent development, or children with special needs.

**STPP** School to Prison pipeline, the disciplinary and school safety polices and practices that force children out of the classroom and into the criminal justice system.

**YMI** The Young Men’s Initiative, a $43 million effort by the Bloomberg administration to address low graduation rates, high unemployment, and disproportionate involvement in the criminal justice system among African-American and Hispanic young men.
Endnotes


2 IBO Data Set Numbers 1 and 2. Data from the 2010-2011 school year shows that low income students, black students and students with disabilities are suspended at disproportionately higher rates than their peers. See Appendix B.


5 IBO Data Set Number 3.

6 Id.

7 IBO Data Set Number 2.

8 Miller at 15.


10 IBO Data Set Number 2.

11 Id.


13 IBO Data Set Number 2.

14 Id.

15 Id.

16 7 percent vs. 3.5 percent. IBO Data Set Number 1.

17 IBO Data Set Number 3.

18 6 percent vs. 4 percent. IBO Data Set Number 4.

19 IBO Data Set Number 1.

20 Id. “Insubordination” has been replaced with “defying authority” in the 2013 Discipline Code.

21 United States Department of Education, Revealing New Truths About our Nations’ Schools, Office for Civil
A, B, C, D, STPP: HOW SCHOOL DISCIPLINE FEEDS THE SCHOOL-TO-PRISON PIPELINE

22 NYPD Student Safety Act data, 1Q 2013.

23 Id.


26 Stop and Frisk NYCLU Briefing at 6, 9. 99 percent of all stops in these neighborhoods were of black and Latino people.

27 IBO Data Set Number 2.

28 Id.; Stop and Frisk NYCLU Briefing at 4, 7.

29 New York City Administrative Law Title 14 § 14-152. Demographic data includes the race, age, gender, special education and English Language Learner (ELL) status of the student.


32 Watanabe at 1.


Id.

See Matter of Rome City School District v. Grifasi, 806 N.Y.S.2d 381 (Sup. Ct. 2005) [holding that a student’s due process right to access video evidence to contest his suspension outweighed fellow students’ rights to privacy under FERPA].

See “How to Make an Informal Complaint about Your Child’s Education” § 2 available at http://schools.nyc.gov/Offices/FACE/KeyDocuments/Parent+Complaint+Procedures.htm [last visited 6 Sept. 2013]. “Please note if the child is a student with a disability and you have an unresolved special education issue you may call 311 and request to speak to the Special Education Call Center. The Special Education Call Center staff will work with you to resolve your issue.” Id.

Id.


Dr. Charles Soulé, testimony, Id. at 149.

Id. at 185.


Id. This study is significant because it tracked 1 million students, roughly the same number of students in the New York City public school system, over the course of at least a six-year period from when the students were in the 7th grade.


Losen & Gillespie at 10.

*Id.*

DOE, Regulations of the Chancellor, A-443 § III.B.3.

N.Y. Comp. Codes R. & Regs. tit. 8, § 201.

DOE, Regulations of the Chancellor, A-443 § III.B.3.v(1).

Miller at 6.


*Id.* at 1Q 2013.


Losen & Gillespie at 4; Fabelo et al. at 61-72.


68 *Id.*

69 *Id.*

70 Losen, *Opportunities Suspended* at 13-14.


72 *Id.* The SSDI will promote data collection on disciplinary and school safety practices; ensure these practices comply with Civil Rights laws; and promote knowledge about evidence-based alternatives to exclusionary discipline among state judicial and educational leadership.

73 Losen, *Opportunities Suspended* at 17: “The CRDC data for Florida and New York on the enrollment of students with disabilities varied dramatically from other reliable sources. When we contacted OCR, they acknowledged these problems and are in the process of seeking corrected data from these states. *New York City had additional concerns about data on the reporting of suspensions, which OCR is seeking to resolve. Given the absence of New York City data, state estimates for New York are not reliable.*” Emphasis added.

74 American Psychological Association at 852.

75 Judge Steven C. Teske and Judge J. Brian Huff, *The Court’s Role in Dismantling the School-to-Prison Pipeline*, Juvenile and Family Justice Today, Winter 2011: 14-17; National Council for Juvenile Court and Family Judges (NCJFCJ), NCJFCJ’s Position on Increased Police Presence in Schools, 15 Jan. 2013. Available at: http://www.ncjfcj.org/ncjfcjs-position-increased-police-presence-schools#_edn2 (last visited 25 Aug. 2013): “Many counties across the country experienced significant increases in minor school arrests when police began to be placed on campus during the 1990s. However, school safety did not improve with increased police presence and graduation rates fell. When police were placed on school campuses in Clayton County, Ga., in 1994, the number of referrals from the school system increased approximately 1,248 percent. Approximately 90 percent of these referrals were infractions previously addressed by administrators.”


78 Ofer, *Criminalizing the Classroom* at 1376-1379.


80 *Id.*


83 *Id.*
The Safe Schools Against Violence in Education (SAVE) Act, L. 2000, ch. 181; N.Y. Educ. §2801 [l] and [m](2009). Importantly, the New York City DOE interprets the SAVE Act as requiring suspensions for certain behaviors, and has expressed this interpretation to advocates.


Id.; IBO Data Set Number 1.

2013 Discipline Code.

Id.

Id.

NYCLU analysis of IBO Data Set Number 2.


IBO Data Set Number 1


IBO Data Sets Numbers 1, 2, and 3.


IBO Data Set Number 2.
NEW YORK CIVIL LIBERTIES UNION

IBO Data Set Number 1.

Id.

IBO Data Set Number 3.

Sweeten at 473; NAACP LDF at 4; Fabelo et al., at 61-72.


Including summer school, there were 216 high school days and 209 middle school days during this 12 month period. NYCLU analysis of NYPD reporting on Student Safety Act data available at: http://www.nyclu.org/files/releases/School%20Safety%20Fact%20Sheet%202011-2012.pdf (last visited 25 Aug. 2013).

Stop and Frisk NYCLU Briefing at 2. Young men are counted here as 14 to 24 years old.

NYCLU analysis of NYPD Stop and Frisk Database; Ofer, “To Help Close the Achievement Gap, Address Stop and Frisk.”

Id. Only 1 percent of frisks of young people in 2011 recovered a weapon. Force was used by the police on young people in 22 percent of the stops. Force can range from the pointing of a gun to an officer placing his or her hands on the young person.

Id.

Id.

Stop and Frisk NYCLU Briefing 2011 at 6. 99 percent of all stops in these neighborhoods were of black and Latino people. Id. (same as 2011 cite above).

Stop and Frisk NYCLU Briefing 2011, 2012 at 6; IBO Data Set Number 2.


IBO Data Set Number 1.

IBO Data Set Number 3.

IBO Data Set Number 1; NYPD reporting via Student Safety Act data.

IBO Data Set Number 2.

Id.

IBO Data Set Number 2.


IBO Data Set Number 1.

Id.
129 IBO Data Set Number 4.


134 DOE, Regulations of the Chancellor, A-443 § III.B.1[e].


136 Peter Leone, University of Maryland, Department of Special Education, Lois Weinberg, California State University, Los Angeles, Division of Special Education and Counseling, Addressing the Unmet Educational Needs of Children and Youth in the Juvenile Justice and Child Welfare Systems, May 2010: 11.

137 This is a state constitutional right; there is no federal right to an education. See N.Y. Const. art. XI, § 1 (establishing that students in New York have the right to a free, public education); See also Campaign for Fiscal Equity, Inc. v. New York, 655 N.E.2d 661, 666 (N.Y. 1995) (stating that the New York State Constitution requires the State "to offer all children the opportunity of a sound basic education").

138 IBO Data Set Number 4.

139 Miller at 6.

140 Id. at 15.

141 DOE Chancellor’s Regulation A-443 § III.B.3; See also Goss v. Lopez, 419 U.S. 565, 573-574 (1975) [explaining that, "The state must recognize a student’s legitimate entitlement to a public education as a property interest that is protected by the Due Process Clause, and that may not be taken away for misconduct without observing minimum procedures required by that clause."].

142 2013 Discipline Code.


144 N.Y. Const. art. XI, §1; Campaign for Fiscal Equity, Inc., 655 N.E.2d at 666.


146 Elayna Konstan, CEO Office of Safety and Youth Development, testimony, DOE School Suspension Data, supra note 132 at 126.

147 20 U.S.C. 1415k [5][d]; DOE Chancellor’s Regulations A-443 § II.B.3; N.Y. Comp. Codes R. & Regs. tit. 8, § 201.6(b).

149 DOE, Regulations of the Chancellor, A-443 § IV.

150 Id. at 1 (Changes to 2004 Version, bullet 2).

151 Deputy Chancellor Kathleen Grimm, testimony, supra note 132 at 22.


153 Memorandum of Understanding between E.B and All Others Similarly Situated and the New York City Department of Education: 4. On file with author.

154 IBO data Set Number 2.


157 NAACP LDF at 4-6.

158 “Disabilities,” as defined by federal law, include various cognitive, emotional, behavioral and physical impairments, such as learning disabilities and emotional disturbances. 34 C.F.R. § 300.7[a][9]; In order to provide an appropriate education to students with disabilities, the DOE receives federal funding to create programs and supports, evaluate students, and implement individualized education plans (IEPs) based on the evaluations. An IEP is a written statement of the educational program designed to meet a child’s individual needs. Id.

159 20 U.S.C. § 1415[k][1][E] (2013); N.Y. Comp. Codes R. & Regs. tit. 8, § 201.4 [c]. This is called a Manifestation Determination Review (MDR).

160 Id. The review includes a representative of the school district knowledgeable about the student, the parent and relevant members of the IEP team. 20 U.S.C. § 1415[k][1][F]; N.Y. Comp. Codes R. & Regs. tit. 8, § 201.4

161 Id.


163 Id.

164 Federal protections have also diminished somewhat since this decision was issued. Before 2004, the special education committee was required to consider more factors during the manifestation review than they do today, including whether the school appropriately evaluated and provided services for the student. Melinda Baird Jacobs, Esq., Manifestation Determinations, The Search for Meaning, 2009: 4. Available at http://www.ksde.org/LinkClick.aspx?fileticket=4F7lh4OPRJE%3D&tabid=3339 [last visited 3 Sept. 2013]. Today, the committee is only required to determine whether the behavior had a direct and substantial relationship to the child’s disability or whether the conduct in question was the direct result of the school’s failure to implement the IEP. 20 U.S.C. § 1415[k][1][E]; N.Y. Comp. Codes R. & Regs. tit. 8, § 201.4 [c].

165 If a student with a disability is suspended for over 10 days, following a review where his behavior is determined not to be a manifestation, he must be provided with services at the Alternate Learning Center. 34 CFR § 300.530.

166 Critically, in 2011, only 12 percent of students with disabilities graduated with a Regents diploma on time – the only credential now recognized by the New York State Regents as criteria for high school graduation. New York City Department of Education Accountability pages, citywide spreadsheet, 2007 cohort, available at http://schools.nyc.gov/Accountability/data/GraduationDropoutReports/default.htm (last visited 3 Sept. 2013).

IBO Data Set Number 3; Citywide, IEP students served 29 percent of suspensions in 2010-11, while constituting only 16 percent of the overall student population. IBO Data Set Number 1. Nearly one in six students in New York City public schools --169,000 children -- have been diagnosed with disabilities that affect their education. New York City Department of Education Statistics and Budget, available at http://schools.nyc.gov/Common/Templates/MainTemplate/CommonMainTemplate.aspx?NRMODE=Published&NRNODEGUID=%7bBB6A5758-B9B7-4363-B18A-BDAD80E3CC8B%7d&NRORIGINALURL=%2fSchoolPortals%2f21%2fAboutUs%2fStatistics%2fregister%2ehtm&NRCAHEHINT=Guest (last visited 3 Sept. 2013).


Each reform increasingly shifted responsibility from the district to local schools and specifically to school psychologists. In 2003, the DOE required school psychologists to handle special education evaluations instead of the district’s Committee on Special Education. The DOE failed to hire enough psychologists to keep pace with these changes or the rising number of special education students. Overworked, Underutilized at 2; This resulted in serious delays in evaluations. Id. at 8; Kenneth Bleiwas, Jane Moore, Waiting for Special Education, Office of the New York State Comptroller, June 2008:1. Available at http://www.resourcensyc.org/sites/default/files/DOE%20Plan%20for%20Reform%20of%20Special%20Ed%20-%20Jan.%202010_0.pdf [last visited 3 Sept. 2013]. In 2008, there were 180 special education students for every one school psychologist and only one school psychologist for every two schools. Overworked, Underutilized at 11; New York Lawyers for the Public Interest, “Testimony to be delivered to the New York City Council’s Education Committee Re: DOE’s Special Education Reform,” 12 Jun. 2012. Available at http://arisecoalition.org/NYLPI%20-%20Special%20Ed%20Reform%20Testimony.pdf [last visited 3 Sept. 2013].

183 Overworked, Underutilized at 11.


185 Id.

186 At a Community Education Council meeting on November 28, 2012, advocates’ fears were made tangible when Gary Hecht, the superintendent of District 75, noted that referrals to his district had increased since the reform began. Hecht said that District 75 enrollment was 273 students “over projection” in November. Hecht additionally said that his staff was reviewing new referrals to ensure that students had not been placed there because schools lacked specific services. Citywide District 75 Council Meeting Minutes, available at http://schools.nyc.gov/documents/d75/parent/cd75/Calendar%20Meeting%20November%2028%202012.pdf [last visited 3 Sept. 2013].

187 Winerip at 2.

188 Id.

189 Id. The principal testified at the education hearing that all paraprofessionals were already assigned to other students.

190 Rachel Monahan, “Education Department statistics show schools called 911 a whopping 3,600 times last year to deal with non-suicide-related mental health problems,” Daily News, 28 Jun. 2012. Available at http://www.nydailynews.com/new-york/education/education-department-statistics-show-schools-called-911-whopping-3-600-times-year-deal-non-suicide-related-mental-health-problems-article-1.1103635#ixzz2d0EV0CT4 [last visited 3 Sept. 2013]. “These schools don’t have the resources to deal with students who are either having a bad day or having issues going on,” said Nelson Mar of Legal Services NYC - Bronx, which sued the city for more data on EMS removals. Id.


192 Monahan, “Kindergarten Cops” at 1.

193 Winerip at 2; Rosen at 1.

194 Monahan, “Kindergarten Cops” at 1.

195 Id.


197 Dr. Randi Herman, First Vice President Council of School Supervisors and Administrators, testimony, New York City Council Oversight Hearing: School Based Mental Health Services, 1 May 2012: 178. Transcript available at http://legistar.council.nyc.gov/LegislationDetail.aspx?ID=1108301&GUID=28B98978-357B-42F3-AD80-C88BE8C8B482&Options=&Search= [last visited 3 Sept. 2013]. Medical providers note that students who threaten themselves or others do need and should receive a same-day mental health evaluation. But, most of the time the “whole shebang” of EMS transport to an ER is not necessary. Id.; Dr. Charles Soulé, Chair, New York City Department of Education School-Based Mental Health Committee at 149.

198 Id.; Following involuntary EMS removals from school, children were reported as “anxious, withdrawn and

199 Dr. Charles Soulé, testimony, supra note 197 at 149.

200 Dr. Charles Soulé, personal interview, 18 Jul. 2013.

201 Dr. Charles Soulé, personal interview, 14 Nov. 2012.

202 Id. These numbers vary slightly, depending on when the data was captured and how programs were counted.

203 This is not an exhaustive list. Dr. Charles Soulé, personal interview, 18 Jul. 2013.

204 Rachel Monahan, “Advocates: Schools Overusing 911 for Behavior Problems,” The Daily News 1 May 2012, stating: “The spike in calls comes amid budget cuts to school counseling services. Since 2008, the number of guidance counselors in city schools has fallen 8%, while psychologists fell by 6% and social workers fell by 11%, teachers union officials said. In the last few years, the number of mental health programs in schools has dropped from 268 to 216, officials acknowledge.” Available at http://www.nydailynews.com/new-york/education/advocates-school-overusing-911-behavior-problems-article-1.1070834 [last visited 4 Sept. 2013].

205 Dr. Charles Soulé, testimony, supra note 197 at 148; Winerip at 1.

206 Deputy Chancellor Kathleen Grimm, testimony, supra note 197 at 52.

207 De Blasio v. Bloomberg at 2; 3631 students over 180 school days is 20 students per day [180 school days in one school year].

208 Rosen at 1; Dr. Charles Soulé, testimony, supra note 197 at 148.

209 Nelson Mar, Esq. Director, Senior Staff Attorney and Education Law Specialist, testimony, supra note 197 at 122-126.


211 IBO Data Set Numbers 1 and 3.

212 Miller at 20.

213 IBO Data Set Number 3. Most schools suspend fewer than five percent of students with IEPs.


215 Id.

216 Id.


218 This high school is one of New York City’s premier selective high schools.


NAACP LDF at 13.

223 Deputy Chancellor Grimm, testimony, supra note 143 at 81.


227 Id.


229 Ince at 2. The MOU required that a Joint Committee on School Safety – with representatives from the mayor’s office and the then-board of education – evaluate the School Safety Division annually, “with the goal of improving and enhancing the program.” 1998 MOU. However, only one such report over the last fifteen years appears to have been publicly issued.

230 Chongmin Na of The University of Houston, Clear Lake, and Denise Gottfredson of the University of Maryland, Criminalizing Children at School, 2011: 4 (stating that crimes in schools across the country began decreasing in 1993, before zero tolerance and steep increases in policing personnel occurred), 24 (“This study found no evidence suggesting that [SSA] or other sworn law-enforcement officers contribute to school safety. That is, for no crime type was an increase in the presence of police significantly related to decreased crime rates.”), 26 (“This program [officers in schools] has grown dramatically without the benefit of scientific evaluation. No rigorous study to date has demonstrated that placing police in schools promotes school safety.”); Jason Langberg, Barbara Fedders, Drew Kukorowsk, Law Enforcement Officers in Wake County Schools: The Human, Education, and Financial Costs, Advocates for Children’s Services, Feb. 2011: 5. Available at: http://www.legalaidnc.org/public/ACS/IssueBrief_Feb-11_SROs_Rev.pdf (last visited 25 Aug. 2013); Peter Price, When Is A Police Officer an Officer of the Law?: The Status of Police Officers in Schools, 99 J. Crim. L. & Criminology 541, 545 (2009).

231 New York Times, editorial at 1; Na & Gottfredson at 26; Langberg at 9.

232 For all types of crime, the harsher response was more likely in schools with the presence of at least one full-time SRO or other sworn law-enforcement officer. Na & Gottfredson at 18.

233 In schools with permanent metal detectors, 77 percent of police personnel interventions are in non-criminal incidents. This percentage was twice as high as those in similarly-sized schools without metal detectors. Ofer, Criminalizing the Classroom, at 1392.

234 Id.; Elora Mukherjee, Marvin M. Karpatkin Fellow, Criminalizing the Classroom, New York Civil Liberties Union, Mar. 2007: 22.

235 Id.

236 See Appendix B.

237 NYCLU analysis of 2013 Metal Detector data. See Appendix B. Black students are disproportionately impacted by metal detectors. In total, 27.4% of students are black, but 43.1% of students passing through metal detectors are black.

238 Id.

239 Id.

240 Mukherjee at 19; Benia Darius, testimony, supra note 143 at 150.
Benia Darius, testimony, supra note 143 at 150-151.

Id.

Id.

Id. at 148-149.


Powell at 1.

Id.


Assistant Chief Commanding Officer of the School Safety Division, Brian Conroy, testimony, supra note 143 at 30.

The 1998 MOU does not specify training on these topics.

Id.; Edelman at 1.

1998 MOU.

Id.

Statements of New York City Council Members Robert Jackson, Sara Gonzalez and G. Oliver Koppel supra note 143 at 9, 13, and 74-76; Ann Luser, teacher, testimony, supra note 143 at 251-253.

Id.


G. Oliver Koppel, statement, supra note 143 at 75.

N.Y. Penal Law § 120.00; 2013 Discipline Code at 29, infraction B53.

NYCLU Law § 120.00; 2013 Discipline Code at 29, infraction B53.

NYCLU Law § 120.00; 2013 Discipline Code at 29, infraction B53.


1Q 2013 NYPD reporting on Student Safety Act data.

NYPD reporting on Student Safety Act data, First Full Year 2011-2012.

Id.; Including summer school, there were 216 high school days and 209 middle school days during this 12 month period. NYCLU Fact Sheet available at http://www.nyCLU.org/files/releases/School%20Safety%20Fact%20Sheet%202011-2012.pdf (last visited 4 Sept. 2013).

NYPD reporting on Student Safety Act data, First Full Year 2011-2012.

1Q 2013 NYPD reporting on Student Safety Act data.


students disproportinately arrested school. [last visited 14 Aug. 2013].

269 1998 MOU.

270 The Chancellor’s Regulations and federal law prohibits schools from disclosing student records to outside agencies without parental consent. Even so, parents may choose to grant permission to school staff to inform SSOs that their child is a child with a disability without disclosing records.

271 New York City Administrative Law Title 14 § 14-152.

272 Despite the fact that this information is required under the Student Safety Act, the NYPD has consistently failed to report this data.

273 1Q 2013 NYPD reporting via the Student Safety Act.


275 Statements of New York City Council Members Robert Jackson, Sara Gonzalez and G. Oliver Koppel supra note 143 at 9, 13, and 74-76; Ann Luser, teacher, testimony, supra note 143 at 251-253.

276 Bruno v. City of New York, CV No. 10 CV 0210 (E.D.N.Y. 2010); Chapman at 1; Parascandola, et al., at 1; Monahan, “Queens girl Alexa Gonzalez hauled out of school in handcuffs” at 1.

277 Students aged 16 and older may be issued a summons in New York. N.Y. Penal Law § 30.00 (McKinney). If a student under 16 is charged with a crime, the case normally goes before a judge in Family Court. Id.; See also New York City Bar, Introductory Guide to New York City Family Court, Feb. 2012 available at http://www.nycourts.gov/courts/nyc/family/IntroductoryGuidetoNYCFamilyCourt.pdf (last visited 28 Aug. 2013).

278 Sweeten at 473-477.


281 N.Y. Crim. Proc. Law § 150.60 (McKinney).


283 N.Y. Penal Law § 80.05.

284 N.Y. Penal Law § 70.15.

285 Id.; N.Y. Penal Law § 80.05.

286 NYCLU analysis of Student Safety Act data on arrests from 2011-2012 showing that black students constitute 64 percent of arrests; IBO data set Numbers 1 and 3 showing that black students and black students with IEPs are disproportionately represented in suspensions.

287 Id.; Mukherjee at 2,3, 20; NYCLU analysis of schools with permanent metal detectors, Appendix A. Total school population has decreased over Bloomberg’s tenure, yet black students still bear the brunt of these policies.

characteristic of the New York City public school system is its high concentration of students from low-income families” (internal citations omitted). This is as true today as it was in 1995. IBO Data Set Number 2; New York City Independent Budget Office, New York City Public School Indicators: Demographics, Resources, Outcomes, Annual Report 2011:9. Available at http://www.ibo.nyc.ny.us/iboreports/2011edindicatorsreport.pdf (last visited 2 Sept. 2013).

For example, looking at all races, a majority of schools suspend less than 5 percent of their students with special needs. Queens, where more than a quarter of New York City students attend school, has the lowest suspension rate of the five boroughs. IBO Data Set Number 2.


290 Of the 69,643 suspensions in 2011-12 that would be reported across nine categories (total, gender, race, IEP status, ELL status, grade, age, infraction, length), 33.8% of suspensions by category have been redacted. Including the zero-valued data points, the DOE redacted 97.3% of what would have been reported. In other words, for every value that should be reported, 97 percent of that information is redacted. NYCLU Analysis of Student Safety Act data available on file with author.


293 34 C.F.R. § 99.3

294 Of the 69,643 suspensions in 2011-12 that would be reported across nine categories (total, gender, race, IEP status, ELL status, grade, age, infraction, length), 33.8% of suspensions by category have been redacted. Including the zero-valued data points, the DOE redacted 97.3% of what would have been reported. In other words, for every value that should be reported, 97 percent of that information is redacted. NYCLU Analysis of Student Safety Act data available on file with author.

295 "Decisions regarding whether to use data suppression or some other method or combination of methods to avoid disclosing personally identifiable information in statistical information must be made on a case-by-case basis.”

296 American Psychological Association at 852-855; NAACP LDF at 2; Miller at 6; Skiba and Rausch, supra note 1.


301 Several city officials have called for increased control for school principals and better training for school safety


308 Id.


310 The notice of suspension letter for superintendent suspensions is the only place in which the DOE has articulated this policy. The sample appended to Chancellor’s Regulation A-443 is outdated and does not include the language currently used in superintendent suspension notices. The current notice of suspension letter includes this statement: “The right to view and obtain in person at the school a copy of any video recording of the incident if the school shows you or your child a video recording of the incident prior to the suspension and/or the school intends to introduce the video recording at the hearing.” Letter from a former client of the NYCLU, on file with author.

311 See, e.g. “How to Make an Informal Complaint about Your Child’s Education” § 2 available at http://schools.nyc.gov/Offices/FACE/KeyDocuments/Parent+Complaint+Procedures.htm (last visited 6 Sept. 2013). “Please note if the child is a student with a disability and you have an unresolved special education issue you may call 311 and request to speak to the Special Education Call Center. The Special Education Call Center staff will work with you to resolve your issue.” Id.

312 Id.

313 Nelson Mar, Esq. Senior Staff Attorney and Education Law Specialist, testimony, supra note 45 at 122-126.

314 Dr. Charles Soulé, testimony, supra note 45 at 149.

315 Id. at 185.

316 34 CFR § 300.530(f); N.Y. Comp. Codes R. & Regs. tit.8 § 201.4.

317 Id.


319 20 U.S.C. § 1415 [k][1][E].

320 The Supportive School Discipline Initiative (SSDI) will promote data collection on disciplinary and school safety practices, ensure these practices comply with Civil Rights laws and promote knowledge about evidence-based alternatives to exclusionary discipline among state judicial and educational leadership. In addition, the SSDI will “build upon the Department of Education’s Office for Civil Rights’ work to increase and enhance the school discipline data available through the Civil Rights Data Collection and the Departments’ proactive efforts to ensure disciplinary policies support students and are administered in a non-discriminatory manner. Department of Justice, Office of Public Affairs.” Attorney General Holder, Secretary Duncan Announce Effort to Respond to School-to-Prison Pipeline by Supporting Good Discipline Practices, 11 Jul. 2011. Available at http://www.justice.gov/opa/pr/2011/July/11-ag-951.html [last visited 25 Aug. 2013].
APPENDIX B

Data from the Independent Budget Office

Data cited in this report come from a range of sources, including www.schools.nyc.gov and DOE reporting via the Student Safety Act and the New York City Independent Budget Office [IBO]. 1 The NYCLU requested from the IBO the most recent enrollment and suspension data, disaggregated by student demographics and other variables, which the IBO provided to the NYCLU between January 2013 and July 2013. All data from the IBO are from the 2010-2011 school year. They are on file with the NYCLU and available upon request. The report also cites to suspension data reported from the Department of Education [DOE] in compliance with the Student Safety Act [SSA] [http://www.nyclu.org/content/student-safety-act-data]. While both IBO and SSA data originate from the Department of Education, differences in counting cause suspension totals to vary. Whenever this occurs, it is noted in the report.

Metal Detector Data

Between August 2011 and August 2013, NYCLU staff called every public school in New York City 2 to determine whether it had permanent metal detectors. These are metal detectors that students are required to pass through to enter school on a daily basis. Additionally, NYCLU staff consulted each individual school page available on the Insideschools website [www.insideschools.org] to serve as a secondary source of information. While this list may not fully represent NYC public schools with permanent metal detectors, the DOE refuses to provide such a list despite repeated requests, and we believe this list comes very close to approximating what the DOE might be able to provide. Using DOE enrollment data from the J-Form, we found that 118,017 students (12 percent of the student population) pass through permanent metal detectors every day at 232 schools and 76 school buildings. This is an increase of 24,259 students (26 percent) from the 2006-2007 school year when an estimated 93,758 students (nine percent of the student population) passed through permanent metal detectors at 88 schools. 3 A list of these schools included on the 2012-13 list of metal detector schools is available in Appendix C of this report.

1 The IBO is a publicly funded city agency that provides nonpartisan data and information about New York City’s budget to the public and their elected officials.
2 This list excludes community based organizations.
APPENDIX C
Metal Detectors in New York City Public Schools

<table>
<thead>
<tr>
<th>Schools with Permanent Metal Detectors</th>
<th>New York City, 2012-13</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Bronx School (87)</strong></td>
<td>Enrollment</td>
</tr>
<tr>
<td>Pan American International HS</td>
<td>404</td>
</tr>
<tr>
<td>HS for Violin &amp; Dance</td>
<td>354</td>
</tr>
<tr>
<td>International School of Liberal Arts*</td>
<td>541</td>
</tr>
<tr>
<td>New Venture Academy - IS #219*</td>
<td>401</td>
</tr>
<tr>
<td>School for Excellence</td>
<td>382</td>
</tr>
<tr>
<td>Entrada Academy*</td>
<td>350</td>
</tr>
<tr>
<td>Bronx Expeditionary Learning HS</td>
<td>323</td>
</tr>
<tr>
<td>Mott Haven Community HS</td>
<td>160</td>
</tr>
<tr>
<td>Learning To Work YABC at Monroe</td>
<td>223</td>
</tr>
<tr>
<td>The Hunts Point School*</td>
<td>405</td>
</tr>
<tr>
<td>Alfred E. Smith HS</td>
<td>518</td>
</tr>
<tr>
<td>Morris Academy for Collaborative Studies</td>
<td>437</td>
</tr>
<tr>
<td>Communication Technology*</td>
<td>661</td>
</tr>
<tr>
<td>Leadership Development - IS #313*</td>
<td>429</td>
</tr>
<tr>
<td>Monroe Academy for Visual Arts &amp; Design</td>
<td>472</td>
</tr>
<tr>
<td>Bronx HS of Business</td>
<td>362</td>
</tr>
<tr>
<td>John F. Kennedy HS</td>
<td>394</td>
</tr>
<tr>
<td>Frederick Douglas Academy III*</td>
<td>447</td>
</tr>
<tr>
<td>Bronx Theater HS</td>
<td>437</td>
</tr>
<tr>
<td>Grace Dodge YABC</td>
<td>235</td>
</tr>
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Sources: NYCLU original research, Insideschools, DOE's J-Form, DOE's Demographic Snapshot
*Schools with any students below 9th grade
**Robert Fulton 6th graders pass through metal detectors at George Westinghouse. Enrollment listed does not include lower grades.
***Jim Thorpe is a District 75 school serving profoundly challenged students, some of whom enter through metal detectors, some of whom do not.
Race and Equity

OPINION: Listen to our children – take away the guns, then counsel troubled youth instead of policing them

We can’t wait for Washington

by KESI FOSTER and ONYX WALKER

February 19, 2018

Here is what keeps happening and has to stop: nothing. Elected officials have failed time and time again to adopt gun-control measures that will prohibit and ban the sale of the high-powered weapons used in Sandy Hook, Parkland and countless other mass shootings across the country.

Here is a way forward: we can center our efforts around the transformative power of youth organizing on gun control and on creating safe, supported schools that don’t use highly politicized security tactics.

Fort Lauderdale, FL — In the wake of the massacre at Marjory Stoneman Douglas High School, protesters attend a Feb. 17, 2018 rally at the Federal Courthouse here to demand government action on firearms. Photo: Mike Stocker/TNS via ZUMA Wire.
The transformation is happening already. Days after their classmates and teachers were gunned down, Parkland, Florida students called out President Trump and other elected officials for doing the bidding of the NRA and gun lobbyists while ignoring the clear common denominator: high-powered automatic weapons.

These students have gotten the nation’s attention.

As we move forward by centering around these students, and their families, we must include another group whose efforts become more important than ever in the face of this violent shooting.
They are the families and educators at the forefront of the movement to create, safe, supportive and inclusive school communities.

These people are shifting the paradigm of school safety away from policing, surveillance and invasive security measures. Instead, they have embraced practices that can help every student: comprehensive social-emotional and mental health supports, restorative justice and trauma-informed care.

**Related: Bullied by the badge?**

Here is why the shooting in Florida makes their efforts so crucial: Across the country, the response to many previous school tragedies has been to prioritize invasive security measures, police presence and high-tech surveillance in schools.

The impulse to turn learning environments into some sort of militarized “safe zones” becomes the prevailing notion.

It’s a notion that is likely to become a lead talking point for the current administration.

It is a notion that isn’t effective.

And it is a notion that negatively impacts black, Latino and indigenous students.

These are the students who have been hyper-criminalized as a result of decades of school discipline and policing policies and practices.

**Related: The painful backlash against ‘no-excuses’ school discipline**
There is no conclusive evidence that the presence of law enforcement officers keeps our schools any safer. But regardless of the location or circumstances of school-based shootings, resources for police and security become prioritized for schools in low-income communities of color.

We have effectively created a pipeline to funnel young people of color and students with disabilities into the criminal justice system for routine and often subjective disciplinary matters such as truancy, disturbing the school, disrupting the peace, disorderly conduct and schoolyard fights. And we fail to build a path towards the supports needed to address the root causes of trauma, issues, isolation and conflict that young people are forced to navigate.

Schools do not need police officers or school resource officers, they need guidance counselors, social workers, mental health continuums, comprehensive social and emotional supports, trauma-informed care and restorative justice. Nationwide, 850,000 students do not have access to a school counselor and 1.6 million students attend a school with a law-enforcement officer on campus but not a school counselor. According to the National Association of School Nurses, less than half of all schools have a full-time nurse and schools in urban and poor districts have ratios as high as 4,000 students to one nurse. Four years ago, with little attention, two students died in Philadelphia schools that couldn't afford full-time nurses.

In order to move forward without creating unintended harm for any community, we have to fundamentally rethink safety.

We can do this by centering the voices of the young people, educators and families and human rights advocates that have joined two groups: One group is ready to take to Washington following last week's tragedy. The other group has been working for safe,
supportive and inclusive school communities that embrace alternatives to zero-tolerance, punishment and criminalization.

Instead of equipping schools with metal detectors and children with bulletproof backpacks, we must redirect our school safety funding to equip school communities with the staff, training and supports that have been deprived from them for too long.

We must commit to bringing students closer to support systems integrated in schools and become less inclined to letting them disappear back into our communities. This way, we can wrap them in the supports they need and lessen their risk of isolation and further adverse experiences.

**Related:** School districts respond to growing fury over police shootings, black male achievement gap

Fifty years after Dr. Martin Luther King Jr.’s death, we should pull his voice into this conversation and reflect on his vision for creating a “beloved community,” by meeting the social needs of everyone in our community.

Addressing the systemic tragedies that go unnoticed will sustain safe and supportive schools. This is true in particular for students in marginalized communities. When people believe policing is a solution for the intentional lack of investment in social resources, it harms these students the most.

Over the weekend, President Trump and Vice President Pence said school safety will top the agenda when the president meets with the nation’s governors at the end of the month. It will perpetuate a continued moral failure if those meetings result in more funding for ineffective approaches to school safety, such as policing.

We have the opportunity to embrace solutions that work for all school communities. But first, we have to stop looking for
Washington to lead. The agents we need for change are those who are closest to the problem.

This story was produced by The Hechinger Report, a nonprofit, independent news organization focused on inequality and innovation in education. Sign up for our newsletter.

Kesi Foster is an organizer with Make The Road New York, a member of the Urban Youth Collaborative and Dignity in Schools and Alliance for Educational Justice Coalitions. Make The Road New York builds the power of immigrant and working class communities of color to achieve dignity and justice.

Onyx Walker is a youth organizer with Future of Tomorrow, a member of the Urban Youth Collaborative and Dignity in Schools and Alliance for Educational Justice Coalitions. Onyx attended high school in East New York, Brooklyn, and has been leading efforts to end the school-to-prison pipeline and bring restorative justice to schools throughout New York City.
Oversight

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City of Albany, Citizens' Police Review Board

The Citizens' Police Review Board is an independent body established by the City of Albany in 2000 to improve communication between the police department and the community, to increase police accountability and credibility with the public and to create a complaint review process that is free from bias and informed of actual police practice.

In addition to its authority to review and comment on completed investigations of complaints made by citizens against officers of the City of Albany Police Department (APD) for alleged misconduct, the nine-member Board may make recommendations to the Common Council and the Mayor regarding police policies and practices relevant to the goals of community policing and the exercise of discretionary authority by police officers. Board members are appointed by the Mayor and the Common Council. The Board is required to, among other things, undergo significant training and engage in public outreach and education.

The CPRB’s responsibility is to determine if a citizen’s complaint received the attention it deserved. When the CPRB analyzes a complaint, it looks at the APD’s investigation and decides if the APD did a complete and professional job. The CPRB cannot decide who is right and who is wrong. The CPRB does not do its own investigation into the complaint and it does not have the authority to discipline officers. The CPRB’s role is to determine if the APD thoroughly investigated a complaint. The CPRB can disagree with the APD about a complaint, but it can only decide if the Department did everything it could to investigate the events alleged.

To enhance the relationship between the Police Department and the community, the CPRB maintains an on-going program to educate the public about the purpose of the Board and the complaint review process.
Police officers and citizens who file complaints against them will soon learn about each other's perspectives in the most direct way possible: by talking face-to-face.

Community leaders gathered at the Albany Law School Thursday to announce a new mediation program run by the Albany Citizens' Police Review Board, an arrangement that took over a decade to establish. It will allow people to have sit-down meetings with officers they feel have wronged them, and a professional mediator will be there to help them find common ground.

Mediation was a key requirement in the law that established the CPRB in 2000 to improve communication between cops and the community.

In the board's early years, a few mediation sessions took place, but after an officer complained about a bad experience, the union rescinded support, and mediation has remained in negotiations ever since.

"It's been a long road," said Albany Police Chief Steven Krokoff, who began his work on this alternative resolution process a decade ago. "At that time, there was a lack of trust and faith on everybody's part. But that whole environment has changed."

A mediation program is expected to save the city money because complaints that go to mediation will not be investigated. The option to mediate is voluntary, but if an officer agrees to take part, the complaint will not go in his or her record. Police will be compensated for the time they spend in the meeting.
Mediation sessions are expected to begin as soon as the panel of mediators is agreed upon. These intermediaries will have a background in law and an understanding of law enforcement, like probable cause and reasonable suspicion, said Kroff.

Not all complaints filed with the board are eligible for mediation. The board, which is administered by Albany Law School's Government Law Center, will work with the police department to decide on a case-by-case basis, but allegations of excessive force and discrimination will automatically be investigated.

"A lot of people came to the board just wanting to find out why an officer treated them a certain way," said Sharmaine Mosaley, coordinator for the CPRB.

That's why Yulunda Redmond brought a complaint to the board last year. She was outraged after officers surrounded her and her 18-year-old daughter, guns drawn, as she pulled into an Albany parking lot. She and her daughter were handcuffed, their car searched, and Redmond says she was told to "shut up" when she protested.

Minutes earlier, a probation officer had mistaken an umbrella Redmond's son handed her for a gun.

Redmond alleged the officer acted improperly by being disrespectful. Her case is typical of what comes before the CPRB; rudeness and derogatory language accounts for about 20 percent of allegations.

Redmond told the board she wanted a meeting with the officer and her daughter in hopes he would apologize. At that time, the Albany police were experimenting with informal mediation, and she eventually got the chance to sit down with the officer. Redmond could not immediately be reached for comment.

"When the officer and Ms. Redmond got together they had a good meeting of the minds," said Chief Kroff. "It's a perfect example of how these things can work well."

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§ 42-332. Legislative findings; purpose.

A. The Common Council hereby finds and declares that abuse of authority, incivility, rudeness, prejudice or discrimination based upon race, gender, color, national origin, economic status, religion, age, sexual orientation, marital or domestic partner status, mental or physical ability has no place in the actions, customs, practices, policies or procedures of the City of Albany Police Department.

B. The Common Council further finds and declares that it is in the public interest of the citizens of the City of Albany to have an independent mechanism to fairly review the conduct of law enforcement officials.

C. The Common Council further finds and declares that the conduct of law enforcement officials is subject to public, departmental and executive scrutiny and accountability.

D. The Common Council further finds and declares that an effective program to improve the relationship between the community and the Albany Police Department requires certain independent authority and power to review the handling of citizen complaints of police misconduct.

E. The purpose of this Part 33 is to create an independent review body with respect to complaints of misconduct by officers of the Albany Police Department. The remedies created by this Part 33 are in addition to any others provided by common law or statute. Its goals are to improve communication between the Police Department and the community, to increase police accountability and credibility with the public and to create a complaint review process that is free from bias and informed of actual police practices.

§ 42-333. Definitions.

For purposes of this Part, the following words and phrases shall have the meaning described in this section:

CHIEF: The Chief of Police of the Albany Police Department.

COMPLAINT: A written statement concerning police conduct which is either submitted to the Citizens' Police Review Board for filing with the Albany Police Department or filed directly with the Albany Police Department.


MEDIATION: A structured dispute resolution process in which a neutral third party assists the disputants by facilitating a nonbinding intervention.
OFFICER: Any sworn police officer of the City of Albany Police Department affected by a citizen complaint.

PROFESSIONAL STANDARDS: The Professional Standards Unit of the City of Albany Police Department.

§ 42-334. CPRB establishment; appointment of members.

A. There is hereby established a Citizens' Police Review Board (CPRB) comprised of nine members, five of whom shall be appointed by the Common Council and four of whom shall be appointed by the Mayor.

B. Members shall be appointed for three-year terms; provided, however, that:

(1) Of members initially appointed by the Common Council: one shall be for a term of one year; two shall be for a term of two years; and two shall be for a term of three years.

(2) Of members initially appointed by the Mayor: one shall be for a term of one year; one shall be for a term of two years; and two shall be for a term of three years.

C. No member of the CPRB shall serve for a period which exceeds two full consecutive terms; provided, however, that a member may be considered for reappointment to the CPRB after one year of nonmembership.

D. Members shall continue to serve on the CPRB until their successors have been appointed.

E. Annually, the members of the CPRB shall elect from their membership a member to serve as chair.

§ 42-335. Removal of members; filling of vacancies.

CPRB members may be removed from the CPRB at any time for cause by a two-thirds' vote of the Common Council. Any vacancy occasioned by resignation, death or removal of a member shall be filled within 60 days in the same manner as the predecessor to fill the unexpired term.

§ 42-336. Qualifications of members.

Members of the CPRB shall reside in the City of Albany and possess a reputation for fairness, integrity and responsibility and have demonstrated an active interest in public affairs and service. The Common Council and the Mayor shall endeavor to reflect community diversity in their appointments, including income level, race, ethnicity, age, gender, sexual orientation and experience and shall, in their appointments, solicit recommendations from the community. Officers (as defined in the City of Albany Charter), current employees of the City of Albany and the immediate relatives of officers and employees shall not be eligible for appointment.

§ 42-337. Quorum.

Five members of the CPRB shall constitute a quorum. Five votes shall be required for any action.

The CPRB, with the advice and assistance of the Government Law Center, shall adopt and the Common Council shall approve, rules and bylaws for the transaction of CPRB affairs, including the manner of calling and giving notice of special meetings and the appointment and duties of any special committees.

§ 42-339. Training and orientation of members.

The Government Law Center shall coordinate and conduct training and orientation of CPRB members, and recommend for adoption by the Common Council written standards for orientation of appointees and continuing training of all CPRB members. Completion of the orientation program concerning the goals, powers and procedures of the CPRB is required before a member may participate as a voting member. In addition, graduation from the Albany Police Department's Citizens' Police Academy (the curriculum of which shall include training in the laws applicable to public record concerns, internal affairs investigations, confidentiality issues and liability statutes; training in police procedures; participation in ride-alongs; defensive tactics training; firearms familiarization; and emergency vehicle operations) within six months of the start of the member's term is required. Further, the Government Law Center shall provide to CPRB members and the members shall undergo, continuing education on issues related to the interaction between civilians and police officers from the perspectives of both the citizen and the police officer. Further, at least one member of the CPRB shall be designated to become a member of the National Association of Civilian Oversight of Law Enforcement, and at least one member shall attend its annual conference.

§ 42-340. Recommendations, reports, data collection and analysis.

A. The CPRB may make recommendations to the Common Council and the Mayor regarding police policies and practices relevant to the goals of community policing and the exercise of discretionary authority by police officers.

B. The Government Law Center shall submit an initial evaluation of the process provided for in this Part 33, one year after the establishment of the CPRB.

C. The Government Law Center, on behalf of the CPRB, shall file quarterly and annual reports with the Common Council and the Mayor which contain statistics and summaries of citizen complaints, including a comparison of the CPRB's findings with the final determinations of the Department. The Government Law Center shall contract with one or more local colleges, universities or research institutions to conduct surveys of complainants concerning the level of their satisfaction with the process and to conduct surveys of the community to get feedback concerning the CPRB and the Police Department. The results of those surveys shall be reported to the CPRB, the Chief and the Common Council. In addition, the Government Law Center shall collect data concerning alleged offenses and offenders and report this data to the Chief. The Chief shall analyze and use the data concerning repeat alleged offenses and offenders to implement an "early warning system" to track repeat alleged offenses and offenders reported to CPRB and the Police Department.
§ 42-341. Member responsibilities.

CPRB members shall:

A. Maintain absolute confidentiality with respect to confidential or privileged information they receive and maintain a thorough knowledge of the legal protection accorded to police records, including the penalties imposed for violations.

B. Obey all laws respecting individuals' rights of privacy and confidentiality of records.

C. Not remove any Police Department, Professional Standards, personnel or other confidential files, records or tapes from City offices.

D. Excuse themselves from participating in the review of any complaint in which they have a personal, professional or financial conflict of interest.

E. Conduct themselves at all times in a manner that will maintain public confidence in the fairness, impartiality and integrity of the CPRB and refrain from making any prejudicial comments with respect to the CPRB, complainants or police officers.

F. Participate in orientation and training programs in accordance with § 42-339 of this Part.

§ 42-342. Filing of complaints.

Complaints concerning police conduct shall be filed with the Police Department or submitted to the CPRB for filing with the Police Department as provided in this section. The CPRB may designate one or more locations for the submission of complaints for filing with the Police Department.

A. Complaints shall be lodged in writing using the City of Albany Police Department Citizen Complaint Form as approved by the CPRB for that purpose and shall be signed by the complainant. Complaint forms shall be printed in English and Spanish and shall be available at any City of Albany Police Department facility, the City Department of Administrative Services, the City Clerk's office and any other location designated by the CPRB.

B. A copy of each complaint submitted to the CPRB for filing with the Police Department shall be forwarded to the Police Department within two working days of its receipt; additionally, a copy of each complaint submitted to the Police Department (other than those submitted by the CPRB) shall be provided to the CPRB within two working days of receipt by the Department. Upon receiving a complaint, the CPRB shall notify the complainant of the City's mediation program established in accordance with § 42-346 of this Part 33.

C. Complaints shall be filed within six months of the date of the incident giving rise to the complaint. Complaints filed after six months of the alleged misconduct shall, however, be returned, or accepted and reviewed by the CPRB upon a majority vote of its members to do so. The complainant shall be notified by the Board of the decision as to whether the complaint be returned, or accepted and reviewed.
§ 42-343. Review of complaints.

Review of the complaint shall proceed as provided in this section.

A. Professional Standards shall investigate every complaint filed. The Chief shall file with the CPRB quarterly reports on the status of the investigation of each complaint.

B. In the event that a complaint alleges the use of excessive force or a violation of civil rights, the definition of which shall include complaints pertaining to sexual orientation, the CPRB shall appoint an individual to:

(1) Observe and monitor the Professional Standards investigation of such complaint from the outset of the investigation; and

(2) Report to the CPRB and the Chief as to the conduct of the investigation. Such report may recommend additional witnesses whose statements should be taken, additional questions which should be answered and additional documents or other evidence which should be reviewed. Such report may cite deficiencies, if any, in the investigation, including whether the number of witnesses questioned by Professional Standards, the scope of the questions asked of them and the review of documents or other evidence was sufficient. The individual shall be selected on a rotating basis from the panel of investigators established in accordance with Subsection H of this section.

C. Professional Standards, with the advice and assistance of the Government Law Center, shall develop procedures and practices for the conduct of investigations of complaints, including procedures and practices for briefing and communicating with the appointed individuals referenced in Subsection B of this section. The Government Law Center shall periodically review and make recommendations to Professional Standards with regard to such procedures and practices.

D. Professional Standards shall begin its investigation of each complaint immediately upon receipt of the complaint. If Professional Standards fails to conclude its investigation within 60 days of receipt of the complaint, it shall advise the CPRB in writing of the status of the investigation and the estimated time for the conclusion of the investigation. Thereafter, Professional Standards shall advise the CPRB in writing of the status of the investigation every 30 days until the conclusion of the investigation.

E. Within 10 working days of the conclusion of the Professional Standards investigation, the Chief of Police shall submit a preliminary report of the Department's findings to the CPRB.

F. After review and deliberation of the preliminary report of the Department's findings, the CPRB shall:

(1) Render its finding pursuant to § 42-344 of this Part 33; or

(2) Request that Professional Standards conduct further investigation of the complaint; or

(3) Obtain further case-specific information from the Chief, including written materials, audio or videotapes and related documents.
G. In the event that the CPRB is dissatisfied with the extent and/or the quality of the further investigation referenced in Subsection F(2) of this section, it shall promptly inform the Mayor and the Chief, in writing, of the specific deficiency in the investigation. At that point, the Mayor and the Chief shall be responsible for reviewing the investigation in full to gather whatever additional information may be necessary to meet the requirements of the CPRB. The Mayor and the Chief shall have three weeks to respond to the CPRB. Such process shall allow the full force and authority of the Office of the Mayor, including the ability to compel employee testimony, to be provided on behalf of the CPRB. The Mayor and the Chief shall have three weeks to respond to the CPRB.

H. In the event that the CPRB is dissatisfied with the extent and/or the quality of the Mayor's and the Chief's review of the investigation, it shall promptly inform the Common Council, in writing, of the specific deficiency in the investigation. In such event, the CPRB may seek authorization from the Common Council to conduct, on the Common Council's behalf, an investigation with the services of an outside independent investigator. The investigator shall be selected on a rotating basis from a panel of investigators comprised of certified investigators, attorneys, retired judges and the like who are recommended by the Government Law Center, and approved by the Common Council and the Mayor. The Government Law Center, the Common Council and the Mayor shall endeavor to reflect community diversity in this panel of investigators. The use of an outside independent investigator, however, shall be limited to complaints alleging use of excessive force or civil rights violations, the definition of which shall include complaints pertaining to sexual orientation. Outside independent investigators shall have access to the same information to which the CPRB shall have access. Furthermore, in the event that the CPRB is dissatisfied with the extent and/or the quality of the Mayor's and the Chief's review of the investigation of a complaint alleging the use of excessive force or the violation of civil rights, it may request that the Common Council use its subpoena power pursuant to Article 4, Section 407, of the City Charter to call witnesses and require the production of documents for purposes of the CPRB's review of the extent and quality of the investigation. The Common Council shall use its subpoena authority in a manner consistent with applicable legal requirements and appropriate safeguards for confidentiality and due process.

§ 42-344. Findings of the CPRB.

A. The CPRB, after review and deliberation of an investigation, shall, by majority vote, make one of the following findings on the case:

1) Sustained: where the review discloses sufficient facts to prove the allegations made in the complaint.

2) Not Sustained: where the review fails to disclose sufficient facts to prove or disprove the allegation made in the complaint.

3) Exonerated: where the acts which provide the basis for the complaint occurred, but the review shows that such acts were proper.

4) Unfounded: where the review shows that the act or acts complained of did not occur or were misconstrued.
(5) Ineffective Policy or Training: where the matter does not involve guilt or lack thereof, but rather ineffective departmental policy or training to address the situation.

(6) No Finding: where, for example, the complainant failed to produce information to further the investigation; or where the investigation revealed that another agency was responsible and the complaint or complainant has been referred to that agency; or where the complainant withdrew the complaint; or where the complainant is unavailable to clarify the complaint; or where the officer is no longer employed by the City.

B. If the CPRB fails to render a finding referenced above within 60 days of its receipt of the preliminary report of the Department's findings, the complaint file shall be returned to the Chief for disposition of the matter, unless the CPRB shall advise the Chief, the complainant and the affected officer in writing of the reason for the delay in rendering its finding. In such case, the CPRB shall provide the Chief, the complainant and the affected officer with monthly updates on the status of the complaint. In any event, if the CPRB fails to render a finding referenced above within 120 days of its receipt of the preliminary report of the Department's findings, the complaint file shall be returned to the Chief for disposition of the matter.

§ 42-345. Final determination.

At the conclusion of its review, the CPRB shall make its finding known to the Chief, the affected officer and the complainant within 30 days. The Chief of Police shall review the Department's preliminary report in light of the CPRB's finding and then make the Department's final determination known to the CPRB, the affected officer and the complainant. In the event that the Department's final determination is inconsistent with the CPRB's finding, the CPRB may request that the Chief provide a written explanation of the Department's final determination.

§ 42-346. Mediation process.

A. A mediation process shall be established and coordinated by the Government Law Center in accordance with this section.

B. Mediation shall be conducted at no cost to the complainant or officer by highly trained and experienced mediators selected from a list compiled by the Government Law Center and approved by the Common Council and the Mayor. The Government Law Center, the Common Council and the Mayor shall endeavor to reflect community diversity in this list of mediators. The Government Law Center shall develop an appropriate training curriculum which each mediator shall be required to complete. Each mediator shall be a graduate of the Albany Police Department's Citizens' Police Academy. In addition, the Government Law Center shall provide to the mediators, and the mediators shall undergo, continuing education on issues related to the interaction between civilians and police officers from the perspectives of both the citizen and the police officer.

C. Upon receipt of a citizen complaint, unless the case involves an allegation of excessive force, an alleged violation of civil rights or an allegation of criminal conduct against an officer, or the complaint is a result of an incident that involves an arrest, or if there was an injury to either party, or if there was property damage by an officer, the complaint will be considered appropriate for mediation.
D. An eligible complaint shall be reviewed for potential recommendation for mediation by the Board and by the Chief or his designee. Five members of the Board will be contacted by the Government Law Center and a decision made as to appropriateness for mediation by a majority of those five members. A decision regarding mediation shall be made within two business days by both the Board and the Chief. If either the Board or the Chief finds a complaint inappropriate for mediation, then the matter shall be referred to OPS for investigation consistent with this article.

E. If the Board and the Chief recommend a complaint for mediation, both the complainant and the officer will have the option of electing to continue with the mediation process. If either party declines mediation then the matter shall be referred to OPS for investigation consistent with this article.

F. If the parties agree to mediate, then the complaint will not be investigated by the Police Department regardless of the outcome of the mediation.

G. If the parties agree to mediate, the process shall follow the Mediation Protocols adopted by the Board.

H. Every reasonable effort shall be made to schedule mediation during an officer's normal working hours.

I. Mediators shall conduct mediation sessions with officers and complainants at times and places agreed upon by the parties.

J. In conducting the mediation, the mediators may not impose an outcome on the parties.

K. Mediation sessions shall be closed to the public. Matters discussed shall be confidential.

L. Statements and records disclosed during mediation may not be disclosed or introduced in evidence during any judicial or administrative proceeding, and mediators may not be compelled by a subpoena to give testimony or produce anything related to the mediation.

M. Upon the completion of the mediation process, the CPRB shall issue a finding of "Mediated," and the allegations shall be deleted from the officer's CPRB history.

§ 42-347. Meetings.

A. The CPRB shall hold its first meeting within 30 days after a quorum of its members has completed the orientation program. At that meeting, the CPRB shall fix the time and place for its regularly scheduled meetings.

B. The CPRB may conduct both public and closed meetings as allowed or required by the Open Meetings Law.

C. The Chief shall designate a representative from Professional Standards to attend meetings of the CPRB and to provide information and advice to the CPRB. The representative shall not be viewed as a member of the CPRB.
D. Officers and complainants may attend meetings of the CPRB.

E. The Government Law Center shall provide all staff services to the CPRB, including the maintenance of CPRB files and records. Furthermore, the Government Law Center shall be responsible for the preparation of CPRB reports and review findings and recommendations referenced in this Part.

§ 42-348. Suspension of proceedings.

Upon the written recommendation of the Corporation Counsel, the Common Council or the Mayor may suspend the CPRB review of any complaint where a separate criminal investigation is under way or where a civil action against the City is under way or pending. Upon the conclusion of such separate proceedings, the CPRB may resume or undertake its review.

§ 42-349. Information sharing.

The CPRB shall forward in writing to the Chief any new case-specific information it obtains during the course of an investigation concerning an incident or practice subject to a citizen complaint. Similarly, during the course of a CPRB review, the Chief shall forward to the CPRB in writing any new case-specific information the Chief obtains after the conclusion of the Professional Standards investigation and the submission of the Department’s preliminary report to the CPRB referenced in § 42-343 of this Part concerning an incident or police practice subject to a citizen complaint.


The CPRB, with the assistance of the Government Law Center, shall inform the public about the CPRB and its duties. It shall develop and administer an ongoing program for the education of the public as to the mission and purposes of the CPRB process and the law established by this Part, which shall include the use of informational pamphlets and seminars.

§ 42-351. Construction of Part.

The purposes of this Part favor resolution of ambiguity toward the goal of promoting public documentation and openness in the resolution of complaints of misconduct by police officers. This Part shall be deemed to supersede and repeal any and all provisions of local laws or local administrative orders which are inconsistent or conflict with any provisions of this Part. No report, finding or determination made pursuant to this Part shall in any way conflict with or abridge the rights of complainants or officers guaranteed by the United States Constitution, the New York State Constitution or any federal or state law, rule, regulation or administrative order.

§ 42-352. Severability.

If any clause, sentence, paragraph, sections or part of this Part shall be adjudged by any court of competent jurisdiction to be invalid or otherwise unenforceable, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, sections or part thereof directly involved in the controversy in which such judgment shall have been rendered.
Overview
The Inspector General (IG) for the New York City Police Department is a unit of DOI that operates independently of the NYPD. Pursuant to DOI's Charter powers, the IG is charged with investigating corruption, fraud, waste and abuse in the NYPD. In 2013, the City Council – pursuant to Local Law 70 – expanded these duties to further require the IG to investigate, review, study, audit and make recommendations relating to the operations, policies, programs and practices of NYPD, with the goal of enhancing the effectiveness of NYPD, increasing public safety, protecting civil liberties and civil rights, and increasing the public's confidence in the police force.

To carry out that mandate, the DOI Commissioner established the IG for the NYPD, which consists of approximately 40 investigators, attorneys, policy analysts, data analysts, auditors, and support staff. The DOI Commissioner has appointed an Inspector General to lead this team. The IG's office conducts outreach to New York City's communities, performs sophisticated data analysis to identify patterns and trends with respect to policing, and manages on-the-ground investigations that gather facts for IG reports and recommendations. NYPD is legally required to respond to IG's recommendations within 90 days. NYPD's responses are publicly available on this website.
Local Law 70
In addition to the responsibilities of all DOI Inspectors General, Local Law 70 requires additional oversight and reporting. Enacted in 2013 in response to the NYPD’s then widely cited overuse of certain tactics that adversely affected police-community relations, the Law mandated the DOI Commissioner to establish oversight of NYPD. As part of that mandate, DOI created the OIG-NYPD in 2014. The law directs the Commissioner of the Department of Investigation “to investigate, review, study, audit and make recommendations relating to the operations, policies, programs and practices, including ongoing partnerships with other law enforcement agencies, of the New York City Police Department, with the goal of enhancing the effectiveness of the department, increasing public safety, protecting civil liberties and civil rights and increasing the public’s confidence in the police force, thus building stronger police-community relations.”

Frequently Asked Questions
What is DOI’s Office of the Inspector General for the NYPD (OIG-NYPD)?
The office of the Inspector General for the New York City Police Department (OIG-NYPD) is a DOI squad that operates independently of the NYPD. Pursuant to DOI’s Charter powers, OIG-NYPD is charged with investigating corruption, fraud, waste and abuse in the NYPD. In 2013, the City Council – pursuant to Local Law 70 – expanded these duties to further require the OIG-NYPD to investigate, review, study, audit and make recommendations relating to the operations, policies, programs and practices of NYPD, with the goal of enhancing the effectiveness of NYPD, increasing public safety, protecting civil liberties and civil rights, and increasing the public’s confidence in the police force.

Is the Office of the Inspector General for the NYPD (OIG-NYPD) part of the New York City Police Department?
No, OIG-NYPD is not part of the New York City Police Department (NYPD) and operates independently from the NYPD. Rather, the Inspector General for the NYPD is an inspector general within the Department of Investigation (DOI).

Who is the Inspector General for the NYPD?
The Inspector General for the NYPD is Philip K. Eure, who was appointed by DOI Commissioner Mark G. Peters. In 2014, Mr. Eure was previously Executive Director of the District of Columbia’s Office of Police Complaints, a police accountability agency that he developed and led from 2000 through 2014. Prior to that, Mr. Eure served for more than a decade in the U.S. Department of Justice’s Civil Rights Division. He has also served as President of the National Association for Civilian Oversight of Law Enforcement (NACOLE), a non-profit organization of law enforcement oversight agencies and practitioners that works to enhance accountability and transparency in policing and build community trust through police oversight.
What types of issues does OIG-NYPD review and investigate?
As with all inspectors general at DOI, OIG-NYPD has a broad mandate to investigate corruption, waste, fraud and abuse within the NYPD. Further, pursuant to Local Law 70 of 2013, OIG-NYPD reviews and makes and make recommendations relating to the "operations, policies, programs and practices" of the NYPD, including issues related to civil rights and police community violations. Thus, OIG-NYPD is empowered to look at a wide variety of policing issues, including, for example: use of force; surveillance and intelligence activities; instances of alleged bias; officer training; technology; response to political protests; and interactions with people with mental illness. DOI’s OIG-NYPD largely focuses on systemic issues relating to the operations, policies, programs, and practices of the NYPD. OIG-NYPD sets its priorities based on a review and analysis of the facts — including data received from NYPD, and concerns raised by members of the community, including through OIG-NYPD’s complaint intake — to detect patterns and identify issues where a deep-dive investigation is likely to lead to workable real-world policing solutions.

Does OIG-NYPD investigate individual allegations of police misconduct?
Pursuant to the City Charter, DOI is authorized to investigate all matters involving misconduct by City employees. DOI is also authorized to refer matters involving potential criminal conduct to relevant prosecutors' offices and instances of potential conflicts of interest or unethical conduct to New York City's Conflicts of Interest Board (COIB). OIG-NYPD was not established to replicate the investigative functions of the Civilian Complaint Review Board (CCRB) or NYPD's Internal Affairs Bureau. Instead, DOI’s OIG-NYPD largely focuses on patterns and trends related to the operations, policies, programs, and practices of the NYPD.

How is OIG-NYPD different from the Civilian Complaint Review Board?
The Civilian Complaint Review Board (CCRB) is a City agency, in existence since 1993, where members of the public can file complaints alleging police misconduct against individual officers. The CCRB is independent from NYPD and handles complaints about four types of alleged police misconduct:

Excessive or Unnecessary Use of Force
Abuse of Authority
Discourtesy
Offensive Language

The CCRB is charged with receiving, investigating, mediating, hearing, making findings and recommending action on such misconduct complaints. The CCRB forwards its findings to the Police Commissioner. CCRB is comprised of a 13-member board composed of members of the public, an executive director who manages the agency's daily operations, and a staff of more than 160 investigators, attorneys and support staff.

While OIG-NYPD receives and investigates complaints from members of the public alleging individual instances of police misconduct, OIG-NYPD was not designed to replicate the CCRB and can refer individual complaints to the CCRB.
Can I file a complaint with OIG-NYPD?
Yes, members of the public may report any complaints or concerns regarding the New York City Police Department's (NYPD) operations, policies, programs and practices to DOI's OIG-NYPD. DOI accepts complaints via letter, telephone, walk-in, and online complaint forms.

OIG-NYPD can be contacted at:

Office of the Inspector General for the New York City Police Department
New York City Department of Investigation
80 Maiden Lane
New York, NY 10038
Telephone: (212) 806-5200

Members of the public are not required to provide personally identifying information when communicating with DOI and may submit a complaint anonymously. However, it will be harder to investigate and clarify the concerns addressed in the complaint without having a way to reach the complainant. Individuals who are concerned about retaliation for filing complaints may be protected by law. For more information about the New York City whistleblower law, please click here to read about Whistleblower Protection.

How can I learn about the findings and recommendations issued by DOI's OIG-NYPD?
DOI’s OIG-NYPD is required by statute to furnish its reports to the Mayor, the City Council and the Police Commissioner. In addition, OIG-NYPD posts its reports and NYPD’s statutorily-mandated responses to these reports for the public on this website here.

Is OIG-NYPD part of the Floyd case dealing with the issue of stop and frisk?
No. In the legal case of Floyd et al. v. City of New York et al., No. 08 Civ. 1034, and the companion case of Ligon v. City of New York, No. 12 Civ. 2274, the Court appointed an independent monitor to ensure that NYPD carries out certain reforms recommended by the Court with respect to the stop and frisk policies and practices at issue in the Floyd case. The Floyd monitor serves at the direction of the Court and for a limited term, conditioned upon the City's substantial compliance with Court-ordered injunctive relief in connection with the two cases. The monitor’s website is www.nypdmonitor.org.

I would like to work for DOI's OIG-NYPD. How do I apply for a position?
For information on current career opportunities with OIG-NYPD, please see the Career Opportunities page.
LOCAL LAWS
OF
THE CITY OF NEW YORK
FOR THE YEAR 2013

No. 70

Introduced by Council Members Williams, Lander, the Speaker (Council Member Quinn),
Mark-Viverito, Mendez, Cabrera, Jackson, Arroyo, Barron, Brewer, Chin, Comrie, Dickens,
Dromm, Ferreras, Foster, Garodnick, James, King, Koppell, Lappin, Levin, Palma, Reyna,
Richards, Rodriguez, Rose, Van Bramer, Vann, Weprin, Wills, Mealy, Eugene, Koslowitz,
Gonzalez, the Public Advocate (Mr. de Blasio), Greenfield and Halloran.

A LOCAL LAW

To amend the New York city charter, in relation to the investigating, reviewing, studying,
and auditing of and making of recommendations relating to the operations, policies,
programs and practices of the new york city police department by the commissioner of
the department of investigation.

Be it enacted by the Council as follows:

Section 1. Section 803 of chapter 34 of the New York city charter is amended by adding a
new subdivision c, relettering current subdivisions c through e as new subdivisions d through f,
and amending relettered subdivision d to read as follows:

   c. 1. The commissioner shall, on an ongoing basis, investigate, review, study, audit and
make recommendations relating to the operations, policies, programs and practices, including
ongoing partnerships with other law enforcement agencies, of the new york city police department
with the goal of enhancing the effectiveness of the department, increasing public safety, protecting
civil liberties and civil rights, and increasing the public’s confidence in the police force, thus
building stronger police-community relations.

   2. Not later than ninety days after the effective date of the local law that added this
subdivision, the commissioner shall report to the council regarding the identity and qualifications
of the individual responsible for overseeing the implementation of the duties described in paragraph 1 of this subdivision, the number of personnel assigned to assist that individual, and the details of the management structure covering them. Upon removal or replacement of the individual responsible for overseeing the implementation of the duties described in paragraph 1 of this subdivision, notification of that removal or replacement, and the identity and qualifications of the new individual responsible for overseeing the implementation of the duties described in paragraph 1 of this subdivision, shall be provided to the council.

3. The Mayor, in consultation with the department and the new york city police department, shall have the discretion to determine how sensitive information provided to the department in connection with any investigation, review, study, or audit undertaken pursuant to this section shall be treated. The Mayor shall provide the Council with any guidelines, procedures, protocols or similar measures related to the treatment of sensitive information that he or she puts in place. Sensitive information shall mean information concerning (a) ongoing civil or criminal investigations or proceedings; (b) undercover operations; (c) the identity of confidential sources, including protected witnesses; (d) intelligence or counterintelligence matters; or (e) other matters the disclosure of which would constitute a serious threat to national security or to the safety of the people of the city of New York.

4. The executive director of the civilian complaint review board and the chief of the new york city police department’s internal affairs bureau shall report to the commissioner any problems and deficiencies relating to the new york city police department’s operations, policies, programs and practices that he or she has reason to believe would adversely affect the effectiveness of the department, public safety, the exercise of civil liberties and civil rights, or the public’s confidence in the police force, and that would be relevant to the duties of the
commissioner as described in paragraph 1 of this subdivision.

5. No officer or employee of an agency of the city shall take any adverse personnel action with respect to another officer or employee in retaliation for his or her making a complaint to, disclosing information to, or responding to queries from the commissioner pursuant to activities undertaken under paragraph 1 of this subdivision unless the complaint was made or the information was disclosed with the knowledge that it was false or with willful disregard for its truth or falsity. Any officer or employee who believes he or she has been retaliated against for making such complaint to, disclosing such information to, or responding to such queries from the commissioner may report such action to the commissioner as provided for in subdivision c of section 12-113 of the administrative code.

6. The department's website shall provide a link for individuals to report any problems and deficiencies relating to the new york city police department's operations, policies, programs and practices. Individuals making such reports shall not be required to provide personally identifying information.

[a][c]. 1. For any investigation made pursuant to subdivision a or b of this section, the commissioner shall prepare a written report or statement of findings and shall forward a copy of such report or statement to the requesting party, if any. In the event that [the] any matter investigated, reviewed, studied, or audited pursuant to this section involves or may involve allegations of criminal conduct, the commissioner, upon completion of the investigation, review, study, or audit, shall also forward a copy of his or her written report or statement of findings to the appropriate prosecuting attorney, or, in the event the matter investigated, reviewed, studied, or audited involves or may involve a conflict of interest or unethical conduct, to the conflicts of interest board[ of ethics].
2. For any investigation, review, study, or audit made pursuant to paragraph one of subdivision c of this section, the commissioner shall prepare a written report or statement of findings and shall forward a copy of such report or statement to the mayor, the council, and the police commissioner upon completion. Within ninety days of receiving such report or statement, the police commissioner shall provide a written response to the commissioner, the mayor, and the council. Each such written report or statement, along with a summary of its findings, as well as the reports described in paragraph 3 of this subdivision, shall be posted on the department's website in a format that is searchable and downloadable and that facilitates printing no later than ten days after it is delivered to the mayor, the council, and the police department. All such reports, statements, and summaries so posted on the department's website shall be made easily accessible from a direct link on the homepage of the website of the department.

3. In addition to the reports and statements of findings to be delivered to the mayor, the council, and the police commissioner pursuant to paragraph 2 of this subdivision, there shall be an annual summary report on the activities undertaken pursuant to paragraph 1 of subdivision c of this section containing the following information: (a) a description of all significant findings from the investigations, reviews, studies, and audits conducted in the preceding year; (b) a description of the recommendations for corrective action made in the preceding year; (c) an identification of each recommendation described in previous annual reports on which corrective action has not been implemented or completed; and (d) the number of open investigations, reviews, studies, or audits that have been open, as of the close of the preceding calendar year, for a time period of 1) six months up to and including one year, 2) more than one year up to and including two years, 3) more than two years up to and including three years, and 4) more than three years. The annual summary report required by this paragraph shall be completed and delivered to the mayor, the
council, and the police commissioner on April 1, 2015 and every April 1 thereafter.

e[d]. The jurisdiction of the commissioner shall extend to any agency, officer, or employee
of the city, or any person or entity doing business with the city, or any person or entity who is paid
or receives money from or through the city or any agency of the city.

f[e]. The commissioner shall forward to the council and to the mayor a copy of all reports
and standards prepared by the corruption prevention and management review bureau, upon
issuance by the commissioner.

§ 2. Section 804 of chapter 34 of the New York City charter is amended to read as follows:

§ 804. Complaint bureau. There shall be a complaint bureau in the department which
shall receive complaints from the public, including, but not limited to, complaints about any
problems and deficiencies relating to the new york city police department’s operations, policies,
programs and practices.

§ 3. This local law shall take effect on January 1, 2014.

THE CITY OF NEW YORK, OFFICE OF THE CITY CLERK, s.s.:

I hereby certify that the foregoing is a true copy of a local law of The City of New York, passed by
the Council on June 26, 2013, disapproved by the Mayor on July 23, 2013 and repassed by the Council on
August 22, 2013 and said law is adopted notwithstanding the objection of the Mayor.

MICHAEL M. McSWEENEY, City Clerk Clerk of the Council.

CERTIFICATION OF CORPORATION COUNSEL.

I hereby certify that the form of the enclosed local law (Local Law No. 70 of 2013, Council Int No. 1079 of
2013) to be filed with the Secretary of State contains the correct text of the local law passed by the New York City
Council, disapproved by the Mayor and repassed by the City Council.

JEFFREY D. FRIEDLANDER, Acting Corporation Counsel.
§ 803. **Powers and duties.**

a. The commissioner shall make any investigation directed by the mayor or the council.

b. The commissioner is authorized and empowered to make any study or investigation which in his opinion may be in the best interests of the city, including but not limited to investigations of the affairs, functions, accounts, methods, personnel or efficiency of any agency.

c. 1. The commissioner shall, on an ongoing basis, investigate, review, study, audit and make recommendations relating to the operations, policies, programs and practices, including ongoing partnerships with other law enforcement agencies, of the New York city police department with the goal of enhancing the effectiveness of the department, increasing public safety, protecting civil liberties and civil rights, and increasing the public's confidence in the police force, thus building stronger police-community relations.

2. Not later than ninety days after the effective date of the local law that added this subdivision, the commissioner shall report to the council regarding the identity and qualifications of the individual responsible for overseeing the implementation of the duties described in paragraph 1 of this subdivision, the number of personnel assigned to assist that individual, and the details of the management structure covering them. Upon removal or replacement of the individual responsible for overseeing the implementation of the duties described in paragraph 1 of this subdivision, notification of that removal or replacement, and the identity and qualifications of the new individual responsible for overseeing the implementation of the duties described in paragraph 1 of this subdivision, shall be provided to the council.
3. The Mayor, in consultation with the department and the New York city police department, shall have the discretion to determine how sensitive information provided to the department in connection with any investigation, review, study, or audit undertaken pursuant to this section shall be treated. The Mayor shall provide the Council with any guidelines, procedures, protocols or similar measures related to the treatment of sensitive information that he or she puts in place. Sensitive information shall mean information concerning (a) ongoing civil or criminal investigations or proceedings; (b) undercover operations; (c) the identity of confidential sources, including protected witnesses; (d) intelligence or counterintelligence matters; or (e) other matters the disclosure of which would constitute a serious threat to national security or to the safety of the people of the city of New York.

4. The executive director of the civilian complaint review board and the chief of the New York city police department's internal affairs bureau shall report to the commissioner any problems and deficiencies relating to the New York city police department's operations, policies, programs and practices that he or she has reason to believe would adversely affect the effectiveness of the department, public safety, the exercise of civil liberties and civil rights, or the public's confidence in the police force, and that would be relevant to the duties of the commissioner as described in paragraph 1 of this subdivision.

5. No officer or employee of an agency of the city shall take any adverse personnel action with respect to another officer or employee in retaliation for his or her making a complaint to, disclosing information to, or responding to queries from the commissioner pursuant to activities undertaken under paragraph 1 of this subdivision unless the complaint was made or the information was disclosed with the knowledge that it was false or with willful disregard for its truth or falsity. Any officer or employee who believes he or she has been retaliated against for making such complaint to, disclosing such information to, or responding to such queries from the commissioner may report such action to the commissioner as provided for in subdivision c of section 12-113 of the administrative code.
6. The department's website shall provide a link for individuals to report any problems and deficiencies relating to the New York city police department's operations, policies, programs and practices. Individuals making such reports shall not be required to provide personally identifying information.

d. 1. For any investigation made pursuant to subdivision a or b of this section, the commissioner shall prepare a written report or statement of findings and shall forward a copy of such report or statement to the requesting party, if any. In the event that any matter investigated, reviewed, studied, or audited pursuant to this section involves or may involve allegations of criminal conduct, the commissioner, upon completion of the investigation, review, study, or audit, shall also forward a copy of his or her written report or statement of findings to the appropriate prosecuting attorney, or, in the event the matter investigated, reviewed, studied, or audited involves or may involve a conflict of interest or unethical conduct, to the conflicts of interest board.

2. For any investigation, review, study, or audit made pursuant to paragraph one of subdivision c of this section, the commissioner shall prepare a written report or statement of findings and shall forward a copy of such report or statement to the mayor, the council, and the police commissioner upon completion. Within ninety days of receiving such report or statement, the police commissioner shall provide a written response to the commissioner, the mayor, and the council. Each such written report or statement, along with a summary of its findings, as well as the reports described in paragraph 3 of this subdivision, shall be posted on the department's website in a format that is searchable and downloadable and that facilitates printing no later than ten days after it is delivered to the mayor, the council, and the police department. All such reports, statements, and summaries so posted on the department's website shall be made easily accessible from a direct link on the homepage of the website of the department.
3. In addition to the reports and statements of findings to be delivered to the mayor, the council, and the police commissioner pursuant to paragraph 2 of this subdivision, there shall be an annual summary report on the activities undertaken pursuant to paragraph 1 of subdivision c of this section containing the following information: (a) a description of all significant findings from the investigations, reviews, studies, and audits conducted in the preceding year; (b) a description of the recommendations for corrective action made in the preceding year; (c) an identification of each recommendation described in previous annual reports on which corrective action has not been implemented or completed; and (d) the number of open investigations, reviews, studies, or audits that have been open, as of the close of the preceding calendar year, for a time period of 1) six months up to and including one year, 2) more than one year up to and including two years, 3) more than two years up to and including three years, and 4) more than three years. The annual summary report required by this paragraph shall be completed and delivered to the mayor, the council, and the police commissioner on April 1, 2015 and every April 1 thereafter.

e. The jurisdiction of the commissioner shall extend to any agency, officer, or employee of the city, or any person or entity doing business with the city, or any person or entity who is paid or receives money from or through the city or any agency of the city.

f. The commissioner shall forward to the council and to the mayor a copy of all reports and standards prepared by the corruption prevention and management review bureau, upon issuance by the commissioner.

§ 803. Complaint bureau. There shall be a complaint bureau in the department which shall receive complaints from the public, including, but not limited to, complaints about any problems and deficiencies relating to the new york city police department's operations, policies, programs and practices.
**Protects Civil Rights**
Civilian oversight is a developing area of civil rights protection. Oversight practitioners are at the forefront of investigating, reviewing, and auditing individual cases or patterns of potential civil rights violations in areas such as racial profiling, biased policing, the use of deadly force, illegal searches, excessive force, and unlawful arrests.

**Supports Effective Policing**
Mutual trust and respect between police and communities are critical to effective law enforcement. Civilian oversight increases public trust in police by ensuring the public that investigations have been done fairly, thoroughly, and objectively. This improved trust leads to greater public cooperation with law enforcement, and in turn, improves public safety.

**Ensures Greater Accountability**
One of the primary goals of civilian oversight is to advance fair and professional law enforcement that is responsive to community needs. This is accomplished, in large part, by promoting constitutional policing. Oversight focuses on assessing officer and departmental compliance with local policies as well as state and federal law, and institutionalizing and preserving important reforms. It also aids in evaluating the integrity and effectiveness of internal police accountability systems.

**Builds Bridges**
Effective policing must be responsive to community standards, values, and needs. Civilian oversight builds bridges between communities and the police forces that serve them by communicating and cooperating with community and civic leaders before and after major incidents; by assuring the public that investigations of police misconduct have been completed fairly, thoroughly, and objectively; and by conducting independent investigations and reviews to ensure constitutional policing practices. Civilian oversight further acts as a bridge by conveying the concerns and needs of the community to the police, and reporting to the community how the police are performing, which allows the public to trust the police department and its officers and to view them as honest, reliable, and trustworthy.

**Helps Manage Risk**
Civilian oversight is critical to managing a municipality's exposure to risk from lawsuits claiming unlawful actions by individual officers or departmental failures to supervise or train officers. Oversight accomplishes this by ensuring that individual officers who engage in misconduct are effectively investigated and disciplined; by evaluating and proposing improvements to police management and supervision and training; and by reporting publicly on a department's progress in implementing such improvements.

**Increases Confidence in Police**
Civilian oversight works to increase public trust and confidence in the police. By conducting independent reviews and audits of police policies and practices, and by ensuring that investigations of police misconduct or uses of force are handled fairly and objectively, oversight helps a community to trust that issues are resolved in a way that maximizes the public interest. This trust translates to higher confidence in a police force, and greater cooperation in a department's efforts to prevent and solve crimes.
About the Inspector General

The Inspector General for the NYPD is Philip K. Eure. Prior to his appointment by the DOI Commissioner in 2014, Mr. Eure was the Executive Director of the District of Columbia's Office of Police Complaints for nearly 14 years, establishing that agency as a model police oversight body.

A nationally recognized expert in police oversight, Mr. Eure has served as President of the National Association for Civilian Oversight of Law Enforcement (NACOLE), a non-profit organization that works to enhance accountability and transparency in policing and build community trust through independent police review. He is a frequent panelist and presenter on police oversight issues in the United States and internationally.

Contact Us

Office of the Inspector General for the NYPD
(212) 806-5200
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DOI's Office of the Inspector General for the NYPD is an independent office charged with investigating, reviewing, studying, auditing, and making recommendations relating to the operations, policies, programs, and practices of the New York City Police Department (NYPD).

OIG-NYPD is independent of the NYPD and part of the New York City Department of Investigation (DOI).
Our Mission

The Office's central mission is to gather and review facts and data, identify broad-based systemic issues relating to NYPD, and develop practical and effective recommendations for resolving those issues.

Our Work

OIG-NYPD examines NYPD's practices comprehensively — identifying areas of concern and proposing reforms that add to the ongoing efforts to improve the efficiency and effectiveness of NYPD and build a stronger relationship between New Yorkers and their police force.

The Office has issued reports examining the use of chokeholds, the analysis of data derived from litigation involving police officers, and a review of the NYPD's pilot body camera program.

OIG-NYPD posts reports on its website, nyc.gov/oignypd, for the public to download and access.

Our Team

The Office consists of more than 40 investigators, attorneys, policy analysts, data analysts, auditors, community outreach personnel, and support staff.

The Investigations Unit and the Policy Analysis and Evaluations Unit are the two largest teams and reflect a range of experiences, including investigators, police detectives, academics, criminal justice researchers, civil rights and community advocates.

OIG-NYPD also conducts outreach to New York City's communities and solicits input from the public.

OIG-NYPD was created by Local Law 70, which the New York City Council adopted in August 2013.

OIG-NYPD is authorized to "...investigate, review, study, audit and make recommendations relating to the operations, policies, programs and practices, including ongoing partnerships with other law enforcement agencies, of the New York City Police Department with the goal of enhancing the effectiveness of the department, increasing public safety, protecting civil liberties and civil rights, and increasing the public's confidence in the police force, thus building stronger police-community relations."

OIG-NYPD is part of the New York City Department of Investigation (DOI) and independent of NYPD.
CIVILIAN OVERSIGHT OF LAW ENFORCEMENT

A REVIEW OF THE STRENGTHS AND WEAKNESSES OF VARIOUS MODELS

Joseph De Angelis | Richard Rosenthal | Brian Buchner
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Introduction and Overview

Over the last several decades, issues of trust and accountability have moved to the forefront of community-police relations, and a great deal of scholarship has been devoted to enhancing police performance including strengthening police accountability and oversight functions. During this same period, the creation of organizational mechanisms for reviewing and improving officer conduct has also increased (Walker 2001; Ferdik et al. 2013; Alpert et al. 2016).

One such mechanism for increasing accountability is civilian oversight of law enforcement. Sometimes referred to as citizen oversight, civilian review, external review and citizen review boards (Alpert et al. 2016), this accountability tool utilizes citizens (non-sworn officers) to review police conduct. In some jurisdictions, this is accomplished by allowing oversight practitioners (both paid and volunteer) to review, audit or monitor complaint investigations conducted by police internal affairs investigators. In other jurisdictions, this is done by allowing civilians to conduct independent investigations of allegations of misconduct against sworn officers. Civilian oversight can also be accomplished through the creation of mechanisms to authorize review and comment on police policies, practices, training and systemic conduct. Some oversight mechanisms involve a combination of systemic analysis and complaint handling or review.

Figure 1: Five Common Goals of Civilian Oversight Programs*

The goal of this publication is to provide an overview of civilian oversight models and a discussion of the strengths and challenges of each model. This report draws from available research as well as data collected from 97 police oversight agencies. This report is designed to help local policy makers, police executives and members of the local community explore key issues that can accompany the implementation and sustainability of civilian oversight of law enforcement at the municipal and county levels.

This report:

1. Provides a brief history of civilian oversight
2. Reviews contemporary models of civilian oversight
3. Details three different models of oversight: investigation-focused models, review-focused models and auditor/monitor-focused models
4. Presents considerations for implementing or reforming a civilian oversight program

brief history of civilian oversight

The history of civilian oversight in the United States can be broken down into several distinct waves of development (Walker 2001; 2006).1

Figure 2: Waves of Development of Civilian Oversight in the United States

1 See Walker’s (2001; 2006) work for a more detailed historical review of the key stages in the development of civilian oversight. Bobb (2003), Ferdik et al. (2013) and Alpert et al. (2016) also provide useful historical descriptions of the evolution of civilian oversight in the United States.

*Based on data collected from 97 civilian oversight programs
Early Efforts at Establishing Civilian Oversight, 1920s-1960s.

Modern forms of civilian oversight began to emerge in several large cities in the middle of the 20th century. These early agencies were organized around volunteer review boards that played a role in receiving complaints and reviewing completed internal police investigations of community complaints filed against officers (Hudson 1971; Terrill 1988; Walker 2001; Walker 2006). Early review boards were implemented in Washington, D.C., Philadelphia and New York City. Overall, these early efforts shared several key, common characteristics. First, the implementation of each of these oversight mechanisms in the middle of the 20th century was strongly influenced by the early civil rights movement and local crises resulting from police uses of force in communities of color (Walker 2001). Second, these early oversight agencies were designed around a civilian review board model—that is, they were largely composed of volunteer members with relatively little expertise in police issues, had small or non-existent budgets and little staff support (Jones 1994; Walker 2001). Third, these agencies all encountered significant resistance from police unions, local politicians and policy makers, which ultimately resulted in their dissolution (Bayley 1991; Walker 2001; Walker 2006).

Emergence of Investigative Models of Civilian Oversight, 1970s-1980s.

Although all of the oversight agencies implemented during the first wave ultimately failed, a second wave of development began in the late 1960s and carried through to the 1980s (Walker 2001; Walker 2006; Alpert et al. 2016). Oversight agencies implemented in the second wave had enhanced resources, greater durability and expanded organizational authority (Walker 2006). For example, a number of oversight agencies created in the second wave were granted the power to conduct investigations that were entirely independent of the police. In Berkeley, California in 1973, a city ordinance created the Police Review Commission (PRC) and granted it the ability to independently investigate complaints filed by members of the public against police officers (Walker 2001). Nearly ten years later, in 1982, an amendment to the City Charter created the Office of Citizen Complaints in San Francisco, California. The Office of Citizen Complaints completely replaced the police internal affairs function in relation to citizen complaints and was granted the authority to both receive and investigate all citizen complaints (the police department continued to investigate internally-generated complaints against officers) (Walker 2001; Ferdik et al. 2013). Many of the agencies created in this second wave of development are still in operation today.

Emergence of Auditor, Monitor and Hybrid Models of Civilian Oversight, 1990s-Present.

A third wave of development began in the 1990s and continues even today. During this period there was a rapid expansion of the number of police oversight agencies in the United States. If the first wave of oversight agencies was marked by review boards, and the second wave was characterized by the development of fully independent investigative oversight agencies, the third wave saw the emergence of a new model of oversight—the auditor/monitor model (Bobb 2003; Walker 2006). The first auditor-focused oversight agency was implemented in 1993 in San Jose, California and was followed a short time later by the Seattle Police Auditor (Walker 2006; Ferdik et al. 2013). Unlike earlier models of oversight that tended to focus on either reviewing or investigating individual complaints, these auditor/monitor agencies had the mandate to examine systemic patterns in complaints, critical incidents, or other types of police officer conduct. These auditor/monitor agencies were granted the authority to conduct broad evaluations so they could offer data-driven recommendations for improving police policies, practices and training (Walker and Archbold 2014).

By the late 1990s and early 2000s, the United States also began to see the development of a new generation of hybridized forms of civilian oversight, which often emerged as replacements for earlier civilian review boards. For example, the Independent Police Review Division (IPR) was implemented in Portland, Oregon in 2001 and was consciously designed to draw its organizational structure from different models of oversight (c.f. Office of the City Auditor 2001). Similar hybridized auditor/monitor oversight agencies were also implemented in other large cities, including Denver (2005) and New Orleans (2009).
Figure 3. Civilian Oversight Evolution


1948: Creation of Washington D.C. Complaint Review Board

1968: Kerner Commission Report recommending external oversight for police

1969: Creation of the Kansas City, Missouri Office of Community Complaints (OCC); the longest continuously operating agency in the U.S.

1973: Enabling legislation for federal “Pattern & Practice” civil lawsuits by The Department of Justice Civil Rights Division (42 U.S.C. §14141)


1993: Implementation of the first police auditor program in the U.S.–San Jose Independent Police Auditor

1994: Creation of the First Monitor program in the U.S. - Special Counsel for the Los Angeles County Sheriff Department

2001: The New York City CCRB becomes completely civilianized

2016: Over 144 oversight agencies identified in U.S.
Contemporary Models of Civilian Oversight

While almost no two civilian oversight agencies in the U.S. are identical, the literature offers several initial observations about characteristics of contemporary forms of civilian oversight. These include:

- **High Variability in Organizational Structure.** There is currently a tremendous amount of variation in the structure of different oversight agencies (Walker and Kreisel 1996; Walker 2001; Bobb 2003; Alpert et al. 2016). Some agencies are operated almost completely by a small number of community volunteers while others have a large number of paid professional staff. Some oversight agencies have no operating budget while other agencies have multi-million-dollar budgets.

- **Wide Differences in Organizational Authority.** There is substantial variation in the role that oversight agencies play in relation to the intake of complaints, the relationship they have to the complaint investigation process, their level of access to police records, whether they can make recommendations as to findings and discipline, their ability to make policy recommendations and a long list of other characteristics (Walker and Kreisel 1996; Walker 2001; Bobb 2003; Alpert et al. 2016).

- **Organizational “Hybrids” are Common.** While early forms of oversight tended to operate as “citizen review boards,” and focused on reviewing and commenting on completed internal affairs investigations, many contemporary oversight agencies combine different organizational forms and types of organizational authority in relatively complex ways (Walker 2001; Finn 2001; Attard and Olson 2013; Alpert et al. 2016).

Classifying Contemporary Models of Civilian Oversight

Over the years, there have been multiple attempts to classify approaches to civilian oversight of law enforcement. The primary challenge in doing this is that almost no two civilian oversight agencies in the U.S. are identical. Each jurisdiction has its own political, social and cultural tensions that influenced the development of each oversight entity’s legal authority and organizational structure, and practices vary widely (NACOLE 2015).

In the late 1990’s, Walker (2001) developed one of the earliest and most sophisticated classification systems for oversight. Describing the different models as Class I, Class II, Class III and Class IV systems, Walker argued that models of oversight should be considered along a continuum that range from forms of oversight that are the most independent from police departments to oversight systems that are the least independent. He defined Class I systems as agencies that are independent of police departments and conduct fully independent investigations into allegations of officer misconduct. Class II systems review and comment on internal investigations conducted by the police. Class III systems function as appellate bodies, with complainants filing appeals with the oversight agency when they are dissatisfied with the outcomes on complaints investigated by local law enforcement. Class IV systems have the ability to audit, monitor or review the police/sheriff department’s complaint handling system. In addition to these classes, Walker also recognized that there are hybrid oversight agencies that did not fit easily within any of these categories (Walker 2001: 62).

Since Walker developed this classification scheme, a number of others attempts to update it have occurred. Ferdik, Alpert and Rojek (2013) adapted Walker’s (2001) classification schema to explore organizational variation in U.S. and Canadian oversight agencies. In 2005, the Police Assessment Resource Center (PARC) conducted a research project for the city of Eugene, Oregon to assist that city in determining an appropriate oversight model for the Eugene Police Department (PARC 2005). The research project created a three-part classification scheme: (1) **Review & Appellate models**, which are designed to review completed police internal investigations or hear appeals from the public on investigation findings; (2) **Investigative & Quality Assurance models**, which replace the police internal affairs process in whole or in part; and (3) **Evaluative and Performance-**

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2 A number of other academics and practitioners have recently developed classification schema that group police oversight agencies in slightly different ways (c.f. Prenzler and Ronken 2001; PARC 2005).
Based models, which adopt a holistic approach to evaluating patterns in police risk management, performance, operations or other organizational systems in order to promote systemic reform.

In another recent review of models of oversight, Attard and Olson (2013) revised Walker’s oversight schema, and grouped oversight agencies based on their role in the complaint handling process, as well as by their organizational structure. Accordingly, they grouped oversight agencies into three categories: (1) Investigative agencies which conduct independent investigations of complaints filed against police officers; (2) Auditing/monitoring agencies that systematically review and examine police internal investigations and other law enforcement activity to make recommendations around policy and training; and (3) Review boards and commissions, which includes a diverse range of agencies headed by volunteer community members who may hold community forums, hear appeals or issue findings on investigations completed by paid staff (Attard and Olson 2013: 3-5).

This report adopts an oversight classification scheme that is a slightly revised version of Walker’s (2001) and groups oversight agencies into three categories based on the core agency functions: (1) Investigation-focused; (2) Review-focused; and (3) Auditor/monitor-focused.

Three Categories of Civilian Oversight Models

Investigation-focused Model

Summary of Investigation-focused Agencies

Key Characteristics

1. Routinely conducts independent investigations of complaints against police officers
2. May replace or duplicate the police internal affairs process
3. Staffed by non-police, “civilian” investigators

Potential Key Strengths

1. May reduce bias in investigations into citizen complaints
2. Full-time civilian investigators may have highly specialized training

3. Civilian-led investigations may increase community trust in the investigations process

Potential Key Weaknesses

1. Most expensive and organizationally complex form of civilian oversight
2. Civilian investigators may face strong resistance from police personnel
3. Disillusionment among the public may develop over time when community expectations for change are not met

The investigation-focused agency operates separately from the local police or sheriff’s department. While the structure, resources and authority of these types of agencies can vary between jurisdictions, they are tied together by their ability to conduct independent investigations of allegations of misconduct against police officers. These oversight agencies may either completely replace the police internal affairs function or they may conduct investigations that supplant, parallel or duplicate the work of internal affairs (Finn 2001; PARC 2005).

San Francisco’s Office of Citizen Complaints is one example of an entirely civilian governmental agency that is solely responsible for investigating complaints filed by community members against sworn members of the San Francisco Police Department (OCC 2016).

The organizational structure of investigative agencies can vary significantly. In some cases, an investigative agency may be governed by a volunteer board and supported by a professional staff of investigators. In small jurisdictions, an investigative agency may be staffed by a single investigator or consultant (Finn 2001; PARC 2005).

The available literature on investigation-focused agencies identifies a common set of organizational functions, including:

- Serving as the intake point for public complaints against police officers (Bobb 2003)
- Reviewing and classifying the nature of the complainants’ allegations (King 2015)
• Conducting independent interviews of complainants, officers and witnesses (Attard and Olson 2013)

• Being staffed by non-police “civilian” investigators, although some agencies may employ retired or former police officers (Finn 2001)\(^3\)

• Being headed by a community board or commission that may hold hearings, issue subpoenas or make findings on investigations conducted by professional non-police investigative staff (Attard and Olson 2013)

Table 1 provides examples of investigation-focused models in the United States.

<table>
<thead>
<tr>
<th>Agency</th>
<th>Jurisdiction</th>
<th>Website</th>
</tr>
</thead>
<tbody>
<tr>
<td>Office of Citizen Complaints</td>
<td>San Francisco, CA</td>
<td><a href="http://www.sfgov.org/occ">www.sfgov.org/occ</a></td>
</tr>
</tbody>
</table>

### Potential Strengths of the Investigation-focused Model

An investigation-focused agency with appropriately trained staff can complete thorough and impartial investigations (Prenzler and Ronken 2001; PARC 2005). Investigation-focused agencies are the most independent forms of oversight (Walker 2001) and tend to have more resources and larger staffs than other types of oversight. Their investigators are also likely to have had highly specialized training and experience in relation to investigations, particularly as the organization matures. Thus, where investigation-focused agencies are sufficiently resourced, have well-trained, competent staff and are granted sufficient access to department personnel and records, they may be able to improve the quality of internal investigations. Even though this is a commonly identified strength of the investigation-focused oversight agency, more rigorous comparative research is needed on this issue.

A related potential strength of the investigation-focused model is its ability to increase public faith in the integrity of the investigations process, especially in the aftermath of significant public scandals involving the police. Available public opinion research demonstrates strong public support for the independent investigation of serious complaints against police officers (Prenzler 2016). Most investigation-focused agencies utilize civilian staff to conduct fact-finding investigations and operate a multi-member community board that may hold hearings, issue findings and/or make recommendations to the police department. As a result, this model may reassure a community that investigations are unbiased, thorough and that civilian perspectives are represented both within the complaint investigation process and upon review of completed investigations (PARC 2005).

### Potential Limitations of the Investigation-focused Model

One potential limitation of the investigative model is the significant costs and resources necessary to conduct competent, timely investigations, including large staffing requirements and complex organizational issues that can accompany the implementation of a stand-alone investigative oversight agency. Full investigative agencies are more expensive than other models of oversight, largely due to the increased personnel costs that accompany the hiring of professional investigators (Finn 2001: vii).\(^4\)

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\(^3\) Some Canadian independent investigation agencies employ “seconded” officers who are currently serving police officers assigned as full-time investigators serving at the pleasure of the oversight agency director (e.g., the Alberta Serious Incident Response Team (ASIRT) and the Nova Scotia Serious Incident Response Team (SIRT)).

\(^4\) Although the cost of an investigation-focused oversight agency is by necessity higher than the other models of oversight, the higher cost could be mitigated by the savings realized from a reduction or the elimination of personnel needed to conduct police internal investigations.
Another potential weakness is that investigation-focused agencies tend to generate significant resistance from police unions and their allies (King 2015). Unions have routinely argued that civilian investigators do not have the technical background or professional experience to conduct competent investigations into allegations of officer misconduct (Prenzler and Ronken 2001; Walker 2001). Arguing that they will be biased against police officers, police unions have often opposed the implementation of full investigatory oversight agencies (King 2015).

As a result of police resistance and suspicion, civilian investigators may have trouble penetrating the defensive police subculture that can characterize police organizations (Prenzler and Ronken 2001; Livingston 2004). In some cases, officers who are distrustful of independent investigators may be less likely to be truthful and forthcoming during investigative interviews (Livingston 2004).

In addition, it can be argued that the use of former police officers or even civilian investigators who have not previously served as police officers may not eliminate pro-police bias in complaint investigations. Oversight investigators may harbor either pro-police bias or anti-police bias, depending on their own personal background and experiences.

Independent investigation-focused agencies in large cities have also been plagued with budgetary and personnel limitations that have resulted in untimely investigations. The New York City CCRB has often been criticized for lack of timely investigations as well as efforts taken by that agency to reduce its workload through re-allocation of resources (Clarke 2009).

Some researchers have argued that while the community may have great confidence in full investigative models initially, community confidence can wane over time if these models are perceived as not leading to the reforms promised during implementation (McDevitt et al. 2005: 5). For example, the public may expect that more citizen complaints will be sustained and stronger punishments imposed after full investigative oversight models are implemented. However, there is currently no systematic evidence to support this expectation, and it is currently unclear what impact full investigative models have on patterns in findings and discipline for police officers alleged to have engaged in misconduct.

One final challenge associated with investigation-focused agencies is that they have the potential to undermine the responsibility of police chiefs and sheriffs to maintain discipline (McDonald 1981; Prenzler and Ronken 2001). That is, by removing the responsibility for investigating allegations of officer misconduct reported in citizen complaints, chiefs of police and sheriffs may be “let off the hook,” have less incentive to create robust internal accountability mechanisms and simply blame the external oversight agency when misconduct occurs (PARC 2005: 21). In addition, in police agencies where internal affairs units are reduced or eliminated, the opportunity for officers to obtain experience in conducting personnel investigations and recognizing the extent to which bad conduct can negatively affect the agency, becomes limited or nonexistent.

### Review-focused Model

#### Summary of Review-focused Agencies

**Key Characteristics**

1. Often focus on reviewing the quality of completed police internal affairs investigations
2. May make recommendations to police executives regarding findings or request that further investigation be conducted
3. Commonly headed by a review board composed of citizen volunteers
4. May hold public meetings to collect community input and facilitate police-community communication

**Potential Key Strengths**

1. Ensures that the community has the ability to provide input into the complaint investigation process
2. Community review of complaint investigations may increase public trust in the process
3. Generally the least expensive form of oversight since it typically relies on the work of volunteers

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5 It is important to note that most jurisdictions still grant the police chief or sheriff the final decision-making authority when it comes to findings and employee discipline.
**Potential Key Weaknesses**

1. May have limited authority and few organizational resources
2. Review board volunteers may have significantly less expertise in police issues and limited time to perform their work
3. May be less independent than other forms of oversight

Review-focused agencies examine the quality of internal investigations, primarily those conducted by internal affairs. Many review agencies take the form of volunteer review boards or commissions and are designed around the goal of providing community input into the internal investigations process (PARC 2005). Instead of conducting independent investigations, review-focused agencies may evaluate completed internal affairs investigations, hear appeals, hold public forums, make recommendations for further investigation or conduct community outreach (Attard and Olson 2013). As with investigation-focused agencies, review-focused agencies vary in their organizational structure and can perform a range of functions (Walker and Kreisel 1996; Prenzler and Ronken 2001; Walker 2001; Finn 2001; Bobb 2003; Attard and Olson 2013; Ferdik et al. 2013; Walker and Archbold 2014).

The available literature on review-focused agencies indicates they:

- Receive complaints from the community
- Review completed police investigations of externally-generated complaints
- Make recommendations to the police executive on individual investigations
- Hear appeals

Table 2 provides examples of review-focused models in the United States.

<table>
<thead>
<tr>
<th>Agency</th>
<th>Jurisdiction</th>
<th>Website</th>
</tr>
</thead>
<tbody>
<tr>
<td>Citizen’s Police Review Board</td>
<td>Albany, NY</td>
<td><a href="http://www.albanylaw.edu/cprb">www.albanylaw.edu/cprb</a></td>
</tr>
<tr>
<td>Citizens’ Police Complaint Board</td>
<td>Indianapolis, IN</td>
<td><a href="http://www.indygov/egov/city/dps/cpco">www.indygov/egov/city/dps/cpco</a></td>
</tr>
<tr>
<td>Civilian Police Review Board</td>
<td>Urbana, IL</td>
<td><a href="http://www.urbanaillinois.us/boards/civilian-police-review-board">www.urbanaillinois.us/boards/civilian-police-review-board</a></td>
</tr>
<tr>
<td>Citizen Review Committee</td>
<td>St. Petersburg, FL</td>
<td><a href="http://www.stpete.org/boards_and_committees/civilian_police_review_committee">www.stpete.org/boards_and_committees/civilian_police_review_committee</a></td>
</tr>
</tbody>
</table>

**Potential Strengths of the Review-focused Model**

Some researchers argue that review boards and commissions may be perceived by the public as more representative of the community than programs that are staffed by full-time professionals (Finn 2001; Attard and Olson 2013). As such, community members may be more likely to perceive the review-focused model as supporting and protecting community interests (Walker 2001).

Beyond public perception, review-focused agencies have the benefit of allowing community representatives to bring an outsider’s perspective to the complaint investigations process, which may help jurisdictions identify and correct deficiencies within individual complaint investigations (PARC 2005). Where review boards have a diversity of community representation, there may be a stronger motivation on the part of police investigators to ensure that not only is there no bias in the conduct of their investigations, but that any appearance of bias is also removed. With respect to the review of policy and officer conduct, review-focused agencies have the ability to identify deficiencies in policy or training as they apply to individual...
cases being reviewed. A diverse board will have the ability to
provide different perspectives on police policy and training
and make recommendations for change that could result in
improved police-community relations.

Finally, review focused agencies tend to be the least
expensive form of oversight. They are often operated by
volunteers and may have no stand-alone budget (PARC
2005). As a result, this type of oversight is popular in smaller
jurisdictions that have limited resources.

**Potential Limitations of the Review-focused Model**

Review-focused agencies tend to have limited authority
and, like investigation-focused agencies, typically focus
on individual case investigations. As a result of such a
reactive focus, their ability to promote large-scale systemic
organizational change may be limited (Walker 2001; PARC
2005). Moreover, review-focused agencies may not have
the authority to systemically evaluate police policies or
procedures, make policy recommendations, or examine
aggregate patterns in officer conduct (PARC 2005: 11).

Depending on the structure of the review agency, they may
be less independent from the police than other oversight
models. These types of oversight agencies may be more
likely to report to the police chief, have a small or no stand-
alone budget, have limited or no staff support and board
members tend to be political or police chief appointees
(Walker 2001; PARC 2005; Olson 2016). Moreover, they
may have to rely on the police or sheriff’s department for
meeting space, administrative support and training. Since
review-focused agencies do not always have the power to
conduct independent investigations, they are also more
likely to rely on the police or sheriff’s department for
information (McDevitt et al. 2005; Olson 2016).

Since review-focused agency board members are generally
volunteers drawn from a range of professional backgrounds,
they may have less expertise than paid professional oversight
staff and have limited time to perform oversight functions.
This aspect may reduce the efficiency of a jurisdiction’s
oversight function and lead to a shallow impact on the
quality of internal investigations (Finn 2001; Olson 2016).

**Auditor/Monitor-focused Model**

**Summary of Auditor/Monitor-focused Agencies**

**Key Characteristics**

1. Often focuses on examining broad patterns in
   complaint investigations, including patterns in the
   quality of investigations, findings and discipline
2. Some auditors/monitors may actively participate in or
   monitor open internal investigations
3. Often seek to promote broad organizational change
   by conducting systematic reviews of police policies,
   practices or training and making recommendations for
   improvement

**Potential Key Strengths**

1. Often have more robust public reporting practices than
   other types of oversight
2. Generally less expensive than full investigative
   agencies, but more expensive than review-focused
   agencies
3. May be more effective at promoting long-term,
   systemic change in police departments

**Potential Key Weaknesses**

1. Auditor/monitor focus on examining broad patterns
   rather that individual cases may be treated with
   skepticism by some local rights activists
2. Significant expertise is required to conduct systematic
   policy evaluations. The hiring of staff without relevant
   experience may cause tension between the oversight
   agency and police officers
3. Most auditors/monitors can only make
   recommendations and cannot compel law enforcement
   agencies to make systemic changes

One of the newest forms of police oversight can be
found in the auditor/monitor-focused model of oversight. Civilian oversight agencies that follow this
model can also be referred to by several different names
including police.
monitor or inspector general. This model of civilian oversight began to develop in the 1990s and generally emerged as a type of political compromise to satisfy police and community concerns about bias and professionalism (Walker 2006; Walker and Archbold 2014: 180). While local community and civil rights activists tended to argue in favor of citizen review boards or full investigative models, police unions tended to be strongly opposed to those models. As a result, the auditor/monitor-focused model emerged partly as a mechanism for bridging the disparate goals held by the different stakeholders to the complaint process (Walker and Archbold 2014).

While there can be variation in the organizational structure of this type of civilian oversight, auditor/monitor agencies tend to focus on promoting large-scale, systemic reform of police organizations (PARC 2005). Accordingly, this type of organization tends to have a unique set of goals that distinguish it from investigation-focused and review-focused models of oversight (Walker 2001; Finn 2001; PARC 2005; Attard and Olson 2013; Ferdik et al. 2013; Walker and Archbold 2014).

The available literature on auditor/monitor-focused agencies identifies a core set of functions which include:

- Ensuring a jurisdiction’s processes for investigating allegations of misconduct are thorough, complete and fair
- Conducting evaluations of police policies, practices and training
- Participating in open internal affairs investigations

Table 3 provides examples of auditor/monitor-focused agencies in the United States.

### Table 3: Examples of Auditor/Monitor-Focused Agencies

<table>
<thead>
<tr>
<th>Agency</th>
<th>Jurisdiction</th>
<th>Website</th>
</tr>
</thead>
<tbody>
<tr>
<td>Independent Police Auditor</td>
<td>San Jose, CA</td>
<td><a href="http://www.sanjoseca.gov/ipa">www.sanjoseca.gov/ipa</a></td>
</tr>
<tr>
<td>Los Angeles Board of Police Commissioners</td>
<td>Los Angeles, CA</td>
<td><a href="http://www.oig.lacity.org">www.oig.lacity.org</a></td>
</tr>
</tbody>
</table>

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6 It is important to distinguish between court appointed monitors, who are limited term appointees charged with overseeing the implementation of a court-sanctioned reform agreement, and municipal or county civilian monitors who are local oversight professionals or consultants employed by the local jurisdiction. For purposes of this report, the term monitor is used to refer to locally employed police monitors. The role of court-appointed monitors in promoting police reform is beyond the scope of this publication, but has been explored elsewhere (see Davis et al. 2002; Chanin 2015).

### Potential Strengths of the Auditor/Monitor-focused Model

Since these agencies tend to focus on exploring patterns in complaints, auditor/monitor-focused models may have broader access to police and sheriff’s department records, case files and electronic databases than review-focused agencies (McDevitt et al. 2005; Olson and Attard 2016). While review-focused agencies tend to have only limited access to individual closed internal affairs files, auditor/monitors-focused models tend to be granted more expansive access to police department records (Walker and Archbold 2014). Moreover, auditor/monitor-focused agencies tend to be (or become) policing experts, have larger budgets and may have more extensive training than might be found in volunteer-based oversight agencies (McDevitt et al. 2005).
It is possible that the auditor/monitor-focused model may be more effective at promoting long-term, systemic change in police organizations, in part because they can focus on broader trends and patterns in complaints and make public recommendations for how the police department can improve (Walker and Archbold 2014). Unlike investigative agencies, auditor/monitor-focused models do not generally take the investigations process away from the police department, but instead use systematic evaluation and public reporting to ensure that policy makers and the local community knows whether the department is holding its officers accountable (PARC 2005). Auditor/monitor-focused agencies also have the ability to track whether police departments implement their recommendations and whether those changes have resulted in organizational improvements over time (PARC 2005; Walker and Archbold 2014).

Some scholars have argued that the independence of auditor/monitor agencies may increase their credibility with the public, leading to more effective public outreach (Walker and Archbold 2014: 183). The more robust public reporting authority and greater staffing resources may enhance the ability of auditor/monitor agencies to conduct effective community outreach when compared to review-focused agencies, which rely on community volunteers or even independent investigation agencies that focus on specific, individual complaints of misconduct.

Potential Limitations to the Auditor/Monitor-focused Model

Local civil rights or community activists may oppose this type of civilian oversight because they may view this model’s reliance on full-time, paid staff with skepticism. Some community members and civil rights activists may be left dissatisfied, since they may desire that discipline be imposed in specific cases of officer misconduct versus the auditor/monitor agencies’ focus on aggregate patterns in complaints and other metrics within law enforcement agencies (Walker and Archbold 2014). In fact, the very nature of the auditor/monitor-focused model concept may put the police auditor/monitor at odds with community demands or expectations in high profile and controversial cases. The concept behind the auditor/monitor model is that the office be fair, unbiased and evidence-based in its decision-making (Walker and Archbold 2014). Such decision-making may result in criticism of the oversight agency by the community, the police or both.

In some cases, an auditor/monitor agency may choose to allow the police executive to take credit for a reform initiative, to maintain long-term relationships with police leadership. Such actions, while they may promote positive reform in a police organization, may result in a lack of understanding in the community as to the actual effectiveness of the oversight program.

Like other models of oversight, most auditor/monitor-focused agencies can only make recommendations and cannot compel law enforcement agencies to make changes (Walker and Archbold 2014: 195). In situations where the law enforcement agency regularly declines to accept recommendations or continues to engage in activities contrary to the expectations of certain members of the public, the oversight agency may be perceived as ineffective.

One final limitation is that the auditor/monitor-focused model is strongly dependent on the quality of the staff hired to do the work (Walker and Archbold 2014). Analyzing patterns in complaints, findings, discipline or conducting performance evaluations of other police policies and practices requires a high level of technical sophistication and training, as well as a commitment to objective, evidence-based evaluation. The hiring of staff without relevant experience or a commitment to objective, dispassionate evaluation methods may cause significant tension between the oversight agency and police executives, as well as with rank-and-file officers.
Table 4 summarizes the common characteristics and forms of authority for the three types of oversight models.

**Table 4: Common Characteristics and Forms of Authority by Oversight Model**

<table>
<thead>
<tr>
<th></th>
<th>Investigation-Focused Agencies</th>
<th>Review-Focused Agencies</th>
<th>Auditor/Monitor Agencies</th>
</tr>
</thead>
<tbody>
<tr>
<td>Receive Community Complaints</td>
<td>Frequently</td>
<td>Frequently</td>
<td>Frequently</td>
</tr>
<tr>
<td>Decide How a Complaint will be Handled</td>
<td>Frequently</td>
<td>Rarely</td>
<td>Sometimes</td>
</tr>
<tr>
<td>Review Police Complaint Investigations (e.g., for thoroughness, completeness, accuracy)</td>
<td>Sometimes</td>
<td>Frequently</td>
<td>Frequently</td>
</tr>
<tr>
<td>Conduct Independent, Fact-Finding Investigations</td>
<td>Frequently</td>
<td>Rarely</td>
<td>Sometimes</td>
</tr>
<tr>
<td>Perform Data-Driven Policy Evaluations</td>
<td>Sometimes</td>
<td>Sometimes</td>
<td>Frequently</td>
</tr>
<tr>
<td>Recommend Findings on Investigations</td>
<td>Frequently</td>
<td>Sometimes</td>
<td>Frequently</td>
</tr>
<tr>
<td>Recommend Discipline to the Police Chief</td>
<td>Sometimes</td>
<td>Rarely</td>
<td>Sometimes</td>
</tr>
<tr>
<td>Attend Disciplinary Hearings</td>
<td>Sometimes</td>
<td>Rarely</td>
<td>Sometimes</td>
</tr>
<tr>
<td>Have a Board Composed of Community Members</td>
<td>Frequently</td>
<td>Frequently</td>
<td>Sometimes</td>
</tr>
<tr>
<td>Hear Appeals</td>
<td>Sometimes</td>
<td>Sometimes</td>
<td>Rarely</td>
</tr>
<tr>
<td>Have Paid Professional Staff</td>
<td>Frequently</td>
<td>Sometimes</td>
<td>Frequently</td>
</tr>
<tr>
<td>Staffing and Operational Costs</td>
<td>Most Expensive</td>
<td>Least Expensive</td>
<td>Intermediate Expense</td>
</tr>
</tbody>
</table>

*Table notes: Based on data collected from 97 U.S. oversight agencies, 2016.*

**Considerations When Implementing or Reforming a Civilian Oversight Program**

Over the past 30 years, local experimentation with different types of oversight models, to include hybridization of these different models, has resulted in a complex, heterogeneous organizational field. And while the data included in this report explores organizational variation across different oversight agencies, it does not answer two fundamental questions:

- Which forms of oversight are the most effective?
- Under what circumstances should a jurisdiction implement a review-focused model of oversight as opposed to an investigative or auditor/monitor-focused model?

Even though the question of what type of model constitutes a “best” form of oversight remains unanswered, much can be learned from patterns shown in this paper. In fact, the growing hybridization of police oversight and the blurring of the boundaries between different models of oversight carry an important lesson for local jurisdictions that are exploring whether to implement oversight or are considering revising their current oversight framework.

**Jurisdictions Should Focus on the “Best-Fit” Rather Than the “Best Practices” When Considering How to Structure Civilian Oversight**

A key lesson that can be learned from the history of oversight in the U.S. is that there is not necessarily any “best practice”...
in the creation of a civilian oversight of law enforcement program. Rather, a jurisdiction should look for a “best-fit” model of oversight (Bobb 2003). Every jurisdiction has its own social, cultural and political issues, and every police agency has its own unique organizational history, traditions and sub-cultural characteristics. While some police agencies may be proficient at holding their officers to account with respect to certain types of conduct, other police agencies may struggle. Some large jurisdictions have ample financial resources to implement highly professionalized, organizationally complex forms of oversight while smaller jurisdictions may have far fewer resources with which to implement and sustain police oversight.

“Evidence that any one civilian oversight approach or mechanism is more effective than another does not yet exist, although the role and authority of a civilian oversight function often grows over time to meet emerging community needs and expectations.” (Anderson et al. 2015: 3)

Given these differences between cities and counties in the U.S., it is likely that no single model of oversight is going to work for all jurisdictions. As a result, the best form of oversight for individual jurisdictions simply depends on the circumstances faced by the jurisdiction that is either creating or updating its oversight processes.

**Oversight Should Employ the “Least Force” Necessary to Accomplish Its Goals**

Even though law enforcement resistance to the concept of police oversight has diminished over time, it can still be argued that “the least intrusive means of oversight” (Bobb 2003) necessary to achieve police accountability is the best means of approaching the oversight function in the long-term. Just as the police are expected to only use that amount of force that is proportionate, necessary and reasonable to accomplish their task, so it can be argued that jurisdictions creating or reforming an oversight function should similarly accomplish the feat of ensuring police accountability (Bobb 2003). In other words, a jurisdiction seeking to create or update an oversight function should choose the least intrusive model of oversight necessary to accomplish the task. If the model chosen does not accomplish that objective, a more aggressive form of oversight would then be required. As such, it is impossible to suggest that any one model of oversight is better than another. Each jurisdiction must evaluate its own police agency; its culture, its leadership, its overall current capacity to police itself and its future potential in that regard before choosing the most appropriate form of oversight that will have the highest likelihood of success over time.

**A Number of Resources are Available to Jurisdictions Considering Implementing Oversight or Reforming Their Current Oversight Framework**

One of the key challenges for local jurisdictions that are considering whether to implement oversight is to find examples of jurisdictions that have successfully implemented and sustained effective oversight agencies. It can also be difficult and resource intensive for local jurisdictions to collect examples of legal language, organizational procedures, and other “nuts-and-bolts” documents that they can use as models after they decide to implement oversight. Several relatively recent reports have sought to overcome these problems by providing detailed cases studies of existing oversight agencies (Finn 2001; PARC 2005; McDevitt et al. 2005; Attard and Olson 2013; Noe 2013; Olson 2016; PARC 2016). These reports contain key details about oversight agency powers, organizational, structure, funding and staffing and should be consulted by local jurisdictions who are considering oversight or interested in reforming their local oversight agency. A number of academic books also provide practical information about civilian oversight of law enforcement (Goldsmith and Lewis 2000; Walker 2001; Perino 2006; Walker and Archbold 2014; Prenzler and den Heyer 2016).

In addition, to help local jurisdictions gain access to examples of oversight policies, legal language and key organizational documents, the National Association for Civilian Oversight for Law Enforcement (NACOLE) has created a companion website to this report that includes up-to-date profiles for model police oversight agencies. This website’s toolkit includes examples of ordinance/charter language, oversight policies and procedures, annual reports, special topics reports, complaint forms, outreach brochures and other documents that can serve as examples for new oversight agencies. This website’s toolkit can be accessed by visiting: [www.nacole.org/agency_profiles](http://www.nacole.org/agency_profiles)
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CIVILIAN OVERSIGHT OF LAW ENFORCEMENT

ASSESSING THE EVIDENCE

Joseph De Angelis | Richard Rosenthal | Brian Buchner
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Executive Summary

Over the last several decades, issues of trust and accountability have moved to the forefront of community-police relations and a great deal of scholarship has been devoted to enhancing police performance through the strengthening of law enforcement oversight functions. During this same period, highly publicized officer-involved encounters have led to the proliferation of organizational mechanisms for reviewing and improving officer conduct (Walker 2001; Alpert et al. 2016).

One such mechanism is the development of civilian oversight of law enforcement. Sometimes referred to as citizen oversight, civilian review, external review and citizen review boards (Walker 2001; Alpert et al. 2016), this form of police accountability is often focused on allowing non-police actors to provide input into the police department’s operations, often with a focus on the citizen complaint process. In some jurisdictions, this is sometimes accomplished by allowing oversight practitioners (both paid and volunteer) to review, audit or monitor complaint investigations that were conducted by police internal affairs investigators. In other jurisdictions, it is done by allowing civilians to conduct independent investigations of allegations of misconduct lodged against sworn law enforcement officers. It can also be accomplished through the creation of mechanisms that are authorized to review and comment on police policies, practices, training and systemic conduct. Some oversight mechanisms involve a combination of systemic analysis and complaint handling or review.

The goal of this publication is to offer a broad examination of the key issues facing civilian oversight of law enforcement in the U.S. Drawing from a review of the available research, as well as organizational data collected from 97 police oversight executives, this report is designed to help local policy-makers, police executives and members of the local community explore the key issues that can accompany the implementation and sustainability of civilian oversight of police mechanisms at the municipal and county levels. More specifically, this report addresses a number of key areas in relation to police oversight, including:

1. A comprehensive review of the key resources and research relating to civilian oversight of police;

2. A brief review of the historical evolution of oversight in the U.S.;

3. A detailed examination of three different models of oversight: investigation-focused, review-focused and auditor/monitor-focused;

4. An assessment of the key factors that promote organizational effectiveness in civilian oversight; and,

5. An exploration of trending issues in relation to oversight, particularly the debate over how to measure performance of police oversight agencies, the potential value of problem-solving methodologies and the increasing emphasis on the value of alternative dispute resolution techniques for resolving complaints against police officers.

This report concludes by identifying issues that jurisdictions may want to consider if they are evaluating whether to implement oversight or revise their current oversight framework. This report also identifies critical areas in need of further research.

Research and Resources Related to Civilian Oversight of Police

A reasonably large body of academic and policy literature on civilian oversight exists that dates back to the 1970s. For jurisdictions that are considering implementing police oversight or are considering reforming the current oversight functions in their jurisdiction, there are a number of key publications that can be consulted. For example, the following reports and books provide general guidance on the issues that can accompany the implementation of civilian oversight of police:

- Civilian Oversight of Police: Advancing Accountability in Law Enforcement (Prenzler and den Heyer 2016)
- The New World of Police Accountability (Walker and Archbold 2014)
- Citizen Oversight of Law Enforcement Agencies (Perino 2006)
Recent publications have begun to examine the broad organizational characteristics of different models of civilian oversight in the U.S. They include:

- *Citizen Oversight in the United States and Canada: Applying Outcome Measures and Evidence-Based Concepts* (Alpert et al. 2016)
- *Overview of Civilian Oversight of Law Enforcement in the United States* (Attard and Olson 2013)
- *Civilian Oversight of Policing: Lessons from the Literature* (Miller 2002)

A limited number of publications, listed below, focus on effectiveness and performance measurement in civilian oversight of law enforcement:

- *Holding Police Accountability Theory to Account* (Harris 2012)
- *Performance Indicators for Police Oversight Agencies* (Prenzler and Lewis 2005)
- *Evaluating the Performance of External Oversight Bodies* (Brereton 2000)
- *The Use of Performance Measurement in Civilian Oversight in the United States* (Mohr 2007)

Several websites operated by non-profit organizations contain useful resources, links to police oversight agencies, historical blue ribbon reports and other types of toolkits that can serve as a starting point for jurisdictions considering implementing police oversight or revising their current oversight framework.

- National Association for Civilian Oversight of Law Enforcement (NACOLE), [www.nacole.org](http://www.nacole.org)
- Police Assessment Resource Center (PARC), [www.parc.info](http://www.parc.info)
- Center for Policing Equity, [www.policingequity.org](http://www.policingequity.org)

**Brief History of Oversight in the U.S.**

Samuel Walker (2001; 2006), Merrick Bobb (2003) and Alpert et al. (2016) provide detailed historical descriptions of the evolution of civilian oversight in the U.S. The history of civilian oversight in the U.S. can be broken down into several distinct developmental waves.

**Early Police Commissions, 1880s-1920s.** Early forerunners of modern police oversight initially took the form of police commissions, which were implemented by Progressive Era reformers in the late 19th and early 20th centuries as a strategy to break the hold of political machines on local policing (PARC 2005; Walker 1977; Walker 2001). Most early commissions failed to provide meaningful oversight of local police departments, partly due to the fact that early commission members were political appointees, had little expertise in policing and tended to become highly deferential to police executives (Walker 2001; Bobb 2003: 4; Attard and Olson 2013).

**Early Efforts at Establishing Modern Civilian Review, 1920s-1960s.** The first modern forms of civilian oversight in the U.S. began in several large cities in the middle of the 20th century (e.g., Washington, D.C., Philadelphia and New York City). Early efforts often developed out of conflicts between police and local communities of color and generally took the form of under-resourced review boards that played a role in receiving complaints and reviewing completed internal police investigations into allegations of misconduct filed against officers (Hudson 1971; Terrill 1988; Walker 2001; Alpert et al. 2016). All of the early review boards were ultimately abolished in the face of limited resources and fierce resistance from police unions and local politicians (Bayley 1991; Walker 2001; Walker 2006).
Emergence of Investigative Models of Civilian Oversight, 1970s-1980s. Though all of the initial review boards failed, another wave of development began in the late 1960s and carried through to the 1980s (Walker 2001; Walker 2006; Alpert et al. 2016). This wave has its roots in the Civil Rights Movement and developed, in large part, as a result of pushback and protests over police treatment of African-Americans. While the first modern oversight agencies were structured as civilian review boards, this wave saw the development of several full investigative oversight agencies that had enhanced resources, greater durability and expanded organizational authority. Examples of full investigative agencies in this wave included the Public Review Commission in Berkeley, CA and the Office of Citizen Complaints in San Francisco, CA.

Emergence of Auditor/monitor and Hybrid Models of Civilian Oversight, 1990s-Present. Another wave development began in the 1990s and continues to present day (Walker 2001; 2006; Alpert et al. 2016). During this period, there was a rapid expansion of the number of police oversight agencies subsequent to the March 1991 videotaped beating of Rodney King by the Los Angeles Police Department (LAPD). While review-focused agencies remained the most common form of oversight, this period also saw the development of the first police auditors, including the San Jose Police Auditor and the Special Counsel for the Los Angeles County Board of Supervisors in 1993. Hybrid form of oversight agencies, where elements of different models of oversight are purposely combined in a single agency, increased during this period. While no one measured the exact numerical increase in oversight agencies in the 1990s, it is clear the number grew from a handful in the early 1990s to over 100 in 2001 (Walker 2001). The research team for this report was able to identify 144 oversight agencies operating at the local level in the U.S. as of March 2016.

Contemporary Models of Civilian Oversight

Over the years, there have been multiple attempts to create schemas to classify civilian oversight of law enforcement programs. One of the challenges in accomplishing this feat is that it almost appears that no two civilian oversight agencies in the U.S. are identical. Each jurisdiction has its own political, social and cultural tensions that influence the development of each oversight entity’s legal authority and organizational structure.

In this publication, oversight agencies in the U.S. have been grouped into one of three oversight categories based on input they provided in conjunction with an evaluation of their public mission statement and foundational legal authority. The three categories include:

Investigation-focused Models. A form of oversight that operates separately from the local police or sheriff’s department. While the structure, resources and authority of these types of agencies can vary among jurisdictions, these agencies are tied together by their ability to conduct independent investigations of allegations of misconduct against police officers.

Review-focused Models. A type of oversight that focuses its work on reviewing the quality of completed internal affairs investigations. Many review agencies take the form of volunteer review boards or commissions and are designed around the goal of providing community input into the internal investigations process. Instead of conducting independent investigations, review agencies may evaluate completed internal affairs investigations, hear appeals, hold public forums, make recommendations for further investigation and conduct community outreach.

Auditor/monitor-focused Agencies. One of the newest forms of police oversight. While there can be variation in the organization structure of this type of civilian oversight, auditor/monitor agencies tend to focus on promoting large-scale, systemic reform of police organizations while often also monitoring or reviewing individual critical incident or complaint investigations.

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1 Due to the municipal nature of these agencies, it is difficult, if not impossible to identify all such agencies throughout the U.S. Even with the advent of modern information technology, it can be difficult to identify oversight agencies when they have no web presence.
Organizational Structure and Effectiveness in Citizen Oversight

To examine variation in civilian oversight, the research team collected organizational data from 97 civilian oversight agencies in the U.S. The goal was threefold: 1) to identify national patterns in oversight; 2) to compare organizational characteristics across common oversight models; and 3) to examine effectiveness in oversight (See Appendix A for a description of the research methods).

Common Goals of Civilian Oversight of Police. An important issue for any municipality considering implementing or revising an oversight agency is to determine the goals for that agency. Based on the organizational data collected, the most commonly shared goals across all models of oversight are:

1. Improving public trust;
2. Ensuring accessible complaint processes;
3. Promoting thorough, fair investigations;
4. Increasing transparency; and,
5. Deterring police misconduct.

Even though those five goals were common to almost all oversight agencies that submitted organizational data, differences between oversight models emerged in relation to other types of organizational goals. Auditor/monitor agencies tended to rate goals associated with policy review, auditing, statistical pattern analysis and issuing recommendations as critical or important for their agency. Investigation-focused agencies were more likely than other types of agencies to indicate that improving accessibility of the complaint process, ensuring thorough investigations, complainant satisfaction and ensuring that complainants received justice were critical or important for their agency. Review-focused agencies tended to identify the importance of goals associated with the complaint investigation process, but were less likely to rate goals associated with the complaint investigation process as critical or important.

Triggers for Police Oversight in the U.S. Much of the writing on civilian oversight indicates that it tends to emerge out of local crises involving local police and community complaints over racially disparate policing and excessive uses of force (Walker 2001). The data supplied support that view. The most common trigger involved force-related incidents (49 percent). Just under 30 percent of the agencies indicated that racially biased policing played a role in the development of oversight. Notably, only 11 percent of the agencies indicated that they implemented their oversight agency as a proactive or preventive policy effort and not as the result of a specific critical incident.

Age of Oversight Agencies. The 97 civilian oversight agencies reported how long their agency has been in operation. The largest proportion of respondents (55 percent) indicated that their agency has been in continuous operation for 16 or more years, which is not surprising since the largest increase in the number of oversight agencies occurred in the 1990s. This pattern suggests that the field of oversight has begun to mature and has reached a level of some stability.

Types of Law Enforcement Agencies Overseen. A large proportion of the oversight agencies that provided data indicated that they were responsible for overseeing municipal police departments (82 percent). The second largest area of jurisdiction was for county sheriffs (15 percent).

Size of Law Enforcement Agencies Overseen. The largest proportion of oversight programs oversaw law enforcement agencies (45 percent) that had fewer than 500 sworn employees. However, there was clear variation across the three models of oversight. Review agencies were much more likely to report overseeing smaller law enforcement agencies (500 or fewer officers), while investigative agencies and auditor/monitor agencies were more commonly found in jurisdictions with larger law enforcement agencies.
Core Elements of Effective Civilian Oversight. Overall, little research has been devoted to examining factors that influence the effectiveness of civilian oversight on police. More critically, relatively little is known as to whether different types of jurisdiction or authority have a greater or lesser impact on patterns in officer misconduct or organizational reform. Even though there is relatively little social science research on this issue, this report draws from an existing body of policy writing (see Walker 2003) and organizational data collected from 97 programs to examine 12 related principles that may strengthen civilian oversight programs. The principles reviewed include:

1. Independence;
2. Adequate jurisdictional authority;
3. Unfettered access to records;
4. Full cooperation;
5. Access to law enforcement executives and internal affairs staff;
6. Support of process stakeholders;
7. Adequate resources;
8. Public reporting/transparency;
9. Use of statistical pattern analysis;
10. Community outreach;
11. Community involvement; and
12. Respect for confidentiality.

Trending Issues in Civilian Oversight of Law Enforcement

This report explores some of the key recent developments in civilian oversight of police.

Using Performance Metrics to Capture Oversight Effectiveness. Even though there is a growing need for civilian oversight to demonstrate its organizational value, there is currently no consensus on how to measure organizational performance in the field of civilian oversight. Even so, a number of studies have sought to explore the value of different performance measures (Brereton 2000; Walker 2001; Prenzler and Lewis 2005; Mohr 2007; Filstad and Gottschalk 2011; Faull 2013). In general, a number of issues appear clear. First, “sustain rates” cannot be used to reliably compare performance across civilian oversight agencies (Walker 2001). Second, there is a growing consensus that other measures can be useful for capturing workload and organization performance in oversight. These measures include:

1. Trends in reported police misconduct (e.g., number of cases filed);
2. Workload measures (e.g., number of open cases, cases reviewed, number of investigations conducted, number of appeals, identification of case deficiencies);
3. Patterns in findings and outcomes on case investigations;
4. Timeliness and process efficiency measures (e.g., number of cases assessed in a given time period);
5. Public opinion survey measures (e.g., satisfaction rates for complainants and officers, community confidence in the police);
6. Review and recommendation effectiveness (e.g., number and type of recommendations made, number and type implemented); and

7. Accessibility measures (e.g., accessibility of the office to the public; accessibility of the complaint process overall) (see Prenzler and Lewis 2005: 78-82).

**Adapting Problem-Oriented Approaches to Civilian Oversight.** Problem-oriented policing has been an important approach to law enforcement for more than 30 years. In this approach, patterns of crime and disorder are analyzed carefully to develop new programs that can reduce the incidence of the identified crime (Porter 2016). Even though this strategy has been popular with law enforcement, it has not been widely adopted for use in civilian oversight of law enforcement. Adapting this approach for use in civilian oversight has the potential to shift the focus of civilian oversight away from a reactive focus on investigating officers who may have engaged in misconduct toward a proactive, preventive focus that seeks to explore patterns in problems and identify solutions than will prevent misconduct from occurring in the future (Walker 2001; Harris 2012; Porter 2016).

**Expanding Alternative Dispute Resolution.** The use of mediation by civilian oversight to resolve police complaints has become an increasingly popular strategy over the last 15 years. Altogether, 29 agencies reported that they had a mediation program, up from 20 agencies in 2008 (PARC 2008). There is a growing body of research that supports the argument that mediation can have positive benefits for complainants and officers, especially in relation to complaints alleging less serious misconduct (Walker et al. 2002; PARC 2008: 45; Schaible et al. 2013).

**Conclusions**

Given that there has been relatively little empirical research on civilian oversight, this project drew strongly from organizational data collected from 97 civilian oversight programs to identify important issues within the field. Using those data, this paper catalogs a number of key issues that jurisdictions may consider when evaluating whether to implement oversight or revise their current oversight framework.

Oversight is common in U.S with at least 144 oversight agencies and almost all large cities having one or more forms of civilian oversight of police. These patterns, when taken as a whole, seem to indicate a field that is approaching maturity. Large jurisdictions that do not have oversight now stand as outliers, rather than representing the norm.

Oversight is a complex organizational field. Review-focused agencies were the most common in the data collected from the program sites (40 percent), but auditor/monitor and investigation-focused agencies are now common in the field as well (25 percent and 35 percent, respectively). More importantly, there is an increasing blurring of the boundaries between different models of oversight. Even though the oversight models tended to have clear organizational foci, there was substantial crossover between models. For example, a majority of auditor/monitor agencies (61 percent) reported the ability to conduct independent investigations. Roughly 43 percent of review-focused agencies and 50 percent of investigative agencies reported having the authority to audit complaint investigations by the police. Taken as a whole, this indicates that jurisdictions are mixing-and-matching forms of oversight authority to meet the needs of their local environment (McDevitt et al. 2005: 11).

There is clear variation in the budgets among oversight types. In general, the data provided by the 97 civilian oversight agencies demonstrates that some models of oversight have larger budgets than others. Full investigative agencies tended to report the largest budgets, followed by auditor/monitor and review agencies. Similar patterns were evident in terms of staffing. Investigative agencies reported having the largest number of full-time, paid staff while review-focused agencies were the least likely to report having full-time paid staff. This is likely due in part to variation in the size of jurisdictions and the different

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2 Olson and Attard (2016), in a review of oversight models in California, found that auditors were often granted the legal authority to conduct independent investigations, but seldom exercised that authority.
mandates of the models. Investigative and auditor/monitor agencies were much more likely to be found in big cities/counties with large law enforcement agencies.

Some models of oversight may be more effective at getting recommendations implemented. Almost all of the oversight agencies reported that police executives listened carefully to the recommendations made by oversight staff (78 percent). However, auditor/monitor agencies were much more likely to report that police or sheriff’s agencies implemented their recommendations frequently or very frequently (72 percent) as compared to investigative (42 percent) and review agencies (34 percent).

**Recommendations**

The following recommendations are designed to highlight additional critical issues for implementing oversight and identify ways to expand what is known about civilian oversight of law enforcement.

**Recommendations for Jurisdictions Considering Whether to Implement or Revise Civilian Oversight**

*Jurisdictions should focus on the “Best-Fit” rather than “Best Practice” when considering how to structure civilian oversight.* A key lesson that can be learned from the literature and the organizational data is that there is not necessarily any “best practice” in the creation of a civilian oversight of law enforcement program. Local jurisdictions vary across a range of areas and it is unlikely that any single model will work well for all jurisdictions. Instead, jurisdictions should focus on specifying the key goals for their oversight program and then identify the “best fitting” model of oversight.

*Oversight should employ the least force necessary to accomplish its goals.* It can be argued that “the least intrusive means of oversight” (Bobb 2003) necessary to achieve police accountability is the best means of approaching the oversight function long term. Just as the police are expected to use only that amount of force that is proportionate, necessary and reasonable to accomplish their task, so it can be argued that jurisdictions creating or reforming an oversight function should similarly accomplish the feat of ensuring police accountability (Bobb 2003). In other words, a jurisdiction seeking to create or update an oversight function should choose the least intrusive model of oversight necessary to accomplish the task. If the model chosen does not accomplish that objective, a more aggressive form of oversight would then be required.

*A number of resources are available to jurisdictions considering implementing oversight or reforming their current oversight framework.* Local jurisdictions who are evaluating whether to implement police oversight should consult several relatively recent reports that provide detailed cases studies of existing oversight agencies (see PARC 2005; McDevitt et al. 2005; Noe 2013; Olson 2016; PARC 2016). To help local jurisdictions gain access to examples of oversight policies, legal language and key organizational documents, the National Association for Civilian Oversight of Law Enforcement (NACOLE) has created a companion website to this report that includes up-to-date profiles for model police oversight agencies. This website toolkit can be accessed by visiting: www.nacole.org/agency_profiles

**Recommendations for Future Research**

*More systematic, comparative research is needed.* While some researchers have worked to extend what we know about oversight (see Walker and Archbold 2014; Prenzler and den Heyer 2016; Alpert et al. 2016), there are still tremendous gaps in what we know regarding the effectiveness in civilian oversight. More systematic, empirical research is needed before strong conclusions can be drawn about what works and what does not work in relation to civilian oversight of police.

*Additional research is needed on the impact that citizen oversight has on public trust in the police and local government.* Civilian oversight often emerges as a result of conflict between the police and communities of color and is often implemented with the goal of improving community trust and confidence in the police and local government (Walker 2001: 55). While some scholars have begun to study the relationship between civilian oversight and public opinion (see Tarling and Dowds 1997; Worden and McLean 2010; Prenzler 2016), little is known about the impact that the implementation of civilian oversight
has on public opinion or whether the presence of civilian oversight can improve public confidence.

**Future comparative evaluations of effectiveness need to be based on primary data collected by outside researchers and not just on public reports produced by oversight agencies.** Prenzler and Lewis (2005) and Ferdik et al. (2013) have conducted some of their most important work on oversight performance by reviewing publicly available agency reports and documents. Unfortunately, the lack of standardization in reporting and measurement between agencies makes it difficult to compare across jurisdictions. In addition, public reports created by oversight agencies may tend to understate challenges and overstate performance. Future research should adopt mixed-methods methodological approaches that combine the use of quantitative outcome measurement, qualitative interviews and community members and officers to generate forms of data that allow for comparison across jurisdictions (Ferdik et al. 2013:18).

**More support for independent research on oversight will be necessary before key questions relating to the effectiveness of oversight can be answered.** Federal and state agencies that support applied research in law enforcement should consider developing new and sustained funding streams for research into civilian oversight of police (Buchner 2015).

**More work on standards for oversight is needed.** Professional oversight associations, like NACOLE, should continue to work collaboratively with researchers and other oversight stakeholders to develop standards and guidelines for oversight agency performance and the evaluation of oversight programs.

**Local jurisdictions should be willing to evaluate the effectiveness of their local oversight agencies proactively and independently.** In conducting those evaluations, jurisdictions need to have realistic expectations when it comes to the impact civilian oversight may have on local police accountability. Oversight is—and should be—only one component of a jurisdiction’s police accountability framework. As such, local jurisdictions should seek to evaluate effectiveness based on the factors over which local oversight agencies actually have control.
What Do We Know About Civilian Oversight of Law Enforcement? Assessing the Evidence

Introduction

Over the last several decades, issues of trust and accountability have moved to the forefront of community-police relations, and a great deal of scholarship has been devoted to enhancing police performance through the strengthening of law enforcement oversight functions. During this same period, officer-involved shootings, in-custody deaths and claims of racially and ethnically biased police practices has led to the proliferation of organizational mechanisms for reviewing and improving officer conduct.

One such mechanism has been the development of civilian oversight of law enforcement mechanisms. Variously referred to as citizen oversight, civilian review, external review and citizen review boards (Walker 2001; Alpert et al. 2016), this form of police accountability is often focused on creating a framework that allows non-police actors to provide input into police department operations, with a historical—and often primary—focus on the citizen complaint process. Civilian oversight may be defined as one or more individuals outside the sworn chain of command of a police department whose work focuses on holding that department and its officers and employees accountable. 3 In some jurisdictions, members of the public review, audit or monitor complaint investigations that were conducted by police internal affairs investigators. In other jurisdictions, civilians conduct independent investigations of allegations of misconduct lodged against sworn law enforcement officers (Walker 2001; Finn 2001). Civilian oversight can also be accomplished through the creation of oversight mechanisms that are authorized to review and comment on police policies, practices, training and systemic conduct. Some mechanisms involve a combination of systemic analysis and complaint handling or review (Alpert et al. 2016).

Civilian oversight mechanisms are usually implemented based on the assumption that members of the community do not have faith in the ability of a police or sheriff’s department to police itself (Walker 2001; Miller 2002; Bobb 2003; Harris 2012). When the public believes that officers are not being held accountable for violating the law or department policy, then a consensus may develop that misconduct allegations can be more effectively handled by a civilian organization external to the police (Bobb 2003; PARC 2005; Alpert et al. 2016). Underlying this view is the belief that having non-police actors play a role within the process for handling complaints can lead to more thorough, complete and impartial investigations and findings (Walker 2001; Miller 2002; Harris 2012). A second common assumption is that involving non-sworn individuals in the oversight of the police has the potential to increase public confidence and trust in the police, or at least trust in local government more generally (Walker 2001; Harris 2012).

The implementation of oversight has long been a source of controversy and political conflict. Early on in the development of oversight, police unions, police chiefs, local political actors and law enforcement-related professional associations vehemently objected to the implementation of oversight (Gordon-Reed, 1995; Walker, 2006). Although police unions and some line officers associations still tend to resist oversight (Tal 2003; Wilson and Buckler 2010), other influential stakeholders, such as the International Association of Chiefs of Police, have accepted the idea that civilian oversight can play a crucial role in policing (Finn 2001; International Association of Chiefs of Police 2000; Farrow and Pham 2003). In some cases, police unions have supported what has been perceived to be more professionalized forms of oversight, such as a monitor or auditor model.

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3 Civilian oversight, as it is defined and applied throughout this report, is distinctly different from internal forms of police accountability, such as internal affairs, risk management executive committees, and constitutional policing advisors (NACOLE 2015). It is also distinct from community oversight of the police. Community oversight involves grassroots or non-profit organizations that (attempt to) directly monitor, evaluate, or influence police conduct through means such as video recording police activity, submitting public records or Freedom of Information Act requests, attending public meetings during which police actions are discussed, or other tactics. Community oversight would include, but would not be limited to, groups such as Cop Watch, Cop Block, or, in some cases, Black Lives Matter. These groups are neither non-governmental and do not have legal or administrative authority to oversee the police, and do not act on behalf of a local jurisdiction nor do they have legal authority over cases they investigate.
over the creation of citizen review committees (Prenzler and Ronken 2001; Finn 2001). In Los Angeles, the Los Angeles Police Protective League, the union representing the nearly 10,000 sworn LAPD officers, sponsors an annual civilian oversight-specific training workshop facilitated by staff from the Office of the Inspector General, which provides civilian oversight of the LAPD. More importantly, the rapid increase in the number of oversight agencies in the U.S. indicates that police unions have been unsuccessful at opposing the spread of oversight. While there were only a handful of civilian oversight agencies in the early 1990s (Walker 2001), there are now more than 140 civilian oversight agencies at the county and municipal level in the U.S. Almost all large cities and an increasing number of mid-sized cities have implemented some form of civilian oversight (Walker 2001; Harris 2012; Alpert et al. 2016). Moreover, this pattern is not just limited to the U.S.; civilian oversight is also widespread in Canada (Ferdik et al. 2013.), Australia and New Zealand (den Heyer and Beckley, 2016), Israel, the United Kingdom (Seneviratne 2004), the continent of Europe (Smith 2016) and the Caribbean. Oversight has also become increasingly common in Asia (Nalla 2016) and some parts of Africa (Berg and Howell 2016).

Police oversight has received significant media and political attention since 2014. The President’s Task Force on 21st Century Policing (2015) listed civilian oversight as one crucial pillar of reform and argued that, “Some form of civilian oversight of law enforcement is important in order to strengthen trust with the community. Every community should define the appropriate form and structure of civilian oversight to meet the needs of that community.” (President’s Task Force on 21st Century Policing 2015:26). In response to media reports and public demonstrations that followed the police-related incidents, police oversight is being implemented in places as diverse as Ferguson, MO, New York City, NY and Sonoma County, CA. Efforts are also underway across a wide range of cities and counties to implement police oversight mechanisms, including Fairfax County, VA, Newark, NJ and Oxnard, CA.

Not all recent media and political attention devoted to police oversight has been positive; however, and some jurisdictions have struggled to improve the effectiveness of their oversight systems. The Chicago Police Accountability Taskforce, which was convened following the public release of a dashboard camera video of the police shooting death of Laquan McDonald in November 2015, recently released a report that was highly critical of Chicago’s police oversight and accountability framework, arguing that “Chicago’s police accountability system does not work. The system should identify and investigate misconduct and then impose appropriate punishment. But at every step, there are enormous barriers.” (Police Accountability Task Force 2016: 63). The Chicago Task Force made a significant number of recommendations directed at strengthening Chicago’s police oversight system. In response to the public scandal and final Task Force report, Chicago Mayor Rahm Emmanuel elected to disband Chicago’s full investigative police oversight agency—the Independent Police Review Authority, which was created in 2007—and replace it with a combination of a police inspector general’s office and a community safety oversight board.

In a similar set of circumstances, a 2014 task force review of police accountability in Albuquerque, NM resulted in substantial changes to its system of police oversight. This review, which was triggered by a series of controversial officer-involved shootings, resulted in the implementation of a new independent, non-police agency focused on overseeing investigations into allegations of officer misconduct (Ad hoc Task Force on Civilian Police Oversight 2014).

Even though police oversight is a common outcome from local controversies relating to officer-involved shootings and other critical incidents, there has been relatively little systematic, comparative research on the effectiveness of civilian oversight. As a result, the goal of this publication is to examine the current state of knowledge regarding civilian oversight of law enforcement in the U.S. This report reviews the research literature on oversight in conjunction with data collected from 97 civilian oversight programs to help municipal executives, policy-makers, community leaders and the general public consider the current issues facing civilian oversight of the police.

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4 Incidents include the deaths of Michael Brown (who was shot by a police officer in Ferguson, MO), Eric Garner (who died after the application of a choke hold used by a New York City police officer) and Andy Lopez (a 13-year old who was carrying a replica firearm when he was shot by a Sonoma County Sheriff’s deputy).
With that goal in mind, this publication contains six major sections.

• The first section includes a brief discussion of the methodologies used to review the research literature and collect the organizational data from the civilian oversight agencies. This section also contains pointers to several key empirical reports and research studies on police oversight and offers links to key online resources that may be of use to jurisdictions that are evaluating whether to implement civilian oversight or are undergoing the process of reviewing their existing oversight framework.

• The second section examines the history of civilian oversight, with a particular focus on the evolution of the organizational forms of civilian oversight in the U.S.

• The third section provides a more detailed review of the different models of oversight, including investigation-focused, review-focused and auditing/monitoring-focused models of oversight.

• The fourth section turns to the organizational data provided by 97 civilian oversight agencies to explore key issues and obstacles to effectiveness in police oversight. It draws from the policy literature on oversight to identify the core indicators of effectiveness in police accountability. This section then uses the organizational data to explore variation in the presence or absence of those effectiveness indicators across different models of civilian oversight.

• The fifth section of the report explores trending issues in relation to oversight, particularly the debate over how to measure performance in police oversight, the potential value of problem-solving methodologies for oversight and the increasing emphasis on the value of alternative dispute resolution techniques for resolving complaints against police officers.

• The sixth and final section concludes the report by offering recommendations intended to identify ways that can expand what is known about civilian oversight of police.

Ultimately, this report offers a broad discussion of the important issues currently facing the field of civilian oversight of law enforcement. The review and discussion are intended to provide a broad framework that can help policy-makers, police executives and local community members consider the benefits and challenges that the implementation or reform of oversight can have in their jurisdiction.

Research Methodology

To develop this report, the research team\(^5\) used two different methodologies. First, the research team conducted a review of the academic and policy literatures on civilian oversight of the police. Second, to understand the state of the field better, the research team requested organizational data from police oversight executives in the U.S. with the goal of describing variation in the organizational structure, authority and practices of civilian oversight.\(^6\) In this section, the team briefly presents the methods used to accomplish these data collection tasks.\(^7\)

Literature Review

To examine the literature on civilian oversight of the police, the authors conducted key word searches on the Internet, using

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\(^{5}\) The primary research team was composed of Joseph De Angelis, Richard Rosenthal, and Brian Buchner. NACOLE staff members Cameron McEllhiney and Liana Perez and University of Idaho students Andrea Pikes and Nicole Waldorf provided extremely valuable research assistance.

\(^{6}\) The research team also conducted a similar survey of civilian oversight agencies in Canada. However, the data collection phase of the Canadian survey was not completed in time to be included in this report.

\(^{7}\) The research team for this project also conducted a web scrape of the substantive website content for 144 police oversight agencies in the U.S. For this part of the project, the research team collected all available substantial website material for the oversight bodies, including mission statements, reports, brochures, ordinance/statute language, complaint forms, and any other textual content. The goal of this data collection was to develop documentation to supplement an electronic survey of oversight executives.
Google and Google Scholars search engines. The team conducted key word searches in common academic databases, including LexisNexis Academic, Criminal Justice Abstracts, WorldCat, Academic Search Premier and JSTOR. The authors reviewed reference lists and citations for previous academic papers and policy reports. Finally, the authors also reviewed reference lists provided on the websites for non-profit oversight and law enforcement-related professional associations, such as the National Association for Civilian Oversight of Law Enforcement (NACOLE), Police Assessment Resource Center (PARC), CATO Institute and International Association of Chiefs of Police (IACP). 8

A reasonably large body of academic and policy writing on civilian oversight dates back to the 1970s. For jurisdictions that are considering implementing police oversight or reforming the current oversight functions in their jurisdiction, there are a number of key publications that can be consulted.

Several reports and books provide general guidance on the issues that can accompany the implementation of civilian oversight of police. The following book-length publications provide detailed, foundational advice across a range of concerns relating to civilian oversight: 9

• Citizen Review of Police: Approaches and Implementation (Finn 2001)
• Police Accountability: The Role of Citizen Oversight (Walker 2001)
• Citizen Oversight of Law Enforcement Agencies (Perino 2006)
• The New World of Police Accountability (Walker and Archbold 2014)
• Civilian Oversight of Police: Advancing Accountability in Law Enforcement (Prenzler and den Heyer 2016)
• Common Sense about Police Review (Perez 1994)

A body of more recent work has begun to examine the broad organizational characteristics of different models of civilian oversight in the U.S.:

• Citizen Oversight in the United States and Canada: Applying Outcome Measures and Evidence-Based Concepts (Alpert et al. 2016)
• Getting It Right: Building Effective Civilian Review Boards to Oversee Police (Ofer 2016)
• Overview of Civilian Oversight of Law Enforcement in the United States (Attard and Olson 2013)
• Civilian Oversight of Policing: Lessons from the Literature (Miller 2002)
• Models of Oversight: A Critique (Prenzler and Ronken 2001)
• Building Legitimacy and Public Trust Through Civilian Oversight (NACOLE 2015)

A number of jurisdictions have also produced (or contracted for) the development of independent evaluations of local civilian oversight agencies. Several of these reports, listed below, contain useful comparative case studies of police oversight agencies in the U.S.:

• Enhancing Citizen Participation in the Review of Complaints and Use of Force in the Boston Police Department (McDevitt et al. 2005)

8 The authors also conducted key word searches of newspapers and other print media sources in the LexisNexis Academic databases. However, initial searches generated several thousand articles spanning the period between 1990 and 2016. As a result, a review of print media sources is not included in this publication.

9 The International Association of Chiefs of Police (IACP) also published a guide for the implementation of civilian oversight in 2000 titled: Police Accountability and Citizen Review. Although it is brief, it does offer potentially useful advice about issues that jurisdictions may want to consider when implementing oversight. The guide is also notable because it was designed as a best practices guide for law enforcement chief executives faced with the prospect of civilian oversight being implemented in their jurisdiction.
One of the core—and currently unanswered—questions in relation to oversight is the extent to which local jurisdictions can measure the effectiveness and impact of police oversight on police reform. Overall, there have been few systematic, social scientific studies focusing on the impact of citizen oversight (Walker 2001; Prenzler and Lewis 2005; Harris 2012). There are likely a number of reasons for this. First, it can be difficult for researchers to gain access to data relating to police complaints and internal investigations. State law often protects these types of personnel records and law enforcement and police oversight agencies are often unwilling (or unable) to grant outside researchers access to these types of records. More importantly, there are considerable difficulties in designing research that can parcel out the distinct influence that oversight has on policing and police reform. The work of oversight agencies is often intertwined with the work of internal police accountability mechanisms (Brereton 2000; Prenzler and Lewis 2005). As such, it can be difficult to establish the direct impact that oversight has had on the quality of internal investigations or improvements to police operations, policies or procedures. That said, there are a limited number of publications focused on effectiveness and performance measurement in civilian oversight of law enforcement. These include:

- *Holding Police Accountability Theory to Account* (Harris 2012)
- *Effectively Implementing Civilian Oversight Boards to Ensure Police Accountability and Strengthen Police-Community Relations* (King 2015)
- *Performance Evaluation of Police Oversight Agencies* (Filstad and Gottschalk 2011)
- *Performance Indicators for Police Oversight Agencies* (Prenzler and Lewis 2005)
- *Evaluating the Performance of External Oversight Bodies* (Brereton 2000)
- *The Use of Performance Measurement in Civilian Oversight in the United States* (Mohr 2007)

There are currently no agreed upon national standards for police oversight. Even so, there have been several efforts, documented in the citations below, to memorialize national guidelines for certain types of police oversight, including police auditors and monitors:

- *Core Principles for an Effective Police Auditor’s Office* (Walker 2003)
- *National Guidelines for Police Monitors* (Bobb et al. 2008)

Beyond these academic and policy publications on police oversight, a number of websites operated by non-profit organizations contain useful resources, links to police oversight agencies and other types of toolkits that can serve as a starting point for jurisdictions considering implementing police oversight or revising their current oversight framework:

- NACOLE, [www.nacole.org](http://www.nacole.org)
- Police Assessment Resource Center (PARC), [www.parc.info](http://www.parc.info)
- Center for Policing Equity, [www.policingequity.org](http://www.policingequity.org)

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Olson (2016) also recently conducted a review of key issues confronting the Spokane County Sheriff’s Citizens Advisory/Review Board, which performs some oversight functions for the Spokane County Washington Sheriff’s Department. This report may be of particular interest to jurisdictions that are thinking about transitioning a purely internal advisory board into a broader form of independent, external citizen oversight.
Electronic Organizational Data Collection

Since much of the recent research on civilian oversight has been based on either case studies or anecdotal accounts of individual agency practices, there are substantial gaps in what is known about the state of civilian oversight in the 21st century. To develop better understanding of the general state of civilian oversight in the U.S., the research team requested organizational data from 97 civilian oversight agencies in the U.S. The overall goal was to capture and describe variation in the organizational structure, legal authority, organizational practices and financial resources for contemporary oversight. Several of the attitudinal questions were adapted from early survey research on oversight (Walker and Bumphus 1991). The research team designed the data request to measure organizational and attitudinal information in 12 key areas:

1. The history of the oversight agency;
2. The legal authority/organizational powers granted to the agency;
3. Agency goals;
4. Organizational structure;
5. Budget;
6. Staffing;
7. Presence and structure of a board or community members;
8. Role in the complaint intake and investigation process;
9. Community outreach practices;
10. Perceived support from process stakeholders;
11. Data collection and analysis practices; and
12. Key successes or obstacles that the agency has experienced in the previous three years.

See Appendix A for further details about the methodology.

Brief History of Civilian Oversight

Early forerunners of modern police oversight initially took the form of police commissions, which were implemented by Progressive Era reformers in the late 19th and early 20th centuries as a strategy to break the hold of political machines on local policing (PARC 2005; Walker 1977; Walker 2001; Walker 2006). To reduce the influence of partisan politics and nepotism on police departments, these commissions were populated by part-time, non-police volunteers and often granted the power to hire and fire the local police chief. The goal was to support the development of a professionalized, independent police force by having the commission function as a buffer between local political actors and the police chief (Walker 2001; Walker 2006). Unfortunately, early commissions never functioned as effectively as initially envisioned, partly due to the fact that commission members were political appointees and had little expertise in policing (Walker 2001; Bobb 2003). As a result, they tended to become highly deferential to police executives and failed to provide meaningful oversight of local police departments (Bobb 2003: 4; Attard and Olson 2013).11 Later efforts to establish police oversight arose out of the Civil Rights

11 A number of police commissions remain in existence today, such as Detroit’s Board of Police Commissioners, the Kansas City Board of Police Commissioners, the Honolulu Police Commission and the Los Angeles Board of Police Commissioners. These modern examples of police commissions perform some of the same functions as Progressive Era commissions (e.g., commissioners are typically volunteers and they hire/fire the police chief). However, they have also evolved considerably from early commissions, operating with greater independence, large budgets, full-time professional staff and playing a significant role in overseeing police policy, complaint investigation and disciplinary processes.
Movement, in direct response to the treatment of the black community by the police (Walker 2001). The intersection of race and policing is central to the history of civilian oversight of law enforcement in the United States; issues of race, equality, justice and trust in law enforcement have had a prominent role in police reform over the last 50 years.

**Early Efforts at Establishing Civilian Review, 1920s-1960s**

Support for the implementation of civilian oversight can be seen as early as the 1920s, with most of the efforts focused on creating bodies that could better respond to complaints against the police. In 1928, the Los Angeles Bar Association created a non-governmental committee to record complaints against police officers (Walker 2006: 3; Ferdik et al. 2013). More substantive proposals to create independent, governmental mechanisms for handling complaints against police officers can be seen in a series of national commission reports in the 20th century. In 1931, the Wickersham Commission Report argued that “some disinterested agency” should be created in “every locality” to take community complaints against the police (Wickersham Commission 1931(1968): 192; see also Walker 2006). In 1968, the Kerner Commission (created as the result of race-related rioting in United States cities between 1964 and 1968) recommended the creation of external oversight, specifically, “a specialized agency with adequate funds and staff, [to] be created separate from other municipal agencies” (United States Kerner Commission 1968: 312). The Kerner Commission also recognized that complaints could have value for organizational policy analysis and that the wider public would be less likely to trust the result of complaint investigations if those investigations were handled internally by a police department (p. 312; see also Walker 2006).

Initial efforts to implement modern forms of civilian oversight began in several large cities in the middle of the 20th century, with a focus on creating volunteer review boards that would play a role in receiving complaints and reviewing completed internal police investigations into allegations of misconduct filed against officers (Hudson 1971; Terrill 1988; Walker 2001). For example, a Complaint Review Board (CRB) was created in Washington, D.C. in 1948 as a result of community concern about police racism and use of excessive force against African-Americans (Beattie and Weitzer 2000). The CRB existed for almost fifty years, but was poorly funded by the city and unable to keep up with an increasing caseload (Beattie and Weitzer 2000). The CRB was eventually replaced by the Office of Police Complaints (Walker, 2001). In Philadelphia, a Police Advisory Board was created in 1958, but was shut down in 1969 due to a lack of funding (Terrill, 1988; Walker 2001). The New York City Civilian CRB was initially established in 1953 as an internal review body staffed by three Deputy Commissioners (Walker 2006). It was subsequently made into an external review body, but was disbanded shortly thereafter following a public referendum orchestrated by the Policeman’s Benevolent Association (Hudson 1971).

Examining the early U.S. oversight agencies, the research team found several key characteristics common to each of these efforts. First, the implementation of each of these oversight mechanisms emerged from local crises and civil unrest relating to conflict between the police and local communities of color. Second, these oversight agencies were designed around a civilian review model—that is, they were largely composed of volunteer members with relatively little expertise in police issues.

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**Key Research on Oversight History**

- *The History of Citizen Oversight* (Walker 2006)
- *Civilian Oversight of the Police in the United States* (Bobb 2003)

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12 There were also a number of proposals offered by non-governmental actors that outlined both the rationale and possible organizational features of possible independent, non-police complaint intake and investigation procedures. See, for example, Beral and Sicl (1964) law review note comparing the internal police investigation procedures to potential models of citizen review of complaints.
had small or non-existent budgets and little staff support (Jones 1994; Walker 2001). Their core function was to receive complaints and review completed internal affairs investigations (Walker 2006) but their extremely limited resources compromised their ability to keep up with increasing complaint workloads (Ferdik et al. 2013). Third, these agencies all encountered significant resistance from police unions, local politicians and policy makers, which ultimately resulted in their abolition (Bayley 1991; Walker 2001; Walker 2006).

Emergence of Investigative Models of Civilian Oversight, 1970s-1980s

Although all of the oversight agencies implemented during the initial wave failed, another wave of development began in the late 1960s and carried through to the 1980s (Walker 2001; Walker 2006; Alpert et al. 2016). As with the first wave, these oversight agencies were primarily concentrated in large cities and their implementation was not the product of slow, deliberate policy-making but instead driven by local crises as the result of civil unrest and police-community conflict (Walker 2001). However, while the initial wave of oversight agencies were structured around limited review board models, oversight agencies implemented in the 1970s and 1980s tended to have enhanced resources, greater durability and expanded organizational authority (Walker 2006). Moreover, while only a small number of oversight agencies were created in the 1960s through the 1980s, most of these agencies have remained operational in the long term. A city ordinance in 1969 created the Kansas City, MO Office of Community Complaints (OCC) and it has remained in continuous operation through the present day. Unlike earlier board models, the OCC had expanded professional staff support that allowed it to respond more effectively to increasing workload demands. The OCC’s legal authority was also enshrined in ordinance, which served as an obstacle to easy repeal (Walker 2001; Ferdik et al. 2013).

Shortly after the OCC was created, a number of other oversight agencies were also implemented and granted the power to conduct investigations that were entirely independent of the police. A city ordinance in Berkeley, CA in 1973 created the Police Review Commission (PRC) and granted it the ability to independently investigate complaints filed by members of the public against police officers (Walker 2001). Nearly ten years later in 1982, an amendment to the City Charter created the Office of Citizen Complaints in San Francisco, CA. The Office of Citizen Complaints completely replaced the police internal affairs function in relation to citizen complaints and was granted the authority to both receive and investigate all citizen complaints (the police department continued to investigate internally-generated complaints against officers) (Walker 2001; Ferdik, Alpert, and Rojek 2013). Finally, an ordinance in 1986 reconstituted the Civilian Complaint Review Board (CCRB) in New York City. The CCRB initially employed civilian investigators who worked alongside police employees and were supervised by police managers; it became an all-civilian investigative oversight agency in 1993 (Walker 2006).

Emergence of Auditor/monitor and Hybrid Models of Civilian Oversight, 1990s-Present

Another wave of development began in the 1990s and continues to present day (Walker 2001; Walker 2006; Alpert et al. 2016). During this period, there was a rapid expansion of the number of police oversight agencies in the U.S. subsequent to the March 1991 videotaped beating of Rodney King by the LAPD and the resulting report published four months thereafter by the Independent Commission on the LAPD (“Christopher Commission”).
During this period, there was a rapid expansion of the number of police oversight agencies in the U.S. Another wave of development began in the 1990s and continues to present day (Walker 2001; Walker 2006; Alpert et al. 2012). While no one has measured the exact increase in the number of oversight agencies since the 1990s, it is clear the number increased from a handful in the early 1990s to over 100 in 2001 (Walker 2001). One of the core characteristics of this wave was the increasing diversity in the organizational structure and legal powers of the different organizational forms of police oversight. Moreover, the 1990s saw the emergence of a new model of oversight—the auditor/monitor model (Bobb 2003; Walker 2006). Unlike earlier models of oversight that tended to focus on either reviewing or investigating individual complaints, these auditor/monitor agencies had the mandate to examine systemic patterns in complaints or other types of officer conduct (including uses of force, pedestrian and traffic stops, arrests and detentions), and to offer recommendations for improving police policies, practices and training. While the implementation of review-focused and investigatory oversight agencies remained common in the 1990s, a number of oversight entities began to focus increasingly on systemic causes of misconduct as opposed to focusing solely on outcomes of individual complaint investigations (Lewis 2000; Livingston 2004; Harris 2012).

The first auditor-focused oversight agency was implemented in 1993 in San Jose, CA and was followed a short time later by the Seattle Police Auditor (Walker 2006; Ferdik et al. 2013). Similarly, as the result of the response of the City of Los Angeles to the videotaped beating of Rodney King, a voter initiative in 1995 created the Office of the Inspector General (OIG) for the City of Los Angeles and gave it authority to investigate and audit complaint and other investigations conducted by the LAPD to ensure that they complied with accepted standards (Office of the Inspector General n.d.). Shortly thereafter, and in the wake of the Kolts Report and recommendations, the County of Los Angeles adopted the Special Counsel model with jurisdiction over the Los Angeles County Sheriff’s Department. The Special Counsel was an independent entity that had the ability to audit and investigate any area of the Sheriff’s Department’s operations, policies and procedures, as well as to monitor the implementation of reforms outlined in the Kolts Report.

13 This wave of development was accompanied by the growing recognition that citizen oversight constituted a professional field of work and saw the development of professional associations that brought together different oversight agencies from both inside and outside of the United States (Walker 2006). The International Association of Civilian Oversight of Law Enforcement (IACOLE) was created in 1985, NACOLE was created in 1995 and the Canadian Association for Citizen Oversight of Law Enforcement (CACOLE) established in 1997. Websites for the last two professional associations can be visited at: www.nacole.org and www.cacole.ca.

14 While police auditors emerged as an important form of oversight during this period, it is important to note that there continued to be a rapid increase in the number of citizen review boards, which comprised the most common form of oversight implemented during the late 1990s in the United States.
By the late 1990s and early 2000s, the numerical rise in the number of oversight agencies continued. This time period also saw two critical developments in independent police oversight. First, the U.S. began to see the development of a second generation of hybridized forms of civilian oversight, which often emerged as replacements for earlier civilian review boards. For example, Portland, OR implemented the Independent Police Review Division (IPR) in 2001 as a replacement for an earlier review board. The IPR was consciously designed to draw its organizational structure from different models of oversight (Office of the City Auditor 2001). It was empowered to serve as an initial intake point for community complaints against police officers; monitor on-going serious investigations; audit complaint investigations conducted by police internal affairs staff; and develop data-driven recommendations for improving police policies, practices and training (Independent Police Review Division 2002). A later revision to the IPR’s ordinance also granted the agency the ability to conduct independent investigations and ultimately monitor police critical incident investigations (Independent Police Review Division 2012: 1). The IPR was also created with a citizen oversight board, the Citizen Review Committee, which had the authority to review and audit closed complaints, make policy recommendations, hold public hearings and serve as an appellate body for appeals of non-sustained findings made by the Portland Police Bureau (Independent Police Review Division 2003: ix). Similarly, other large cities, including Denver (2005) and New Orleans (2009) implemented hybridized auditor/monitor oversight agencies.

Contemporary Models of Civilian Oversight

Over the years, there have been multiple attempts to create schema to classify approaches to civilian oversight of law enforcement. One of the challenges in accomplishing this feat is that it appears that almost no two civilian oversight agencies in the U.S. are identical. Each jurisdiction has its own political, social and cultural tensions that influenced the development of each oversight entity’s legal authority, structure and organizational practices (NACOLE 2015). Oversight agencies may receive, review, audit and monitor police investigations into officer misconduct. Oversight agencies may conduct investigations that are wholly independent of the police. They may analyze and issue public reports on misconduct investigations, lawsuits, uses of force or detentions and arrests. Oversight investigators or auditors may provide on-scene monitoring of critical incidents, such as officer-involved shootings or protests; and they may evaluate whether an officer’s actions were appropriate under the circumstances or showed a need for individual accountability or systemic reform. In addition, oversight entities may also assess a police department’s policies, supervision and management practices and training, hiring and recruitment standards, among other procedures.

Nonetheless, it is possible to review the previous literature and make several initial observations about contemporary forms of civilian oversight. These include:

- **High Variability in Organizational Structure.** Currently, there is a tremendous amount of variation in the structure of different oversight agencies (Walker and Kreisel 1996; Walker 2001; Bobb 2003; Alpert et al. 2016). Some agencies operate almost completely by a small number of community volunteers while others have a large number of paid professional staff. Some oversight agencies have no operating budget while other agencies have multimillion-dollar budgets.

- **Wide Differences in Organizational Authority.** Substantial variation exists in the jurisdictional authority granted to police oversight agencies. Elements such as the role that oversight agencies play in relation to the intake of complaints, the relationship they have to the complaint investigation process and their level of access to police records vary. A long list of other characteristics differ greatly including whether they can make recommendations as to findings and discipline, or make recommendations relating to police policies, practices and training (Walker and Kreisel 1996; Walker 2001; Bobb 2003; Alpert et al. 2016).

- **Organizational “Hybrids” are Common.** While early forms of oversight tended to operate as “citizen review boards,” and focused on reviewing and commenting on completed internal affairs investigations, many contemporary oversight agencies combine different organizational forms and types of organizational authority in relatively complex ways (Walker 2001; Finn 2001; Attard and Olson 2013; Alpert et al. 2016).
Even given the variability in the structure of oversight, there have been multiple efforts to classify police oversight agencies based on key characteristics. Walker (2001) developed one of the earliest and most sophisticated classification systems for oversight. Describing the different models as Class I, Class II, Class III and Class IV systems, Walker argues that models of oversight should be considered along a continuum that range from forms of oversight that are the most independent from police departments to oversight systems that are the least independent. He defines Class I systems as agencies that are independent of police departments and conduct fully independent investigations into allegations of officer misconduct. Class II systems review and comment on internal investigations conducted by the police. Class III systems function as appellate bodies, with complainants filing appeals with the oversight agency when they are dissatisfied with the outcomes on complaints investigated by local law enforcement. Class IV systems are agencies that have the ability to audit, monitor or review the police/sheriff department’s complaint handling system. In addition to these classes, Walker also recognizes “hybrid” oversight agencies that do not fit easily within any of the four categories (Walker 2001: 62).

Since Walker developed this classification scheme in the late 1990s, a number of others attempts to update it have occurred. Ferdik, Alpert and Rojek (2013) adapted Walker’s (2001) classification schema to explore organizational variation in U.S. and Canadian oversight agencies. Using publicly available reports and documents from several large civilian oversight agencies, Ferdik et al. (2013) concluded that there was substantial organizational variation across different oversight agencies and new “holistic” forms of oversight increasingly blur the boundaries between traditional models of oversight. They argue that these forms of oversight can perform traditional oversight roles (e.g., investigation, auditing, and review), but can also conduct proactive pattern analysis to offer recommendations for improving policy, practices, and training. Ferdik at al. (2013) contended that this new proactive policy recommendation ability can be found across three of the four “classes” that Walker developed.

In 2005, PARC conducted a research project for the city of Eugene, OR. In it, they outlined a three-part classification scheme (PARC 2005).

1. **Review and Appellate models**, which are designed to review completed police internal investigations or hear appeals from the public on investigation findings;
2. **Investigative and Quality Assurance models**, which replace the police internal affairs process in whole or in part; and
3. **Evaluative and Performance-based models**, which adopt a holistic approach to evaluating patterns in police risk management, performance, operations or other organizational systems to promote systemic reform.

In another recent review of models of oversight, Attard and Olson (2013) revised Walker’s oversight schema and grouped oversight agencies based on their role in the complaint handling process as well as their organizational structure. Accordingly, they grouped oversight agencies into three categories:

1. **Investigative agencies**, which conduct independent investigations of complaints filed against police officers;
2. **Auditing/monitoring agencies**, which systematically review and examine police internal investigations and other law enforcement activity to make recommendations around policy and training; and,
3. **Review boards and commissions**, which includes a diverse range of agencies headed by volunteer community members who may hold community forums, hear appeals or issue findings on investigations completed by paid staff (Attard and Olson 2013: 3-5).

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15 A number of other academics and practitioners have developed classification schemas that group police oversight agencies in slightly different ways (Prenzler and Ronken 2001; PARC 2005).
This report adopts an oversight classification scheme that is a slightly revised version of Walker’s (2001). It groups oversight agencies into three categories based on the core agency functions:

1. Investigation-focused,
2. Review-focused, and
3. Auditor/monitor-focused.

Grouping agencies into these categories required a two-step process. First, an initial quantitative analysis was conducted using the organizational data provided by the oversight agencies. More specifically, agencies were initially grouped based on data provided, which focused on how frequently the oversight agencies conducted independent investigations, audited internal affairs investigations, monitored open internal affairs investigations and reviewed completed internal affairs investigations. During the second stage of the analysis, the agencies were grouped into different organizational categories after the organizational data provided by the oversight agencies was evaluated against their agency’s public mission statement and foundational legal authority (when available). This two-stage process allowed each agency to be grouped into one of three categories: auditor/monitor-focused, investigation-focused and review-focused.

### Table 1: Classification Schema for Agencies Providing Data for this Report

<table>
<thead>
<tr>
<th>Classification</th>
<th>Frequency</th>
<th>Percent</th>
</tr>
</thead>
<tbody>
<tr>
<td>Auditor/monitor-focused</td>
<td>24</td>
<td>24.7%</td>
</tr>
<tr>
<td>Investigation-focused</td>
<td>34</td>
<td>35.1%</td>
</tr>
<tr>
<td>Review-focused</td>
<td>39</td>
<td>40.2%</td>
</tr>
<tr>
<td>Total</td>
<td>97</td>
<td>100%</td>
</tr>
</tbody>
</table>

In the remainder of this section, the key characteristics of the three different models of oversight are examined.

**Investigation-Focused Models**

One relatively common model of oversight is the investigation-focused agency that operates separately from the local police or sheriff’s department (Walker 2001: 62). While the structure, resources and authority of these types of agencies can vary among jurisdictions, these agencies are tied together by their ability to conduct independent investigations of allegations of misconduct against police officers (Prenzler and Ronken 2001; Walker 2001). These oversight agencies may either completely replace the police internal affairs function or they may conduct investigations that parallel or duplicate the work of internal affairs (Finn 2001; PARC 2005). As one example, San Francisco’s Office of Citizen Complaints (OCC) is an entirely civilian, governmental agency solely responsible for investigating complaints filed by community members against sworn members of the San Francisco Police Department (OCC 2016).

The organizational structure of investigative agencies can vary significantly. In some cases, an investigative agency may be governed by a volunteer board (and supported by a professional staff of investigators). In small jurisdictions, an investigative agency may be staffed by a single investigator or consultant (Finn 2001; PARC 2005).

The available literature on full investigative oversight agencies identifies a common set of organizational functions (Walker

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16 Unlike Walker’s oversight classification scheme, this publication did not include appellate agencies (Class III systems) as a separate category. Patterns in the organizational data indicated appellate functions can be found across a range of agencies, including investigative and auditor/monitor systems that operate with a combination of professional staff and oversight boards composed of community volunteers.

17 Auditor/monitor agencies were collapsed into one category due to significant overlap between agencies that reported performing both auditing and monitoring functions either “all the time” or “very frequently.”
and Kreisel 1996; Prenzler and Ronken 2001; Walker 2001; Finn 2001; Bobb 2003; Attard and Olson 2013; Ferdik et al. 2013; Walker and Archbold 2014). Investigative agencies may:

- Serve as the intake point for public complaints against police officers (Bobb 2003).
- Review and classify the nature of the complainants’ allegations (King 2015).
- Conduct independent interviews of complainants, officers and witnesses (Attard and Olson 2013).
- Be staffed by non-police “civilian” investigators, although some agencies may employ retired or former police officers (Finn 2001).\(^{18}\)
- Be led by a community board or commission that may hold hearings, issue subpoenas or make findings on investigations conducted by professional non-police investigative staff (Attard and Olson 2013).

**Potential Strengths of Investigation-focused Agencies**

An investigation-focused agency with appropriately trained staff can complete thorough and impartial investigations (Prenzler and Ronken 2001; PARC 2005). Investigation-focused agencies are the most independent forms of oversight (Walker 2001) and tend to have more resources and larger staffs than other types of oversight. Their investigators are also likely to have had highly specialized training and experience in relation to investigations, particularly as the organization matures. Thus, where investigation-focused agencies are sufficiently resourced, have well-trained, competent staff and are granted sufficient access to department personnel and records, they may be able to improve the quality of internal investigations. Even though this is a commonly identified strength of the investigation-focused oversight agency, more rigorous comparative research is needed on this issue.

A related potential strength of the investigation-focused model is its ability to increase public faith in the integrity of the investigations process, especially in the aftermath of significant public scandals involving the police. Available public opinion research demonstrates strong public support for the independent investigation of serious complaints against police officers (Prenzler 2016). Most investigation-focused agencies utilize civilian staff to conduct fact-finding investigations and operate a multi-member community board that may hold hearings, issue findings and/or make recommendations to the police department. As a result, this model may reassure a community that investigations are unbiased, thorough and that civilian perspectives are represented both within the complaint investigation process and upon review of completed investigations (PARC 2005).

Finally, relative to other forms of oversight that rely on community volunteers, investigative agencies are able to hire full-time investigators who often have highly specialized training, greater resources and more time to perform their oversight work (Finn 2001).

**Potential Model Limitations**

Another potential limitation of the investigative model is the significant costs and resources necessary to conduct competent, timely investigations, including large staffing requirements, as well as the complex organizational issues that can accompany the implementation of a stand-alone investigative oversight agency. Full investigative agencies are more expensive than other models of oversight, largely due to the increased personnel costs that accompany the hiring of professional investigators (Finn 2001: vii).

While the cost of an investigation-focused oversight agency is, by necessity, higher than the other models of oversight, the higher cost could be mitigated by the savings realized from a reduction or the elimination of personnel needed to conduct police internal investigations. For example, evaluation research conducted in the 1990s on the now-defunct Minneapolis

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\(^{18}\) Some Canadian independent investigation agencies employ “seconded” officers who are currently serving police officers assigned as full-time investigators serving at the pleasure of the oversight agency director (e.g., the Alberta Serious Incident Response Team (ASIRT) and the Nova Scotia Serious Incident Response Team (SiRT)).
Civilian Police Review Authority (CRA) found that CRA investigations were far less costly to conduct on a per case basis than investigations conducted by the police internal affairs unit ($3,649 per CRA investigation versus $6,278 per police internal affairs investigation). This was due, in part, to the lower costs associated with using volunteers and civilian investigators (Minneapolis Civilian Review Authority 1997: 18-17; Walker 2001: 137).

Another potential weakness is that attempts to implement investigation-focused agencies tend to generate significant resistance from police unions and their allies (King 2015). Unions have routinely argued that civilian investigators do not have the technical background or professional experience to conduct complex investigations into allegations of officer misconduct (Prenzler and Ronken 2001; Walker 2001). Police unions have also opposed the implementation of full investigatory oversight agencies, arguing that they will be biased against police officers (King 2015).

In addition, it can be argued that the use of former police officers or even civilian investigators who have not previously served as police officers may not eliminate pro-police bias in complaint investigations. Civilian investigators may harbor either pro or anti-police bias, depending on their own personal background and experiences. Another argument is that civilian investigators may also be less willing to challenge an officer’s account of events than a peer investigator or a police supervisor. Similarly, while some former police officer investigators may have the ability to investigate without bias, others may approach their jobs with the intent or desire to justify or defend the conduct of other officers, regardless of whether those officers are investigating an agency where they were previously employed.

Independent investigation-focused agencies in large cities have also been plagued with budgetary and personnel limitations that have resulted in untimely investigations. The New York City CCRB has often been criticized for lack of timely investigations as well as efforts taken by that agency to reduce its workload through re-allocation of resources (Clarke 2009).

Some researchers have argued that while the community may have great confidence in full investigative models initially, community confidence can wane over time if these models are perceived as not leading to the reforms promised during implementation (McDevitt et al. 2005: 5). For example, the public may expect that more citizen complaints will be sustained and stronger punishments imposed after full investigative oversight models are implemented. However, there is currently no systematic evidence to support this expectation and it is currently unclear what impact full investigative models have on patterns in findings and discipline for police officers alleged to have engaged in misconduct. As a result, disillusionment among the public may develop over time when community expectations for change are not met. This is, in part, one of the reasons for the recent recommended dissolution of Chicago’s Independent Police Review Authority (Police Accountability Task Force 2016).

**Summary of Investigation-focused Agencies**

**Key Characteristics**

1. Routinely conducts independent investigations of complaints against police officers.
2. May replace or duplicate the police internal affairs process.

**Potential Key Strengths**

1. May reduce bias in investigations into citizen complaints.
2. Full-time civilian investigators may have highly specialized training.
3. Civilian led investigations may increase community trust in the investigations process.

**Potential Key Weaknesses**

1. Most expensive and organizationally complex form of civilian oversight.
2. Civilian investigators may face strong resistance from police personnel.
3. Disillusionment among the public may develop over time when community expectations for change are not met.
One final criticism sometimes offered in relation to investigation-focused agencies is that they have the potential to undermine
the responsibility of police chiefs and sheriffs to maintain discipline (McDonald 1981; Prenzler and Ronken 2001.) In police
agencies where internal affairs units are reduced or eliminated, the opportunity for officers to obtain experience in conduct-
ing personnel investigations and recognizing the extent to which misconduct can negatively impact the agency becomes
limited or nonexistent. A robust internal affairs process can result in investigators and supervisors who are more committed
to ensuring a police culture of integrity and accountability within their own organization. Table 2 presents examples of in-
vestigation-focused models in the U.S.

<table>
<thead>
<tr>
<th>Agency</th>
<th>Jurisdiction</th>
<th>Website</th>
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<tr>
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<td><a href="http://www.sandiegocounty.gov/ckcrb">www.sandiegocounty.gov/ckcrb</a></td>
</tr>
<tr>
<td>Citizen Police Review Board</td>
<td>Pittsburgh, PA</td>
<td><a href="http://www.cprbpgh.org">www.cprbpgh.org</a></td>
</tr>
<tr>
<td>Office of Municipal Investigations</td>
<td>Pittsburgh, PA</td>
<td><a href="http://www.pittsburghpa.gov/omi">www.pittsburghpa.gov/omi</a></td>
</tr>
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</table>

Review-focused Models

A second category of oversight focuses its work on reviewing the quality of internal investigations, primarily those conduct-
ed by police internal affairs units. Many review agencies take the form of volunteer review boards or commissions and are
designed around the goal of providing community input into the internal investigations process (PARC 2005). Instead of
conducting independent investigations, review agencies may evaluate completed internal affairs investigations, hear appeals,
hold public forums, make recommendations for further investigation or conduct community outreach (Attard and Olson 2013). As with
full investigative agencies, review-focused agencies vary in their organizational structure and can perform a range of functions
(Walker and Kreisel 1996; Prenzler and Ronken 2001; Walker 2001; Finn 2001; Bobb 2003; Attard and Olson 2013; Ferdik et al. 2013;
Walker and Archbold 2014). The available literature on oversight indicates that review agencies can:

1. Conduct complaint intake. Some review boards may serve as an alternate intake point for community members who would
   like to file a complaint against an officer, but are uncomfortable visiting a police facility (King 2015). After receiving the
   complaint, review agencies will generally send the complaints to the police or sheriff internal affairs unit for investigation.

2. Review completed police investigations of externally generated complaints. Review-focused agencies typically only evaluate completed
   police internal affairs investigations. They tend to have neither independent investigatory authority nor do they typically have the power to subpoena witnesses or records (Walker 2001; Finn 2001; Attard and Olson 2013). Moreover, they tend to have
   authority to only review complaints filed by community members and are less likely to review internal police complaints (e.g., complaints filed by a supervisor) or critical incident investigations (e.g., officer-involved shootings, in-custody deaths) in the absence of a complaint (Bobb 2003).
3. *Make recommendations to the police executive.* After evaluating completed investigations, review agencies may have the ability to make recommendations regarding findings on cases or request that further work be done on cases to remedy deficiencies in initial internal affairs investigations (PARC 2005: 11).

4. *Hear appeals.* Review-focused agencies may also hear appeals from members of the public who were dissatisfied with the outcome of their complaint that was filed with, and/or investigated by, the police agency (Finn 2001; PARC 2005). In most cases, findings made by a review-focused agency come in the form of recommendations to the police executive. In some cases, the agency’s findings may have the force of law.\(^{19}\)

5. *Gather and review public input.* Another common function of review-focused agencies is to hold public forums and gather input on the quality of complaint investigations and other law enforcement-related issues. After gathering and reviewing public input, the review agencies may communicate those concerns to police executives and other policy-makers.

### Potential Model Strengths

Some researchers have argued that the public may perceive review boards and commissions as more representative of the community than programs that are staffed by full-time professionals (Finn 2001; Attard and Olson 2013). As such, community members may be more likely to perceive the oversight entity as supporting and protecting community interests (Walker 2001).

Beyond public perception, review-focused agencies have the benefit of allowing community representatives to bring an outsider’s perspective to the complaint investigations process. This may help jurisdictions identify and correct deficiencies within individual complaint investigations (PARC 2005). Where review boards have diverse community representation, there may be a stronger motivation on the part of police investigators to ensure that not only is there no bias in the conduct of their investigations, but that any appearance of bias is also removed. With respect to the review of policy and officer conduct, review boards have the ability to identify deficiencies in policy or training as they apply to individual cases being reviewed. A diverse board will have the ability to provide different perspectives on police policy and training and make recommendations for change that could result in improved community-police relations.

### Summary of Review-focused Agencies

#### Key Characteristics

1. Often focuses on reviewing the quality of completed police internal affairs investigations.
2. May make recommendations to police executives regarding findings or request that further investigation be conducted.
3. Commonly headed by a review board composed of citizen volunteers.
4. Often hold public meetings to collect community input and facilitate police-community communication.

#### Potential Key Strengths

1. Ensures that the community has the ability to provide input into the complaint investigation process.
2. Generally the least expensive form of oversight since it typically relies on the work of volunteers.
3. Community review of complaint investigations may increase public trust in the process.

#### Potential Key Weaknesses

1. May have limited authority and few organizational resources.
2. Review board volunteers may have significantly less expertise in police issues and limited time to perform their work.
3. May be less independent than other forms of oversight.

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\(^{19}\) In those cases where an agency can compel a police executive to change a finding, an officer would, as a matter of law, have the ability to appeal a sustained finding of misconduct through a civil service process or through the courts.
Finally, review focused agencies tend to be the least expensive form of oversight. They are often operated by volunteers and may have no stand-alone budget (PARC 2005). As a result, this type of oversight is popular in smaller jurisdictions that have limited resources.

**Potential Model Limitations**

Like all models of oversight, review-focused agencies may have certain limitations. First, review-focused oversight agencies tend to have limited authority and, like full investigative agencies, typically focus on individual case investigations. As a result of that reactive focus, their ability to promote large-scale systemic organizational change may be limited (Walker 2001; PARC 2005). Moreover, review agencies may not have the authority to systemically evaluate police policies or procedures, make policy recommendations or examine aggregate patterns in officer conduct (PARC 2005: 11).

Depending on the structure of the review agency, they may be less independent from the police than other oversight models. These types of oversight agencies may be more likely to report to the police chief, have a small or no stand-alone budget, have limited or no staff support and board members tend to be political appointees (Walker 2001; PARC 2005; Olson 2016). Moreover, they may have to rely on the police or sheriff’s department for meeting space, administrative support and training. Since they do not always have the power to conduct independent investigations, review agencies are also more likely to rely on the police or sheriff’s department for their information (McDevitt et al. 2005; Olson 2016). Table 3 presents examples of review-focused models in the U.S.

<table>
<thead>
<tr>
<th>Agency</th>
<th>Jurisdiction</th>
<th>Website</th>
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<tbody>
<tr>
<td>Citizens’ Police Review Board</td>
<td>Albany, NY</td>
<td><a href="http://www.albanylaw.edu/cprb">www.albanylaw.edu/cprb</a></td>
</tr>
<tr>
<td>Citizens’ Police Complaint Board</td>
<td>Indianapolis, IN</td>
<td><a href="http://www.indy.gov/egov/city/dps/cpco">www.indy.gov/egov/city/dps/cpco</a></td>
</tr>
<tr>
<td>Civilian Police Review Board</td>
<td>Urbana, IL</td>
<td><a href="http://www.urbanailinois.us/boards/civilian-police-review-board">www.urbanailinois.us/boards/civilian-police-review-board</a></td>
</tr>
<tr>
<td>Citizen Review Committee</td>
<td>St. Petersburg, FL</td>
<td><a href="http://www.stpete.org/boards_and_committees/civilian_police_review_committee">www.stpete.org/boards_and_committees/civilian_police_review_committee</a></td>
</tr>
<tr>
<td>Citizens’ Review Board on Police Practices</td>
<td>San Diego, CA</td>
<td><a href="http://www.sandiego.gov/citizensreviewboard">www.sandiego.gov/citizensreviewboard</a></td>
</tr>
</tbody>
</table>

Since review board members are generally volunteers drawn from a range of professional backgrounds, they may have less expertise than paid professional oversight staff and have limited time to perform oversight functions. This may reduce the efficiency of a jurisdiction’s oversight function and lead to a shallow impact on the quality of internal investigation (Finn 2001; Olson 2016).

**Auditor/monitor-focused Agencies**

One of the newest forms of police oversight is the auditor model of oversight referred to by several different names, including police monitor or inspector general. As noted earlier in this report, this model of civilian oversight began to develop in the 1990s and generally emerged as a type of political compromise to satisfy police-community concerns about bias and professionalism (Walker 2006; Walker and Archbold 2014: 180). While local community and civil rights activists tended to

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29 It is important to distinguish between court appointed monitors, who are limited term appointees charged with overseeing the implementation of a court-sanctioned reform agreement, and municipal or county civilian monitors who are local oversight professionals or consultants employed by the local jurisdiction. For purposes of this report, the term monitor is used to refer to locally employed police monitors. The role of court appointed monitors in promoting police reform is beyond the scope of this publication, but has been explored elsewhere (Davis et al. 2002; Chanin 2015).
argue in favor of citizen review boards or full investigative models, police unions tended to be strongly opposed to those models. As a result, the auditor model emerged partly as a mechanism for bridging the disparate goals held by the different stakeholders to the complaint process (Walker and Archbold 2014).

While there can be variation in the organizational structure of this type of civilian oversight, auditor/monitor agencies tend to focus on promoting large-scale, systemic reform of police organizations (PARC 2005). Accordingly, this type of organization tends to have a unique set of goals that distinguish it from investigative and review models of oversight (Walker 2001; Finn 2001; PARC 2005; Attard and Olson 2013; Ferdik et al. 2013; Walker and Archbold 2014).

1. **Audit or monitor internal complaint investigations process.** One of the core functions of this type of oversight agency is to ensure that a jurisdiction’s processes for investigating allegations of misconduct are thorough, complete and fair (Attard and Olson 2013: 4). Unlike review or investigative-focused agencies that tend to focus their organizational resources on reviewing or investigating individual complaints, auditor/monitors are more likely to review broad patterns in citizen complaints or internally-generated complaints (e.g., complaints filed by supervisors or other officers) (PARC 2005). While focused on systemic change, some police auditor or monitor agencies spend significant resources on the monitoring and auditing of individual complaints to ensure integrity in individual investigations, findings and the appropriate imposition of discipline. Some police auditors or monitors may also play a broader role in relation to investigations by responding to the scene of critical incidents to ensure integrity in those investigations.

4. **Conduct evaluations of police policies, practices and training.** Auditor/monitor-focused agencies may use social science research methods or generally accepted auditing methodologies to evaluate the effectiveness of policies, practices or training and may issue recommendations for organizational improvement (Walker and Archbold 2014; Olson and Attard 2016). Those policy evaluations can be triggered by individual complaints, patterns of complaints or allegations or broader investigations into issues that arise outside of the complaint process. In some jurisdictions, auditor/monitor-focused models have the authority to conduct data-driven evaluations of police policies, procedures and practices that go beyond the internal investigations process (Walker and Archbold 2014: 181; Olson and Attard 2014).

5. **May actively participate in open investigations.** Some agencies that fall into the auditor/monitor category may also play a role within the complaint investigations process, including the ability to monitor or participate in open internal affairs investigations (sometimes both internally initiated and civilian initiated), observe investigative interviews and work alongside police internal affairs staff as investigations are conducted (PARC 2005; King 2015). Some auditor/monitor models may also serve as intake points for community complaints and have the ability to conduct initial intake investigations.

6. **Robust public reporting.** Given their focus on bringing about systemic organizational change, auditor/monitor agencies may be more likely than other oversight models to have robust public reporting systems (Walker and Archbold 2014). Like full investigative agencies, most auditors and monitors issue public reports on aggregate patterns and trends in complaints, allegations, findings and discipline and make recommendations for process and organizational improvement. Others report on process performance, including workload, investigation thoroughness and timeliness. Some auditor/monitor reports include in-depth, data-driven evaluations of police operations, policies, procedures and training (PARC 2005).

**Potential Model Strengths**

Since these agencies tend to focus on exploring patterns in complaints, auditor/monitor models may have broader access to police and sheriff’s department records, case files and electronic databases than review-focused agencies (McDevitt et al. 2005; Olson and Attard 2016). While review boards tend to have only limited access to individual closed internal affairs files, au-

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“Policy review, as it is called, is potentially the most important accountability function that any citizen oversight agency can perform because it is directed toward organizational change that hopefully will prevent future misconduct” (Walker and Archbold 2014: 182).
Auditors/monitors tend to be granted more expansive access to police department records (Walker and Archbold 2014). Moreover, auditors/monitors tend to be (or become) policing experts, have larger budgets and may have more extensive training than might be found in volunteer-based oversight agencies (McDevitt et al. 2005).

Additionally, it is possible that the auditor/monitor-focused model may be more effective at promoting long-term, systemic change in police organizations, in part because they can focus on broader trends and patterns in complaints and make public recommendations for how the police department can improve (Walker and Archbold 2014). Unlike investigative agencies, auditor/monitor models do not generally take the investigations process away from the police department, but instead use systematic auditing, monitoring or reviews to ensure the department is holding its officers accountable (PARC 2005). Auditor/monitor agencies also have the ability to track whether police departments implement their recommendations and whether those changes have resulted in organizational improvement over time (PARC 2005; Walker and Archbold 2014).

Some scholars have also argued that the independence of auditor/monitor agencies may also increase their credibility with the public, leading to more effective public outreach (Walker and Archbold 2014: 183). Moreover, the more robust public reporting authority and greater staffing resources may enhance the ability of auditor/monitor agencies to conduct effective community outreach when compared to review-focused agencies that rely on community volunteers or even independent investigation agencies that focus on specific, individual complaints of misconduct.

**Potential Model Limitations**

Local civil rights or community activists may oppose this type of civilian oversight, viewing this model’s reliance on full-time, paid staff with skepticism. The focus of auditors/monitors on aggregate patterns in complaints and other metrics within law enforcement agencies may also leave some community members and civil rights activists dissatisfied, since they may desire that discipline be imposed in specific cases of officer misconduct (Walker and Archbold 2014). In fact, the very nature of the auditor/monitor model concept may put the police auditor/monitor at odds with community demands or expectations in high profile and controversial cases. The concept behind the auditor/monitor model is that the office is fair, unbiased and evidence-based in its decision-making (Walker and Archbold 2001). Such decision-making may result in criticism of the oversight program by the community, the police or both. Further, to achieve long-term success, a police auditor or monitor may reach compromises on individual cases with the police executive to ensure a healthy long-term relationship is developed between the agencies. In some cases, police unions tended to be strongly opposed to civilian oversight, arguing in favor of citizen review boards or full investigative models, but more expensive than review-focused agencies.

**Summary of Auditor/monitor-focused Agencies**

**Key Characteristics**

1. Often focuses on examining broad patterns in complaint investigations, including patterns in the quality of investigations, findings and discipline.
2. Some auditors/monitors may actively participate in or monitor open internal investigations.
3. Often seek to promote broad organizational change by conducting systematic reviews of policy, training and making recommendations for improvement.

**Potential Key Strengths**

1. Often have more robust public reporting practices than other types of oversight.
2. Often less expensive than full investigative agencies.
3. May be more effective at promoting long-term, systemic change in police departments.

**Potential Key Weaknesses**

1. Auditor/monitor focus on examining broad patterns rather than individual cases be treated with skepticism by some local rights activist.
2. Conducting broad, systematic policy evaluations requires significant expertise.
3. Most auditors/monitors can only make recommendations and cannot compel law enforcement agencies to make changes.
cases, a monitor or auditor may decide that officers should not be held accountable in a particular case in lieu of systemic policy or training curriculum changes that would result in less resistance from the agency being overseen. This can result in an individual case not receiving the result demanded by members of the community; even though in the long-term, police practices may be improved overall.

In some cases, an auditor/monitor agency may choose to allow the police executive to take credit for a reform initiative, again to maintain long-term relationships with police leadership. Such actions, while they may support positive reform in a police organization, may result in a lack of understanding amongst the community as to the actual effectiveness of the oversight program.

Like other models of oversight, most auditors/monitors can only make recommendations and cannot compel law enforcement agencies to make changes (Walker and Archbold 2014: 195). One of the core functions of this model is to use a combination of rigorous, data-driven analytical methods, evidence-based recommendations and public reporting to promote organizational change within police departments. In cases where a police department does not implement oversight agency recommendations, the auditor/monitor will traditionally use its public reporting function to inform policy makers and the wider public about the department’s decision. While the threat of public exposure may affect police executive decision-making in favor of implementation in some cases, a department may publicly take the oversight agency to task on some recommendations or risk short-term public controversy to avoid implementing recommendations with which they disagree. However, in this model the police executive remains the decision-making authority on police policy, procedure and discipline, though the auditor/monitor may have significant influence as a result of the ability to use “the bully pulpit” in favor of oversight program initiatives. Table 4 presents examples of audit/monitor-focused models in the U.S.

### Table 4. Examples of Auditor/monitor-focused Agencies

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<th>Agency</th>
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<tr>
<td>Los Angeles Board of Police Commissioners Office of the Inspector General</td>
<td>Los Angeles, CA</td>
<td><a href="http://www.oig.lacity.org">www.oig.lacity.org</a></td>
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One final limitation is that the auditor/monitor model is strongly dependent on the quality of the staff hired to do the work (Walker and Archbold 2014). Analyzing patterns in complaints, findings, discipline or conducting performance evaluations of other police policies and practices requires a high level of technical sophistication and training, as well as a commitment to objective, evidence-based evaluation. The hiring of staff without relevant experience or a commitment to objective, dispassionate evaluation methods may cause significant tension between the oversight agency and police executives, as well as with rank-and-file officers.

**Organizational Structure and Effectiveness in Citizen**
Oversight

In this section, the research team uses data collected from 97 civilian oversight agencies in the U.S. to compare and identify patterns in the structure, authority, practices and resources across civilian oversight agencies in the U.S. The goal of this comparison is threefold:

1. **Identify National Patterns in Oversight.** Identify broad patterns in organizational characteristics across different models of oversight. By exploring broad patterns, this report seeks to help local jurisdictions think about how their potential oversight agency may fit within the larger field of oversight.

2. **Compare Organizational Characteristics Across Common Oversight Models.** Allow for the comparison of organizational characteristics across different models of oversight. Much of the case-study research has demonstrated that many contemporary oversight agencies exhibit hybrid characteristics and do not fit easily within pre-existing classification schemes.

3. **Examine Effectiveness in Oversight.** Examine the distribution of organizational characteristics at the national level that have been associated with effective civilian oversight of police.

This section of the report has two subsections. The first subsection draws from the organizational data collected from the 97 civilian oversight agencies to examine broad organizational features of oversight in the U.S., including organizational goals, organizational age and the types of law enforcement agencies subject to oversight. The second subsection examines key indicators of effectiveness across different oversight models, including independence, legal authority, financial resources, political support and public reporting. 21

Organizational Characteristics

In this subsection, the research team draws from the survey data to examine patterns in key organizational features of oversight.

**Common Goals of Civilian Oversight of the Police**

An important issue for any jurisdiction that is considering implementing or revising an oversight agency is to determine the goals for the program. A number of organizational goals are commonly cited across a range of academic and policy writing on oversight (Walker 2001: 55; Finn 2001: 6-11; Bobb 2003; Harris, 2012; Attard and Olson 2013; King 2015; Prenzler 2016; Alpert et al. 2016). Common goals include:

- Ensure that the police complaints process is accessible to all and to remove impediments to the filing of lawful complaints.
- Ensure that internal investigations are fair and thorough, findings are reasonable and evidence-based and discipline is appropriate.
- Improve public confidence in the police and local government by demonstrating that internal investigations are fair and thorough and findings and discipline are reasonable and appropriate.

**Most commonly shared goals across all models of oversight:**

1. Improve public trust
2. Ensure accessible complaint processes
3. Promote thorough investigations
4. Increase transparency
5. Deter police misconduct

Care must be taken when applying these types of observational survey data. These data can be used to identify patterns of association between models of oversight and the characteristics of the jurisdiction in which they operate. However, these data do not allow us to establish whether different models of oversight cause the development of different jurisdictional characteristics or whether those characteristics are the result of other unmeasured factors.
• Enhance the transparency of police organizations by publicly reporting on the department’s efforts in holding its officers accountable.

• Strengthen police organizations by analyzing patterns in complaints and other police-related data to improve policies, practices, training and management.

• Deter officers from engaging in misconduct through the creation of more effective and consistent investigation and disciplinary processes.

• Reducing legal liability from officer misconduct.

• Improve the public’s understanding of police policy, training and practices.

While these are commonly cited as goals for the implementation of oversight, it was not clear how commonly oversight agencies actually subscribed to these goals. As a result, one of the initial sets of questions asked the oversight executives to rate the importance of a series of goals for their oversight agencies.

The top five most common critical or important goals identified in the data collected largely mimic the most commonly cited goals in the academic literature (See Appendix B, Table B1). Almost all oversight agencies reported that improving public trust (98 percent), ensuring accessible complaint processes (93 percent), ensuring thorough investigations (88 percent), increasing transparency (86 percent) and deterring police misconduct (85 percent) were among their most critical programmatic goals. However, clear differences between oversight models emerged in relation to other types of organizational goals:

• Auditor/monitor agencies tended to rate goals associated with policy review, auditing, statistical pattern analysis and issuing recommendations as critical/important for their agency.

• Investigation-focused agencies were more likely than other types of agencies to indicate that improving accessibility of the complaint process, ensuring thorough investigations, complainant satisfaction and ensuring complainants received justice were critical or important for their agency.

• Review-focused agencies tended to rate the importance of goals associated with the complaint investigation process highly.

What Led to the Implementation of Oversight?

Much of the writing on oversight indicates that it tends to emerge out of local crises involving local police and particularly community conflicts over racially disparate policing and excessive uses of force (Walker 2001). To examine patterns in the development of oversight, the agencies identified the types of incidents that catalyzed the creation of their oversight agency (see Appendix B, Table B2). The most common trigger involved force-related incidents (49 percent). Just under 30 percent of the agencies indicated that racially biased policing played a role in the development of oversight. Notably, only 11 percent of the agencies indicated that they implemented their oversight agency as a proactive or preventive policy effort and not the result of a specific critical incident. Overall, there were few differences between oversight agencies in terms of the incidents that triggered their implementation—they all tended to have similar origins. One important exception was that review-focused agencies were more likely to report that they were implemented proactively than auditor/monitor or investigative agencies.

22 The possible responses ranged from Critical, Important, Moderate, Minor and No Jurisdiction.

23 Investigative agencies fell between auditor/monitor and review agencies on this issue, but were closer to auditor/monitor agencies in their identification of these issues as critical/important for their organization.
**Age of Oversight Agencies**

An important and commonly cited concern within oversight has been a lack of stability of the field. As was evident in the historical section of this report, many early 20th century forms of oversight failed in the face of resistance by police unions and politicians (Walker 2006). However, the organizational data from the civilian oversight agencies suggest that pattern no longer holds. Executives reported on how long their agency has been in operation. As shown in Figure 1, the largest proportion of respondents (55 percent) indicated that their agency has been in continuous operation for 16 or more years. This finding is not surprising since the largest increase in the number of oversight agencies occurred in the 1990s. Although a large proportion of current agencies were older than 16 years, the field continues to grow, but at a somewhat slower pace today than in the 1990s. Approximately 16 percent of respondents indicated that their agency had been in operation for five years or less.24

**Types of Law Enforcement Agencies Overseen**

A large proportion of the oversight agencies indicated that they were responsible for overseeing municipal police departments (82 percent). The second largest area of jurisdiction was for county sheriffs (15 percent). Several agencies indicated that they were responsible for overseeing multiple jurisdictions (e.g., municipal police and county sheriff’s agencies) (See Appendix B, Table B3).

While patterns in jurisdiction were similar across oversight models, auditor/monitor-focused models were somewhat more likely to report that they had jurisdiction over county-level agencies than either investigation-focused or review-focused agencies.

**Size of Law Enforcement Agencies Overseen**

The largest proportion of oversight programs oversaw law enforcement agencies (45 percent) that had fewer than 500 sworn employees. However, there was clear variation across the three models of oversight. Review agencies were much more likely to report overseeing smaller law enforcement agencies (500 or fewer officers), while investigative agencies and auditor/monitor agencies were more commonly found in jurisdictions associated with larger law enforcement agencies (See Appendix B, Table B4).

**Agency Leadership**

Data was provided that helped identify the characteristics of the administrative head of the agency. A majority of the agencies (70 percent) had either a full or part-time paid executive, though there was noticeable variation between types of agencies. Auditor/monitor-focused models overwhelmingly had paid executives leading the organization (78 percent). Investigation-focused agencies also tended to have full-time paid executives leading the organizations (71 percent), though almost a quarter were led by multi-member boards. In contrast, a majority of review-focused agencies were led by multi-member boards (52 percent) (See Appendix B, Table B5).

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24 There is an important nuance to this pattern. Approximately 29 percent of the oversight agencies that were 15 years or younger had replaced a previously existing oversight body. Only 4 percent of agencies that were 16 years or older had replaced a previous oversight agency. So while the absolute number of oversight agencies continues to grow, it is clear that a not insignificant proportion of the new agencies are replacements for previously existing oversight bodies.
Core Elements of Successful Oversight

What combination of organizational components, authority, practices and resources lead to successful civilian oversight of law enforcement? While there is some disagreement within the literature, there is a developing consensus around the core components of oversight that are necessary to implement and sustain effective oversight (Perez 1994; Walker and Bumphus 1992; Prenzler and Ronken 2001; Walker 2001; Walker 2003; Bobb et al. 2008; Attard and Olson 2013; Walker and Archbold 2014; King 2015; Alpert et al. 2016).

Walker and his colleagues (Walker 2003) developed one of the more comprehensive frameworks outlining the key organizational components of an effective oversight agency. They developed the initial framework out of a series of conferences with police auditors, where roundtable discussions were held regarding the key elements of effective oversight (Walker and Archbold 2014: 199). As a result of those conferences, Walker published a set of oversight “principles” in a report titled: “Core Principles for and Effective Police Auditor’s Office.” (Walker 2003). Since its publication, several authors have sought to extend slightly revised versions of Walker et al.’s original 12 principles to other models of oversight (Olson and Attard 2013; King 2015).25

Based on that literature and Walker’s (2003) core principles, effectiveness in oversight can be grouped into 12 related areas:

1. Independence
2. Adequate jurisdictional authority
3. Unfettered access to records
4. Access to law enforcement executives and internal affairs staff
5. Full cooperation
6. Support of process stakeholders
7. Adequate resources
8. Public reporting or transparency
9. Pattern analysis
10. Community outreach
11. Community involvement
12. Respect for confidentiality requirements

For the remainder of this section, the report draws from the organizational data to estimate the frequency with which these components are present within the larger oversight field.

Independence

A consensus exists in the literature relating to the crucial nature of independence for the implementation of successful oversight of law enforcement (Prenzler and Ronken 2001; Walker 2001; Walker 2003; Olson and Attard 2013; Savage 2016). The extent to which oversight is independent of police, political actors and other special interests has been argued to be strongly related to effectiveness of oversight. Within the literature, several types of independence have been identified, though no social science research has examined the impact that different forms of independence have on the effectiveness of oversight.

25 In addition, a similar guidance document for police monitors was developed in 2008 by the PARC (Bobb et al. 2008). While comprehensive, the guidance in this document covers both municipal and county monitors and litigation-based monitors. As a result, the guidelines in this document are highly specific and focused on the monitoring role, and less easily adapted to other models of oversight. Nonetheless, this set of guidance would be useful for jurisdictions considering implementing a civilian oversight agency with a monitoring component.
**Structural Independence.** Structural independence has been defined as one potential element of independence (Perez, 1994; Walker 2001; Savage 2016). Walker (2001) argues that oversight agencies that are structurally separate from the police departments they oversee will be able to operate with more independence than agencies whose work is intertwined or dependent on local law enforcement. There are multiple ways to achieve this:

- Prenzler (2000; 2016) contends that investigation-focused models that replace police internal affairs units (which he terms “civilian control” models) are the most independent forms of oversight, since non-police citizens take control of all the different stages of the complaint investigation process.
- Oversight agencies that report to political bodies separate from those that oversee police agencies may have greater independence (Prenzler and Ronken 2001; Savage 2016).

**Legal Protection.** A second measure of independence relates to the protections offered by the oversight agency’s founding legal authority (Walker 2001; Harris 2012). The more difficult it is to eliminate, censor or shutter the oversight agency, the more likely it is the agency will be able to act with some measure of independence (Harris 2012). For example, agencies whose authority was created through an amendment to a city’s charter or enshrined in ordinance will likely be more independent than agencies that were created through an executive policy change (Walker 2001; Ferdik et al. 2013). Table B6 (Appendix B) identifies the different sources of legal authority enjoyed by the oversight agencies that provided data for this report. More than two-thirds of the agencies reported that their legal authority was enshrined in either ordinance or charter documents.

**Job Protections.** Specific language can be entered into an enabling ordinance that prevents agency heads from being removed except for cause (Walker 2003). Table B7 (Appendix B) reports the percentage of agencies that had job protections for agency leaders. Overall, 78 percent of full and part-time oversight agency leaders were “at will.”

**Anti-Influence Language.** Agencies can have legal language in their enabling ordinances that prohibits retaliation based on the lawful acts taken by oversight agencies in the course of their work (Walker 2003; Attard and Olson 2013).

**Limit Involvement of Police Officers.** One controversial approach to independence relates to whether current or former police officers should be able to work or volunteer for civilian oversight agencies. Some oversight agencies do not allow current or former police officers to work or volunteer for their agency. Other agencies may employ current or former officers who have worked for other jurisdictions, but not for the police agency being overseen. Other departments allow or require the oversight agency to use retired or currently serving officers. There is no social science research that systematically establishes whether allowing police officers to work or volunteer for oversight increases or decreases the quality of an oversight agency’s work (Savage 2016) or affects the public’s perception of its independence.

The research team asked 97 civilian oversight agencies whether they allowed former police officers to serve as their agency executive or director. Altogether, 50 percent of the agencies responded that a former police officer could serve as their agency executive/director. An additional 36 percent reported that a former police officer could serve as the executive/director “under some circumstances” (Appendix B, Table B8).

**Adequate Jurisdiction and Authority**

An important component of effective oversight identified in the research and policy literature related to the jurisdictional authority granted to oversight agencies (Attard and Olson 2013). Agencies need to have adequate jurisdiction that will allow them to achieve their organizational goals. Of course, the goals for oversight can vary significantly between jurisdictions depending on local issues, the political climate and a jurisdiction’s financial resources. Little is known about whether different types of jurisdiction or authority have a greater or lesser impact on patterns in officer misconduct or organizational reform.
**Adequate Jurisdiction.** One issue local jurisdictions need to decide on is whether the local oversight agency will have the ability to review allegations of misconduct that emerge from sources outside of citizen complaints. Table B9 (Appendix B) reports the core areas of jurisdictional authority across the three different models of oversight. Almost all of the agencies submitting data indicated that they have jurisdiction in relation to citizen complaints. A majority of the agencies stated they “always/sometimes” have jurisdiction in relation to:

- Officer-involved shootings.
- Serious force.
- In-custody deaths.

There were some differences, however, between oversight models in other areas. For example, auditor/monitor–focused agencies were more likely than other models to report that they had jurisdiction in relation to officer-initiated complaints, supervisor complaints, high-speed pursuits and criminal investigations, as compared to review and investigative agencies.

**Adequate Authority.** A second critical issue in this area relates to authority that oversight agencies have in relation to the handling of complaints. Given that most oversight agencies perform an oversight function in relation to citizen complaints, the agency executives provided data to identify the specific role their agency plays in relation to the processing of citizen complaints.

In looking at Table B10 (Appendix B), it is clear that there are important differences among the oversight models in terms of the role they play in the handling of citizen complaints.

One remarkable pattern related to the breadth of the organizational authority enjoyed by auditors/monitors. Almost all of the auditor/monitor agencies reported that they were able to:

- Review police complaint investigations (96 percent).
- Audit police complaint investigations for compliance with investigative standards (92 percent).
- Monitor open police complaint investigations (92 percent).
- Refer complaints back to internal affairs for additional investigation (78 percent).
- Conduct independent investigations (61 percent).
- Recommend findings on investigations (70 percent).
- Recommend discipline (61 percent).

Investigative agencies reported somewhat more focused forms of authority than auditor/monitor agencies and tended to report that they were able to:

- Conduct independent investigations (100 percent).
- Decide how complaints would be handled (97 percent).
- Classify complaints (94 percent).
- Conduct intake investigations (94 percent).
- Review completed police complaint investigations (67 percent).
- Recommend and issue findings (84 percent and 88 percent).

Review agencies reported the most focused forms of authority and reported strong involvement in:

- The review of police complaint investigations (81 percent).
- Referring complaints back to internal affairs for further investigation (65 percent).
Unfettered Access to Records

An organizational power commonly identified as a critical component of effective oversight relates to an oversight agency’s access to police department records (PARC 2005; Olson and Attard 2013; King 2015). Both Attard and Olson (2013) and King (2015) identify access to records as one of the most important components of effective oversight. Similarly, Walker (2003) includes unfettered access as one of the core principles for an effective police auditor (Walker and Archbold 2014: 200).

To explore the extent to which contemporary oversight agencies have access to police records, the data received from the 97 civilian oversight agencies included a series of questions that asked executives about their level of access to police records. Table B11 (Appendix B) identifies the proportion of oversight agencies reporting that they always or sometimes have access to specific kinds of records.

More than two-thirds of the oversight agencies reported that they always or sometimes had access to closed internal investigations. There was substantial variation; however, across the different models of oversight in relation to records access. Auditor/monitor agencies tended to report high levels of records access, with more than three quarters reporting that they always or sometimes had access to all internal affairs files and internal affairs databases. More than half of the auditor/monitor agencies also reported having access to all police databases. In contrast, 38 percent of review-focused agencies had access to all internal affairs records, 30 percent reported access to internal affairs databases and 19 percent reported access to all police databases.

Investigative agencies were more likely than other models to report the ability to subpoena witnesses (56 percent) and records (59 percent).

A large proportion (74 percent) of all agencies indicated that they had access to police body-worn/in-car video.

Access to Law Enforcement Executives and Internal Affairs Staff

A fifth component of effective oversight relates to the extent to which oversight actors have the ability to influence appropriate law enforcement officials. Walker (2003) notes that oversight agencies should have “…direct access to the chief executive of the law enforcement agency under review” (p. 7). From the perspective of the authors, while gaining access to the police chief or sheriff is important, it is also critical that the police chief or sheriff and their internal affairs staff are willing to both consider and implement the oversight agencies recommendations. Given that, the organizational data collected included information about whether: (1) police executives “listened carefully” to the recommendations made by the oversight agency; and (2) police departments were willing to implement the recommendations made by the oversight agency.

Listening to oversight recommendations. There was little variation between models of oversight in relation to whether police executives considered the views of oversight actors. Roughly 78 percent of auditor/monitor, investigative and review-focused agencies indicated that police executives listened carefully to their recommendations (see Table B12 in Appendix B).

Implementing oversight recommendations. There was more variation in relation to whether police executives were willing to implement the recommendations made by oversight agencies (see Table B13 in Appendix B). As shown in Figure 2, auditor/monitor agencies were much more likely to report that police executives very frequently or frequently implemented their recommendations (72 percent), while 42 percent of the responding investigative agencies and 34 percent of the review agencies indicated that police or sheriff’s departments frequently implemented their recommendations. Some of this difference
may relate to the type of work different agencies tend to perform. Auditor/monitor agencies are more likely to have specialized staff who focus on analyzing patterns in complaints and other police data and they are more likely to issue special topics reports as a result of that work (which Harris (2012) describes as a “holistic” approach). It is possible that that type of analytical work makes it more likely that police departments will implement recommendations made by oversight. More systematic comparative research is needed before strong inferences can be drawn on this issue.

**Full Cooperation**

Another component of effective oversight relates to the ability of an oversight agency to gain the cooperation of police agency executives and officers (Walker 2003; Walker and Archbold 2014). Some agencies attempt to achieve voluntary cooperation by developing a collaborative working relationship with the departments they oversee and attempting to engage departments, officers and unions within the oversight process (Miller 2002). Other jurisdictions attempt to strengthen cooperation by having legislative requirements for cooperation built into the oversight agency’s enabling ordinance, charter or statute. To date, there is no social science evidence that systematically tests whether one or both of these approaches improve the effectiveness of oversight.

There are two common variations in legislated cooperation requirements. First are general cooperation requirements that direct all law enforcement employees within a particular jurisdiction to cooperate with the oversight agency during the course of its work, but do not clearly articulate sanctions for non-cooperation. A second type of cooperation requirement builds in the possibility of a sanction for non-cooperation, where law enforcement employees are required to cooperate with the oversight agency as a condition their employment (i.e., non-cooperation could constitute grounds for termination).

The organizational data received from the civilian oversight agencies (see Table B14 in Appendix B) showed investigation-focused agencies tended to have more robust cooperation requirements than other forms of oversight (see Figure 3). Altogether 73 percent of investigative agencies reported that their jurisdiction included a general cooperation requirement, while 52 percent of auditor/monitor agencies and 40 percent of the review agencies reported a cooperation requirement. A much smaller proportion of the agencies reported that their enabling ordinance/statute made cooperation a condition of employment. Less than half of investigative agencies indicated that cooperation was a condition of employment for officers or command staff. Only 26 percent of auditor/monitor agencies and 20 percent of review agencies had the same authority.

**Support from Process Stakeholders**

A sixth key component of effective oversight relates to the importance of process stakeholder support for the oversight agency’s work. A lack of political support has the potential to undermine an otherwise well designed system of oversight. Government officials and office holders, if not supportive of an oversight agency, can reduce its effectiveness in a variety of ways, including by failing to provide the agency with adequate resources or authority or by appointing ineffective managers or board members (Attard and
Olson 2013: 6). Similarly, opposition from police unions, local district attorneys or police executives has the potential to complicate the work of oversight agencies (Wilson and Buckler 2010). While conflict is not necessarily avoidable in all cases, the extent to which an agency can achieve its organizational goals will be partly dependent on whether it has support from local office holders, the police executive and other key process stakeholders.

Table B15 (Appendix B) describes the percentage of agencies reporting that key process stakeholders have shown very strong or strong support for oversight. A large percentage of the responding agencies across all models reported very strong or strong support from most key process stakeholders, including police executives, city attorneys or county counsels, mayors, city managers, city council and the local civil rights community. Reported support was noticeably lower among police unions.

There was little variation in reported support across the three models of oversight,26 with three exceptions. Review-focused agencies were somewhat more likely to report support from police unions. Auditor/monitor agencies were less likely to indicate support from city attorneys/county counsels, but were slightly more likely to report support from the local civil rights community. Investigative agencies reported the least support from police unions.

Adequate Resources

A seventh organizational component critical for the effectiveness of oversight relates to the resources available to the oversight agency. In general, an oversight agency’s resourcing is considered one of the most important potential indicators of effectiveness (Finn 2001; Walker 2001; Walker 2003; Attard and Olson 2013). In discussing resources, most scholars and policy experts distinguish between the importance of having a budget that matches an agency’s goals and the presence of professional staff who have the time and expertise to support the work of the oversight agency (Finn 2001; Walker 2003). For example, Olson (2016) recently conducted a limited examination of one review-focused agency and found that local agency was unable to perform certain important oversight functions or fully engage with important stakeholders to the complaint investigations process due to limited budgetary and financial resources (Olson 2016: 6).

Even though there is some commonsense appeal to the notion that budgetary and staffing resources are related to effectiveness, no social science research has systematically examined the impact that varying budgets have on the effectiveness of oversight. That said, there is noticeable variation between models of oversight in two areas: budgets and staffing.

Adequate Budget. Table B16 (Appendix B) examines patterns in oversight agency resources. It shows a breakdown in the annual budgets for the agencies across the three model categories. As was seen in the review of the previous literature on models of oversight, review-focused agencies tended to have much smaller budgets than auditor/monitor and investigative oversight agencies. Just under 60 percent of the review agencies reported having no operating budget and another 20 percent of review agencies reported budgets of less than $100,000 per year. In comparison, roughly half of the auditor/monitor and investigative agencies had budgets that were greater than $500,000 per year. Overall, this pattern in funding can be at least partially explained by the fact that investigation-focused and auditor/monitor-focused agencies are more likely to be implemented in jurisdictions with bigger populations and larger law enforcement agencies. In addition, where programs have more limited mandates, it can be expected that the resources needed to achieve that mandate would require less funding.

Adequate Staffing. Table B17 (Appendix B) evaluates patterns in the staffing resources available to oversight agencies across the three models. The table shows the distribution of full-time, paid staff across the three different types of civilian oversight. As was seen with agency budgets, review-focused agencies tended to have the fewest staff, with 61 percent of the review agencies reporting that they had no full-time, paid staff. Investigative agencies tended to report a larger number of full-time,

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26 It is important to note that there was a noticeable increase in the number of agencies that chose not to respond to questions about stakeholder support as compared to other questions.
paid staff with 21 percent of the investigative agencies reporting they had 16 or more full-time staff members. Auditor/monitors fell in-between review and investigative agencies, with 26 percent of auditor/monitors reporting no full-time staff and an additional 43 percent indicating that they had one to five full-time staff. As with patterns in relation to budgets, variation in staffing is at least partly the result of jurisdiction size—that is, investigative agencies and auditor/monitor agencies are more likely than review-focused agencies to oversee large police departments in bigger cities.

**Public Reporting or Transparency**

The eighth component of effectiveness in oversight relates to public reporting and the level of transparency that the oversight agency brings to the complaint handling process and other areas of police operations (Walker 2001; Finn 2001; Attard and Olson 2013). As we saw with the data on agency goals, increasing the transparency of the complaint investigations process was one of the most commonly cited organizational goals identified by the civilian oversight agency executives. While there is no comparative, systematic social science research on the impact of public reporting on community perceptions relating to the transparency of the internal investigations process, the civilian oversight executives provided data regarding their agency’s public reporting and data analysis practices.

**Issue Public Reports.** (See Table B18 in Appendix B). Most civilian oversight agencies reported that they publish public reports (78 percent), although there was slight variation among oversight agencies that provided data for this report, with a slightly smaller proportion of review boards reporting that they publish reports (69 percent) as compared to auditor/monitor (80 percent) and investigative agencies (85 percent).

**Pattern Analysis**

Another potentially important element of an oversight agency’s work is the extent to which it analyzes and reports on aggregate patterns in relation to complaint handling processes and outcomes. Police departments have traditionally been reluctant to report publicly on patterns in internal investigations and an important role of oversight has been to use public reporting to inform the community about patterns in complaints, investigative outcomes and indicators of process or procedural effectiveness (e.g., timeliness of the process) (Walker 2001; Finn 2001; Attard and Olson 2013). Given this, the civilian oversight agencies shared information that help examine data management and pattern analysis practices across different models of oversight (see Table B19 in Appendix B).

The most common types of issues analyzed very frequently or frequently by oversight agencies were complaint handling workload (i.e., number of complaints), allegations and findings on allegations. Only a small proportion of agencies (20 percent) frequently conducted analyses of issues of critical concern to the public and communities of color, such as patterns in police stops, searches and arrests.

There were a number of noticeable differences across types of agencies in relation to the use of pattern analysis. A larger proportion of auditor/monitor agencies reported conducting analyses of patterns in officer-involved shootings, officer discipline, in-custody deaths and police data relating to stops, searches and arrests.

**Community Outreach**

A tenth component of civilian oversight relates to the ability of agencies to conduct outreach to community members and other process stakeholders. Overall, there is a strong consensus in the research and policy literatures that community outreach is an essential element of any effective oversight agency (Walker 2001; Finn 2001; Stewart 2006; Walker and Archbold 2014). While the resources that oversight agencies have can vary substantially, outreach activities provide oversight agencies with
the opportunity to:

1. Publicize the different processes for handling complaints;
2. Reach out to disenfranchised members of the community who might be fearful or distrustful of the police;
3. Talk with that the community about police policies, procedures or training; and
4. Gather input from a range of community members and groups.

A successful oversight agency will typically include a robust outreach program. In terms of the research literature, a few authors have identified several components of an effective outreach program, including holding public outreach events involving different community groups, engaging in a range of diverse outreach activities and making attempts to conduct outreach with difficult-to-reach or underserved populations (Walker 2001; Stewart 2006; King 2015).

**Outreach to Groups.** The first element of an outreach program relates to the whether the oversight agency is engaging in outreach activity at all (Walker 2001). Table B20 (Appendix B) identifies patterns in outreach across oversight models. The more common groups targeted for community outreach included community leaders (77 percent); neighborhood associations (69 percent); policy-makers (65 percent); and police command staff (59 percent). As with other outreach activities, review-focused agencies reported conducting somewhat less outreach to stakeholders than either auditor/monitor or investigative agencies.

**Outreach Activities.** An additional important component of outreach relates to the type and range of activities (Walker 2001). To explore the kinds of outreach activities that different models of oversight were using, the civilian oversight agencies provided data regarding their outreach activities (see Table B21 in Appendix B). The operation of an agency website was the most common form of outreach (69 percent), followed by tabling at community fairs (48 percent), offering complaint forms at multiple community locations (46 percent) and holding community forums (45 percent).

**Outreach to Special Populations.** An additional measure of outreach effectiveness relates to the extent to which oversight agencies direct outreach resources toward special populations (see Table B22 in Appendix B). The civilian oversight agencies provided information on whether they translated any of their agency documents into languages other than English as one measure of this form of outreach. Just under half of all agencies reported translating complaint forms (44 percent) and agency brochures (48 percent) into languages other than English. Only a small proportion of agencies translated web-pages or agency reports. Review agencies were noticeably less likely to report that they translated outreach documents than other models of oversight.

**Community Involvement**

An eleventh component of effective oversight is community involvement. McDevitt et al. (2005) note that it will likely be impossible for effective oversight to be implemented without sufficient community involvement. Involving community stakeholders in

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**Reaching Out to Special Populations**

The types of outreach that oversight agencies conduct will depend not just on their resources, but also on the specific social and cultural characteristics of populations in which they operate. Some oversight agencies have developed sophisticated community outreach strategies tailored to their local communities.

For example, the **San Jose Office of the Independent Police Auditor** makes many of their key oversight documents available in English, Spanish, and Vietnamese. They also maintain an up-to-date Facebook page, distribute a resource guide to local students, developed a training video for teachers and produced a local cable access television show that explored important law enforcement and oversight issues facing the San Jose community. Example material can be found here: [www.sanjoseca.gov/index.aspx?nid=200](http://www.sanjoseca.gov/index.aspx?nid=200).
the process allows the oversight agency to identify and address the key accountability issues that the jurisdiction is facing (Mc-Devitt et al. 2005: 7). Different types of civilian oversight agencies involve community members in a wide variety of ways—some oversight agencies involve community volunteers in the core work (review-focused agencies), while other highly professionalized agencies may have community members sitting on governing boards, police commissions or advisory boards. However, there is no current empirical research that examines whether one approach is more effective than another.

Given the arguments for the importance of involving community members in oversight, it is not surprising that a very large proportion of the oversight agencies who provided data indicated that they operated with a board composed of community members (See Appendix B, Table B23).

**Respect for Confidentiality Requirements**

Some oversight practitioners have argued that another important component of effective oversight relates to the ability of civilian oversight agencies to protect the confidentiality of employee personnel records (Walker 2003). Many states and local jurisdictions have legal rules that prevent the disclosure of certain kinds of personnel records. While these vary considerably by state, the ability of a civilian oversight agency to be effective in its work will depend, at least in part, on its ability to respect confidentiality rules (Attard and Olson 2013). Failure to respect state statutes relating to confidentiality may constitute a serious violation of professional ethics, undermine trust between the oversight agency and the local police department and may cause the oversight agency to lose access to confidential records. To date, no systematic comparative research has examined how effectively civilian oversight agencies have been at ensuring the confidentiality of the records they handle.
Trending Issues in Civilian Oversight

In the previous section, the team drew from the research literature and organizational data provided by 97 civilian oversight agencies to explore 12 broad organizational components identified as being critical for ensuring effectiveness in oversight. In this section of the report, the team explores some of the key recent developments in civilian oversight of police.

Using Performance Metrics to Capture Oversight Effectiveness

Over the last ten years there has been a growing interest in the question of how the effectiveness of police oversight agencies can be measured (Filstad and Gottschalk 2011; Faull 2013). More specifically, there is a developing body of research focused on exploring whether “performance measures” can be used to capture the impact oversight agencies have in their work (Brereton 2000; Miller 2002; Prenzler and Lewis 2005; Mohr 2007; Filstad and Gottschalk 2011; Faull 2013). Performance measures are indicators of how successful an organization has been in achieving an organizational objective (Hatfield 1994). Performance measures are typically expressed statistically (i.e., as numbers or rates) and usually focus on the impact, timeliness, quality or productivity of an organization. Put another way, performance measures should tell the public, managers and policymakers how well an organization is doing, whether it is achieving its organizational mission and whether changes are necessary to improve the organization’s effectiveness.

There is currently no consensus on how to measure organizational performance in the field of civilian oversight (Faull 2013). Evaluating the impact of oversight can be difficult for several reasons. First, many oversight agencies make recommendations based on their work reviewing, monitoring or auditing police internal investigations. Thus, their work is intertwined with internal police accountability systems (Brereton 2000; Prenzler and Lewis 2005). Second, evaluating the distinct impact that oversight has is complicated by the fact that there are a large number of variables involved and patterns in complaint-related data can be interpreted in multiple ways (Walker and Bumphus 1992; Walker 2001; Prenzler and Lewis 2005). For example, increases in the number of citizen complaints filed could indicate that officer misconduct is increasing or it could indicate that community members are more willing to file complaints due to increasing confidence in the process. Finally, there is wide variation among oversight agencies in their organizational structure, jurisdiction, resources, data collection practices and authority, making comparison between and among agencies difficult (Walker 2001; Prenzler and Lewis 2005).

Even if there is no current agreement about how best to measure organizational effectiveness in police oversight, a number of studies have sought to explore the value of different performance measures (Walker 2001; Prenzler and Lewis 2005; Filstad and Gottschalk 2011). David Brereton (2000) argues that there are four key questions that should be asked when assessing the performance of civilian oversight agencies:

• How successful have oversight agencies been in improving the process for investigating complaints against the police?
• Are civilian oversight agencies more successful at increasing public satisfaction than systems without oversight?
• Has the implementation of civilian oversight agencies improved police practices and behavior?
• Has the implementation of oversight negatively impacted officer morale or police operations (Brereton 2000: 106; see also Faull 2013)?

Prenzler and Lewis (2005) used an analysis of public reports and a brief survey to explore the performance measures used by civilian oversight agencies in Australia in the early 2000s. They offered a number of conclusions. First, they observed that most Australian oversight agencies were attempting to evaluate their performance, but that they only used relatively simple measures of effectiveness, such as:

• The number of complaints filed and closed per year.
• Time taken to close complaints.
• Patterns in outcomes, such as substantiated complaints, referrals, mediations and discipline.

Prenzler and Lewis (2005) contend that while these simple measures are useful for capturing an agency’s workload, they do not capture much about an agency’s performance or impact. They then identified a large number of other measures used by oversight agencies to measure performance (p. 78-82):

• Trends in reported police misconduct (e.g., number of cases filed).
• Workload measures (e.g., number of open cases, cases reviewed, number of investigations conducted, number of appeals, identification of case deficiencies).
• Patterns in findings and outcomes on case investigations.
• Timeliness and process efficiency measures (e.g., number of cases assessed in a given time period).
• Public opinion survey measures (e.g., satisfaction rates for complainants and officers, community confidence in the police).
• Review and recommendation effectiveness (e.g., number of recommendations made, number implemented).
• Accessibility measures (e.g., accessibility of the office to the public).

More recently, other scholars have used slight different variations on the performance indicators identified by Prenzler and Lewis (Filstad and Gottschalk 2011: 102-104; Mohr 2007; Faull 2013). However, there is a general consensus that strong caution should be used when attempting to use “sustain” or “conviction” rates to measure an oversight agency’s performance or to compare performance across oversight systems. Walker (2001) points out a number of pitfalls associated with using sustain rates, including an absence of standards for “acceptable” sustain rates; the lack of understanding of potential differences between complaints filed with oversight agencies and complaints filed with police department; the fact that investigations are only one potential function of oversight and the presence of profound data problems that make calculating; and comparing sustain rates unworkable (Walker 2001: 120-122 and 134-135).

**Problem-oriented Approaches to Civilian Oversight**

A second trending issue has to do with an increasing focus on shifting some of the emphasis within oversight away from reactive forms of case review and investigation and toward more proactive reform efforts (Porter 2013; Harris 2012). Part of this trend has been visible since the 1990s with the development of auditor/monitor models of oversight (Bobb 2003). However, there has been a developing focus on adapting problem-oriented policing strategies for use in civilian oversight.

Problem-oriented policing has been an important approach to law enforcement for more than 30 years. In this approach, patterns of crime and disorder are analyzed carefully to develop new programs that can reduce the incidence of the identified crime (Goldstein 2003; Braga 2008; Porter 2016). This approach to law enforcement is notable because it is designed to be both preventive and collaborative. That is, it is designed to reduce future crime problems and bring all of the stakeholders together to develop a solution (Goldstein 2003). Even though this strategy has been popular with law enforcement, it has not been widely adopted for use in civilian oversight of law enforcement.

Recent research by Porter (2016) indicates that it is possible to adapt problem-oriented approaches to increase the effectiveness of civilian oversight. Often referred to as the SARA problem-solving model, this strategy has four stages:

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27 In this context, a sustain rate would be calculated as the percentage of complaints in a given period that result in one or more sustained findings.
28 See also Walker (2001) for an early statement on the value of problem-oriented policing for civilian oversight of law enforcement.
1. Scanning: A specific problem is identified;
2. Analyzing: Data is collected and analyzed so the breadth and causes of the problem can be identified;
3. Responding: A potential solution for the problem is developed and implemented; and
4. Assessing: A rigorous follow-up examination is conducted to ensure the new program is working and to determine whether changes to the intervention are necessary (Braga 2008; Porter 2016: 172).

In arguing for the potential value of the problem-solving model for oversight, Porter (2016) offers two case studies of oversight programs where the SARA model was used successfully. First, she reviewed a collaborative project on use of force undertaken by the Portland Independent Police Review Division (IPR) and the Portland Police Bureau. She reported that this collaborative task force conducted a deep analysis of uses of force and made 16 recommendations for changing the agency’s policies, procedures, practices and training around use of force. The task force then conducted a follow-up assessment and reported that uses of force, excessive force complaints and injuries to officers and community members had declined after the recommendations were implemented (Porter 2016: 178; citing to Force Task Force 2007 and 2009).

In a second case study, Porter reviewed a collaborative problem-solving effort that focused on TASER use in Australia. Porter (2016) reported that the project, which was undertaken by the Queensland, Australia Crime and Misconduct Commission (CMC) and the Queensland Police Service (QPS), resulted in a measurable decline in the use of TASERs by the police over time (Porter 2016: 178).

Expanding Alternative Dispute Resolution

The use of mediation by civilian oversight to resolve police complaints has become an increasingly popular strategy over the last 15 years. The organizational data collected from 97 civilian oversight agencies for this project included information on whether they mediate complaints against the police. Altogether, 29 agencies reported that they had a mediation program, up from 20 agencies in 2008 (PARC 2008).

Unlike traditional investigation-focused forms of complaint processing, mediation is often described as the informal resolution of a dispute through a confidential face-to-face meeting facilitated by a neutral third party (Walker and Archbold 2000). While different jurisdictions implement mediation in slightly different ways, one of the themes that ties almost all programs together is the goal of using facilitated, face-to-face meetings between police officers and community members to resolve less serious complaints, such as those that involve discourtesy or misunderstandings about police procedure (Walker et al. 2002; PARC 2008; Schaible et al. 2013). Underlying this theme is the belief that mediation can help overcome some of the limitations of traditional police complaint handling procedures for certain kinds of cases. For example, traditional complaint investigations processes for less serious complaints can be inefficient, rarely result in sustained findings or the imposition of discipline and tend to leave both complainants and officers highly dissatisfied (PARC 2008). In contrast, mediation may be a more cost-effective and efficient method of resolving minor complaints than more traditional complaint investigation processes (Walker et al. 2002). Moreover, the use of mediation is designed to help agencies improve officer and complainant satisfaction by bringing community members and police officers together in a non-adversarial setting to discuss their concerns (Quinn 2006).

There is a growing body of research that provides support for the argument that mediation can have some positive benefits for complainants and officers, especially in relation to complaints alleging less serious misconduct (Walker et al. 2002; PARC 2008: 45). Schaible et al. (2013) used attitudinal survey data collected in one jurisdiction to compare patterns in attitudes between complainants and officers who went through a mediation process to a comparable set of complainants and officers whose complaints were handled through a traditional investigation process. The study found that both police and community participants in the mediation program reported significantly higher levels of satisfaction than those who went through...
the traditional process. Moreover, the study found that mediation had even stronger effect on Latino complainants and female police officers.

For local jurisdictions considering implementing a mediation program, several U.S. oversight agencies operate well-known and long-running community-police mediation programs. Each of these agencies publish detailed, useful information about the philosophy and operation their individual programs (Table 5 for links to each program’s mediation webpage).

### Table 5. U.S. Civilian Oversight Agencies that Operate Model Mediation Programs

<table>
<thead>
<tr>
<th>Jurisdiction</th>
<th>Oversight Agency</th>
<th>Sworn Officers</th>
<th>Mediations Completed in 2015</th>
<th>Mediations per 1,000 Officers</th>
<th>Agency Website:</th>
</tr>
</thead>
<tbody>
<tr>
<td>San Francisco, CA</td>
<td>Office of Citizen Complaints</td>
<td>2,208</td>
<td>45</td>
<td>20.4</td>
<td><a href="http://www.sfgov.org/occ/mediation">www.sfgov.org/occ/mediation</a></td>
</tr>
</tbody>
</table>

Note: This table and mediation data were adapted from The Denver Office of the Independent Monitor’s (2016), 2015 Annual Report (pp. 45).
Conclusions and Recommendations

To help municipal executives, policy-makers, community leaders and the general public consider some of the important issues currently facing police oversight, this report conducted a broad review of the current state of knowledge regarding civilian oversight of law enforcement in the U.S., drawing from a review of the research literature on oversight and organizational data provided by 97 police oversight executives.

There has been a fair amount of writing on civilian oversight and it is currently a topic of substantial national interest. Unfortunately, there has been far less systematic, comparative social science research on the effectiveness of oversight. That said, there are a number of resources that can act as a jumping-off point for jurisdictions considering implementing civilian oversight or who are evaluating the effectiveness of their current oversight mechanisms.

The early seminal work by Walker (2001) and Finn (2001) still stand as critical resources for jurisdictions weighing the costs and benefits of implementing civilian oversight. More recent research by Prenzler and his colleagues (Prenzler and den Heyer 2016) update what is known about the state of the field and offer useful information about novel developments outside of the U.S. Finally, there have been a series of recent program evaluations of agencies that consider some of the strengths and weaknesses of individual civilian oversight agencies in Chicago (Police Accountability Task Force 2016), King County (Anderson et al. 2015), New Orleans (PARC 2016), San Francisco (2016) and Spokane County (Olson 2016).

Given that there has been relatively little research on civilian oversight, this project drew strongly from data provided by civilian oversight agencies to identify important issues within the field. Using those data, it was possible to catalogue a number of key issues that jurisdictions may want to consider when evaluating their oversight mechanisms.

Oversight Is Common in the U.S.

Patterns in the development and persistence of oversight indicate that civilian oversight has been increasingly institutionalized as a regular feature of policing in cities and counties across the U.S. In 1975, there were seven oversight agencies in the U.S. That figure grew to over 100 agencies by 2000 (Walker 2001: 6). For this report, we identified more than 140 civilian oversight agencies, with almost all large cities having some sort of civilian oversight mechanism in place. More critically, roughly 55 percent of the oversight agencies that provided data for this report indicated that they had been in existence for 16 or more years. These patterns, when taken as a whole, seem to indicate a field that is approaching maturity. Large jurisdictions that do not have oversight now stand as outliers, rather than representing the norm.

Oversight Typically Develops Through Local Crises

The history of oversight in the U.S. demonstrates that the early models of oversight emerged in response to local crises relating to conflict between the police and local communities of color, often catalyzed by controversial officer-involved shootings, in-custody deaths or concerns about racially disparate policing (Walker 2001). Few historical examples of oversight exist of proactive implementation. The data provided by civilian oversight agencies for this report supports this view. Only 11 percent of the agencies reported proactive implementation of their oversight system. While not common, this form of development suggests that it is possible for local jurisdictions to implement civilian oversight in a proactive versus reactive manner.

Oversight Is a Complex Organizational Field

In looking at the historical evolution of oversight, it is clear that earlier forms of oversight tended to be organized around the review of completed internal affairs investigations. The field has evolved considerably, however. Review-focused agencies
were the most common among the respondents to provide data (40 percent), but auditor/monitor and investigation-focused agencies are now common in the field (25 percent and 35 percent, respectively).

This means that local jurisdictions have a much broader range of options when considering the characteristics of the oversight mechanism they would like to implement.

In the data shared by the civilian oversight agencies, it was clear that each of the models identified tended to have common organizational characteristics and forms of authority.

- Review-focused agencies, on the whole, were more likely to report that they had jurisdiction in relation to the review of completed internal affairs investigations.
- Investigative agencies were more likely to report that they had authority to decide how to handle citizen complaints and conduct independent investigations.
- Auditor/monitor agencies were more likely to report having strong authority in relation to reviewing, auditing and monitoring investigations, as well as authority to analyze patterns and make recommendations across a range of police/sheriff data.

Even though the oversight models tended to have clear organizational foci, there was substantial crossover among models. For example, a majority of auditor/monitor agencies (61 percent) reported the ability to conduct independent investigations. Roughly 43 percent of review-focused agencies and 50 percent of investigative agencies reported having the authority to audit complaint investigations by the police. Taken as a whole, this indicates that jurisdictions are mixing-and-matching forms of oversight authority and jurisdiction to meet the needs in the local environment (McDevitt et al. 2005: 11). As such, regardless of whether a local jurisdiction has a review board or auditor/monitor, it is clear that just about any type of oversight model can include hybridized characteristics.

**There is Clear Variation in the Budgets Among Oversight Types**

In general, the data provided by the civilian oversight agencies demonstrated that some models of oversight have larger budgets than others. Full investigative agencies tended to report the largest budgets, followed by auditor/monitor and review agencies. Similar patterns were evident in terms of staffing. Investigative agencies reported having the largest number of full-time, paid staff while review-focused agencies were the least likely to report having full-time paid staff. This is likely due in part to variation in the size of jurisdictions and variation in the mandate of the different models. Investigative and auditor/monitor agencies were much more likely to be found in jurisdictions with large populations and big police agencies.

Even so, jurisdictions need to carefully evaluate the trade-offs between different types of oversight agencies. Review-focused agencies are the least expensive agencies to operate. Yet, the pattern in data provided by the civilian oversight agencies indicate that review-focused agencies also tend to have the most limited range of organizational authority. Local jurisdictions will need to carefully match their goals for oversight to the resources they have available when considering the type of oversight to implement.

**Some Models of Oversight May be More Effective at Getting Recommendations Implemented**

Almost all of the oversight agencies reported that police executives listened carefully to the recommendations made by oversight staff (78 percent). However, auditor/monitor agencies were much more likely to report that police or sheriff’s agencies implemented their recom-
recommendations very frequently or frequently (72 percent) as compared to investigative (42 percent) and review agencies (34 percent). It is critical to note that some caution is warranted when it comes to drawing conclusions from this finding. These are self-report data and thus only measure the perceptions of the oversight executives who provided input.

Part of the difference, however, may relate to the type of work different agencies tend to perform. Auditor/monitor agencies are more likely to have specialized staff who focus on analyzing patterns in complaints and other police data and they are more likely to issue special topics reports as a result of that work (which Harris (2012) describes as a “holistic” approach). It is a possibility that using data-driven evaluation methods increases the likelihood that police departments will implement recommendations made by oversight. More systematic comparative research is needed; however, before strong inferences can be drawn on this issue.

**Oversight Can Serve as a Conduit of Positive Information about Police Department Performance**

Even though much of the public reporting on police accountability and oversight tends to focus on instances of wrong-doing or misconduct on the part of individual officers, police oversight agencies can also serve as an important conduit of information to the public about the positive forms of police-community interaction. A number of jurisdictions actively seek to use their public reporting frameworks to highlight circumstances where police officers have engaged in outstanding public service. For example, Albuquerque’s Civilian Police Oversight Agency (2015) and Denver’s Office of the Independent Monitor (2015) developed sections of their annual reports to highlight commendations and other notable positive forms of police-community interaction.
Important Considerations when Implementing or Reforming a Local Oversight Program

Over the past 30 years, local experimentation with different types of oversight models, to include the hybridization of these different models, has result in a complex heterogeneous organizational field. While the data provided by 97 civilian oversight agencies included in this report explores organizational variation across different oversight agencies, it cannot answer the fundamental question of:

- Which forms of oversight are the most effective?
- Under what circumstances should a jurisdiction implement a review-focused model of oversight as opposed to an investigative or auditor/monitor-focused model?

Even though the question of what type of model constitutes a “best” form of oversight remains unanswered, that does not mean that nothing can be learned from these patterns. In fact, the growing hybridization of police oversight and the blurring of the boundaries between different models of oversight by itself carries with it an important lesson for local jurisdictions that are exploring whether to implement oversight or considering revising their current oversight framework.

Jurisdictions Should Focus on “Best-Fit” Rather Than “Best Practices” When Considering How to Structure Civilian Oversight

One key lesson that can be learned from the history of oversight in the U.S. is that there is not necessarily any “best practice” in the creation of civilian oversight of a law enforcement program, but rather what a jurisdiction should be looking for is a “best fitting” model of oversight. Every jurisdiction has its own social, cultural and political issues and every police agency has its own unique organizational, history, traditions and sub-cultural characteristics. While some police agencies may be proficient at holding their officers to account with respect to certain types of conduct, other police agencies may struggle. Some large jurisdictions have ample financial resources to implement highly professionalized, organizationally complex forms of oversight while smaller jurisdictions may have far fewer resources with which to implement and sustain police oversight.

Given these differences between cities and counties in the U.S., it is likely that no single model of oversight is going to work for all jurisdictions. As a result, the best form of oversight for individual jurisdictions simply depends on the circumstances faced by the jurisdiction that is either creating or updating its oversight processes. This is why it is important to review the strengths and challenges of a police department before selecting an oversight model.

Oversight Should Employ the Least Force Necessary to Accomplish its Goals

Even though law enforcement resistance to the concept of police oversight has diminished over time, it can still be argued that “the least intrusive means of oversight” (Bobb 2003) necessary to achieve police accountability is the best means of approaching the oversight function in the long term. Just as we expect the police to use only that amount of force that is proportionate, necessary and reasonable to accomplish their task, so it can be argued that jurisdictions creating or reforming an oversight function should similarly accomplish the feat of ensuring police accountability (Bobb 2003: 165). In other words, a jurisdiction seeking to create or update an oversight function should choose the least intrusive model of oversight necessary to accomplish the task. If the model chosen does not accomplish that objective, a more aggressive form of oversight would then be required. As such, it is impossible to suggest that any one model of oversight is better than another. Each jurisdiction must evaluate its own police
agency, including its culture, leadership, capacity to police itself before choosing the most appropriate form of oversight.

**A Number of Resources are Available to Jurisdictions Considering Implementing Oversight or Reforming their Current Oversight Framework**

One of the key challenges for local jurisdictions considering whether to implement oversight is to find examples of jurisdictions that have successfully implemented and sustained effective oversight agencies. It can also be difficult and resource intensive for local jurisdictions to collect examples of legal language, organizational procedures and other “nuts-and-bolts” documents that they can use as models after they decide to implement oversight. Several relatively recent reports have sought to overcome these problems by providing detailed cases studies of existing oversight agencies (PARC 2005; McDevitt et al. 2005; Noe 2013; Olson 2016; PARC 2016). These reports contain key details about oversight agency powers, organizational, structure, funding and staffing and should be consulted by local jurisdictions considering oversight or interested in reforming their local oversight agency.

**Recommendations for Further Research**

The following recommendations, which emerged from the review of the literature and organizational data provided by civilian oversight agencies, are intended to identify ways to expand what is currently known about civilian oversight of law enforcement.

1. More systematic, comparative research needs to be conducted on the effectiveness of civilian oversight of law enforcement. While some researchers are working to extend what we know about oversight (see Walker and Archbold 2014; Prenzler and den Heyer 2016; Alpert et al. 2016), there are still tremendous gaps in what we know about the issue of effectiveness in civilian oversight. Moreover, we still know little about the relative effectiveness of different models, strategies and approaches. While the data provided by nearly 100 civilian oversight agencies helps to identify and examine broad differences among models of oversight, it does not allow for the measurement of differences in the impact that different types of oversight agencies have on police accountability, police effectiveness or patterns in police misconduct. It is clear that more systematic, empirical research is needed before we will be able to draw strong conclusions about the organizational factors that determine effectiveness in citizen oversight.

2. Additional research is needed on the impact that citizen oversight has on public trust in the police and local government. Civilian oversight often emerges as a result of conflict between the police and communities of color and is typically catalyzed by one or more local police scandals (e.g., racially biased policing, officer-involved shootings) (Walker, 2001, p. 55). Moreover, oversight is often implemented with the goal of improving community trust and confidence in the police and local government. While some scholars have begun to study the relationship between civilian oversight and public opinion (Tarling and Dowds 1997; Worden and McLean 2010; Prenzler 2016; De Angelis and Wolf 2016), we still know little about the impact that the implementation of civilian oversight has on public opinion. We also know little about the extent to which the presence of civilian oversight can repair the damage to public confidence caused by instances of police misconduct. More research is needed on the impact of civilian oversight on public trust in policing and local government.

3. Future comparative evaluations of effectiveness need to be based on primary data collected by outside researchers. Prenzler and Lewis (2005) and Ferdik et al. (2013) have conducted some of their most important work by reviewing publicly-avail-

To help local jurisdictions gain access to examples of oversight policies, legal language and key organizational documents, the National Association for Civilian Oversight of Law Enforcement (NACOLE) has created a companion website to this report that includes up-to-date profiles for model police oversight agencies. This website toolkit includes examples of ordinance/charter language, oversight policies and procedures, annual reports, special topics reports, complaint forms, outreach brochures and examples of other documents that can serve as examples for new oversight agencies. This website toolkit can be accessed by visiting: www.nacole.org/agency_profiles
able agency reports and documents. However, the lack of standardization in reporting and measurement among agencies makes it difficult to compare across jurisdictions. Future research should adopt mixed-methods methodological approaches that combine the use of quantitative outcome measurement with qualitative interviews with community members and officers to generate forms of data that allow for comparison across jurisdictions (Ferdik et al. 2013:18).

4. More support for independent research on oversight will be necessary before key questions relating to the effectiveness of oversight can be answered. Federal and state agencies that support applied research in law enforcement should consider developing new and sustained funding streams for research into civilian oversight of police (Buchner 2015). The same applies to private funding sources that support social science research and study.

5. More work on standards for oversight is needed. Professional oversight associations, like NACOLE, should continue to work collaboratively with researchers and other oversight stakeholders to develop standards and guidelines for evaluating oversight.

6. Local jurisdictions should consider participating in the “open data” movement. Over the last several years, a number of jurisdictions have begun to make some of their non-identifying police-related data available to the public, including data related to complaints against officers, critical incidents and other data relating to police operations and activity. The goal of this has been to build public trust in the police and local government by increasing the transparency of police operations and local government. For example, the Indianapolis Metropolitan Police Department and Citizen’s Police Complaint Office collaborated with a local non-profit, Code for America, to create a web portal through which members of the public can download datasets relating to officer uses of force, officer-involved shootings and complaints filed by members of the public (https://www.projectcomport.org).

7. Local jurisdictions should be willing to evaluate the effectiveness of their local oversight agencies proactively and independently. In conducting those evaluations, jurisdictions need to have realistic expectations when it comes to the impact civilian oversight may have on local police accountability. Oversight is—and should be—only one component of a jurisdiction’s police accountability framework. As such, local jurisdictions should seek to evaluate effectiveness based on the factors over which local oversight agencies have control. As the IACP noted: “Citizen review is but one tool among many that can be used to promote and ensure accountability. It is neither a cure-all not likely to promote desired results unless accompanied by a full package of accountability-building strategies” (IACP 2000: 2).
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About the Authors

Joseph De Angelis, Ph.D. is an assistant professor in the Department of Sociology and Anthropology at the University of Idaho. He has also served as a policy director and an analyst for two civilian oversight agencies in the U.S. His research has appeared in a wide variety of scholarly and policy-focused journals, including the Journal of Criminal Justice, Criminal Justice Review, Criminal Justice Studies, Police Quarterly, Criminal Justice Policy Review, Qualitative Report and Policing: An International Journal of Police Strategies and Management.

Richard Rosenthal is the first Chief Civilian Director for the Independent Investigations Office of British Columbia. He is currently enrolled in graduate studies at Simon Fraser University. Previously, he was the first director of the Independent Police Review Division of the Portland, Oregon City Auditor’s Office as well as the first Independent Monitor for the City and County of Denver. Mr. Rosenthal served 15 years as a deputy district attorney in Los Angeles County, specializing in the
investigation and prosecution of public officials, judges and police officers. He has been credited for uncovering the LAPD Rampart Scandal in 2000. Mr. Rosenthal has held teaching positions at various universities, including Loyola Law School, Portland State University and the University of Colorado at Denver. He served for five years on the board of directors for the NACOLE and currently serves on the board of directors for the Canadian Association for Civilian Oversight of Law Enforcement (CACOLE).

Brian Buchner is a Policy Director in Los Angeles Mayor Eric Garcetti’s Office of Public Safety. Prior to joining the Mayor’s Office, he was a Police Special Investigator with the Los Angeles Police Commission’s Office of the Inspector General, which provides civilian oversight to the LAPD. Before joining the OIG in 2007, Mr. Buchner was the Policing Specialist at PARC, where he assisted Merrick Bobb, former Special Counsel to the Los Angeles County Board of Supervisors and PARC’s Executive Director, in monitoring and critically reviewing the Los Angeles County Sheriff’s Department.

Mr. Buchner is the current president of NACOLE, the nation’s largest and premier police oversight organization. Mr. Buchner also serves as an Adviser to the American Law Institute’s Principles of the Law, Police Investigations Project; as a member of the Open Police Complaints advisory board; and is a founding board member of the Integrated Recovery Network. He has spoken about policing and oversight issues in a variety of forums, including testifying before President Obama’s Task Force on 21st Century Policing and at United Nations hearings on torture and police accountability in Vietnam.

Mr. Buchner holds a bachelor’s degree in criminal justice from Bowling Green State University and a master’s degree in criminology from the University of Missouri-St. Louis.

Appendix A. Research Methods

Since much of the recent research on civilian oversight has been based on either case studies or anecdotal accounts of individual agency practices, there are substantial gaps in what is known about the state of civilian oversight in the 21st century. To develop a better understanding of the state of civilian oversight in the U.S., the research team administered an electronic organizational survey to 97 civilian oversight agencies in the U.S. The overall goal of the survey was to capture and describe variation in the organizational structure, legal authority, organizational practices and financial resources for contemporary oversight in the U.S. Several of the attitudinal questions were adapted from early survey research on oversight (Walker and Bumphus 1991). The survey instrument contained 86 item groups that were designed to measure organizational and attitudinal information in relation to 12 key areas:

- The history of the oversight agency.
- The legal authority/organizational powers granted to the agency.
- Agency goals organizational structure.
- Budget.
- Staffing.
- Presence and structure of a board or community members.
- Role in the complaint intake and investigation process.
- Community outreach practices.
- Perceived support from process stakeholders.
- Data collection and analysis practices.
- Key successes or obstacles that the agency has experienced in the previous three years.
Prior to the distribution of the surveys, the authors first sought to identify local and state-level civilian oversight agencies currently operating in the U.S. For the purposes of this portion of the project, civilian oversight agencies were defined as governmental bodies that involve non-police community members in the review, auditing, monitoring or investigation of allegations of misconduct filed against law enforcement officers (see Walker 2001). Generating a list of oversight agencies proved to be a substantial challenge. There are currently no governmental or regulatory bodies that precisely track or maintain current lists of all oversight agencies in the U.S. The project team used several methods to identify civilian oversight agencies.

1. Reviewed organizational membership lists for NACOLE;
2. Reviewed the academic literature and all available policy evaluation reports for references to oversight agencies;
3. Used U.S. Census data to identify all U.S. cities with greater than 100,000 residents (N=295) (United States Census Bureau 2014). Once the list was developed, the research team conducted a series of key word searches of the Internet using Google and a combination of the city names and terms relating to civilian oversight. Reviewed the resulting websites to determine whether a civilian oversight agency was in operation and to collect contact information (when available).
4. Conducted key word searches of newspaper articles and other print media sources using Google News and LexisNexis Academic.
5. Consulted subject matter experts knowledgeable about civilian oversight (e.g., individuals with experience working in the area of civilian oversight).

Once an initial list of oversight agencies was developed, the team collected and stored all available substantive website content, including contact information, electronically. For those identified agencies where contact information for the oversight executive could not be determined, used emails and phone interviews to:

1. Determine whether the oversight agency was in operation; and,
2. Collect the contact email information for the oversight executive (or his or her designee).

Altogether, the team identified 144 oversight agencies using these methods. Twenty-one of those jurisdictions either refused to provide electronic contact information for the oversight agency or failed to respond to multiple email and phone call requests for contact information. The research team did not send surveys to four agencies because the contractor operating their oversight body performs oversight duties in another city (each contractor was surveyed only once). This left the research team with viable contact information for 119 civilian oversight agencies.

Once the team identified the agencies, the team developed and administered the survey using Qualtrics™ survey research software. The University of Idaho Institutional Review Board reviewed and approved the survey research design, protocol and protections for human subjects. Each oversight agency received up to five separate contacts. Each agency received an initial notification email from the president of NACOLE that explained the nature, goals and likely outcome of the survey. The oversight agencies then received a solicitation email with a link to the survey three days later. The team delivered three additional solicitations via email to non-responding agencies. After the fourth solicitation, the research team and NACOLE board members and staff placed a final round of follow-up phone calls to the non-responding agencies with a request for their participation. In total, 97 of the 119 oversight agencies that received a survey solicitation submitted an electronic survey, resulting in a response rate of 81.5 percent. Once the team received the survey data, they extracted the data from Qualtrics™ and analyzed it in SPSS.

When reviewing the results of the survey, it is important to recognize several important limitations. First, even though the team identified 144 oversight agencies, the research team was unable to distribute surveys to 25 of those agencies. In addition,
another 22 agencies received, but did not submit, a survey. This indicates that some caution should be used when attempting
to draw strong inferences about the larger population of civilian oversight agencies in the U.S. Second, the team distributed
the electronic survey to only one representative from each agency. It is not clear whether the attitudes reported by the agency
representatives reflect the attitudes of other employees or volunteers working for those jurisdictions.

## Appendix B.

### Statistical Results

**Table B1: Percentage of Organizational Goals Rated as “Critical” or “Important” by Oversight Agencies**

<table>
<thead>
<tr>
<th>Goal</th>
<th>Auditor/monitor</th>
<th>Investigative</th>
<th>Review</th>
<th>All Agencies</th>
</tr>
</thead>
<tbody>
<tr>
<td>Improve public trust in the local police/sheriff department</td>
<td>100%</td>
<td>97%</td>
<td>97%</td>
<td>98%</td>
</tr>
<tr>
<td>Ensure that complaint processes are accessible to all members of</td>
<td>87%</td>
<td>100%</td>
<td>91%</td>
<td>93%</td>
</tr>
<tr>
<td>the community</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Ensure thorough investigations of complaints</td>
<td>87%</td>
<td>97%</td>
<td>82%</td>
<td>89%</td>
</tr>
<tr>
<td>Increase transparency of the complaint investigation system</td>
<td>91%</td>
<td>85%</td>
<td>85%</td>
<td>87%</td>
</tr>
<tr>
<td>Deter police misconduct</td>
<td>91%</td>
<td>91%</td>
<td>74%</td>
<td>85%</td>
</tr>
<tr>
<td>Ensure that individuals who experience police misconduct receive</td>
<td>74%</td>
<td>85%</td>
<td>71%</td>
<td>77%</td>
</tr>
<tr>
<td>justice</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Make recommendations to the police about how to improve the</td>
<td>100%</td>
<td>62%</td>
<td>71%</td>
<td>75%</td>
</tr>
<tr>
<td>investigations process</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Improve complainant satisfaction with the complaint process</td>
<td>70%</td>
<td>91%</td>
<td>65%</td>
<td>76%</td>
</tr>
<tr>
<td>Look for patterns in complaints to identify the underlying causes</td>
<td>87%</td>
<td>85%</td>
<td>52%</td>
<td>73%</td>
</tr>
<tr>
<td>of police misconduct</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Analyze patterns in police data to make recommendations for</td>
<td>87%</td>
<td>76%</td>
<td>38%</td>
<td>64%</td>
</tr>
<tr>
<td>organizational improvement</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Issue public reports that describe patterns in complaints</td>
<td>73%</td>
<td>68%</td>
<td>44%</td>
<td>60%</td>
</tr>
<tr>
<td>Ensure that officers who engage in misconduct are punished</td>
<td>61%</td>
<td>65%</td>
<td>44%</td>
<td>56%</td>
</tr>
<tr>
<td>Improve police officer satisfaction with the complaint process</td>
<td>52%</td>
<td>53%</td>
<td>53%</td>
<td>53%</td>
</tr>
<tr>
<td>Audit internal investigations for investigatory compliance</td>
<td>74%</td>
<td>47%</td>
<td>32%</td>
<td>48%</td>
</tr>
<tr>
<td>Use alternative dispute resolution techniques to resolve complaints</td>
<td>52%</td>
<td>56%</td>
<td>35%</td>
<td>47%</td>
</tr>
<tr>
<td>(e.g., mediation)</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Use performance audits to strengthen police practices, policies or</td>
<td>57%</td>
<td>29%</td>
<td>30%</td>
<td>37%</td>
</tr>
<tr>
<td>training</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sustain a proper percentage of complaints</td>
<td>18%</td>
<td>26%</td>
<td>35%</td>
<td>28%</td>
</tr>
<tr>
<td>Number of Agencies</td>
<td>23</td>
<td>34</td>
<td>34</td>
<td>91</td>
</tr>
</tbody>
</table>
### Table B1: Percentage of Organizational Goals Rated as “Critical” or “Important” by Oversight Agencies

Table Notes: Table reports the valid percent for each item and excludes missing values from the calculation. Each valid percent was calculated using the number of agencies that responded to each specific item. The total number of agencies reported at the bottom of the table identifies the number of agencies that had valid responses to one of more items listed in the table. As a result, the number of agencies responding to each item in the table may vary very slightly from the total reported at the bottom of the table. However, any differences are reflected in the reported percentages.

### Table B2: What Local Circumstances Triggered the Creation of your Oversight Agency?

<table>
<thead>
<tr>
<th>Circumstance</th>
<th>Auditor/monitor</th>
<th>Investigative</th>
<th>Review</th>
<th>All Agencies</th>
</tr>
</thead>
<tbody>
<tr>
<td>Officer-Involved Shooting/Other Excessive Force</td>
<td>50%</td>
<td>56%</td>
<td>44%</td>
<td>49%</td>
</tr>
<tr>
<td>Racially Disparate Policing (e.g., racial profiling)</td>
<td>25%</td>
<td>38%</td>
<td>23%</td>
<td>29%</td>
</tr>
<tr>
<td>Proactive/Preventive Effort</td>
<td>8%</td>
<td>0%</td>
<td>23%</td>
<td>11%</td>
</tr>
<tr>
<td>In-Custody Death</td>
<td>13%</td>
<td>6%</td>
<td>10%</td>
<td>9%</td>
</tr>
<tr>
<td>Police Corruption Scandal</td>
<td>13%</td>
<td>12%</td>
<td>5%</td>
<td>9%</td>
</tr>
<tr>
<td>Change by Legislative Body</td>
<td>0%</td>
<td>12%</td>
<td>13%</td>
<td>9%</td>
</tr>
<tr>
<td>Sexual Misconduct</td>
<td>8%</td>
<td>0%</td>
<td>5%</td>
<td>4%</td>
</tr>
<tr>
<td>Mishandled internal Affairs Investigations</td>
<td>4%</td>
<td>0%</td>
<td>3%</td>
<td>2%</td>
</tr>
<tr>
<td>Dissatisfaction with Previous Oversight Agency</td>
<td>8%</td>
<td>0%</td>
<td>0%</td>
<td>2%</td>
</tr>
<tr>
<td>Other Issue</td>
<td>21%</td>
<td>9%</td>
<td>13%</td>
<td>13%</td>
</tr>
</tbody>
</table>

Table Notes: Agencies could select multiple responses, so percentages will sum to more than 100%. The table reports the valid percent and excludes missing values from the calculation.

### Table B3: What type of Law Enforcement Organization(s) do you Oversee?

<table>
<thead>
<tr>
<th>Organization</th>
<th>Auditor/monitor</th>
<th>Investigative</th>
<th>Review</th>
<th>All Agencies</th>
</tr>
</thead>
<tbody>
<tr>
<td>Municipal Police Department</td>
<td>67%</td>
<td>85%</td>
<td>90%</td>
<td>82%</td>
</tr>
<tr>
<td>County Sheriff</td>
<td>25%</td>
<td>12%</td>
<td>13%</td>
<td>15%</td>
</tr>
<tr>
<td>Campus Law Enforcement</td>
<td>4%</td>
<td>3%</td>
<td>8%</td>
<td>5%</td>
</tr>
<tr>
<td>Special Police Agency</td>
<td>4%</td>
<td>6%</td>
<td>3%</td>
<td>4%</td>
</tr>
<tr>
<td>Probation</td>
<td>4%</td>
<td>3%</td>
<td>0%</td>
<td>2%</td>
</tr>
</tbody>
</table>

Table Notes: Agencies could select multiple responses, so percentages will sum to more than 100%. The table reports the valid percent and excludes missing values from the calculation.
### Table B4: Approximately how Many Sworn Officers Work for the Agencies you Oversee?

<table>
<thead>
<tr>
<th></th>
<th>Auditor/monitor</th>
<th>Investigative</th>
<th>Review</th>
<th>All Agencies</th>
</tr>
</thead>
<tbody>
<tr>
<td>500 or Fewer</td>
<td>29%</td>
<td>34%</td>
<td>64%</td>
<td>45%</td>
</tr>
<tr>
<td>501 to 1,000</td>
<td>21%</td>
<td>22%</td>
<td>21%</td>
<td>21%</td>
</tr>
<tr>
<td>1,001 to 2,000</td>
<td>29%</td>
<td>16%</td>
<td>10%</td>
<td>17%</td>
</tr>
<tr>
<td>2,001 to 3,000</td>
<td>4%</td>
<td>13%</td>
<td>0%</td>
<td>5%</td>
</tr>
<tr>
<td>3,001 to 4,000</td>
<td>0%</td>
<td>9%</td>
<td>3%</td>
<td>4%</td>
</tr>
<tr>
<td>4,001 or more</td>
<td>17%</td>
<td>6%</td>
<td>3%</td>
<td>7%</td>
</tr>
<tr>
<td>Number of Agencies</td>
<td>24</td>
<td>32</td>
<td>39</td>
<td>95</td>
</tr>
</tbody>
</table>

Table Notes: The table reports the valid percent and excludes missing values from the calculation.

### Table B5: Who Leads your Oversight Agency?

<table>
<thead>
<tr>
<th></th>
<th>Auditor/monitor</th>
<th>Investigative</th>
<th>Review</th>
<th>All Agencies</th>
</tr>
</thead>
<tbody>
<tr>
<td>Full-Time Paid Executive</td>
<td>78%</td>
<td>71%</td>
<td>39%</td>
<td>61%</td>
</tr>
<tr>
<td>Part-Time Paid Executive</td>
<td>17%</td>
<td>6%</td>
<td>6%</td>
<td>9%</td>
</tr>
<tr>
<td>Multi-Member Board</td>
<td>4%</td>
<td>24%</td>
<td>52%</td>
<td>29%</td>
</tr>
<tr>
<td>Other</td>
<td>0%</td>
<td>0%</td>
<td>3%</td>
<td>1%</td>
</tr>
<tr>
<td>Number of Agencies</td>
<td>23</td>
<td>34</td>
<td>33</td>
<td>90</td>
</tr>
</tbody>
</table>

Table Notes: The table reports the valid percent and excludes missing values from the calculation.
### Table B6: What is the Source of your Agency’s Authority?

<table>
<thead>
<tr>
<th>Source of Authority</th>
<th>Auditor/monitor</th>
<th>Investigative</th>
<th>Review</th>
<th>All Agencies</th>
</tr>
</thead>
<tbody>
<tr>
<td>County/Municipal Ordinance</td>
<td>25%</td>
<td>41%</td>
<td>36%</td>
<td>35%</td>
</tr>
<tr>
<td>City/County Charter</td>
<td>29%</td>
<td>34%</td>
<td>38%</td>
<td>35%</td>
</tr>
<tr>
<td>Both Ordinance/Charter</td>
<td>8%</td>
<td>0%</td>
<td>0%</td>
<td>2%</td>
</tr>
<tr>
<td>State Statute</td>
<td>8%</td>
<td>13%</td>
<td>13%</td>
<td>12%</td>
</tr>
<tr>
<td>Contract</td>
<td>17%</td>
<td>3%</td>
<td>0%</td>
<td>5%</td>
</tr>
<tr>
<td>Executive Order</td>
<td>4%</td>
<td>6%</td>
<td>0%</td>
<td>3%</td>
</tr>
<tr>
<td>Law Enforcement Policy</td>
<td>4%</td>
<td>3%</td>
<td>3%</td>
<td>3%</td>
</tr>
<tr>
<td>City/County Policy</td>
<td>4%</td>
<td>0%</td>
<td>3%</td>
<td>2%</td>
</tr>
<tr>
<td>Legal Agreement</td>
<td>0%</td>
<td>0%</td>
<td>5%</td>
<td>2%</td>
</tr>
<tr>
<td>Other</td>
<td>0%</td>
<td>0%</td>
<td>3%</td>
<td>1%</td>
</tr>
<tr>
<td><strong>Number of Agencies</strong></td>
<td><strong>24</strong></td>
<td><strong>32</strong></td>
<td><strong>39</strong></td>
<td><strong>95</strong></td>
</tr>
</tbody>
</table>

Table Notes: Agencies could select multiple responses, so percentages will sum to more than 100%. The table reports the valid percent and excludes missing values from the calculation.

### Table B7: What Type of Job Protection Does the Head of your Agency have?

<table>
<thead>
<tr>
<th>Protection Type</th>
<th>Auditor/monitor</th>
<th>Investigative</th>
<th>Review</th>
<th>All Agencies</th>
</tr>
</thead>
<tbody>
<tr>
<td>At Will</td>
<td>73%</td>
<td>67%</td>
<td>48%</td>
<td>78%</td>
</tr>
<tr>
<td>Contract</td>
<td>18%</td>
<td>11%</td>
<td>17%</td>
<td>15%</td>
</tr>
<tr>
<td>Term of Office</td>
<td>9%</td>
<td>15%</td>
<td>22%</td>
<td>15%</td>
</tr>
<tr>
<td>Removed by Legislature/City Council</td>
<td>9%</td>
<td>7%</td>
<td>9%</td>
<td>8%</td>
</tr>
<tr>
<td>Civil Service</td>
<td>0%</td>
<td>7%</td>
<td>4%</td>
<td>4%</td>
</tr>
<tr>
<td>Other</td>
<td>18%</td>
<td>0%</td>
<td>17%</td>
<td>21%</td>
</tr>
<tr>
<td><strong>Number of Agencies</strong></td>
<td><strong>22</strong></td>
<td><strong>27</strong></td>
<td><strong>23</strong></td>
<td><strong>72</strong></td>
</tr>
</tbody>
</table>

Table Notes: This question was only administered to oversight agencies who reported that they were led by a full or part-time executive. Agencies could select multiple responses, so percentages will sum to more than 100%. The table reports the valid percent and excludes missing values from the calculation.
**Table B8: Are Former Police Officers Allowed to Serve as your Agency Executive/Director?**

<table>
<thead>
<tr>
<th></th>
<th>Auditor/monitor</th>
<th>Investigative</th>
<th>Review</th>
<th>All Agencies</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>52%</td>
<td>63%</td>
<td>32%</td>
<td>50%</td>
</tr>
<tr>
<td>Under some circumstances</td>
<td>33%</td>
<td>33%</td>
<td>41%</td>
<td>36%</td>
</tr>
<tr>
<td>No</td>
<td>14%</td>
<td>4%</td>
<td>27%</td>
<td>14%</td>
</tr>
<tr>
<td>Number of Agencies</td>
<td>21</td>
<td>27</td>
<td>22</td>
<td>70</td>
</tr>
</tbody>
</table>

*Table Notes: This question was only administered to oversight agencies who reported that they were led by a full or part-time executive. The table reports the valid percent and excludes missing values from the calculation.*

**Table B9: Percentage of Agencies Reporting that they “Always/Sometimes” have Jurisdiction in Specific Areas of the Personnel Investigations Process**

<table>
<thead>
<tr>
<th>Area of the Personnel Investigations Process</th>
<th>Auditor/monitor</th>
<th>Investigative</th>
<th>Review</th>
<th>All Agencies</th>
</tr>
</thead>
<tbody>
<tr>
<td>Citizen-Initiated Complaints</td>
<td>92%</td>
<td>100%</td>
<td>92%</td>
<td>95%</td>
</tr>
<tr>
<td>Officer-Initiated Complaints</td>
<td>83%</td>
<td>49%</td>
<td>50%</td>
<td>58%</td>
</tr>
<tr>
<td>Internal/ Supervisor Complaints</td>
<td>87%</td>
<td>39%</td>
<td>49%</td>
<td>55%</td>
</tr>
<tr>
<td>Officer-Involved Shootings</td>
<td>86%</td>
<td>76%</td>
<td>71%</td>
<td>77%</td>
</tr>
<tr>
<td>Other Serious Force</td>
<td>86%</td>
<td>85%</td>
<td>77%</td>
<td>82%</td>
</tr>
<tr>
<td>In-Custody Deaths</td>
<td>86%</td>
<td>69%</td>
<td>66%</td>
<td>72%</td>
</tr>
<tr>
<td>High Speed Pursuits</td>
<td>86%</td>
<td>56%</td>
<td>63%</td>
<td>66%</td>
</tr>
<tr>
<td>Complaints against Non-Sworn Employees</td>
<td>67%</td>
<td>36%</td>
<td>20%</td>
<td>38%</td>
</tr>
<tr>
<td>Criminal Investigations</td>
<td>61%</td>
<td>16%</td>
<td>27%</td>
<td>32%</td>
</tr>
<tr>
<td>Tort Claims</td>
<td>52%</td>
<td>38%</td>
<td>23%</td>
<td>36%</td>
</tr>
<tr>
<td>Number of Agencies</td>
<td>24</td>
<td>33</td>
<td>38</td>
<td>95</td>
</tr>
</tbody>
</table>

*Table Notes: Table reports the valid percent for each item and excludes missing values from the calculation. Each valid percent was calculated using the number of agencies that responded to each specific item. The total number of agencies reported at the bottom of the table identifies the number of agencies that had valid responses to one of more items listed in the table. As a result, the number of agencies responding to each item in the table may vary very slightly from the total reported at the bottom of the table. However, any differences are reflected in the reported percentages.*
Table B10: Percent of Agencies Responding with a “Yes” or “Sometimes” that they Have Specific Forms of Authority in Relation to Citizen Complaints

<table>
<thead>
<tr>
<th>Activity</th>
<th>Auditor/monitor</th>
<th>Investigative</th>
<th>Review</th>
<th>All Agencies</th>
</tr>
</thead>
<tbody>
<tr>
<td>Classify the nature of a complaint</td>
<td>57%</td>
<td>94%</td>
<td>39%</td>
<td>63%</td>
</tr>
<tr>
<td>Conduct an initial intake investigation on complaints</td>
<td>52%</td>
<td>94%</td>
<td>30%</td>
<td>58%</td>
</tr>
<tr>
<td>Decide how a complaint will be handled (e.g., investigated, administratively closed, mediated)</td>
<td>48%</td>
<td>97%</td>
<td>27%</td>
<td>57%</td>
</tr>
<tr>
<td>Review police complaint investigations (e.g., for thoroughness, completeness, accuracy)</td>
<td>96%</td>
<td>67%</td>
<td>81%</td>
<td>80%</td>
</tr>
<tr>
<td>Send complaint investigations back to the police for further investigation</td>
<td>78%</td>
<td>53%</td>
<td>65%</td>
<td>64%</td>
</tr>
<tr>
<td>Audit police complaint investigations for compliance with investigative standards</td>
<td>92%</td>
<td>50%</td>
<td>43%</td>
<td>58%</td>
</tr>
<tr>
<td>Monitor open police complaint investigations</td>
<td>92%</td>
<td>52%</td>
<td>38%</td>
<td>57%</td>
</tr>
<tr>
<td>Conduct investigations that are independent of the police</td>
<td>61%</td>
<td>100%</td>
<td>32%</td>
<td>63%</td>
</tr>
<tr>
<td>Recommend investigation findings to the police</td>
<td>70%</td>
<td>84%</td>
<td>57%</td>
<td>70%</td>
</tr>
<tr>
<td>Issue findings on investigations</td>
<td>61%</td>
<td>88%</td>
<td>54%</td>
<td>67%</td>
</tr>
<tr>
<td>Recommend discipline to the police</td>
<td>61%</td>
<td>53%</td>
<td>30%</td>
<td>46%</td>
</tr>
<tr>
<td>Impose Discipline</td>
<td>4%</td>
<td>10%</td>
<td>3%</td>
<td>6%</td>
</tr>
<tr>
<td>Attend police disciplinary hearings</td>
<td>46%</td>
<td>39%</td>
<td>14%</td>
<td>31%</td>
</tr>
<tr>
<td>Attend police use of force hearings</td>
<td>52%</td>
<td>33%</td>
<td>16%</td>
<td>31%</td>
</tr>
<tr>
<td>Assist in the operation of a police early intervention system</td>
<td>52%</td>
<td>33%</td>
<td>16%</td>
<td>31%</td>
</tr>
<tr>
<td>Number of Agencies</td>
<td>23</td>
<td>33</td>
<td>37</td>
<td>93</td>
</tr>
</tbody>
</table>

Table Notes: Table reports the valid percent for each item and excludes missing values from the calculation. Each valid percent was calculated using the number of agencies that responded to each specific item. The total number of agencies reported at the bottom of the table identifies the number of agencies that had valid responses to one of more items listed in the table. As a result, the number of agencies responding to each item in the table may vary very slightly from the total reported at the bottom of the table. However, any differences are reflected in the reported percentages.
**Table B11: Percentage of Agencies Reporting that they “Always/Sometimes” Have the Following Types of Authority in Relation to Police Records?**

<table>
<thead>
<tr>
<th>Access to CLOSED internal affairs police files</th>
<th>Auditor/monitor</th>
<th>Investigative</th>
<th>Review</th>
<th>All Agencies</th>
</tr>
</thead>
<tbody>
<tr>
<td>Access to ALL internal affairs police files</td>
<td>96%</td>
<td>59%</td>
<td>57%</td>
<td>68%</td>
</tr>
<tr>
<td>Access to internal affairs electronic databases</td>
<td>75%</td>
<td>48%</td>
<td>30%</td>
<td>48%</td>
</tr>
<tr>
<td>Access to all electronic police databases</td>
<td>58%</td>
<td>39%</td>
<td>19%</td>
<td>36%</td>
</tr>
<tr>
<td>Access to Body Worn/In-Car Video</td>
<td>83%</td>
<td>78%</td>
<td>65%</td>
<td>74%</td>
</tr>
<tr>
<td>Right to subpoena witnesses</td>
<td>30%</td>
<td>56%</td>
<td>32%</td>
<td>40%</td>
</tr>
<tr>
<td>Right to subpoena records</td>
<td>26%</td>
<td>59%</td>
<td>35%</td>
<td>41%</td>
</tr>
<tr>
<td>Number of Agencies</td>
<td>24</td>
<td>33</td>
<td>37</td>
<td>94</td>
</tr>
</tbody>
</table>

Table Notes: Table reports the valid percent for each item and excludes missing values from the calculation. Each valid percent was calculated using the number of agencies that responded to each specific item. The total number of agencies reported at the bottom of the table identifies the number of agencies that had valid responses to one of more items listed in the table. As a result, the number of agencies responding to each item in the table may vary very slightly from the total reported at the bottom of the table. However, any differences are reflected in the reported percentages.

**Table B12: Percent of Oversight Agencies Indicating “Strongly Agree/Agree” that Police Stakeholders Listened Carefully to Recommendations Made by Oversight Staff**

<table>
<thead>
<tr>
<th>Police executives listen carefully to recommendations made by oversight staff</th>
<th>Auditor/monitor</th>
<th>Investigative</th>
<th>Review</th>
<th>All Agencies</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>83%</td>
<td>76%</td>
<td>78%</td>
<td>78%</td>
</tr>
<tr>
<td>Number of Agencies</td>
<td>18</td>
<td>33</td>
<td>32</td>
<td>83</td>
</tr>
</tbody>
</table>

Table Notes: The table reports the valid percent and excludes missing values from the calculation.

**Table B13: Percent of Oversight Agencies Indicating that Police Stakeholders “Very Frequently/Frequently” Implemented their Recommendations**

<table>
<thead>
<tr>
<th>How often does the police/sheriff implement recommendations made by your oversight agency?</th>
<th>Auditor/monitor</th>
<th>Investigative</th>
<th>Review</th>
<th>All Agencies</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>72%</td>
<td>42%</td>
<td>34%</td>
<td>46%</td>
</tr>
<tr>
<td>Number of Agencies</td>
<td>18</td>
<td>33</td>
<td>32</td>
<td>83</td>
</tr>
</tbody>
</table>

Table Notes: The table reports the valid percent and excludes missing values from the calculation.
### Table B14: Percentage of Oversight Agencies Indicating that their Enabling Statute/Ordinance Explicitly Includes a Requirement that Law Enforcement Employees Cooperate with their Agency

<table>
<thead>
<tr>
<th>Audit/monitor</th>
<th>Investigative</th>
<th>Review</th>
<th>All Agencies</th>
</tr>
</thead>
<tbody>
<tr>
<td>That police officers/command staff cooperate with your oversight agency?</td>
<td>52%</td>
<td>73%</td>
<td>40%</td>
</tr>
<tr>
<td>That police officers/command staff cooperate with your oversight agency work as a condition of their employment?</td>
<td>26%</td>
<td>47%</td>
<td>20%</td>
</tr>
<tr>
<td>Number of Agencies</td>
<td>23</td>
<td>33</td>
<td>35</td>
</tr>
</tbody>
</table>

Table Notes: The table reports the valid percent and excludes missing values from the calculation.

### Table B15: Percentage of Oversight Agencies who Indicated “Very Strong/Strong” Support from Key Process Stakeholders

<table>
<thead>
<tr>
<th>Auditor/monitor</th>
<th>Investigative</th>
<th>Review</th>
<th>All Agencies</th>
</tr>
</thead>
<tbody>
<tr>
<td>Police Executive</td>
<td>83%</td>
<td>87%</td>
<td>93%</td>
</tr>
<tr>
<td>Police Command Staff</td>
<td>78%</td>
<td>81%</td>
<td>93%</td>
</tr>
<tr>
<td>Internal Affairs Command Staff</td>
<td>88%</td>
<td>73%</td>
<td>92%</td>
</tr>
<tr>
<td>Internal Affairs Investigators</td>
<td>82%</td>
<td>73%</td>
<td>83%</td>
</tr>
<tr>
<td>Police Union</td>
<td>35%</td>
<td>21%</td>
<td>55%</td>
</tr>
<tr>
<td>City Attorney/County Counsel</td>
<td>47%</td>
<td>74%</td>
<td>75%</td>
</tr>
<tr>
<td>Mayor</td>
<td>75%</td>
<td>81%</td>
<td>82%</td>
</tr>
<tr>
<td>City Council</td>
<td>92%</td>
<td>82%</td>
<td>88%</td>
</tr>
<tr>
<td>Civil Rights Community</td>
<td>82%</td>
<td>71%</td>
<td>65%</td>
</tr>
<tr>
<td>Number of Agencies</td>
<td>18</td>
<td>31</td>
<td>29</td>
</tr>
</tbody>
</table>

Table Notes: Table reports the valid percent for each item and excludes missing values from the calculation. Each valid percent was calculated using the number of agencies that responded to each specific item. The total number of agencies reported at the bottom of the table identifies the number of agencies that had valid responses to one of more items listed in the table. As a result, the number of agencies responding to each item in the table may vary slightly from the total reported at the bottom of the table. However, any differences are reflected in the reported percentages.
### Table B16: Yearly Operating Budget for Responding Oversight Agencies

<table>
<thead>
<tr>
<th>Budget Range</th>
<th>Auditor/monitor</th>
<th>Investigative</th>
<th>Review</th>
<th>All Agencies</th>
</tr>
</thead>
<tbody>
<tr>
<td>No budget</td>
<td>12%</td>
<td>3%</td>
<td>59%</td>
<td>26%</td>
</tr>
<tr>
<td>$1 - $10,000</td>
<td>0%</td>
<td>3%</td>
<td>10%</td>
<td>5%</td>
</tr>
<tr>
<td>$10,001 - $100,000</td>
<td>12%</td>
<td>7%</td>
<td>10%</td>
<td>9%</td>
</tr>
<tr>
<td>$100,001 - $250,000</td>
<td>6%</td>
<td>13%</td>
<td>7%</td>
<td>9%</td>
</tr>
<tr>
<td>$250,001 - $500,000</td>
<td>24%</td>
<td>20%</td>
<td>10%</td>
<td>17%</td>
</tr>
<tr>
<td>$500,001 - $1,000,000</td>
<td>18%</td>
<td>17%</td>
<td>0%</td>
<td>11%</td>
</tr>
<tr>
<td>More than 1,000,000</td>
<td>29%</td>
<td>37%</td>
<td>3%</td>
<td>22%</td>
</tr>
</tbody>
</table>

**Number of Agencies**: 17, 30, 29, 76

*Table Notes: The table reports the valid percent and excludes missing values from the calculation.*

### Table B17: Number of Full Time, Paid Staff by Type of Oversight Agency

<table>
<thead>
<tr>
<th>Staff Level</th>
<th>Auditor/monitor</th>
<th>Investigative</th>
<th>Review</th>
<th>All Agencies</th>
</tr>
</thead>
<tbody>
<tr>
<td>0 Staff</td>
<td>26%</td>
<td>12%</td>
<td>61%</td>
<td>33%</td>
</tr>
<tr>
<td>1-5 Staff</td>
<td>43%</td>
<td>38%</td>
<td>27%</td>
<td>36%</td>
</tr>
<tr>
<td>6-10 Staff</td>
<td>9%</td>
<td>26%</td>
<td>3%</td>
<td>13%</td>
</tr>
<tr>
<td>11-15 Staff</td>
<td>9%</td>
<td>3%</td>
<td>3%</td>
<td>4%</td>
</tr>
<tr>
<td>16-20 Staff</td>
<td>4%</td>
<td>6%</td>
<td>6%</td>
<td>6%</td>
</tr>
<tr>
<td>21 or more Staff</td>
<td>9%</td>
<td>15%</td>
<td>0%</td>
<td>8%</td>
</tr>
</tbody>
</table>

**Number of Agencies**: 23, 34, 33, 90

*Table Notes: The table reports the valid percent and excludes missing values from the calculation.*

### Table B18: Does your Agency Publish Public Reports?

<table>
<thead>
<tr>
<th>Publishing Status</th>
<th>Auditor/monitor</th>
<th>Investigative</th>
<th>Review</th>
<th>All Agencies</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>80%</td>
<td>85%</td>
<td>69%</td>
<td>78%</td>
</tr>
<tr>
<td>No</td>
<td>20%</td>
<td>15%</td>
<td>31%</td>
<td>22%</td>
</tr>
</tbody>
</table>

**Number of Agencies**: 20, 33, 32, 85

*Table Notes: The table reports the valid percent and excludes missing values from the calculation.*
Table B19: Types of Issues Analyzed “Very Frequently/Frequently” by Oversight Agencies

<table>
<thead>
<tr>
<th>Issue</th>
<th>Auditor/monitor</th>
<th>Investigative</th>
<th>Review</th>
<th>All Agencies</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total number of complaints filed</td>
<td>67%</td>
<td>76%</td>
<td>42%</td>
<td>61%</td>
</tr>
<tr>
<td>Types of allegations contained in complaints</td>
<td>71%</td>
<td>76%</td>
<td>39%</td>
<td>61%</td>
</tr>
<tr>
<td>Findings on allegations</td>
<td>71%</td>
<td>67%</td>
<td>36%</td>
<td>56%</td>
</tr>
<tr>
<td>Timeliness data</td>
<td>48%</td>
<td>58%</td>
<td>33%</td>
<td>46%</td>
</tr>
<tr>
<td>Other uses of force</td>
<td>57%</td>
<td>48%</td>
<td>27%</td>
<td>43%</td>
</tr>
<tr>
<td>Officer-involved shootings</td>
<td>62%</td>
<td>33%</td>
<td>30%</td>
<td>39%</td>
</tr>
<tr>
<td>Discipline imposed</td>
<td>52%</td>
<td>36%</td>
<td>18%</td>
<td>33%</td>
</tr>
<tr>
<td>In-custody death</td>
<td>57%</td>
<td>30%</td>
<td>18%</td>
<td>32%</td>
</tr>
<tr>
<td>Traffic stop data</td>
<td>29%</td>
<td>12%</td>
<td>21%</td>
<td>20%</td>
</tr>
<tr>
<td>Demographic information of individuals subject to stops, searches or arrest</td>
<td>29%</td>
<td>21%</td>
<td>12%</td>
<td>20%</td>
</tr>
<tr>
<td>Vehicle pursuits</td>
<td>29%</td>
<td>18%</td>
<td>15%</td>
<td>20%</td>
</tr>
<tr>
<td>K-9 bites</td>
<td>24%</td>
<td>15%</td>
<td>21%</td>
<td>20%</td>
</tr>
<tr>
<td>Tort claims filed against officers</td>
<td>19%</td>
<td>15%</td>
<td>18%</td>
<td>17%</td>
</tr>
<tr>
<td>Agency Does Not Analyze Statistical Patterns</td>
<td>10%</td>
<td>18%</td>
<td>33%</td>
<td>22%</td>
</tr>
<tr>
<td>Number of Agencies</td>
<td>21</td>
<td>33</td>
<td>33</td>
<td>87</td>
</tr>
</tbody>
</table>

Table Notes: Table reports the valid percent for each item and excludes missing values from the calculation. Each valid percent was calculated using the number of agencies that responded to each specific item. The total number of agencies reported at the bottom of the table identifies the number of agencies that had valid responses to one or more items listed in the table. As a result, the number of agencies responding to each item in the table may vary very slightly from the total reported at the bottom of the table. However, any differences are reflected in the reported percentages.
### Table B20: Did Representatives from your Agency Conduct Outreach Activities with any the Following Groups in the Last Year?

<table>
<thead>
<tr>
<th>Group</th>
<th>Auditor/monitor</th>
<th>Investigative Review</th>
<th>All Agencies</th>
</tr>
</thead>
<tbody>
<tr>
<td>Community leaders</td>
<td>83%</td>
<td>88%</td>
<td>63%</td>
</tr>
<tr>
<td>Neighborhood associations</td>
<td>72%</td>
<td>76%</td>
<td>59%</td>
</tr>
<tr>
<td>Policy-makers (e.g., city council members)</td>
<td>78%</td>
<td>70%</td>
<td>53%</td>
</tr>
<tr>
<td>Police command staff</td>
<td>72%</td>
<td>64%</td>
<td>47%</td>
</tr>
<tr>
<td>Police officers</td>
<td>67%</td>
<td>55%</td>
<td>50%</td>
</tr>
<tr>
<td>Schools</td>
<td>61%</td>
<td>45%</td>
<td>38%</td>
</tr>
<tr>
<td>Religious organizations</td>
<td>44%</td>
<td>39%</td>
<td>38%</td>
</tr>
<tr>
<td>Youth group</td>
<td>56%</td>
<td>42%</td>
<td>25%</td>
</tr>
<tr>
<td>Mental health community</td>
<td>61%</td>
<td>27%</td>
<td>19%</td>
</tr>
<tr>
<td>Police unions</td>
<td>61%</td>
<td>33%</td>
<td>9%</td>
</tr>
<tr>
<td>At-risk youth</td>
<td>50%</td>
<td>27%</td>
<td>16%</td>
</tr>
<tr>
<td>Homeless community</td>
<td>50%</td>
<td>18%</td>
<td>16%</td>
</tr>
<tr>
<td>Health care providers</td>
<td>17%</td>
<td>15%</td>
<td>6%</td>
</tr>
<tr>
<td>Inmates</td>
<td>17%</td>
<td>12%</td>
<td>6%</td>
</tr>
<tr>
<td>Others</td>
<td>6%</td>
<td>6%</td>
<td>31%</td>
</tr>
<tr>
<td>Number of Agencies</td>
<td>18</td>
<td>33</td>
<td>32</td>
</tr>
</tbody>
</table>

Table Notes: Table reports the valid percent for each item and excludes missing values from the calculation. Each valid percent was calculated using the number of agencies that responded to each specific item. The total number of agencies reported at the bottom of the table identifies the number of agencies that had valid responses to one of more items listed in the table. As a result, the number of agencies responding to each item in the table may vary very slightly from the total reported at the bottom of the table. However, any differences are reflected in the reported percentages.
### Table B21: Most Common Outreach Activities Reported by Oversight Agencies in the Previous Year

<table>
<thead>
<tr>
<th>Activity</th>
<th>Auditor/monitor</th>
<th>Investigative</th>
<th>Review</th>
<th>All Agencies</th>
</tr>
</thead>
<tbody>
<tr>
<td>Operated an agency website</td>
<td>72%</td>
<td>88%</td>
<td>47%</td>
<td>69%</td>
</tr>
<tr>
<td>Tabled at community fairs</td>
<td>56%</td>
<td>52%</td>
<td>41%</td>
<td>48%</td>
</tr>
<tr>
<td>Provided complaint forms at multiple locations</td>
<td>56%</td>
<td>58%</td>
<td>28%</td>
<td>46%</td>
</tr>
<tr>
<td>Held community forums</td>
<td>50%</td>
<td>48%</td>
<td>38%</td>
<td>45%</td>
</tr>
<tr>
<td>Operated an agency Facebook page</td>
<td>28%</td>
<td>45%</td>
<td>25%</td>
<td>34%</td>
</tr>
<tr>
<td>Mailed brochures/business cards to community groups</td>
<td>28%</td>
<td>30%</td>
<td>31%</td>
<td>30%</td>
</tr>
<tr>
<td>Held press conferences</td>
<td>33%</td>
<td>30%</td>
<td>13%</td>
<td>24%</td>
</tr>
<tr>
<td>Mailed brochures/business cards to neighborhood centers</td>
<td>28%</td>
<td>27%</td>
<td>16%</td>
<td>23%</td>
</tr>
<tr>
<td>Operated an agency Twitter page</td>
<td>33%</td>
<td>24%</td>
<td>9%</td>
<td>20%</td>
</tr>
<tr>
<td>Posted signs in police stations</td>
<td>22%</td>
<td>24%</td>
<td>9%</td>
<td>18%</td>
</tr>
<tr>
<td>Televised hearings</td>
<td>11%</td>
<td>24%</td>
<td>9%</td>
<td>17%</td>
</tr>
<tr>
<td>Other</td>
<td>11%</td>
<td>9%</td>
<td>28%</td>
<td>17%</td>
</tr>
<tr>
<td><strong>Number of Agencies</strong></td>
<td>18</td>
<td>33</td>
<td>32</td>
<td>83</td>
</tr>
</tbody>
</table>

*Table Notes: Table reports the valid percent for each item and excludes missing values from the calculation. Each valid percent was calculated using the number of agencies that responded to each specific item. The total number of agencies reported at the bottom of the table identifies the number of agencies that had valid responses to one of more items listed in the table. As a result, the number of agencies responding to each item in the table may vary very slightly from the total reported at the bottom of the table. However, any differences are reflected in the reported percentages.*

### Table B22: Percentage of Agencies Indicated that they have Translated Outreach Documents into Languages Other Than English?

<table>
<thead>
<tr>
<th>Activity</th>
<th>Auditor/monitor</th>
<th>Investigative</th>
<th>Review</th>
<th>All Agencies</th>
</tr>
</thead>
<tbody>
<tr>
<td>Complaint forms</td>
<td>53%</td>
<td>59%</td>
<td>25%</td>
<td>44%</td>
</tr>
<tr>
<td>Agency brochures</td>
<td>59%</td>
<td>56%</td>
<td>34%</td>
<td>48%</td>
</tr>
<tr>
<td>Agency web page</td>
<td>24%</td>
<td>22%</td>
<td>3%</td>
<td>15%</td>
</tr>
<tr>
<td>Agency reports</td>
<td>12%</td>
<td>6%</td>
<td>3%</td>
<td>6%</td>
</tr>
<tr>
<td>Other</td>
<td>6%</td>
<td>9%</td>
<td>0%</td>
<td>5%</td>
</tr>
<tr>
<td><strong>Number of Agencies</strong></td>
<td>17</td>
<td>32</td>
<td>32</td>
<td>81</td>
</tr>
</tbody>
</table>

*Table Notes: Table reports the valid percent for each item and excludes missing values from the calculation. Each valid percent was calculated using the number of agencies that responded to each specific item. The total number of agencies reported at the bottom of the table identifies the number of agencies that had valid responses to one of more items listed in the table. As a result, the number of agencies responding to each item in the table may vary very slightly from the total reported at the bottom of the table. However, any differences are reflected in the reported percentages.*

### Table B23: Does your Agency have a Board Composed of Community Members?

<table>
<thead>
<tr>
<th>Activity</th>
<th>Auditor/monitor</th>
<th>Investigative</th>
<th>Review</th>
<th>All Agencies</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>65%</td>
<td>85%</td>
<td>100%</td>
<td>86%</td>
</tr>
<tr>
<td>No</td>
<td>35%</td>
<td>15%</td>
<td>0%</td>
<td>14%</td>
</tr>
<tr>
<td><strong>Number of Agencies</strong></td>
<td>23</td>
<td>34</td>
<td>37</td>
<td>94</td>
</tr>
</tbody>
</table>

*Table Notes: The table reports the valid percent and excludes missing values from the calculation.*
Acknowledgements

The authors would like to thank a number of individuals for the assistance they provided on this project. NACOLE staff members Cameron McEllhiney and Liana Perez offered incredible administrative, technical and editorial support. University of Idaho students Andrea Pikes and Nicole Waldorf supplied outstanding research assistance. Members of the NACOLE Board of Directors provided useful advice during the development of the organizational survey, including: Ainsley Cromwell, Karen Ullery Williams, Avice Evans Reid, Donald Casimere, Kelvyn Anderson, Brian Corr, Margo Frasier, Nicholas Mitchell, Dawn Reynolds and Mark P. Smith. Susannah Numa and her team at the OJP Diagnostic Center offered critical support during the conceptualization and writing of the report. Finally, the members of the OJP expert peer review panel and the anonymous U.S. DOJ reviewers provided helpful advice for strengthening the report. The peer review panel included:

- Steve Rickman, Senior Advisor (Contractor) for the DOJ Office of Justice Programs Diagnostic Center;
- Jane Castor, Chief (Ret.), Tampa Police Department;
- Robert Davis, Senior Social Scientist, Police Foundation;
- Philip Eure, Inspector General, Office of the Inspector General for the NYPD;
- Kathryn Olson, Principal, Change Integration Consultants;
- Professor John Skinner, Towson University;
- Darrel Stephens, Executive Director, Major Cities Chiefs Association; and
- Dr. Robert Worden, Associate Professor, University at Albany, State University of New York and the Finn Institute for Public Safety.

U.S. Department of Justice Disclaimer. This project was supported by Contract No GS-23F-9755H awarded by the Office of Justice Programs, U.S. Department of Justice to Booz Allen Hamilton, and its partners: the Institute for Intergovernmental Research and CNA. Points of view or opinions in this document are those of the author and do not necessarily represent the official position or policies of the U.S. Department of Justice.

September 2016
FINAL REPORT OF

THE PRESIDENT’S TASK FORCE ON
21ST CENTURY POLICING

MAY 2015
Recommended citation:


Published 2015
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FROM THE CO-CHAIRS

We wish to thank President Barack Obama for giving us the honor and privilege of leading his Task Force on 21st Century Policing. The task force was created to strengthen community policing and trust among law enforcement officers and the communities they serve—especially in light of recent events around the country that have underscored the need for and importance of lasting collaborative relationships between local police and the public. We found engaging with law enforcement officials, technical advisors, youth and community leaders, and nongovernmental organizations through a transparent public process to be both enlightening and rewarding, and we again thank the President for this honor.

Given the urgency of these issues, the President gave the task force an initial 90 days to identify best policing practices and offer recommendations on how those practices can promote effective crime reduction while building public trust. In this short period, the task force conducted seven public listening sessions across the country and received testimony and recommendations from a wide range of community and faith leaders, law enforcement officers, academics, and others to ensure its recommendations would be informed by a diverse range of voices. Such a remarkable achievement could not have been accomplished without the tremendous assistance provided by the U.S. Department of Justice’s Office of Community Oriented Policing Services (COPS Office), led by Director Ronald L. Davis, who also served as the executive director of the task force. We thank Director Davis for his leadership, as well as his chief of staff, Melanca Clark, and the COPS Office team that supported the operation and administration of the task force.

We also wish to extend our appreciation to the COPS Office’s extremely capable logistical and technical assistance provider, Strategic Applications International (SAI), led by James and Colleen Copple. In addition to logistical support, SAI digested the voluminous information received from testifying witnesses and the public in record time and helped facilitate the task force’s deliberations on recommendations for the President. We are also grateful for the thoughtful assistance of Darrel Stephens and Stephen Rickman, our technical advisors.

Most important, we would especially like to thank the hundreds of community members, law enforcement officers and executives, associations and stakeholders, researchers and academics, and civic leaders nationwide who stepped forward to support the efforts of the task force and to lend their experience and expertise during the development of the recommendations contained in this report. The passion and commitment shared by all to building strong relationships between law enforcement and communities became a continual source of inspiration and encouragement to the task force.

The dedication of our fellow task force members and their commitment to the process of arriving at consensus around these recommendations is also worth acknowledging. The task force members brought diverse perspectives to the table and were able to come together to engage in meaningful dialogue on emotionally charged issues in a respectful and effective manner. We believe the type of constructive dialogue we have engaged in should serve as an example of the type of dialogue that must occur in communities throughout the nation.
While much work remains to be done to address many longstanding issues and challenges—not only within the field of law enforcement but also within the broader criminal justice system—this experience has demonstrated to us that Americans are, by nature, problem solvers. It is our hope that the recommendations included here will meaningfully contribute to our nation’s efforts to increase trust between law enforcement and the communities they protect and serve.

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Co-Chair

Laurie O. Robinson
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1. SAI provided technical and logistical support through a cooperative agreement with the COPS Office.
ACKNOWLEDGMENTS

The task force received support from other components of the U.S. Department of Justice, including the Office of Justice Programs, led by Assistant Attorney General Karol Mason, and the Civil Rights Division, led by Acting Assistant Attorney General Vanita Gupta.

Cincinnati Police Chief Jeffrey Blackwell welcomes the task force to the University of Cincinnati, January 30, 2015.

PHOTO: DEBORAH SPENCE
EXECUTIVE SUMMARY

Trust between law enforcement agencies and the people they protect and serve is essential in a democracy. It is key to the stability of our communities, the integrity of our criminal justice system, and the safe and effective delivery of policing services.

In light of recent events that have exposed rifts in the relationships between local police and the communities they protect and serve, on December 18, 2014, President Barack Obama signed an executive order establishing the Task Force on 21st Century Policing. The President charged the task force with identifying best practices and offering recommendations on how policing practices can promote effective crime reduction while building public trust.

This executive summary provides an overview of the recommendations of the task force, which met seven times in January and February of 2015. These listening sessions, held in Washington, D.C.; Phoenix, Arizona; and Cincinnati, Ohio, brought the 11 members of the task force together with more than 100 individuals from diverse stakeholder groups—law enforcement officers and executives, community members, civic leaders, advocates, researchers, academics, and others—in addition to many others who submitted written testimony to study the problems from all perspectives.

The task force recommendations, each with action items, are organized around six main topic areas or “pillars”: Building Trust and Legitimacy, Policy and Oversight, Technology and Social Media, Community Policing and Crime Reduction, Officer Training and Education, and Officer Safety and Wellness.

The task force also offered two overarching recommendations: the President should support the creation of a National Crime and Justice Task Force to examine all areas of criminal justice and propose reforms; as a corollary to this effort, the task force also recommends that the President support programs that take a comprehensive and inclusive look at community-based initiatives addressing core issues such as poverty, education, and health and safety.

Pillar One: Building Trust and Legitimacy

Building trust and nurturing legitimacy on both sides of the police/citizen divide is the foundational principle underlying the nature of relations between law enforcement agencies and the communities they serve. Decades of research and practice support the premise that people are more likely to obey the law when they believe that those who are enforcing it have authority that is perceived as legitimate by those subject to the authority. The public confers legitimacy only on those whom they believe are acting in procedurally just ways. In addition, law enforcement cannot build community trust if it is seen as an occupying force coming in from outside to impose control on the community. Pillar one seeks to provide focused recommendations on building this relationship.

Law enforcement culture should embrace a guardian—rather than a warrior—mindset to build trust and legitimacy both within agencies and with the public. Toward that end, law enforcement agencies should adopt procedural justice as the guiding principle for internal and external policies and practices to guide their interactions with rank and file officers and with the citizens they serve. Law enforcement agencies should also establish a culture of transparency and accountability to build public trust and legitimacy. This is critical to ensuring decision making is understood and in accord with stated policy.
Law enforcement agencies should also proactively promote public trust by initiating positive non-enforcement activities to engage communities that typically have high rates of investigative and enforcement involvement with government agencies. Law enforcement agencies should also track and analyze the level of trust communities have in police just as they measure changes in crime. This can be accomplished through consistent annual community surveys. Finally, law enforcement agencies should strive to create a workforce that encompasses a broad range of diversity including race, gender, language, life experience, and cultural background to improve understanding and effectiveness in dealing with all communities.

Pillar Two: Policy and Oversight

Pillar two emphasizes that if police are to carry out their responsibilities according to established policies, those policies must reflect community values. Law enforcement agencies should collaborate with community members, especially in communities and neighborhoods disproportionately affected by crime, to develop policies and strategies for deploying resources that aim to reduce crime by improving relationships, increasing community engagement, and fostering cooperation.

To achieve this end, law enforcement agencies should have clear and comprehensive policies on the use of force (including training on the importance of de-escalation), mass demonstrations (including the appropriate use of equipment, particularly rifles and armored personnel carriers), consent before searches, gender identification, racial profiling, and performance measures—among others such as external and independent investigations and prosecutions of officer-involved shootings and other use of force situations and in-custody deaths. These policies should also include provisions for the collection of demographic data on all parties involved. All policies and aggregate data should be made publicly available to ensure transparency.

To ensure policies are maintained and current, law enforcement agencies are encouraged to periodically review policies and procedures, conduct nonpunitive peer reviews of critical incidents separate from criminal and administrative investigations, and establish civilian oversight mechanisms with their communities.

Finally, to assist law enforcement and the community achieve the elements of pillar two, the U.S. Department of Justice, through the Office of Community Oriented Policing Services (COPS Office) and Office of Justice Programs (OJP), should provide technical assistance and incentive funding to jurisdictions with small police agencies that take steps toward interagency collaboration, shared services, and regional training. They should also partner with the International Association of Directors of Law Enforcement Standards and Training (IADLEST) to expand its National Decertification Index to serve as the National Register of Decertified Officers with the goal of covering all agencies within the United States and its territories.

Pillar Three: Technology & Social Media

The use of technology can improve policing practices and build community trust and legitimacy, but its implementation must be built on a defined policy framework with its purposes and goals clearly delineated. Implementing new technologies can give police departments an opportunity to fully engage and educate communities in a dialogue about their expectations for transparency, accountability, and privacy. But technology changes quickly in terms of new hardware, software, and other options. Law enforcement agencies and leaders need to be able
to identify, assess, and evaluate new technology for adoption and do so in ways that improve their effectiveness, efficiency, and evolution without infringing on individual rights.

Pillar three guides the implementation, use, and evaluation of technology and social media by law enforcement agencies. To build a solid foundation for law enforcement agencies in this field, the U.S. Department of Justice, in consultation with the law enforcement field, should establish national standards for the research and development of new technology including auditory, visual, and biometric data, “less than lethal” technology, and the development of segregated radio spectrum such as FirstNet. These standards should also address compatibility, interoperability, and implementation needs both within local law enforcement agencies and across agencies and jurisdictions and should maintain civil and human rights protections. Law enforcement implementation of technology should be designed considering local needs and aligned with these national standards. Finally, law enforcement agencies should adopt model policies and best practices for technology-based community engagement that increases community trust and access.

**Pillar Four: Community Policing & Crime Reduction**

Pillar four focuses on the importance of community policing as a guiding philosophy for all stakeholders. Community policing emphasizes working with neighborhood residents to co-produce public safety. Law enforcement agencies should, therefore, work with community residents to identify problems and collaborate on implementing solutions that produce meaningful results for the community. Specifically, law enforcement agencies should develop and adopt policies and strategies that reinforce the importance of community engagement in managing public safety. Law enforcement agencies should also engage in multidisciplinary, community team approaches for planning, implementing, and responding to crisis situations with complex causal factors.

Communities should support a culture and practice of policing that reflects the values of protection and promotion of the dignity of all—especially the most vulnerable, such as children and youth most at risk for crime or violence. Law enforcement agencies should avoid using law enforcement tactics that unnecessarily stigmatize youth and marginalize their participation in schools (where law enforcement officers should have limited involvement in discipline) and communities. In addition, communities need to affirm and recognize the voices of youth in community decision making, facilitate youth participation in research and problem solving, and develop and fund youth leadership training and life skills through positive youth/police collaboration and interactions.

**Pillar Five: Training & Education**

As our nation becomes more pluralistic and the scope of law enforcement’s responsibilities expands, the need for expanded and more effective training has become critical. Today’s line officers and leaders must be trained and capable to address a wide variety of challenges including international terrorism, evolving technologies, rising immigration, changing laws, new cultural mores, and a growing mental health crisis.

Pillar five focuses on the training and education needs of law enforcement. To ensure the high quality and effectiveness of training and education, law enforcement agencies should engage community members, particularly those with special expertise, in the training process and provide leadership training to all personnel throughout their careers.
To further assist the training and educational needs of law enforcement, the Federal Government should support the development of partnerships with training facilities across the country to promote consistent standards for high quality training and establish training innovation hubs involving universities and police academies. A national postgraduate institute of policing for senior executives should be created with a standardized curriculum preparing participants to lead agencies in the 21st century.

One specific method of increasing the quality of training would be to ensure that Peace Officer and Standards Training (POST) boards include mandatory Crisis Intervention Training (CIT), which equips officers to deal with individuals in crisis or living with mental disabilities, as part of both basic recruit and in-service officer training—as well as instruction in disease of addiction, implicit bias and cultural responsiveness, policing in a democratic society, procedural justice, and effective social interaction and tactical skills.

**Pillar Six: Officer Wellness & Safety**

The wellness and safety of law enforcement officers is critical not only for the officers, their colleagues, and their agencies but also to public safety. Pillar six emphasizes the support and proper implementation of officer wellness and safety as a multi-partner effort.

The U.S. Department of Justice should enhance and further promote its multi-faceted officer safety and wellness initiative. Two specific strategies recommended for the U.S. Department of Justice include (1) encouraging and assisting departments in the implementation of scientifically supported shift lengths by law enforcement and (2) expanding efforts to collect and analyze data not only on officer deaths but also on injuries and “near misses.” Law enforcement agencies should also promote wellness and safety at every level of the organization. For instance, every law enforcement officer should be provided with individual tactical first aid kits and training as well as anti-ballistic vests. In addition, law enforcement agencies should adopt policies that require officers to wear seat belts and bullet-proof vests and provide training to raise awareness of the consequences of failure to do so. Internal procedural justice principles should be adopted for all internal policies and interactions. The Federal Government should develop programs to provide financial support for law enforcement officers to continue to pursue educational opportunities. Finally, Congress should develop and enact peer review error management legislation.

**Implementation Recommendations**

The administration, through policies and practices already in place, can start right now to move forward on the recommendations contained in this report. The President should direct all federal law enforcement agencies to implement the task force recommendations to the extent practicable, and the U.S. Department of Justice should explore public-private partnership opportunities with foundations to advance implementation of the recommendations. Finally, the COPS Office and OJP should take a series of targeted actions to assist the law enforcement field in addressing current and future challenges.

**Conclusion**

The members of the Task Force on 21st Century Policing are convinced that the concrete recommendations contained in this publication will bring long-term improvements to the ways in which law enforcement agencies interact with and bring positive change to their communities.
INTRODUCTION

“When any part of the American family does not feel like it is being treated fairly, that’s a problem for all of us.”

—President Barack Obama

Trust between law enforcement agencies and the people they protect and serve is essential in a democracy. It is key to the stability of our communities, the integrity of our criminal justice system, and the safe and effective delivery of policing services.

In light of the recent events that have exposed rifts in the relationships between local police and the communities they protect and serve, on December 18, 2014, President Barack Obama signed Executive Order 13684 establishing the Task Force on 21st Century Policing.

In establishing the task force, the President spoke of the distrust that exists between too many police departments and too many communities—the sense that in a country where our basic principle is equality under the law, too many individuals, particularly young people of color, do not feel as if they are being treated fairly.

“When any part of the American family does not feel like it is being treated fairly, that’s a problem for all of us,” said the President. “It’s not just a problem for some. It’s not just a problem for a particular community or a particular demographic. It means that we are not as strong as a country as we can be. And when applied to the criminal justice system, it means we’re not as effective in fighting crime as we could be.”

These remarks underpin the philosophical foundation for the Task Force on 21st Century Policing: to build trust between citizens and their peace officers so that all components of a community are treating one another fairly and justly and are invested in maintaining public safety in an atmosphere of mutual respect. Decades of research and practice tell us that the public cares as much about how police interact with them as they care about the outcomes that legal actions produce. People are more likely to obey the law when they believe those who are enforcing it have the right—the legitimate authority—to tell them what to do. Building trust and legitimacy, therefore, is not just a policing issue. It involves all components of the criminal justice system and is inextricably bound to bedrock issues affecting the community such as poverty, education, and public health.

The mission of the task force was to examine ways of fostering strong, collaborative relationships between local law enforcement and the communities they protect and to make recommendations to the President on ways policing practices can promote effective crime reduction while building public trust. The President selected members of the task force based on their ability to contribute to its mission because of their relevant perspective, experience, or subject matter expertise in policing, law enforcement and community relations, civil rights, and civil liberties.

The task force was given 90 days to conduct hearings, review the research, and make recommendations to the President, so its focus was sharp and necessarily limited. It concentrated on defining the cross-cutting issues affecting police-community interactions, questioning the contemporary relevance and truth about long-held assumptions regarding the nature and methods of policing, and identifying the areas where research is needed to highlight examples of evidence-based policing practices compatible with present realities.

To fulfill this mission, the task force convened seven listening sessions to hear testimony—including recommendations for action—from government officials; law enforcement officers; academic experts; technical advisors; leaders from established nongovernmental organizations, including grassroots movements; and any other members of the public who wished to comment. The listening sessions were held in Washington, D.C., January 13; Cincinnati, Ohio, January 30–31; Phoenix, Arizona, February 13–14; and again in Washington, D.C., February 23–24. Other forms of outreach included a number of White House listening sessions to engage other constituencies, such as people with disabilities, the LGBTQ community, and members of the armed forces, as well as careful study of scholarly articles, research reports, and written contributions from informed experts in various fields relevant to the task force’s mission.

Each of the seven public listening sessions addressed a specific aspect of policing and police-community relations, although cross-cutting issues and concerns made their appearance at every session. At the first session, Building Trust and Legitimacy, the topic of procedural justice was discussed as a foundational necessity in building public trust. Subject matter experts also testified as to the meaning of “community policing” in its historical and contemporary contexts, defining the difference between implicit bias and racial discrimination—two concepts at the heart of perceived difficulties between police and the people. Witnesses from community organizations stressed the need for more police involvement in community affairs as an essential component of their crime fighting duties. Police officers gave the beat cop’s perspective on protecting people who do not respect their authority, and three big-city mayors told of endemic budgetary obstacles to addressing policing challenges.

The session on Policy and Oversight again brought witnesses from diverse police forces (both chiefs and union representatives), from law and academia, and from established civil rights organizations and grass-root groups. They discussed use of force from the point of view of both research and policy and internal and external oversight; explained how they prepare for and handle mass demonstrations; and pondered culture and diversity in law enforcement.

Witnesses filled the third session, on Technology and Social Media, with testimony on the use of body-worn cameras and other technologies from the angles of research and legal considerations, as well as the intricacies of implementing new technologies in the face of privacy issues. They discussed the ever-expanding ubiquity of social media and its power to work both for and against policing practice and public safety.

The Community Policing and Crime Reduction listening session considered current research on the effectiveness of community policing on bringing down crime, as well as building up public trust. Task force members heard detailed descriptions of the methods used by chiefs in cities of varying sizes to implement effective community policing in their jurisdictions over a number of years. They also heard from a panel of young people about their encounters with the criminal justice system.
and the lasting effects of positive interactions with police through structured programs as well as individual relationships. The fifth listening session considered *Training and Education* in law enforcement over an officer’s entire career—from recruitment through basic training to in-service training—and the support, education, and training of supervisors, leaders, and managers. Finally, the panel on *Officer Safety and Wellness* considered the spectrum of mental and physical health issues faced by police officers from the day-to-day stress of the job, its likely effect on an officer’s physical health, and the need for mental health screening to traffic accidents, burnout, suicide, and how better to manage these issues to determine the length of an officer’s career.

A listening session on the *Future of Community Policing* concluded the task force’s public sessions and was followed by the deliberations leading to the recommendations that follow on ways to research, improve, support, and implement policies and procedures for effective policing in the 21st century.

Many excellent and specific suggestions emerged from these listening sessions on all facets of policing in the 21st century, but many questions arose as well. Paramount among them was how to bring unity of purpose and consensus on best practices to a nation with 18,000 separate law enforcement agencies and a strong history of a preference for local control of local issues. It became very clear that it is time for a comprehensive and multifaceted examination of all the interrelated parts of the criminal justice system and a focused investigation into how poverty, lack of education, mental health, and other social conditions cause or intersect with criminal behavior. We propose two overarching recommendations that will seek the answers to these questions.

### 0.1 Overarching Recommendation:

The President should support and provide funding for the creation of a National Crime and Justice Task Force to review and evaluate all components of the criminal justice system for the purpose of making recommendations to the country on comprehensive criminal justice reform.

Several witnesses at the task force’s listening sessions pointed to the fact that police represent the “face” of the criminal justice system to the public. Yet police are obviously not responsible for laws or incarceration policies that many citizens find unfair. This misassociation leads us to call for a broader examination of such issues as drug policy, sentencing and incarceration, which are beyond the scope of a review of police practices.

This is not a new idea.

In the 1967 President’s Commission on Law Enforcement and Administration of Justice report, *The Challenge of Crime in a Free Society*, one of the major findings stated, “Officials of the criminal justice system . . . must re-examine what they do. They must be honest about the system’s shortcomings with the public and with themselves.”

The need to establish a formal structure to take a continuous look at criminal justice reform in the context of broad societal issues has never faded from public consciousness. When former Senator Jim Webb (D-VA) introduced legislation to create the National Criminal Justice Commission in 2009, a number of very diverse organizations from the Major Cities Chiefs Association, the Fraternal Order of Police, the National Sheriffs Association, and the National District Attorneys Association to Human Rights Watch, the American Civil Liberties Union, and many others provided support.

and the National Association for the Advancement of Colored People all supported it. This legislation would have authorized a national criminal justice commission to conduct a comprehensive review of the criminal justice system by a bipartisan panel of stakeholders, policymakers, and experts that would make thoughtful, evidence-based recommendations for reform. The bill received strong bipartisan support and passed the House but never received a final vote.

More recently, a number of witnesses raised the idea of a national commission at the task force’s listening sessions—notably Richard Beary, president of the International Association of Chiefs of Police (IACP), who said,

> For over 20 years, the IACP has called for the creation of a National Commission on Criminal Justice to develop across-the-board improvements to the criminal justice system in order to address current challenges and to increase the efficiency and effectiveness of the entire criminal justice community. A deep dive into community-police relations is only one part of this puzzle. We must explore other aspects of the criminal justice system that need to be revamped and further contribute to today’s challenges.4

And Jeremy Travis, president of John Jay College of Criminal Justice, added, in the final listening session,

> You said it is time to look at the criminal justice system, and actually I would broaden the scope. We have this question of how to reintegrate into our society those who have caused harms . . . . It is not just the system but these big, democratic, societal questions that go to government functions and how we deal with conflict as well.5

**0.2 Overarching Recommendation:**

**The President should promote programs that take a comprehensive and inclusive look at community-based initiatives that address the core issues of poverty, education, health, and safety.**

As is evident from many of the recommendations in this report, the justice system alone cannot solve many of the underlying conditions that give rise to crime. It will be through partnerships across sectors and at every level of government that we will find the effective and legitimate long-term solutions to ensuring public safety.

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PILLAR 1. BUILDING TRUST & LEGITIMACY

People are more likely to obey the law when they believe that those who are enforcing it have the legitimate authority to tell them what to do. The public confers legitimacy only on those they believe are acting in procedurally just ways.

Building trust and nurturing legitimacy on both sides of the police–citizen divide is not only the first pillar of this task force’s report but also the foundational principle underlying this inquiry into the nature of relations between law enforcement and the communities they serve. Since the 1990s, policing has become more effective, better equipped, and better organized to tackle crime. Despite this, Gallup polls show the public’s confidence in police work has remained flat, and among some populations of color, confidence has declined.

This decline is in addition to the fact that non-Whites have always had less confidence in law enforcement than Whites, likely because “the poor and people of color have felt the greatest impact of mass incarceration,” such that for “too many poor citizens and people of color, arrest and imprisonment have become an inevitable and seemingly unavoidable part of the American experience.”

Decades of research and practice support the premise that people are more likely to obey the law when they believe that those

Figure 1. Confidence in police to protect them from violent crime, U.S. Whites vs. non-Whites

How much confidence do you have in the ability of the police to protect you from violent crime—a great deal, quite a lot, not very much, or none at all?

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<th>% A GREAT DEAL / QUITE A LOT OF CONFIDENCE</th>
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Source: Justin McCarthy, “Nonwhites Less Likely” (see note 6).
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who are enforcing it have the legitimate authority to tell them what to do. But the public confers legitimacy only on those they believe are acting in procedurally just ways.

Procedurally just behavior is based on four central principles:

1. Treating people with dignity and respect
2. Giving individuals “voice” during encounters
3. Being neutral and transparent in decision making
4. Conveying trustworthy motives

Research demonstrates that these principles lead to relationships in which the community trusts that officers are honest, unbiased, benevolent, and lawful. The community therefore feels obligated to follow the law and the dictates of legal authorities and is more willing to cooperate with and engage those authorities because it believes that it shares a common set of interests and values with the police.

There are both internal and external aspects to procedural justice in policing agencies. Internal procedural justice refers to practices within an agency and the relationships officers have with their colleagues and leaders. Research on internal procedural justice tells us that officers who feel respected by their supervisors and peers are more likely to accept departmental policies, understand decisions, and comply with them voluntarily. It follows that officers who feel respected by their organizations are more likely to bring this respect into their interactions with the people they serve.

External procedural justice focuses on the ways officers and other legal authorities interact with the public and how the characteristics of those interactions shape the public’s trust of the police. It is important to understand that a key component of external procedural justice—the practice of fair and impartial policing—is built on understanding and acknowledging human biases, both explicit and implicit.

All human beings have biases or prejudices as a result of their experiences, and these biases influence how they might react when dealing with unfamiliar people or situations. An explicit bias is a conscious bias about certain populations based upon race, gender, socioeconomic status, sexual orientation, or other attributes. Common sense shows that explicit bias is incredibly damaging to police-community relations, and there is a growing body of research evidence that shows that implicit bias—the biases people are not even aware they have—is harmful as well.

Witness Jennifer Eberhardt said,

Bias is not limited to so-called “bad people.” And it certainly is not limited to police officers. The problem is a widespread one that arises from history, from culture, and from racial inequalities that still pervade our society and are especially salient in the context of criminal justice.

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11. Lorie Fridell, “This is Not Your Grandparents’ Prejudice: The Implications of the Modern Science of Bias for Police Training,” Translational Criminology (Fall 2013), 10–11.


To achieve legitimacy, mitigating implicit bias should be a part of training at all levels of a law enforcement organization to increase awareness and ensure respectful encounters both inside the organization and with communities.

The first witnesses at the task force sessions on the first pillar also directly addressed the need for a change in the culture in which police do their work: the use of disrespectful language and the implicit biases that lead officers to rely upon race in the context of stop and frisk. They addressed the need for police officers to find how much they have in common with the people they serve—not the lines of authority they may perceive to separate them—and to continue with enduring programs proven successful over many years.

Several speakers stressed the continuing need for civilian oversight and urged more research into proving ways it can be most effective. And many spoke to the complicated issue of diversity in recruiting, especially Sherrilyn Ifill, who said of youth in poor communities,

> By the time you are 17, you have been stopped and frisked a dozen times. That does not make that 17-year-old want to become a police officer . . . .

The challenge is to transform the idea of policing in communities among young people into something they see as honorable. They have to see people at local events, as the person who lives across the street, not someone who comes in and knows nothing about my community.14

The task force’s specific recommendations that follow offer practical ways agencies can act to promote legitimacy.

1.1 RECOMMENDATION: Law enforcement culture should embrace a guardian mindset to build public trust and legitimacy. Toward that end, police and sheriffs’ departments should adopt procedural justice as the guiding principle for internal and external policies and practices to guide their interactions with the citizens they serve.

How officers define their role will set the tone for the community. As Plato wrote, “In a republic that honors the core of democracy—the greatest amount of power is given to those called Guardians. Only those with the most impeccable character are chosen to bear the responsibility of protecting the democracy.”

Law enforcement cannot build community trust if it is seen as an occupying force coming in from outside to rule and control the community.

As task force member Susan Rahr wrote,

> In 2012, we began asking the question, “Why are we training police officers like soldiers?” Although police officers wear uniforms and carry weapons, the similarity ends there. The missions and rules of engagement are completely different. The soldier’s mission is that of a warrior: to conquer. The rules of engagement are decided before the battle. The police officer’s mission is that of a guardian: to protect. The rules of engagement evolve as the incident unfolds. Soldiers must follow orders. Police officers must make independent decisions. Soldiers come into communities as an outside, occupying force. Guardians are members of the community, protecting from within.15

There’s an old saying, “Organizational culture eats policy for lunch.” Any law enforcement


organization can make great rules and policies that emphasize the guardian role, but if policies conflict with the existing culture, they will not be institutionalized and behavior will not change. In police work, the vast majority of an officer’s work is done independently outside the immediate oversight of a supervisor. But consistent enforcement of rules that conflict with a military-style culture, where obedience to the chain of command is the norm, is nearly impossible. Behavior is more likely to conform to culture than rules.

The culture of policing is also important to the proper exercise of officer discretion and use of authority, as task force member Tracey Meares has written. The values and ethics of the agency will guide officers in their decision-making process; they cannot simply rely on rules and policy to act in encounters with the public. Good policing is more than just complying with the law. Sometimes actions are perfectly permitted by policy, but that does not always mean an officer should take those actions. Adopting procedural justice as the guiding principle for internal and external policies and practices can be the underpinning of a change in culture and should contribute to building trust and confidence in the community.

1.2 Recommendation: Law enforcement agencies should acknowledge the role of policing in past and present injustice and discrimination and how it is a hurdle to the promotion of community trust.

At one listening session, a panel of police chiefs described what they had been doing in recent years to recognize and own their history and to change the culture within both their police forces and their communities.

Baltimore Police Commissioner Anthony Batts described the process in his city:

The process started with the commissioning of a study to evaluate the police department and the community’s views of the agency . . . . The review uncovered broken policies, outdated procedures, outmoded technology, and operating norms that put officers at odds with the community they are meant to serve. It was clear that dramatic and dynamic change was needed.

Ultimately, the Baltimore police created the Professional Standards and Accountability Bureau, tasked with rooting out corruption, holding officers accountable, and implementing national best practices for polices and training. New department heads were appointed and a use of force review structure based on the Las Vegas model was implemented. “These were critical infrastructure changes centered on the need to improve the internal systems that would build accountability and transparency, inside and outside the organization,” noted Commissioner Batts.

1.2.1 Action Item: The U.S. Department of Justice should develop and disseminate case studies that provide examples where past injustices were publicly acknowledged by law enforcement agencies in a manner to help build community trust.

1.3 Recommendation: Law enforcement agencies should establish a culture of transparency and accountability in order to build public trust and legitimacy. This will help ensure decision making is understood and in accord with stated policy.

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18. Ibid.
1.3.1 **Action Item:** To embrace a culture of transparency, law enforcement agencies should make all department policies available for public review and regularly post on the department’s website information about stops, summonses, arrests, reported crime, and other law enforcement data aggregated by demographics.

1.3.2 **Action Item:** When serious incidents occur, including those involving alleged police misconduct, agencies should communicate with citizens and the media swiftly, openly, and neutrally, respecting areas where the law requires confidentiality.

One way to promote neutrality is to ensure that agencies and their members do not release background information on involved parties. While a great deal of information is often publicly available, this information should not be proactively distributed by law enforcement.

**Figure 2. Community members’ confidence in their police officers**

<table>
<thead>
<tr>
<th>How much confidence do you have in police officers in your community...</th>
<th>JUST SOME / VERY LITTLE</th>
<th>A GREAT DEAL / FAIR AMOUNT</th>
</tr>
</thead>
<tbody>
<tr>
<td>... to do a good job of enforcing the law?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Hispanic</td>
<td>37%</td>
<td>63%</td>
</tr>
<tr>
<td>Black</td>
<td>47%</td>
<td>52%</td>
</tr>
<tr>
<td>White</td>
<td>16%</td>
<td>83%</td>
</tr>
<tr>
<td>... to not use excessive force on suspects?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Hispanic</td>
<td>54%</td>
<td>45%</td>
</tr>
<tr>
<td>Black</td>
<td>59%</td>
<td>36%</td>
</tr>
<tr>
<td>White</td>
<td>24%</td>
<td>74%</td>
</tr>
<tr>
<td>... to treat Hispanics and Whites equally?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Hispanic</td>
<td>51%</td>
<td>46%</td>
</tr>
<tr>
<td>Black</td>
<td>55%</td>
<td>41%</td>
</tr>
<tr>
<td>White</td>
<td>25%</td>
<td>72%</td>
</tr>
<tr>
<td>... to treat Blacks and Whites equally?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Hispanic</td>
<td>48%</td>
<td>47%</td>
</tr>
<tr>
<td>Black</td>
<td>62%</td>
<td>36%</td>
</tr>
<tr>
<td>White</td>
<td>27%</td>
<td>72%</td>
</tr>
</tbody>
</table>

Note: Survey conducted August 20–24, 2014. Voluntary responses of “None” and “Don’t know/Refused” not shown. Blacks and Whites include only non-Hispanics. Hispanics are of any race.

1.4 Recommendation: Law enforcement agencies should promote legitimacy internally within the organization by applying the principles of procedural justice.

Organizational culture created through employee interaction with management can be linked to officers’ interaction with citizens. When an agency creates an environment that promotes internal procedural justice, it encourages its officers to demonstrate external procedural justice. And just as employees are more likely to take direction from management when they believe management’s authority is legitimate, citizens are more likely to cooperate with the police when they believe the officers’ authority is legitimate.

Internal procedural justice begins with the clear articulation of organizational core values and the transparent creation and fair application of an organization’s policies, protocols, and decision-making processes. If the workforce is actively involved in policy development, workers are more likely to use these same principles of external procedural justice in their interactions with the community. Even though the approach to implementing procedural justice is “top down,” the method should include all employees to best reach a shared vision and mission. Research shows that agencies should also use tools that encourage employee and supervisor collaboration and foster strong relationships between supervisors and employees. A more effective agency will result from a real partnership between the chief and the staff and a shared approach to public safety.19

1.4.1 Action Item: In order to achieve internal legitimacy, law enforcement agencies should involve employees in the process of developing policies and procedures.

1.4.2 Action Item: Law enforcement agency leadership should examine opportunities to incorporate procedural justice into the internal discipline process, placing additional importance on values adherence rather than adherence to rules. Union leadership should be partners in this process.

1.5 Recommendation: Law enforcement agencies should proactively promote public trust by initiating positive nonenforcement activities to engage communities that typically have high rates of investigative and enforcement involvement with government agencies.

In communities that have high numbers of interactions with authorities for a variety of reasons, police should actively create opportunities for interactions that are positive and not related to investigation or enforcement action. Witness Laura Murphy, for example, pointed out that when law enforcement targets people of color for the isolated actions of a few, it tags an entire community as lawless when in actuality 95 percent are law abiding.20

For example, internal department surveys should ask officers what they think of policing strategies in terms of enhancing or hurting their ability to connect with the public. Sometimes the leadership is out of step with their rank and file, and a survey like this can be a diagnostic tool—a benchmark against which leadership can measure its effectiveness and ability to create a work environment where officers feel safe to discuss their feelings about certain aspects of the job.

19. Tim Richardson (senior legislative liaison, Fraternal Order of Police), in discussion with Ayma Olaghere (research assistant, COPS Office, Washington, DC), October 2014.

20. Listening Session on Building Trust and Legitimacy (oral testimony of Laura Murphy to the President’s Task Force on 21st Century Policing, Washington, DC, January 13, 2015).
In the community [where] I grew up in southern California, Oxnard, we had the Police Athletic League. A lot of officers in our communities would volunteer and coach at the police activities league. That became our alternative from violence, from gangs and things like that. That allows for police officers to really build and provide a space to build trusting relationships. No longer was that such and such over there but it was Coach Flores or Coach Brown.21

In recent years, agencies across the county have begun to institutionalize community trust building endeavors. They have done this through programs such as Coffee with a Cop (and Sweet Tea with the Chief), Cops and Clergy, Citizens on Patrol Mobile, Students Talking It Over with Police, and the West Side Story Project. Joint community and law dialogues and truth telling, as well as community and law enforcement training in procedural justice and bias, are also occurring nationally. Some agencies are even using training, dialogues, and workshops to take steps towards racial reconciliation.

Agencies engaging in these efforts to build relationships often experience beneficial results.22 Communities are often more willing to assist law enforcement when agencies need help during investigations. And when critical incidents occur, those agencies already have key allies who can help with information messaging and mitigating challenges.

1.5.1 **Action Item:** In order to achieve external legitimacy, law enforcement agencies should involve the community in the process of developing and evaluating policies and procedures.

1.5.2 **Action Item:** Law enforcement agencies should institute residency incentive programs such as Resident Officer Programs.

Resident Officer Programs are arrangements where law enforcement officers are provided housing in public housing neighborhoods as long as they fulfill public safety duties within the neighborhood that have been agreed to between the housing authority and the law enforcement agency.

1.5.3 **Action Item:** Law enforcement agencies should create opportunities in schools and communities for positive nonenforcement interactions with police. Agencies should also publicize the beneficial outcomes and images of positive, trust-building partnerships and initiatives.

For example, Michael Reynolds, a member of the Youth and Law Enforcement panel at the Listening Session on Community Policing and Crime Reduction, told the moving story of a police officer who saw him shivering on the street when he was six years old, took him to a store, and bought him a coat. Despite many negative encounters with police since then, the decency and kindness of that officer continue to favorably impact Mr. Reynolds’ feelings towards the police.23

1.5.4 **Action Item:** Use of physical control equipment and techniques against vulnerable populations—including children, elderly persons, pregnant women, people with physical and mental disabilities, limited English proficiency, and others—can undermine public trust and should be used as a last resort. Law enforcement agencies


should carefully consider and review their policies towards these populations and adopt policies if none are in place.

1.6 Recommendation: Law enforcement agencies should consider the potential damage to public trust when implementing crime fighting strategies.

Crime reduction is not self-justifying. Overly aggressive law enforcement strategies can potentially harm communities and do lasting damage to public trust, as numerous witnesses over multiple listening sessions observed.

1.6.1 Action Item: Research conducted to evaluate the effectiveness of crime fighting strategies should specifically look at the potential for collateral damage of any given strategy on community trust and legitimacy.

1.7 Recommendation: Law enforcement agencies should track the level of trust in police by their communities just as they measure changes in crime. Annual community surveys, ideally standardized across jurisdictions and with accepted sampling protocols, can measure how policing in that community affects public trust.

Trust in institutions can only be achieved if the public can verify what they are being told about a product or service, who is responsible for the quality of the product or service, and what will be done to correct any problems. To operate effectively, law enforcement agencies must maintain public trust by having a transparent, credible system of accountability.

Agencies should partner with local universities to conduct surveys by ZIP code, for example, to measure the effectiveness of specific policing strategies, assess any negative impact they have on a community’s view of police, and gain the community’s input.

1.7.1 Action Item: The Federal Government should develop survey tools and instructions for use of such a model to prevent local departments from incurring the expense and to allow for consistency across jurisdictions.

A model such as the National Institute of Justice-funded National Police Research Platform could be developed and deployed to conduct such surveys. This platform seeks to advance the science and practice of policing in the United States by introducing a new system of measurement and feedback that captures organizational excellence both inside and outside the walls of the agency. The platform is managed by a team of leading police scholars from seven universities supported by the operational expertise of a respected national advisory board.

1.8 Recommendation: Law enforcement agencies should strive to create a workforce that contains a broad range of diversity including race, gender, language, life experience, and cultural background to improve understanding and effectiveness in dealing with all communities.

Many agencies have long appreciated the critical importance of hiring officers who reflect the communities they serve and also have a high level of procedural justice competency. Achieving diversity in entry level recruiting is important, but achieving systematic and comprehensive diversification throughout each segment of the
department is the ultimate goal. It is also important to recognize that diversity means not only race and gender but also the genuine diversity of identity, experience, and background that has been found to help improve the culture of police departments and build greater trust and legitimacy with all segments of the population.

A critical factor in managing bias is seeking candidates who are likely to police in an unbiased manner. Since people are less likely to have biases against groups with which they have had positive experiences, police departments should seek candidates who have had positive interactions with people of various cultures and backgrounds.

1.8.1 Action Item: The Federal Government should create a Law Enforcement Diversity Initiative designed to help communities diversify law enforcement departments to reflect the demographics of the community.

1.8.2 Action Item: The department overseeing this initiative should help localities learn best practices for recruitment, training, and outreach to improve the diversity as well as the cultural and linguistic responsiveness of law enforcement agencies.

National and local affinity police organizations could be formally included in this effort. This program should also evaluate and assess diversity among law enforcement agencies around the country and issue public reports on national trends.

1.8.3 Action Item: Successful law enforcement agencies should be highlighted and celebrated and those with less diversity should be offered technical assistance to facilitate change.

Law enforcement agencies must be continuously creative with recruitment efforts and employ the public, business, and civic communities to help.

1.8.4 Action Item: Discretionary federal funding for law enforcement programs could be influenced by that department’s efforts to improve their diversity and cultural and linguistic responsiveness.

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25. Ibid., 51–52.
1.8.5 **Action Item:** Law enforcement agencies should be encouraged to explore more flexible staffing models.

As is common in the nursing profession, offering flexible schedules can help officers achieve better work-life balance that attracts candidates and encourages retention, particularly for officers with sole responsibility for the care of family members.

1.9 **Recommendation:** Law enforcement agencies should build relationships based on trust with immigrant communities. This is central to overall public safety.

Immigrants often fear approaching police officers when they are victims of and witnesses to crimes and when local police are entangled with federal immigration enforcement. At all levels of government, it is important that laws, policies, and practices not hinder the ability of local law enforcement to build the strong relationships necessary to public safety and community well-being. It is the view of this task force that whenever possible, state and local law enforcement should not be involved in immigration enforcement.

1.9.1 **Action Item:** Decouple federal immigration enforcement from routine local policing for civil enforcement and nonserious crime.

The U.S. Department of Homeland Security should terminate the use of the state and local criminal justice system, including through detention, notification, and transfer requests, to enforce civil immigration laws against civil and nonserious criminal offenders.26

In 2011, the Major Cities Chiefs Association recommended nine points to Congress and the President on this issue, noting that “immigration is a federal policy issue between the U.S. government and other countries, not local or state entities and other countries. Any immigration enforcement laws or practices should be nationally based, consistent, and federally funded.”27

1.9.2 **Action Item:** Law enforcement agencies should ensure reasonable and equitable language access for all persons who have encounters with police or who enter the criminal justice system.28

1.9.3 **Action Item:** The U.S. Department of Justice should not include civil immigration information in the FBI’s National Crime Information Center database.29

The National Crime Information Center (NCIC) database is an electronic clearinghouse that law enforcement officers can access in the field. It contains data submitted by agencies across the country aimed at helping officers identify people, property, and criminal histories. At one time, NCIC also included civil immigration detainers (nonmandatory temporary hold requests issued by a federal immigration officer), although the FBI has indicated that the practice of accepting this information was discontinued and that the information does not currently exist in the database. The U.S. Department of Justice should ensure that this remains the case.

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26. Listening Session on Building Trust and Legitimacy: Civil Rights/Civil Liberties (oral testimony of Maria Teresa Kumar, president and CEO, Voto Latino, for the President’s Task Force on 21st Century Policing, Washington, DC, January 13, 2015).


Citizens have a constitutional right to freedom of expression, including the right to peacefully demonstrate.

The issues addressed in the first pillar of this report, building trust and legitimacy between law enforcement agencies and the communities they serve, underlie all questions of law enforcement policy and community oversight. If police are to carry out their responsibilities according to established policies, these policies must be reflective of community values and not lead to practices that result in disparate impacts on various segments of the community. They also need to be clearly articulated to the community and implemented transparently so police will have credibility with residents and the people can have faith that their guardians are always acting in their best interests.

Paramount among the policies of law enforcement organizations are those controlling use of force. Not only should there be policies for deadly and nondeadly uses of force but a clearly stated “sanctity of life” philosophy must also be in the forefront of every officer’s mind. This way of thinking should be accompanied by rigorous practical ongoing training in an atmosphere of nonjudgmental and safe sharing of views with fellow officers about how they behaved in use of force situations. At one listening session, Geoffrey Alpert described Officer-Created Jeopardy Training, in which officers who had been in situations where mistakes were made or force was used came to explain their decision making to other officers. Some explained what they did right and how potentially violent situations were resolved without violence. Other officers told what they did wrong, why they made mistakes, what information was missing or misinterpreted, and how they could have improved their behavior and response to suspects.30

Data collection, supervision, and accountability are also part of a comprehensive systemic approach to keeping everyone safe and protecting the rights of all involved during police encounters. Members of the Division of Policing of the American Society of Criminology recently wrote, “While the United States presently employs a broad array of social and economic indicators in order to gauge the overall ‘health’ of the nation, it has a much more limited set of indicators concerning the behavior of the police and the quality of law enforcement.”31

That body noted that Section 210402 of the Violent Crime Control and Law Enforcement Act of 1994 requires the U.S. Attorney General to “acquire data about the use of excessive force by law enforcement officers” and to “publish an annual summary of the data acquired under this section.”32 But the U.S. Department of Justice (DOJ) has never been allocated the funds necessary to undertake the serious and sustained program of research and development to fulfill this mandate. Expanded research and data collection are also necessary to knowing what works and what does not work, which policing practices are effective and which

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31. “Recommendations to the President’s Task Force on 21st Century Policing,” Listening Session on Training and Education (written testimony of Anthony Braga et al., Ad Hoc Committee to the President’s Task Force on 21st Century Policing, Division of Policing, American Society of Criminology, February 13–14, 2015).
32. Ibid.
ones have unintended consequences. Greater acceptance of the Federal Bureau of Investigation’s (FBI) National Incident-Based Reporting System could also benefit policing practice and research endeavors.

Mass demonstrations, for example, are occasions where evidence-based practices successfully applied can make the difference between a peaceful demonstration and a riot. Citizens have a constitutional right to freedom of expression, including the right to peacefully demonstrate. There are strong examples of proactive and positive communication and engagement strategies that can protect constitutional rights of demonstrators and the safety of citizens and the police.33

2.1 Recommendation: Law enforcement agencies should collaborate with community members to develop policies and strategies in communities and neighborhoods disproportionally affected by crime for deploying resources that aim to reduce crime by improving relationships, greater community engagement, and cooperation.

The development of a service model process that focuses on the root causes of crime should include the community members themselves because what works in one neighborhood might not be equally successful in every other one. Larger departments could commit resources and personnel to areas of high poverty, limited services, and at-risk or vulnerable populations through creating priority units with specialized training and added status and pay. Chief Charlie Beck of the Los Angeles Police Department (LAPD) described the LAPD’s Community Safety Partnership, in which officers engage the community and build trust where it is needed most, in the public housing projects in Watts. The department has assigned 45 officers to serve for five years at three housing projects in Watts and at an additional housing project in East Los Angeles. Through a partnership with the Advancement Project and the Housing Authority of the City of Los Angeles, the program involves officers going into the housing developments with the intent not to make arrests but to create partnerships, create relationships, hear the community, and see what they need—and then work together to make those things happen.34 The work in Watts has been documented in an Advancement Project report presented to the task force.35

2.1.1 Action Item: The Federal Government should incentivize this collaboration through a variety of programs that focus on public health, education, mental health, and other programs not traditionally part of the criminal justice system.

2.2 Recommendation: Law enforcement agencies should have comprehensive policies on the use of force that include training, investigations, prosecutions, data collection, and information sharing. These policies must be clear, concise, and openly available for public inspection.

2.2.1 Action Item: Law enforcement agency policies for training on use of force should emphasize de-escalation and alternatives to arrest or summons in situations where appropriate.


34. Listening Session on Policy and Oversight: Civilian Oversight (oral testimony of Charlie Beck, chief, Los Angeles Police Department, for the President’s Task Force on 21st Century Policing, Cincinnati, OH, January 30, 2015).

35. Rice and Lee, Relationship-Based Policing (see note 22).
As Chuck Wexler noted in his testimony,

In traditional police culture, officers are taught never to back down from a confrontation, but instead to run toward the dangerous situation that everyone else is running away from. However, sometimes the best tactic for dealing with a minor confrontation is to step back, call for assistance, de-escalate, and perhaps plan a different enforcement action that can be taken more safely later.  

Policies should also include, at a minimum, annual training that includes shoot/don’t shoot scenarios and the use of less than lethal technologies.

2.2.2 Action Item: These policies should also mandate external and independent criminal investigations in cases of police use of force resulting in death, officer-involved shootings resulting in injury or death, or in-custody deaths.

One way this can be accomplished is by the creation of multi-agency force investigation task forces comprising state and local investigators. Other ways to structure this investigative process include referring to neighboring jurisdictions or to the next higher levels of government (many smaller departments may already have state agencies handle investigations), but in order to restore and maintain trust, this independence is crucial.

In written testimony to the task force, James Palmer of the Wisconsin Professional Police Association offered an example in that state’s statutes requiring that agency written policies “require an investigation that is conducted by at least two investigators . . . neither of whom is employed by a law enforcement agency that employs a law enforcement officer involved in the officer-involved death.” Furthermore, in order to establish and maintain internal legitimacy and procedural justice, these investigations should be performed by law enforcement agencies with adequate training, knowledge, and experience investigating police use of force.

2.2.3 Action Item: The task force encourages policies that mandate the use of external and independent prosecutors in cases of police use of force resulting in death, officer-involved shootings resulting in injury or death, or in-custody deaths.

Strong systems and policies that encourage use of an independent prosecutor for reviewing police uses of force and for prosecution in cases of inappropriate deadly force and in-custody death will demonstrate the transparency to the public that can lead to mutual trust between community and law enforcement.

2.2.4 Action Item: Policies on use of force should also require agencies to collect, maintain, and report data to the Federal Government on all officer-involved shootings, whether fatal or nonfatal, as well as any in-custody death.

In custody deaths are not only deaths in a prison or jail but also deaths that occur in the process of an arrest. The Bureau of Justice Statistics (BJS) implemented the Arrest Related Deaths data collection in 2003 as part of requirements set forth in the Deaths in Custody Reporting Act of


2000 and reenacted in 2014. Although states receiving grants under the Edward Byrne Memorial Justice Assistance Grant Program are required to provide this data to BJS, the Arrest Related Deaths data collection is a voluntary reporting program for law enforcement agencies. Access to this data is important to gain a national picture of police use of force as well as to incentivize the systematic and transparent collection and analysis of use of force incident data at the local level. The agency-reported data should include information on the circumstances of the use of force, as well as the race, gender, and age of the decedents. Agency data should be reported to the U.S. Department of Justice through the FBI’s Uniform Crime Reporting System or an expansion of collections managed by the BJS.

2.2.5 Action Item: Policies on use of force should clearly state what types of information will be released, when, and in what situation, to maintain transparency.

This should also include procedures on the release of a summary statement regarding the circumstances of the incident by the department as soon as possible and within 24 hours. The intent of this directive should be to share as much information as possible without compromising the integrity of the investigation or anyone’s rights.

2.2.6 Action Item: Law enforcement agencies should establish a Serious Incident Review Board comprising sworn staff and community members to review cases involving officer-involved shootings and other serious incidents that have the potential to damage community trust or confidence in the agency. The purpose of this board should be to identify any administrative, supervisory, training, tactical, or policy issues that need to be addressed.

2.3 Recommendation: Law enforcement agencies are encouraged to implement nonpunitive peer review of critical incidents separate from criminal and administrative investigations.

These reviews, sometimes known as “near miss” or “sentinel event” reviews, focus on the improvement of practices and policy. Such reviews already exist in medicine, aviation, and other industries. According to the National Institute of Justice (NIJ), a sentinel event in criminal justice would include wrongful convictions but also “near miss” acquittals and dismissals of cases that at earlier points seemed solid; cold cases that stayed cold too long; wrongful releases of dangerous or factually guilty criminals or of vulnerable arrestees with mental disabilities; and failures to prevent domestic violence within at-risk families.

Sentinel events can include episodes that are within policy but disastrous in terms of community relations, whether or not everyone agrees that the event should be classified as an error. In fact, anything that stakeholders agree can cause widespread or viral attention could be considered a sentinel event.  

What distinguishes sentinel event reviews from other kinds of internal investigations of apparent errors is that they are nonadversarial. As task force member Sean Smoot has written,  

For sentinel event reviews to be effective and practical, they must be cooperative efforts that afford the types of protections provided in the medical context, where state and federal laws protect the privacy of participants and prevent the disclosure of information to anyone outside of the sentinel event review. . . . Unless the sentinel event

process is honest and trustworthy, with adequate legal protections—including use immunity, privacy, confidentiality, and nondisclosure, for example—police officers, who have the very best information about how things really work and what really happened, will not be motivated to fully participate. The sentinel event review approach will have a better chance of success if departments can abandon the process of adversarial/punitive-based discipline, adopting instead “education-based” disciplinary procedures and policies.39

2.4 Recommendation: Law enforcement agencies are encouraged to adopt identification procedures that implement scientifically supported practices that eliminate or minimize presenter bias or influence.

A recent study by the National Academy of Sciences, *Identifying the Culprit: Assessing Eyewitness Identification*, studied the important role played by eyewitnesses in criminal cases, noting that research on factors affecting the accuracy of eyewitness identification procedures has given an increasingly clear picture of how identifications are made and, more important, an improved understanding of the limits on vision and memory that can lead to failure of identification.40 Many factors, including external conditions and the witness’s emotional state and biases, influence what a witness sees or thinks she sees. Memories can be forgotten, reconstructed, updated, and distorted. Meanwhile, policies governing law enforcement procedures for conducting and recording identifications are not standard, and policies and practices to address the issue of misidentification vary widely.


2.5 Recommendation: All federal, state, local, and tribal law enforcement agencies should report and make available to the public census data regarding the composition of their departments including race, gender, age, and other relevant demographic data.

While the BJS collects information on many aspects of police activities, there is no single data collection instrument that yields the information requested in this recommendation. Demographic data should be collected and made available to the public so communities can assess the diversity of their departments and do so in a national context. This data will also be important to better understand the impact of diversity on the functioning of departments. Malik Aziz, National Chair of the National Black Police Association (NBPA), reminded the task force that the NBPA not only urges all departments to meet the demographics of the community in which they serve by maintaining a plan of action to recruit and retain police officers of color but also has called for the DOJ to collect the annual demographic statistics from the 18,000 police agencies across the nation. “It is not enough to mandate diversity,” he stated, “but it becomes necessary to diversify command ranks in departments that have historically failed to develop and/or promote qualified and credentialed officers to executive and command ranks.”

2.5.1 Action Item: The Bureau of Justice Statistics should add additional demographic questions to the Law Enforcement Management and Administrative Statistics (LEMAS) survey in order to meet the intent of this recommendation.

2.6 Recommendation: Law enforcement agencies should be encouraged to collect, maintain, and analyze demographic data on all detentions (stops, frisks, searches, summonses, and arrests). This data should be disaggregated by school and non-school contacts.

The BJS periodically conducts the Police-Public Contact Survey, a supplement to the National Crime Victimization Survey. The most recent survey, released in 2013, asked a nationally representative sample of U.S. residents age 16 or older about experiences with police during the prior 12 months. But these surveys do not reflect what is happening every day at the local level when police interact with members of the communities they serve. More research and tools along the lines of Lorie Fridell’s 2004 publication, By the Numbers: A Guide for Analyzing Race Data From Vehicle Stops—to help local agencies collect and analyze their data, understand the importance of context to the analysis and reporting process, and establish benchmarks resulting from their findings—would improve understanding and lead to evidence-based policies.


2.6.1 Action Item: The Federal Government could further incentivize universities and other organizations to partner with police departments to collect data and develop knowledge about analysis and benchmarks as well as to develop tools and templates that help departments manage data collection and analysis.

2.7 Recommendation: Law enforcement agencies should create policies and procedures for policing mass demonstrations that employ a continuum of managed tactical resources that are designed to minimize the appearance of a military operation and avoid using provocative tactics and equipment that undermine civilian trust.

Policies should emphasize protection of the First Amendment rights of demonstrators and effective ways of communicating with them. Superintendent Garry McCarthy of the Chicago Police Department detailed his police force training and operations in advance of the 2012 NATO Summit at the height of the “Occupy” movement. The department was determined not to turn what it knew would be a mass demonstration into a riot. Police officers refreshed “perishable” skills, such as engaging in respectful conversations with demonstrators, avoiding confrontation, and using “extraction techniques” not only on the minority of demonstrators who were behaving unlawfully (throwing rocks, etc.) but also on officers who were becoming visibly upset and at risk of losing their composure and professional demeanor.43

2.7.1 Action Item: Law enforcement agency policies should address procedures for implementing a layered response to mass demonstrations that prioritize de-escalation and a guardian mindset.

These policies could include plans to minimize confrontation by using “soft look” uniforms, having officers remove riot gear as soon as practical, and maintaining open postures. “When officers line up in a military formation while wearing full protective gear, their visual appearance may have a dramatic influence on how the crowd perceives them and how the event ends.”44

2.7.2 Action Item: The Federal Government should create a mechanism for investigating complaints and issuing sanctions regarding the inappropriate use of equipment and tactics during mass demonstrations.

There has been substantial media attention in recent months surrounding the police use of military equipment at events where members of the public are exercising their First Amendment rights. This has led to the creation of the President’s Interagency Law Enforcement Equipment Working Group.

That group has been tasked by the Executive Order 13688 of January 16, 2015 with a number of issues, including ensuring that law enforcement agencies adopt organizational and operational practices and standards that prevent the misuse or abuse of controlled equipment and ensuring compliance with civil rights requirements resulting from receipt of federal financial assistance.

43. Listening Session on Policy and Oversight (oral testimony of Garry McCarthy, Chicago Police Department, to the President’s Task Force on 21st Century Policing, Cincinnati, OH, January 30, 2015).

44. Listening Session on Policy and Oversight (written testimony of Edward Maguire, American University, for the President’s Task Force on 21st Century Policing, Cincinnati, OH, January 30, 2015).
2.8 Recommendation: Some form of civilian oversight of law enforcement is important in order to strengthen trust with the community. Every community should define the appropriate form and structure of civilian oversight to meet the needs of that community.

Many, but not all, state and local agencies operate with the oversight or input of civilian police boards or commissions. Part of the process of assessing the need and desire for new or additional civilian oversight should include input from and collaboration with police employees because the people to be overseen should be part of the process that will oversee them. This guarantees that the principles of internal procedural justice are in place to benefit both the police and the community they serve.

We must examine civilian oversight in the communities where it operates and determine which models are successful in promoting police and community understanding. There are important arguments for having civilian oversight even though we lack strong research evidence that it works. Therefore we urge action on further research, based on the guiding principle of procedural justice, to find evidence-based practices to implement successful civilian oversight mechanisms.

As noted by witness Brian Buchner at the Policy and Oversight Listening Session on January 30, Citizen review is not an advocate for the community or for the police. This impartiality allows oversight to bring stakeholders together to work collaboratively and proactively to help make policing more effective and responsive to the community. Civilian oversight alone is not sufficient to gain legitimacy; without it, however, it is difficult, if not impossible, for the police to maintain the public’s trust.45

2.8.1 Action Item: The U.S. Department of Justice, through its research arm, the National Institute of Justice (NIJ), should expand its research agenda to include civilian oversight.

NIJ recently announced its research priorities in policing for FY 2015, which include such topics as police use of force, body-worn cameras, and procedural justice. While proposals related to research on police oversight might fit into several of these topical areas, police oversight is not highlighted by NIJ in any of them. NIJ should specifically invite research into civilian oversight and its impact on and relationship to policing in one or more of these areas.

2.8.2 Action Item: The U.S. Department of Justice’s Office of Community Oriented Policing Services (COPS Office) should provide technical assistance and collect best practices from existing civilian oversight efforts and be prepared to help cities create this structure, potentially with some matching grants and funding.

2.9 Recommendation: Law enforcement agencies and municipalities should refrain from practices requiring officers to issue a predetermined number of tickets, citations, arrests, or summonses, or to initiate investigative contacts with citizens for reasons not directly related to improving public safety, such as generating revenue.

Productivity expectations can be effective performance management tools. But testimony from Laura Murphy, Director of the Washington Legislative Office of the American Civil Liberties Union, identifies some of the negative effects of these practices:

One only needs to paint a quick picture of the state of policing to understand the dire need for reform. First, there are local and federal incentives that

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45. Listening Session on Policy and Oversight (oral testimony of Brian Buchner, president, National Association for Civilian Oversight of Law Enforcement, for the President’s Task Force on 21st Century Policing, Cincinnati, OH, January 30, 2015).
instigate arrests. At the local level, cities across the country generate much of their revenue through court fines and fees, with those who can’t pay subject to arrest and jail time. These debtors’ prisons are found in cities like Ferguson, where the number of arrest warrants in 2013—33,000—exceeded its population of 21,000. Most of the warrants were for driving violations.46

2.10 Recommendation: Law enforcement officers should be required to seek consent before a search and explain that a person has the right to refuse consent when there is no warrant or probable cause. Furthermore, officers should ideally obtain written acknowledgement that they have sought consent to a search in these circumstances.

2.11 Recommendation: Law enforcement agencies should adopt policies requiring officers to identify themselves by their full name, rank, and command (as applicable) and provide that information in writing to individuals they have stopped. In addition, policies should require officers to state the reason for the stop and the reason for the search if one is conducted.

2.11.1 Action Item: One example of how to do this is for law enforcement officers to carry business cards containing their name, rank, command, and contact information that would enable individuals to offer suggestions or commendations or to file complaints with the appropriate individual, office, or board. These cards would be easily distributed in all encounters.

2.12 Recommendation: Law enforcement agencies should establish search and seizure procedures related to LGBTQ and transgender populations and adopt as policy the recommendation from the President’s

Advisory Council on HIV/AIDS (PACHA) to cease using the possession of condoms as the sole evidence of vice.

**2.13 Recommendation:** Law enforcement agencies should adopt and enforce policies prohibiting profiling and discrimination based on race, ethnicity, national origin, religion, age, gender, gender identity/expression, sexual orientation, immigration status, disability, housing status, occupation, or language fluency.

The task force heard from a number of witnesses about the importance of protecting the safety and dignity of all people. Andrea Ritchie noted that
gender and sexuality-specific forms of racial profiling and discriminatory policing [include] . . . . Failure to respect individuals’ gender identity and expression when addressing members of the public and during arrest processing, searches, and placement in police custody.47

Invasive searches should never be used for the sole purpose of determining gender identity, and an individual’s gender identity should be respected in lock-ups and holding cells to the extent that the facility allows for gender segregation. And witness Linda Sarsour spoke to how

an issue plaguing and deeply impacting Arab-American and American Muslim communities across the country is racial and religious profiling by local, state, and federal law enforcement. We have learned through investigative reports, Freedom of Information Act (FOIA) requests, and lawsuits that agencies target communities by religion and national origin.48

**2.13.1 Action Item:** The Bureau of Justice Statistics should add questions concerning sexual harassment of and misconduct toward community members, and in particular LGBTQ and gender-nonconforming people, by law enforcement officers to the Police Public Contact Survey.

**2.13.2 Action Item:** The Centers for Disease Control should add questions concerning sexual harassment of and misconduct toward community members, and in particular LGBTQ and gender-nonconforming people, by law enforcement officers to the National Intimate Partner and Sexual Violence Survey.

**2.13.3 Action Item:** The U.S. Department of Justice should promote and disseminate guidance to federal, state, and local law enforcement agencies on documenting, preventing, and addressing sexual harassment and misconduct by local law enforcement agents, consistent with the recommendations of the International Association of Chiefs of Police.49

**2.14 Recommendation:** The U.S. Department of Justice, through the Office of Community Oriented Policing Services and Office of Justice Programs, should provide technical assistance and incentive funding to jurisdictions with small police agencies that take steps towards shared services, regional training, and consolidation.

47. Listening Session on Training and Education (oral testimony of Andrea Ritchie, founder of Streetwise and Safe, for the President’s Task Force on 21st Century Policing, Phoenix, AZ, February 14, 2015).

48. Listening Session on Training and Education (oral testimony of Linda Sarsour, Advocacy And Civic Engagement coordinator for the National Network for Arab American Communities, for the President’s Task Force on 21st Century Policing, Phoenix, AZ, February 14, 2015).

Half of all law enforcement agencies in the United States have fewer than ten officers, and nearly three-quarters have fewer than 25 officers. Lawrence Sherman noted in his testimony that “so many problems of organizational quality control are made worse by the tiny size of most local police agencies . . . less than 1 percent of 17,985 U.S. police agencies meet the English minimum of 1,000 employees or more.” These small forces often lack the resources for training and equipment accessible to larger departments and often are prevented by municipal boundaries and local custom from combining forces with neighboring agencies. Funding and technical assistance can give smaller agencies the incentive to share policies and practices and give them access to a wider variety of training, equipment, and communications technology than they could acquire on their own.

Table 1. Full-time state and local law enforcement employees, by size of agency, 2008

<table>
<thead>
<tr>
<th>Size of agency</th>
<th>Number of agencies</th>
<th>Total number of full-time employees</th>
</tr>
</thead>
<tbody>
<tr>
<td>All agencies</td>
<td>17,985</td>
<td>1,133,915</td>
</tr>
<tr>
<td>1,000 or more officers</td>
<td>83</td>
<td>326,197</td>
</tr>
<tr>
<td>500–999</td>
<td>89</td>
<td>94,168</td>
</tr>
<tr>
<td>250–499</td>
<td>237</td>
<td>133,024</td>
</tr>
<tr>
<td>100–249</td>
<td>778</td>
<td>174,505</td>
</tr>
<tr>
<td>500–99</td>
<td>1,300</td>
<td>136,390</td>
</tr>
<tr>
<td>25–49</td>
<td>2,402</td>
<td>124,492</td>
</tr>
<tr>
<td>10–24</td>
<td>4,300</td>
<td>98,563</td>
</tr>
<tr>
<td>5–9</td>
<td>3,446</td>
<td>32,493</td>
</tr>
<tr>
<td>2–4</td>
<td>3,225</td>
<td>11,498</td>
</tr>
<tr>
<td>0–1</td>
<td>2,125</td>
<td>2,585</td>
</tr>
</tbody>
</table>

Source: Brian A. Reaves, “State and Local Law Enforcement Agencies” (see note 50).

2.15 Recommendation: The U.S. Department of Justice, through the Office of Community Oriented Policing Services, should partner with the International Association of Directors of Law Enforcement Standards and Training (IADLEST) to expand its National Decertification Index to serve as the National Register of Decertified Officers with the goal of covering all agencies within the United States and its territories.

The National Decertification Index is an aggregation of information that allows hiring agencies to identify officers who have had their license or certification revoked for misconduct. It was designed as an answer to the problem “wherein a police officer is discharged for improper conduct and loses his/her certification in that state . . . [only to relocate] to another state and hire on with another police department.”

Training (POST) boards can record administrative actions taken against certified police and correctional officers. Currently the criteria for reporting an action on an officer is determined by each POST independently, as is the granting of read-only access to hiring departments to use as part of their pre-hire screening process. Expanding this system to ensure national and standardized reporting would assist in ensuring that officers who have lost their certification for misconduct are not easily hired in other jurisdictions. A national register would effectively treat ‘police professionals the way states’ licensing laws treat other professionals. If anything, the need for such a system is even more important for law enforcement, as officers have the power to make arrests, perform searches, and use deadly force.”

PILLAR 3. TECHNOLOGY & SOCIAL MEDIA

Implementing new technologies can give police departments an opportunity to fully engage and educate communities in a dialogue about their expectations for transparency, accountability, and privacy.

We live in a time when technology and its many uses are advancing far more quickly than are policies and laws. “Technology” available to law enforcement today includes everything from body-worn cameras (BWC) to unmanned aircraft to social media and a myriad of products in between.

The use of technology can improve policing practices and build community trust and legitimacy, but its implementation must be built on a defined policy framework with its purposes and goals clearly delineated. Implementing new technologies can give police departments an opportunity to fully engage and educate communities in a dialogue about their expectations for transparency, accountability, and privacy. But technology changes quickly in terms of new hardware, software, and other options. Law enforcement agencies and leaders need to be able to identify, assess, and evaluate new technology for adoption and do so in ways that improve their effectiveness, efficiency, and evolution without infringing on individual rights.

Thus, despite (and because of) the centrality of technology in policing, law enforcement agencies face major challenges including determining the effects of implementing various technologies; identifying costs and benefits; examining unintended consequences; and exploring the best practices by which technology can be evaluated, acquired, maintained, and managed. Addressing these technology challenges by using research, accumulated knowledge, and practical experiences can help agencies reach their goals, but law enforcement agencies and personnel also need to recognize that technology is only a tool for doing their jobs; just because you have access to technology does not necessarily mean you should always use it.

BWCs are a case in point. An increasing number of law enforcement agencies are adopting BWC programs as a means to improve evidence collection, to strengthen officer performance and accountability, and to enhance agency transparency. By documenting encounters between police and the public, BWCs can also be used to investigate and resolve complaints about officer-involved incidents.

Jim Bueermann, retired chief of the Redlands (California) Police Department and President of the Police Foundation, told the task force about a seminal piece of research that demonstrated a positive impact of BWCs in policing. The researchers used the gold standard of research models, a randomized control trial, in which the people


being studied are randomly assigned either to a control group that does not receive the treatment being studied or to a treatment group that does. The results of this 12-month study strongly suggest that the use of BWCs by the police can significantly reduce both officer use of force and complaints against officers. The study found that the officers wearing the cameras had 87.5 percent fewer incidents of use of force and 59 percent fewer complaints than the officers not wearing the cameras. One of the important findings of the study was the impact BWCs might have on the self-awareness of officers and citizens alike. When police officers are acutely aware that their behavior is being monitored (because they turn on the cameras) and when officers tell citizens that the cameras are recording their behavior, everyone behaves better. The results of this study strongly suggest that this increase in self-awareness contributes to more positive outcomes in police-citizen interaction.56

But other considerations make the issue of BWCs more complex. A 2014 Police Executive Research Forum (PERF) publication, funded by the Office of Community Oriented Policing Services (COPS Office), reporting on extensive research exploring the policy and implementation questions surrounding BWCs noted:

> Although body-worn cameras can offer many benefits, they also raise serious questions about how technology is changing the relationship between police and the community. Body-worn cameras not only create concerns about the public’s privacy rights but also can affect how officers relate to people in the community, the community’s perception of the police, and expectations about how police agencies should share information with the public.57

Now that agencies operate in a world in which anyone with a cell phone camera can record video footage of a police encounter, BWCs help police departments ensure that events are also captured from an officer’s perspective.58 But when the public does not believe its privacy is being protected by law enforcement, a breakdown in community trust can occur. Agencies need to consider ways to involve the public in discussions related to the protection of their privacy and civil liberties prior to implementing new technology, as well work with the public and other partners in the justice system to develop appropriate policies and procedures for use.

Another technology relatively new to law enforcement is social media. Social media is a communication tool the police can use to engage the community on issues of importance to both and to gauge community sentiment regarding agency policies and practices. Social media can also help police identify the potential nature and location of gang and other criminal or disorderly activity such as spontaneous crowd gatherings.59

The Boston Police Department (BPD), for example, has long embraced both community policing and the use of social media. The department put its experience to good and highly visible use in April 2013 during the rapidly developing investigation that followed the deadly explosion of two bombs at the finish line of the Boston Marathon. The


58. Ibid., 1.

BPD successfully used Twitter to keep the public informed about the status of the investigation, to calm nerves and request assistance, to correct mistaken information reported by the press, and to ask for public restraint in the tweeting of information from police scanners. This demonstrated the level of trust and interaction that a department and a community can attain online.60

While technology is crucial to law enforcement, it is never a panacea. Its acquisition and use can have unintended consequences for both the organization and the community it serves, which may limit its potential. Thus, agencies need clearly defined policies related to implementation of technology, and must pay close attention to community concerns about its use.

3.1 RECOMMENDATION: The U.S. Department of Justice, in consultation with the law enforcement field, should broaden the efforts of the National Institute of Justice to establish national standards for the research and development of new technology. These standards should also address compatibility and interoperability needs both within law enforcement agencies and across agencies and jurisdictions and maintain civil and human rights protections.

The lack of consistent standards leads to a constantly spiraling increase in technology costs. Law enforcement often has to invest in new layers of technology to enable their systems to operate with different systems and sometimes must also make expensive modifications or additions to legacy systems to support interoperability with newer technology. And these costs do not include the additional funds needed for training. Agencies are often unprepared for the unintended consequences that may accompany the acquisition of new technologies. Implementation of new technologies can cause disruptions to daily routines, lack of buy-in, and lack of understanding of the purpose and appropriate uses of the technologies. It also often raises questions regarding how the new technologies will impact the officer's expectations, discretion, decision making, and accountability.61

Inconsistent or nonexistent standards also lead to isolated and fractured information systems that cannot effectively manage, store, analyze, or share their data with other systems. As a result, much information is lost or unavailable—which allows vital information to go unused and have no impact on crime reduction efforts. As one witness noted, the development of mature crime analysis and CompStat processes allows law enforcement to effectively develop policy and deploy resources for crime prevention, but there is a lack of uniformity in data collection throughout law enforcement, and only patchwork methods of near real-time information sharing exist.62 These problems are especially critical in light of the threats from terrorism and cybercrime.


61. Koper et al., Potential of Technology in Policing (see note 54).

62. Listening Session on Technology and Social Media (oral testimony of Elliot Cohen, Maryland State Police, for the President’s Task Force on 21st Century Policing, Cincinnati, OH, January 31, 2015).
3.1.1 Action Item: The Federal Government should support the development and delivery of training to help law enforcement agencies learn, acquire, and implement technology tools and tactics that are consistent with the best practices of 21st century policing.

3.1.2 Action Item: As part of national standards, the issue of technology’s impact on privacy concerns should be addressed in accordance with protections provided by constitutional law.

Though all constitutional guidelines must be maintained in the performance of law enforcement duties, the legal framework (warrants, etc.) should continue to protect law enforcement access to data obtained from cell phones, social media, GPS, and other sources, allowing officers to detect, prevent, or respond to crime.

3.1.3 Action Item: Law enforcement agencies should deploy smart technology that is designed to prevent the tampering with or manipulating of evidence in violation of policy.

3.2 Recommendation: The implementation of appropriate technology by law enforcement agencies should be designed considering local needs and aligned with national standards.
While standards should be created for development and research of technology at the national level, implementation of developed technologies should remain a local decision to address the needs and resources of the community.

In addition to the expense of acquiring technology, implementation and training also requires funds, as well as time, personnel, and physical capacity. A case in point is the Phoenix Police Department’s adoption of BWCs mentioned by witness Michael White, who said that the real costs came on the back end for managing the vast amount of data generated by the cameras. He quoted the Chief of the Phoenix Police Department as saying that it would cost their department $3.5 million to not only outfit all of their officers with the cameras but also successfully manage the program.

**3.2.1 Action Item:** Law enforcement agencies should encourage public engagement and collaboration, including the use of community advisory bodies, when developing a policy for the use of a new technology.

Local residents will be more accepting of and respond more positively to technology when they have been informed of new developments and their input has been encouraged. How police use technology and how they share that information with the public is critical. Task force witness Jim Bueermann, president of the Police Foundation, addressed this issue, noting that concerns about BWCs include potential compromises to the privacy of both officers and citizens, who are reluctant to speak to police if they think they are being recorded. And as the task force co-chair, Charles Ramsey, noted, “Just having the conversation can increase trust and legitimacy and help departments make better decisions.”

**3.2.2 Action Item:** Law enforcement agencies should include an evaluation or assessment process to gauge the effectiveness of any new technology, soliciting input from all levels of the agency, from line officer to leadership, as well as assessment from members of the community.\(^{63}\)

Witnesses suggested that law enforcement agencies create an advisory group when adopting a new technology.\(^{64}\) Ideally, it would include line officers, union representatives, and members from other departmental units, such as research and planning, technology, and internal affairs. External stakeholders, such as representatives from the prosecutor’s office, the defense bar, advocacy groups, and citizens should also be included, giving each group the opportunity to ask questions, express their concerns, and offer suggestions on policy and training.

**3.2.3 Action Item:** Law enforcement agencies should adopt the use of new technologies that will help them better serve people with special needs or disabilities.

**3.3 Recommendation:** The U.S. Department of Justice should develop best practices that can be adopted by state legislative bodies to govern the acquisition, use, retention, and dissemination of auditory, visual, and biometric data by law enforcement.

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64. Listening Session on Technology and Social Media: Body Cameras—Research and Legal Considerations (oral testimony of Michael White, professor, Arizona State University, for the President’s Task Force on 21st Century Policing, Cincinnati, OH, January 31, 2015).
These model policies and practices should at minimum address technology usage and data and evidence acquisition and retention, as well as privacy issues, accountability and discipline. They must also consider the impact of data collection and use on public trust and police legitimacy.

3.3.1 Action Item: As part of the process for developing best practices, the U.S. Department of Justice should consult with civil rights and civil liberties organizations, as well as law enforcement research groups and other experts, concerning the constitutional issues that can arise as a result of the use of new technologies.

3.3.2 Action Item: The U.S. Department of Justice should create toolkits for the most effective and constitutional use of multiple forms of innovative technology that will provide state, local, and tribal law enforcement agencies with a one-stop clearinghouse of information and resources.

3.3.3 Action Item: Law enforcement agencies should review and consider the Bureau of Justice Assistance’s (BJA) Body Worn Camera Toolkit to assist in implementing BWCs.

A Body-Worn Camera Expert Panel of law enforcement leaders, recognized practitioners, national policy leaders, and community advocates convened a two-day workshop in February, 2015 to develop a toolkit and provide guidance and model policy for law enforcement agencies implementing BWC programs. Subject matter experts contributed ideas and content for the proposed toolkit while a panel composed of privacy and victim advocates contributed ideas and content for the toolkit to broaden input and ensure transparency.

3.4 Recommendation: Federal, state, local, and tribal legislative bodies should be encouraged to update public record laws.

The quickly evolving nature of new technologies that collect video, audio, information, and biometric data on members of the community can cause unforeseen consequences. Public record laws, which allow public access to information held by government agencies, including law enforcement, should be modified to protect the privacy of the individuals whose records they hold and to maintain the trust of the community.

Issues such as the accessibility of video captured through dashboard or body-worn cameras are especially complex. So too are the officer use of force events that will be captured by video camera systems and then broadcast by local media outlets. Use of force, even when lawful and appropriate, can negatively influence public perception and trust of police. Sean Smoot, task force member, addressed this by recalling the shooting of a Flagstaff, Arizona, police officer whose death was recorded by his BWC. Responding to public record requests by local media, the police department released the graphic footage, which was then shown on local TV and also on YouTube. This illustration also raises questions concerning the recording of police interactions with minors and the appropriateness of releasing those videos for public view given their inability to give informed consent for distribution.

3.5 Recommendation: Law enforcement agencies should adopt model policies and best practices for technology-based community engagement that increases community trust and access.

65 Listening Session on Technology and Social Media (Sean Smoot, task force member, for the President’s Task Force on 21st Century Policing, Cincinnati, OH, January 31, 2015).
These policies and practices should at a minimum increase transparency and accessibility, provide access to information (crime statistics, current calls for service), allow for public posting of policy and procedures, and enable access and usage for persons with disabilities. They should also address issues surrounding the use of new and social media, encouraging the use of social media as a means of community interaction and relationship building, which can result in stronger law enforcement. As witness Elliot Cohen noted,

We have seen social media support policing efforts in gathering intelligence during active assailant incidents: the Columbia Mall shooting and the Boston Marathon bombing. Social media allowed for a greater volume of information to be collected in an electronic format, both audibly and visually.66

But to engage the community, social media must be responsive and current. Said Bill Schrier, “Regularly refresh the content to maintain and engage the audience, post content rapidly during incidents to dispel rumors, and use it for engagement, not just public information.”67 False or incorrect statements made via social media, mainstream media, and other means of technology deeply harm trust and legitimacy and can only be overcome with targeted and continuing community engagement and repeated positive interaction. Agencies need to unequivocally discourage falsities by underlining how harmful they are and how difficult they are to overcome.

Agencies should also develop policies and practices on social media use that consider individual officer expression, professional representation, truthful communication, and other concerns that can impact trust and legitimacy.

Table 2. What types of social media does your agency currently use, and what types of social media do you plan to begin using within the next 2 to 5 years?

<table>
<thead>
<tr>
<th>Social media type</th>
<th>Percent of responding agencies currently using</th>
<th>Percent of responding agencies planning to begin using in 2 to 5 years</th>
</tr>
</thead>
<tbody>
<tr>
<td>Agency website</td>
<td>100</td>
<td>—</td>
</tr>
<tr>
<td>Facebook</td>
<td>82</td>
<td>14</td>
</tr>
<tr>
<td>Twitter</td>
<td>69</td>
<td>18</td>
</tr>
<tr>
<td>Youtube</td>
<td>48</td>
<td>20</td>
</tr>
<tr>
<td>LinkedIn</td>
<td>34</td>
<td>20</td>
</tr>
</tbody>
</table>

Note: PERF, with the support of the COPS Office and Target Corporation, disseminated a “Future of Policing” survey in 2012 to more than 500 police agencies; nearly 200 responded.

3.6 RECOMMENDATION: The Federal Government should support the development of new “less than lethal” technology to help control combative suspects.

The fatal shootings in Ferguson, Cleveland, and elsewhere have put the consequences of use of force front and center in the national news.

66. Listening Session on Technology and Social Media: Technology Policy (oral testimony of Elliot Cohen, Lieutenant, Maryland State Police, for the President’s Task Force on 21st Century Policing, Cincinnati, OH, January 31, 2015).
67. Listening Session on Technology and Social Media: Technology Policy (oral testimony of Bill Schrier, senior policy advisor, Office of the Chief Information Officer, State of Washington, for the President’s Task Force on 21st Century Policing, Cincinnati, OH, January 31, 2015).
Policies and procedures must change, but so should the weaponry. New technologies such as conductive energy devices (CED) have been developed and may be used and evaluated to decrease the number of fatal police interventions. Studies of CEDs have shown them to be effective at reducing both officer and civilian injuries. For example, in one study that compared seven law enforcement agencies that use CEDs with six agencies that do not, researchers found a 70 percent decrease in officer injuries and a 40 percent decrease in suspect injuries.68 But new technologies should still be subject to the appropriate use of force continuum restrictions. And Vincent Talucci made the point in his testimony that over-reliance on technological weapons can also be dangerous.69

3.6.1 Action Item: Relevant federal agencies, including the U.S. Departments of Defense and Justice, should expand their efforts to study the development and use of new less than lethal technologies and evaluate their impact on public safety, reducing lethal violence against citizens, constitutionality, and officer safety.

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69. Listening Session on Technology and Social Media (oral testimony of Vincent Talucci, International Association of Chiefs of Police, for the President’s Task Force on 21st Century Policing, Cincinnati, OH, January 31, 2015).
A national public safety broadband network which creates bandwidth for the exclusive use of law enforcement, the First Responder Network (FirstNet) is considered a game-changing public safety project, which would allow instantaneous communication in even the most remote areas whenever a disaster or incident occurs. It can also support many other technologies, including video transmission from BWCs.

70. Listening Session on Technology and Social Media: Technology Policy (oral testimony of Bill Schrier, senior policy advisor, Office of the Chief Information Officer, State of Washington, for the President’s Task Force on 21st Century Policing, Cincinnati, OH, January 31, 2015).
President Barack Obama delivers remarks to the press following a meeting with members of the President’s Task Force on 21st Century Policing in the Roosevelt Room of the White House, March 2, 2015.

OFFICIAL WHITE HOUSE PHOTO BY CHUCK KENNEDY
PILLAR 4. COMMUNITY POLICING & CRIME REDUCTION

Community policing requires the active building of positive relationships with members of the community.

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.71

Over the past few decades, rates of both violent and property crime have dropped dramatically across the United States.72 However, some communities and segments of the population have not benefited from the decrease as much as others, and some not at all.73 Though law enforcement must concentrate their efforts in these neighborhoods to maintain public safety, sometimes those specific efforts arouse resentment in the neighborhoods the police are striving to protect.

Police interventions must be implemented with strong policies and training in place, rooted in an understanding of procedural justice. Indeed, without that, police interventions can easily devolve into racial profiling, excessive use of force, and other practices that disregard civil rights, causing negative reactions from people living in already challenged communities.

Yet mutual trust and cooperation, two key elements of community policing, are vital to protecting residents of these communities from the crime that plagues them. Community policing combines a focus on intervention and prevention through problem solving with building collaborative partnerships between law enforcement agencies and schools, social services, and other stakeholders. In this way, community policing not only improves public safety but also enhances social connectivity and economic strength, which increases community resilience to crime. And, as noted by one speaker, it improves job satisfaction for line officers, too.

In his testimony to the task force, Camden County, New Jersey, Police Chief J. Scott Thomson noted that community policing starts on the street corner, with respectful interaction between a police officer and a local resident, a discussion that need not be related to a criminal matter.74 In fact, it is important that not all interactions be based on emergency calls or crime investigations.

Another aspect of community policing that was discussed in the listening session on this topic is the premise that officers enforce the law with the people not just on the people. In reflecting this belief, some commented on the negative

73. Listening Session on Community Policing and Crime Reduction: Building Community Policing Organizations (oral testimony of Chris Magnus, chief, Richmond [CA] Police Department, for the President’s Task Force on 21st Century Policing, Phoenix, AZ, February 13, 2015).
results of zero tolerance policies, which mete out automatic and predetermined actions by officers regardless of extenuating circumstances.

Community policing requires the active building of positive relationships with members of the community—on an agency as well as on a personal basis. This can be done through assigning officers to geographic areas on a consistent basis, so that through the continuity of assignment they have the opportunity to know the members of the community. It can also be aided by the use of programs such as Eagle County, Colorado’s Law Enforcement Immigrant Advisory Committee, which the police department formed with Catholic Charities to help the local immigrant community. This type of policing also requires participation in community organizations, local meetings and public service activities.

To be most effective, community policing also requires collaborative partnerships with agencies beyond law enforcement, such as Philadelphia’s successful Police Diversion Program described by Kevin Bethel, Deputy Commissioner of Patrol Operations in the Philadelphia Police Department in his testimony to the task force. This partnership with the Philadelphia Department of Human Services, the school district, the District Attorney’s office, Family Court, and other stakeholders significantly reduced the number of arrests of minority youths for minor offenses.

Problem solving, another key element of community policing, is critical to prevention. And problems must be solved in partnership with the community in order to effectively address chronic crime and disorder problems. As Office of Community Oriented Policing Services Director Ronald L. Davis has said, “We need to teach new recruits that law enforcement is more than just cuffing ‘perps’—it’s understanding why people do what they do.”

In summary, law enforcement’s obligation is not only to reduce crime but also to do so fairly while protecting the rights of citizens. Any prevention strategy that unintentionally violates civil rights, compromises police legitimacy, or undermines trust is counterproductive from both ethical and cost-benefit perspectives. Ignoring these considerations can have both financial costs (e.g., lawsuits) and social costs (e.g., loss of public support).

It must also be stressed that the absence of crime is not the final goal of law enforcement. Rather, it is the promotion and protection of public safety while respecting the dignity and rights of all. And public safety and well-being cannot be attained without the community’s belief that their well-being is at the heart of all law enforcement activities. It is critical to help community members see police as allies rather than as an occupying force and to work in concert with other community stakeholders to create more economically and socially stable neighborhoods.

4.1 Recommendation: Law enforcement agencies should develop and adopt policies and strategies that reinforce the importance of community engagement in managing public safety.
Community policing is not just about the relationship between individual officers and individual neighborhood residents. It is also about the relationship between law enforcement leaders and leaders of key institutions in a community, such as churches, businesses, and schools, supporting the community’s own process to define prevention and reach goals.

Law enforcement agencies cannot ensure the safety of communities alone but should seek to contribute to the strengthening of neighborhood capacity to prevent and reduce crime through informal social control. More than a century of research shows that informal social control is a much more powerful mechanism for crime control and reduction than is formal punishment. And perhaps the best evidence for the preventive power of informal social control may be the millions of unguarded opportunities to commit crime that are passed up each day.78

4.1.1 Action Item: Law enforcement agencies should consider adopting preferences for seeking “least harm” resolutions, such as diversion programs or warnings and citations in lieu of arrest for minor infractions.

4.2 Recommendation: Community policing should be infused throughout the culture and organizational structure of law enforcement agencies.

Community policing must be a way of doing business by an entire police force, not just a specialized unit of that force.79 The task force heard testimony from Police Chief J. Scott Thomson of Camden County, New Jersey, who noted:

Community policing cannot be a program, unit, strategy or tactic. It must be the core principle that lies at the foundation of a police department’s culture. The only way to significantly reduce fear, crime, and disorder and then sustain these gains is to leverage the greatest force multiplier: the people of the community.80

This message was closely echoed by Chris Magnus, the police chief in Richmond, California. To build a more effective partnership with residents and transform culture within the police department as well as in the community, the Richmond police made sure that all officers, not just a select few, were doing community policing and neighborhood problem solving. Every officer is expected to get to know the residents, businesses, community groups, churches, and schools on their beat and work with them to identify and address public safety challenges, including quality of life issues such as blight. Officers remain in the same beat or district for several years or more—which builds familiarity and trust.81

Testimony from a number of witnesses also made clear that hiring, training, evaluating, and promoting officers based on their ability and track record in community engagement—not just traditional measures of policing such as arrests, tickets, or tactical skills—is an equally important component of the successful infusion of community policing throughout an organization.

4.2.1 Action Item: Law enforcement agencies should evaluate officers on their efforts to engage members of the community and the partnerships they build. Making this part of the performance evaluation process places an increased value on developing partnerships.

4.2.2 Action Item: Law enforcement agencies should evaluate their patrol deployment practices to allow sufficient time for patrol officers to participate in problem solving and community engagement activities.

4.2.3 Action Item: The U.S. Department of Justice and other public and private entities should support research into the factors that have led to dramatic successes in crime reduction in some communities through the infusion of non-discriminatory policing and to determine replicable factors that could be used to guide law enforcement agencies in other communities.

4.3 Recommendation: Law enforcement agencies should engage in multidisciplinary, community team approaches for planning, implementing, and responding to crisis situations with complex causal factors.

Collaborative approaches that engage professionals from across systems have emerged as model practices for addressing community problems that are not resolvable by the police alone. These team approaches call upon law enforcement agencies, service providers, and community support networks to work together to provide the right resources for the situation and foster sustainable change. Multiple witnesses before the task force spoke of departments coordinating mental health response teams that include mental health professionals, social workers, crisis counselors, and other professionals making decisions alongside the police regarding planning, implementing, and responding to mental health crisis situations. But this model is applicable to a number of community problems that regularly involve a police response, including homelessness, substance abuse, domestic violence, human trafficking, and child abuse. Ultimately, the idea is for officers to be trained and equipped to make use of existing community resources in the diffusion of crisis situations.

4.3.1 Action Item: The U.S. Department of Justice should collaborate with others to develop and disseminate baseline models of this crisis intervention team approach that can be adapted to local contexts.

4.3.2 Action Item: Communities should look to involve peer support counselors as part of multidisciplinary teams when appropriate. Persons who have experienced the same trauma can provide both insight to the first responders and immediate support to individuals in crisis.

4.3.3 Action Item: Communities should be encouraged to evaluate the efficacy of these crisis intervention team approaches and hold agency leaders accountable for outcomes.

4.4 Recommendation: Communities should support a culture and practice of policing that reflects the values of protection and promotion of the dignity of all, especially the most vulnerable.

The task force heard many different ways of describing a positive culture of policing. David Kennedy suggested there could be a Hippocratic
Oath for Policing: First, Do No Harm. Law enforcement officers’ goal should be to avoid use of force if at all possible, even when it is allowed by law and by policy. Terms such as fair and impartial policing, rightful policing, constitutional policing, neighborhood policing, procedural justice, and implicit bias training all address changing the culture of policing. Respectful language, thoughtful and intentional dialogue about the perception and reality of profiling and the mass incarceration of minorities; and consistent involvement, both formal and informal, in community events all help ensure that relationships of trust between police and community will be built. The vision of policing in the 21st century should be that of officers as guardians of human and constitutional rights.

4.4.1 Action Item: Because offensive or harsh language can escalate a minor situation, law enforcement agencies should underscore the importance of language used and adopt policies directing officers to speak to individuals with respect.

4.4.2 Action Item: Law enforcement agencies should develop programs that create opportunities for patrol officers to regularly interact with neighborhood residents, faith leaders, and business leaders.

4.5 Recommendation: Community policing emphasizes working with neighborhood residents to co-produce public safety. Law enforcement agencies should work with community residents to identify problems and collaborate on implementing solutions that produce meaningful results for the community.

As Delores Jones Brown testified, “Neighborhood policing provides an opportunity for police departments to do things with residents in the co-production of public safety rather than doing...
things to or for them.” Community policing is not just about the behavior and tactics of police; it is also about the civic engagement and capacity of communities to improve their own neighborhoods, their quality of life, and their sense of safety and well-being. Members of communities are key partners in creating public safety, so communities and police need mechanisms to engage with each other in consistent and meaningful ways. One model for formalizing this engagement is through a civilian governance system such as is found in Los Angeles. As Chief Charlie Beck explained in testimony to the task force,

The Los Angeles Police Department is formally governed by the Board of Police Commissioners, a five-person civilian body with each member appointed by the mayor. The commission has formal authority to hire the chief of police, to set broad policy for the department, and to hold the LAPD and its chief accountable to the people.

Community policing, therefore, is concerned with changing the way in which citizens respond to police in more constructive and proactive ways. If officers feel unsafe and threatened, their ability to operate in an open and shared dialogue with community is inhibited. On the other hand, the police have the responsibility to understand the culture, history, and quality of life issues of the entire community—youth, elders, faith communities, special populations—and to educate the community, including its children, on the role and function of police and ways the community can protect itself, be part of solving problems, and prevent crime. Community and police jointly share the responsibility for civil dialogue and interaction.

4.5.1 Action Item: Law enforcement agencies should schedule regular forums and meetings where all community members can interact with police and help influence programs and policy.

4.5.2 Action Item: Law enforcement agencies should engage youth and communities in joint training with law enforcement, citizen academies, ride-alongs, problem solving teams, community action teams, and quality of life teams.

4.5.3 Action Item: Law enforcement agencies should establish formal community/citizen advisory committees to assist in developing crime prevention strategies and agency policies as well as provide input on policing issues.

Larger agencies should establish multiple committees to ensure they inform all levels of the organization. The makeup of these committees should reflect the demographics of the community or neighborhood being served.

4.5.4 Action Item: Law enforcement agencies should adopt community policing strategies that support and work in concert with economic development efforts within communities.

As several witnesses, including Bill Geller, testified, public safety and the economic health of communities go hand in hand. It is therefore important
for agencies to work with local, state, and federal partners on projects devoted to enhancing the economic health of the communities in which departments are located.

4.6 Recommendation: Communities should adopt policies and programs that address the needs of children and youth most at risk for crime or violence and reduce aggressive law enforcement tactics that stigmatize youth and marginalize their participation in schools and communities.

The past decade has seen an explosion of knowledge about adolescent development and the neurological underpinnings of adolescent behavior. Much has also been learned about the pathways by which adolescents become delinquent, the effectiveness of prevention and treatment programs, and the long-term effects of transferring youths to the adult system and confining them in harsh conditions. These findings have raised doubts about a series of policies and practices of “zero tolerance” that have contributed to increasing the school-to-prison pipeline by criminalizing the behaviors of children as young as kindergarten age. Noncriminal offenses can escalate to criminal charges when officers are not trained in child and adolescent development and are unable to recognize and manage a child’s emotional, intellectual, and physical development issues. School district policies and practices that push students out of schools and into the juvenile justice system cause great harm and do no good.

One witness told the task force a stunning story about what happened to him one day when he was a high school freshman:

As I walked down the hall, one of the police officers employed in the school noticed I did not have my identification badge with me. Before I could explain why I did not have my badge, I was escorted to the office and suspended for an entire week. I had to leave the school premises immediately. Walking to the bus stop, a different police officer pulled me over and demanded to know why I was not in school. As I tried to explain, I was thrown into the back of the police car. They drove back to my school to see if I was telling the truth, and I was left waiting in the car for over two hours. When they came back, they told me I was in fact suspended, but because the school did not provide me with the proper forms, my guardian and I both had to pay tickets for me being off of school property. The tickets together were 600 dollars, and I had a court date for each one. Was forgetting my ID worth missing school? Me being kicked out of school did not solve or help anything. I was at home alone watching Jerry Springer, doing nothing.

4.6.1 Action Item: Education and criminal justice agencies at all levels of government should work together to reform policies and procedures that push children into the juvenile justice system.

86. Listening Session on Community Policing and Crime Prevention (oral testimony of Michael Reynolds for the President’s Task Force on 21st Century Policing, Phoenix, AZ, February 13, 2015).
4.6.2 **Action Item:** In order to keep youth in school and to keep them from criminal and violent behavior, law enforcement agencies should work with schools to encourage the creation of alternatives to student suspensions and expulsion through restorative justice, diversion, counseling, and family interventions.

4.6.3 **Action Item:** Law enforcement agencies should work with schools to encourage the use of alternative strategies that involve youth in decision making, such as restorative justice, youth courts, and peer interventions.

The Federal Government could incentivize schools to adopt this practice by tying federal funding to schools implementing restorative justice practices.

4.6.4 **Action Item:** Law enforcement agencies should work with schools to adopt an instructional approach to discipline that uses interventions or disciplinary consequences to help students develop new behavior skills and positive strategies to avoid conflict, redirect energy, and refocus on learning.

4.6.5 **Action Item:** Law enforcement agencies should work with schools to develop and monitor school discipline policies with input and collaboration from school personnel, students, families, and community members. These policies should prohibit the use of corporal punishment and electronic control devices.

4.6.6 **Action Item:** Law enforcement agencies should work with schools to create a continuum of developmentally appropriate and proportional consequences for addressing ongoing and escalating student misbehavior after all appropriate interventions have been attempted.

4.6.7 **Action Item:** Law enforcement agencies should work with communities to play a role in programs and procedures to reintegrate juveniles back into their communities as they leave the juvenile justice system.

Although this recommendation—and therefore its action items—specifically focuses on juveniles, this task force believes that law enforcement agencies should also work with communities to play a role in re-entry programs for adults leaving prisons and jails.

4.6.8 **Action Item:** Law enforcement agencies and schools should establish memoranda of agreement for the placement of School Resource Officers that limit police involvement in student discipline.

Such agreements could include provisions for special training for School Resource Officers to help them better understand and deal with issues involving youth.

4.6.9 **Action Item:** The Federal Government should assess and evaluate zero tolerance strategies and examine the role of reasonable discretion when dealing with adolescents in consideration of their stages of maturation or development.
4.7 Recommendation: Communities need to affirm and recognize the voices of youth in community decision making, facilitate youth-led research and problem solving, and develop and fund youth leadership training and life skills through positive youth/police collaboration and interactions.

Youth face unique challenges when encountering the criminal justice system. Law enforcement contacts for apparent infractions create trauma and fear in children and disillusionment in youth, but proactive and positive youth interactions with police create the opportunity for coaching, mentoring, and diversion into constructive alternative activities. Moving testimony from a panel of young people allowed the task force members to hear how officers can lead youth out of the conditions that keep them in the juvenile justice system and into self-awareness and self-help.

Phoenix native Jose Gonzales, 21, first went to jail at age nine and had a chaotic childhood, but in turning his life towards a productive and healthy future, he vividly remembers one officer who made a difference:

Needless to say, I have had a fair amount of interaction with law enforcement in my youth. Some has been very positive. Like the time that a School Resource Officer got me involved in an after school club. Officer Bill D. helped me stop being a bad kid and assisted with after school activities. He sought me out to be a part of a club that included all sorts of youth—athletes, academics—and helped me gain confidence in reaching out to other social circles beyond my troubled community. The important idea I’d like to convey is that approach is everything.88

4.7.1 Action Item: Communities and law enforcement agencies should restore and build trust between youth and police by creating programs and projects for positive, consistent, and persistent interaction between youth and police.

4.7.2 Action Item: Communities should develop community- and school-based evidence-based programs that mitigate punitive and authoritarian solutions to teen problems.
PILLAR 5. TRAINING & EDUCATION

Hiring officers who reflect the community they serve is important not only to external relations but also to increasing understanding within the agency.

As our nation becomes more pluralistic and the scope of law enforcement’s responsibilities expands, the need for more and better training has become critical. Today’s line officers and leaders must meet a wide variety of challenges including international terrorism, evolving technologies, rising immigration, changing laws, new cultural mores, and a growing mental health crisis. All states and territories and the District of Columbia should establish standards for hiring, training, and education.

The skills and knowledge required to effectively deal with these issues requires a higher level of education as well as extensive and ongoing training in specific disciplines. The task force discussed these needs in depth, making recommendations for basic recruit and in-service training, as well as leadership development in a wide variety of areas:

- Community policing and problem-solving principles
- Interpersonal and communication skills
- Bias awareness
- Scenario-based, situational decision making
- Crisis intervention
- Procedural justice and impartial policing
- Trauma and victim services
- Mental health issues
- Analytical research and technology
- Languages and cultural responsiveness

Many who spoke before the task force recommended that law enforcement partner with academic institutions; organizations such as the International Association of Chiefs of Police (IACP), the Major Cities Chiefs Association (MCCA), the National Organization of Black Law Enforcement Executives (NOBLE), and the Police Executive Research Forum (PERF); and other sources of appropriate training. Establishing fellowships and exchange programs with other agencies was also suggested.

Other witnesses spoke about the police education now offered by universities, noting that undergraduate criminal justice and criminology programs provide a serviceable foundation but that short courses of mixed quality and even some graduate university degree programs do not come close to addressing the needs of 21st-century law enforcement.

In addition to discussion of training programs and educational expectations, witnesses at the listening session made clear that new approaches to recruitment, hiring, evaluation, and promotion are also essential to developing a more highly educated workforce with the character traits and social skills that enable effective policing and positive community relationships.

To build a police force capable of dealing with the complexity of the 21st century, it is imperative that agencies place value on both educational achievements and socialization skills when making hiring decisions. Hiring officers who reflect the
community they serve is also important not only to external relations but also to increasing understanding within the agency. On the other hand, task force member Constance Rice described the best line officer she knew—White, but better at relating to the African-American community than his Black colleagues. Her recommendation was to look for the character traits that support fairness, compassion, and cultural sensitivity.89

The need for understanding, tolerance, and sensitivity to African Americans, Latinos, recent immigrants, Muslims, and the LGBTQ community was discussed at length at the listening session, with witnesses giving examples of unacceptable behavior in law enforcement’s dealings with all of these groups. Participants also discussed the need to move towards practices that respect all members of the community equally and away from policing tactics that can unintentionally lead to excessive enforcement against minorities.

Witnesses noted that officers need to develop the skills and knowledge necessary in the fight against terrorism by gaining an understanding of the links between normal criminal activity and terrorism, for example. What is more, this training must be ongoing, as threats and procedures for combating terrorism evolve.

The need for realistic, scenario-based training to better manage interactions and minimize using force was discussed by a number of witnesses. Others focused more on content than delivery: Dennis Rosenbaum suggested putting procedural justice at the center of training, not on the fringes.90 Ronal Serpas recommended training on the effects of violence not only on the community and individual victims but also on police officers themselves, noting that exposure to violence can make individuals more prone to violent behavior.91 And witnesses Bruce Lipman and David Friedman both spoke about providing officers with historical perspectives of policing to provide context as to why some communities have negative feelings toward the police and improve understanding of the role of the police in a democratic society.92

Though today’s law enforcement professionals are highly trained and highly skilled operationally, they must develop specialized knowledge and understanding that enable fair and procedurally just policing and allow them to meet a wide variety of new challenges and expectations. Tactical skills are important, but attitude, tolerance, and interpersonal skills are equally so. And to be effective in an ever-changing world, training must continue throughout an officer’s career.

The goal is not only effective, efficient policing but also procedural justice and fairness. Following are the task force’s recommendations for implementing career-long education and training practices for law enforcement in the 21st century.

90. Listening Session on Community Policing and Crime Reduction: Community Policing and Crime Prevention Research (oral testimony of Dennis Rosenbaum, professor, University of Illinois at Chicago, for the President’s Task Force on 21st Century Policing, Phoenix, AZ, February 13, 2015).
91. Listening Session on Training and Education: Special Training on Building Trust (oral testimony of Ronal Serpas, advisory board member, Cure Violence Chicago, for the President’s Task Force on 21st Century Policing, Phoenix, AZ, February 14, 2015).
92. Listening Session on Training and Education: Special Training on Building Trust (oral testimony of David C. Friedman, director of National Law Enforcement Initiatives, Anti-Defamation League, for the President’s Task Force on 21st Century Policing, Phoenix, AZ, February 14, 2015); Listening Session on Training and Education: Special Training on Building Trust (oral testimony of Bruce Lipman, Procedural Justice Training, for the President’s Task Force on 21st Century Policing, Phoenix, AZ, February 14, 2015).
5.1 RECOMMENDATION: The Federal Government should support the development of partnerships with training facilities across the country to promote consistent standards for high quality training and establish training innovation hubs.

A starting point for changing the culture of policing is to change the culture of training academies. The designation of certain training academies as federally supported regional “training innovation hubs” could act as leverage points for changing training culture while taking into consideration regional variations. Federal funding would be a powerful incentive to these designated academies to conduct the necessary research to develop and implement the highest quality curricula focused on the needs of 21st century American policing, along with cutting-edge delivery modalities.

5.1.1 Action Item: The training innovation hubs should develop replicable model programs that use adult-based learning and scenario-based training in a training environment modeled less like boot camp. Through these programs the hubs would influence nationwide curricula, as well as instructional methodology.

5.1.2 Action Item: The training innovation hubs should establish partnerships with academic institutions to develop rigorous training practices, evaluation, and the development of curricula based on evidence-based practices.

5.1.3 Action Item: The U.S. Department of Justice should build a stronger relationship with the International Association of Directors of Law
Enforcement (IADLEST) in order to leverage their network with state boards and commissions of Peace Officer Standards and Training (POST).

The POSTs are critical to the development and implementation of statewide training standards and the certification of instructors and training courses, as well as integral to facilitating communication, coordination, and influence with the more than 650 police academies across the nation. This relationship would also serve as a pipeline for disseminating information and creating discussion around best practices.

5.2 Recommendation: Law enforcement agencies should engage community members in the training process.

Not only can agencies make important contributions to the design and implementation of training that reflects the needs and character of their communities but it is also important for police training to be as transparent as possible. This will result in both a better informed public and a better informed officer.

Where appropriate and through managed programs, the community would

- learn about and evaluate the existing training within departments;
- provide input into shaping that some training content and delivery;
- in some cases, participate in training alongside officers.

5.2.1 Action Item: The U.S. Department of Justice should conduct research to develop and disseminate a toolkit on how law enforcement agencies and training programs can integrate community members into this training process.

5.3 Recommendation: Law enforcement agencies should provide leadership training to all personnel throughout their careers.

Standards and programs need to be established for every level of leadership from the first line to middle management to executive leadership. If there is good leadership and procedural justice within the agency, the officers are more likely to behave according to those standards in the community. As Chief Edward Flynn of the Milwaukee Police Department noted, “Flexible, dynamic, insightful, ethical leaders are needed to develop the informal social control and social capital required for a civil society to flourish.”

One example of leadership training is Leading Police Organizations, a program developed by the IACP and modeled after the West Point Leadership Program, which offers training for all levels of agency management in programs based on a behavioral science approach to leading people groups, change, and organizations, focusing on the concept of “every officer a leader.”

5.3.1 Action Item: Recognizing that strong, capable leadership is required to create cultural transformation, the U.S. Department of Justice should invest in developing learning goals and model curricula/training for each level of leadership.

This training should focus on organizational procedural justice, community policing, police accountability, teaching, coaching, mentoring, and communicating with the media and the public. Chief Kim Jacobs noted this in her testimony discussing current issues with training on reviewing investigations of police actions and prepare comprehensive reports for all stakeholders.

93. Listening Session on Training and Education (oral testimony of Edward Flynn, chief, Milwaukee Police Department, for the President’s Task Force on 21st Century Policing, Phoenix, AZ, February 14, 2015).
including the media and citizens. These standards should also influence requirements for promotion and continuing/ongoing education should also be required to maintain leadership positions.

**5.3.2 Action Item:** The Federal Government should encourage and support partnerships between law enforcement and academic institutions to support a culture that values ongoing education and the integration of current research into the development of training, policies, and practices.

**5.3.3 Action Item:** The U.S. Department of Justice should support and encourage cross-discipline leadership training.

This can be within the criminal justice system but also across governments, nonprofits, and the private sector, including social services, legal aid, businesses, community corrections, education, the courts, mental health organizations, civic and religious organizations, and others. When people come together from different disciplines and backgrounds, there is a cross-fertilization of ideas that often leads to better solutions. Furthermore, by interacting with a more diverse group of professionals, police can establish a valuable network of contacts whose knowledge and skills differ from but complement their own. This opportunity does exist for front-line staff on a variety of specialized topics but also needs to happen at decision/policy maker levels. For example, the National Alliance for Drug Endangered Children is an especially appropriate model for the value of cross-discipline training. Their written testimony to the task force explains how their training approach focuses on the formation of community partnerships that engage law enforcement and professionals from multiple disciplines to collaboratively identify and protect drug endangered children and their families.

**5.4 Recommendation:** The U.S. Department of Justice should develop, in partnership with institutions of higher education, a national postgraduate institute of policing for senior executives with a standardized curriculum preparing them to lead agencies in the 21st century.

To advance American law enforcement, we must advance its leadership. To that end, the task force recommends the establishment of a top quality graduate institute of policing to provide ongoing leadership training, education, and research programs which will enhance the quality of law enforcement culture, knowledge, skills, practices and policies. Modeled after the Naval Postgraduate School in Monterey, California, this institute will be staffed with subject matter experts and instructors drawn from the nation’s top educational institutions, who will focus on the real world problems that challenge today’s and tomorrow's law enforcement, teaching practical skills and providing the most current information for improving policing services throughout the nation. This institute could even, as witness Lawrence Sherman proposed, “admit qualified applicants to a three-month residential course for potential police executives, concluding in an assessment center and examination that would certify qualified graduates to serve as chief police executives anywhere in the United States.”

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94. Listening Session on Training and Education (oral testimony of Kim Jacobs, chief, Columbus (OH) Division of Police, for the President’s Task Force on 21st Century Policing, Phoenix, AZ, February 14, 2015).

95. Listening Session on Training and Education (written testimony of the National Alliance for Drug Endangered Children for the President’s Task Force on 21st Century Policing, Phoenix, AZ, February 14, 2015).

96. Listening Session on The Future of Community Policing (oral testimony of Lawrence Sherman, Wolfson Professor of Criminology, University of Cambridge, and Distinguished University Professor, University of Maryland, for the President’s Task Force on 21st Century Policing, Washington, DC, February 24, 2015).
5.5 Recommendation: The U.S. Department of Justice should instruct the Federal Bureau of Investigation to modify the curriculum of the National Academy at Quantico to include prominent coverage of the topical areas addressed in this report. In addition, the COPS Office and the Office of Justice Programs should work with law enforcement professional organizations to encourage modification of their curricula in a similar fashion.97

The Office of Community Oriented Policing Services (COPS Office) and the Office of Justice Programs (OJP) should work with the law enforcement professional organizations to encourage modification of their curricula—for example, the Senior Management Institute for Police run by PERF and the Police Executive Leadership Institute managed by the Major Cities Chiefs Association.

5.6 Recommendation: POSTs should make Crisis Intervention Training (CIT) a part of both basic recruit and in-service officer training.

Crisis intervention training (CIT) was developed in Memphis, Tennessee, in 1988 and has been shown to improve police ability to recognize symptoms of a mental health crisis, enhance their confidence in addressing such an emergency, and reduce inaccurate beliefs about mental illness.98 It has been found that after completing CIT orientation, officers felt encouraged to interact with people suffering a mental health crisis and to delay their “rush to resolution.”99 Dr. Randolph Dupont, Chair of the Department of Criminology and Criminal Justice at the University of Memphis, spoke to the task force about the effectiveness of the Memphis Crisis Intervention Team (CIT), which stresses verbal intervention and other de-escalation techniques.

Noting that empathy training is an important component, Dr. Dupont said the Memphis CIT includes personal interaction between officers and individuals with mental health problems. Officers who had contact with these individuals felt more comfortable with them, and hospital mental health staff who participated with the officers had more positive views of law enforcement. CIT also provides a unique opportunity to develop cross-disciplinary training and partnerships.

5.6.1 Action Item: Because of the importance of this issue, Congress should appropriate funds to help support law enforcement crisis intervention training.

5.7 Recommendation: POSTs should ensure that basic officer training includes lessons to improve social interaction as well as tactical skills.

These include topics such as critical thinking, social intelligence, implicit bias, fair and impartial policing, historical trauma, and other topics that address capacity to build trust and legitimacy in diverse communities and offer better skills for gaining compliance without the use of physical force.

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97. Listening Session on Training and Education: Supervisory, Leadership and Management Training (oral testimony of Kimberly Jacobs, chief, Columbus [OH] Division of Police, for the President’s Task Force on 21st Century Policing, Phoenix, AZ, February 14, 2015); Listening Session on Training and Education (e-mail of Annie McKee, senior fellow, University of Pennsylvania, for the President’s Task Force on 21st Century Policing, Phoenix, AZ, February 13–14, 2015); Listening Session on Training and Education (written testimony of Anthony Braga et al. for the President’s Task Force on 21st Century Policing, Phoenix, AZ, February 13–14, 2015).


force. Basic recruit training must also include tactical and operations training on lethal and nonlethal use of force with an emphasis on de-escalation and tactical retreat skills.

5.8 Recommendation: POSTs should ensure that basic recruit and in-service officer training include curriculum on the disease of addiction.

It is important that officers be able to recognize the signs of addiction and respond accordingly when they are interacting with people who may be impaired as a result of their addiction. Science has demonstrated that addiction is a disease of the brain—a disease that can be prevented and treated and from which people can recover. The growing understanding of this science has led to a number of law enforcement agencies equipping officers with overdose-reversal drugs such as naloxone and the passage of legislation in many states that shield any person from civil and criminal liability if they administer naloxone.

The Obama Administration’s drug policy reflects this understanding and emphasizes access to treatment over incarceration, pursuing “smart on crime” rather than “tough on crime” approaches to drug-related offenses, and support for early health interventions designed to break the cycle of drug use, crime, incarceration, and re-arrest.100 And the relationship between incarceration and addiction is a significant one. A 2004 survey by the U.S.

Department of Justice estimated that about 70 percent of state and 64 percent of federal prisoners regularly used drugs prior to incarceration.\(^{101}\)

### 5.9 Recommendation: POSTs should ensure both basic recruit and in-service training incorporates content around recognizing and confronting implicit bias and cultural responsiveness.

As the nation becomes more diverse, it will become increasingly important that police officers be sensitive to and tolerant of differences. It is vital that law enforcement provide training that recognizes the unique needs and characteristics of minority communities, whether they are victims or witnesses of crimes, subjects of stops, or criminal suspects.

Keeshan Harley, a young Black man, testified that he estimates that he’s been stopped and frisked more than 100 times and that he felt that the problem is not just a few individual bad apples, but the systemic way policing treats certain communities—including low-income and young people, African Americans, LGBTQ people, the homeless, immigrants, and people with psychiatric disabilities. In so doing, police have produced communities of alienation and resentment.\(^{102}\) He is arguably not alone in his opinions, given that research has shown that “of those involved in traffic and street stops, a smaller percentage of Blacks than Whites believed the police behaved properly during the stop.”\(^{103}\)

And in a 2012 survey of LGBTQ/HIV contact with police, 25 percent of respondents with any recent police contact reported at least one type of misconduct or harassment, such as being accused of an offense they did not commit, verbal assault, being arrested for an offense they did not commit, sexual harassment, physical assault, or sexual assault.\(^{104}\)

### 5.9.1 Action Item: Law enforcement agencies should implement ongoing, top down training for all officers in cultural diversity and related topics that can build trust and legitimacy in diverse communities. This should be accomplished with the assistance of advocacy groups that represent the viewpoints of communities that have traditionally had adversarial relationships with law enforcement.

### 5.9.2 Action Item: Law enforcement agencies should implement training for officers that covers policies for interactions with the LGBTQ population, including issues such as determining gender identity for arrest placement, the Muslim, Arab, and South Asian communities, and immigrant or non-English speaking groups, as well as reinforcing policies for the prevention of sexual misconduct and harassment.

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\(^{102}\)  Listening Session on Training and Education: Voices in the Community (oral testimony of Keeshan Harley, member, Communities United for Police Reform, for the President’s Task Force on 21st Century Policing, Phoenix, AZ, February 14, 2015); see also Tracey L. Meares, “Programming Errors: Understanding the Constitutionality of Stop-and-Frisk as a Program, Not an Incident,” University of Chicago Law Review (forthcoming).

\(^{103}\)  Langton and Durose, Traffic and Street Stops, 2011 (see note 42).

Table 3. College degree requirements for full-time instructors in state and local law enforcement training academies, by type of operating agency, 2006

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<th>Primary operating agency</th>
<th>Total percentage of academies with a minimum educational requirement that included a college degree</th>
<th>Percentage of academies requiring a 4-year degree</th>
<th>Percent of academies requiring a 2-year degree</th>
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<tr>
<td>All types</td>
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<tr>
<td>State police</td>
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<td>7</td>
<td>5</td>
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<td>Sheriff’s office</td>
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<td>0</td>
<td>2</td>
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</tr>
<tr>
<td>Other types</td>
<td>8</td>
<td>8</td>
<td>0</td>
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</table>


5.10 Recommendation: POSTs should require both basic recruit and in-service training on policing in a democratic society.

Police officers are granted a great deal of authority, and it is therefore important that they receive training on the constitutional basis of and the proper use of that power and authority. Particular focus should be placed on ensuring that Terry stops\(^{105}\) are conducted within constitutional guidelines.

5.11 Recommendation: The Federal Government, as well as state and local agencies, should encourage and incentivize higher education for law enforcement officers.

While many believe that a higher level of required education could raise the quality of officer performance, law enforcement also benefits from a diverse range of officers who bring their cultures, languages, and life experiences to policing.

Offering entry level opportunities to recruits without a college degree can be combined with the provision of means to obtain higher education throughout their career, thereby ensuring the benefits of a diverse staff with a well-educated police force and an active learning culture. Current student loan programs allow repayment based on income, and some already provide tuition debt forgiveness after 120 months of service in the government or nonprofit sector.

5.11.1 Action Item: The Federal Government should create a loan repayment and forgiveness incentive program specifically for policing.

This could be modeled on similar programs that already exist for government service and other fields or the reinstitution of funding for programs such as the 1960s and 70s Law Enforcement Education Program.

\(^{105}\) Terry v. Ohio, 392 U.S. 1 (1968).
5.12 **Recommendation:** The Federal Government should support research into the development of technology that enhances scenario-based training, social interaction skills, and enables the dissemination of interactive distance learning for law enforcement.

This will lead to new modalities that enhance the effectiveness of the learning experience, reduce instructional costs, and ensure the broad dissemination of training through platforms that do not require time away from agencies.

This would be especially helpful for smaller and more rural departments who cannot spare the time for their officers to participate in residential/in-person training programs. Present day technologies should also be employed more often—web-based learning, behavior evaluations through body worn camera videos, software programs for independent learning, scenario-based instruction through videos, and other methods. This can also increase access to evidence-based research and other sources of knowledge.

5.13 **Recommendation:** The U.S. Department of Justice should support the development and implementation of improved Field Training Officer programs.

This is critical in terms of changing officer culture. Field Training Officers impart the organizational culture to the newest members. The most common current program, known as the San Jose Model, is more than 40 years old and is not based on current research knowledge of adult learning modalities. In many ways it even conflicts with innovative training strategies that encourage problem-based learning and support organizational procedural justice.

5.13.1 **Action Item:** The U.S. Department of Justice should support the development of broad Field Training Program standards and training strategies that address changing police culture and organizational procedural justice issues that agencies can adopt and customize to local needs.

A potential model for this is the Police Training Officer program developed by the COPS Office in collaboration with PERF and the Reno (Nevada) Police Department. This problem-based learning strategy used adult learning theory and problem solving tools to encourage new officers to think with a proactive mindset, enabling the identification of and solution to problems within their communities.

5.13.2 **Action Item:** The U.S. Department of Justice should provide funding to incentivize agencies to update their Field Training Programs in accordance with the new standards.
PILLAR 6. OFFICER WELLNESS & SAFETY

The wellness and safety of law enforcement officers is critical not only to themselves, their colleagues, and their agencies but also to public safety.

Most law enforcement officers walk into risky situations and encounter tragedy on a regular basis. Some, such as the police who responded to the carnage of Sandy Hook Elementary School, witness horror that stays with them for the rest of their lives. Others are physically injured in carrying out their duties, sometimes needlessly, through mistakes made in high stress situations. The recent notable deaths of officers are stark reminders of the risk officers face. As a result, physical, mental, and emotional injuries plague many law enforcement agencies.

However, a large proportion of officer injuries and deaths are not the result of interaction with criminal offenders but the outcome of poor physical health due to poor nutrition, lack of exercise, sleep deprivation, and substance abuse. Yet these causes are often overlooked or given scant attention. Many other injuries and fatalities are the result of vehicular accidents.

The wellness and safety of law enforcement officers is critical not only to themselves, their colleagues, and their agencies but also to public safety. An officer whose capabilities, judgment, and behavior are adversely affected by poor physical or psychological health not only may be of little use to the community he or she serves but also may be a danger to the community and to other officers. As task force member Tracey Meares observed, “Hurt people can hurt people.”

Commenting on the irony of law enforcement’s lack of services and practices to support wellness and safety, Dr. Laurence Miller observed in his testimony that supervisors would not allow an officer to go on patrol with a deficiently maintained vehicle, an un-serviced duty weapon, or a malfunctioning radio—but pay little attention to the maintenance of what is all officers’ most valuable resource: their brains.

Officer suicide is also a problem: a national study using data of the National Occupational Mortality Surveillance found that police died from suicide 2.4 times as often as from homicides. And though depression resulting from traumatic experiences is often the cause, routine work and life stressors—serving hostile communities, working long shifts, lack of family or departmental support—are frequent motivators too.

In this pillar, the task force focused on many of the issues that impact and are impacted by officer wellness and safety, focusing on strategies in several areas: physical, mental, and emotional health; vehicular accidents; officer suicide; shootings and assaults; and the partnerships with social services, unions, and other organizations that can support solutions.

106. Listening Session on Officer Safety and Wellness (comment of Tracey Meares, task force member, for the President’s Task Force on 21st Century Policing, Washington, DC, February 23, 2015).

107. Listening Session on Officer Safety and Wellness (oral testimony of Laurence Miller, psychologist, for the President’s Task Force on 21st Century Policing, Washington, DC, February 23, 2015).
Physical injuries and death in the line of duty, while declining, are still too high. According to estimates of U.S. Bureau of Labor Statistics, more than 100,000 law enforcement professionals are injured in the line of duty each year. Many are the result of assaults, which underscores the need for body armor, but most are due to vehicular accidents.

To protect against assaults, Orange County (Florida) Sheriff Jerry Demings talked about immersing new officers in simulation training that realistically depicts what they are going to face in the real world. “I subscribe to an edict that there is no substitute for training and experience . . . deaths and injuries can be prevented through training that is both realistic and repetitive.”

But to design effective training first requires collecting substantially more information about the nature of injuries sustained by officers on the job. Dr. Alexander Eastman’s testimony noted that the field of emergency medicine involves the analysis of vast amounts of data with regard to injuries in order to improve prevention as well as treatment.

In order to make the job of policing more safe, a nationwide repository for (law enforcement officer) injuries sustained is desperately needed. A robust database of this nature, analyzed by medical providers and scientists involved in law enforcement, would allow for recommendations in tactics, training, equipment, medical care and even policies/procedures that are grounded in that interface between scientific evidence, best medical practice, and sound policing.

Poor nutrition and fitness are also serious threats, as is sleep deprivation. Many errors in judgment can be traced to fatigue, which also makes it harder to connect with people and control emotions. But administrative changes such as reducing work shifts can improve officer’s feelings of well-being, and the implementation of mental health strategies can lessen the impact of the stress and trauma.

However, the most important factor to consider when discussing wellness and safety is the culture of law enforcement, which needs to be transformed. Support for wellness and safety should permeate all practices and be expressed through changes in procedures, requirements, attitudes, and behaviors. An agency work environment in which officers do not feel they are respected, supported, or treated fairly is one of the most common sources of stress. And research indicates that officers who feel respected by their supervisors are more likely to accept and voluntarily comply with departmental policies. This transformation should also overturn the tradition of silence on psychological problems, encouraging officers to seek help without concern about negative consequences.

Partnerships are another crucial element. An agency cannot successfully tackle these issues without partners such as industrial hygienists, chaplains, unions, and mental health providers. But no program can succeed without buy-in from agency leadership as well as the rank and file.

The “bulletproof cop” does not exist. The officers who protect us must also be protected—against incapacitating physical, mental, and emotional health problems as well as against the hazards of their job. Their wellness and safety are crucial for them, their colleagues, and their agencies, as well as the well-being of the communities they serve.

108. Listening Session on Officer Safety and Wellness: Officer Safety (oral testimony of Jerry Demings, sheriff, Orange County, FL, for the President’s Task Force on 21st Century Policing, Washington, DC, February 23, 2015).

109. Listening Session on Officer Safety and Wellness: Officer Safety (oral testimony of Dr. Alexander Eastman, lieutenant and deputy medical director, Dallas Police Department, for the President’s Task Force on 21st Century Policing, Washington, DC, February 23, 2015).
6.1 **Recommendation:** The U.S. Department of Justice should enhance and further promote its multi-faceted officer safety and wellness initiative.

As noted by all task force members during the listening session, officer wellness and safety supports public safety. Officers who are mentally or physically incapacitated cannot serve their communities adequately and can be a danger to the people they serve, to their fellow officers, and to themselves.

6.1.1 **Action Item:** Congress should establish and fund a national “Blue Alert” warning system.

Leveraging the current Amber Alert program used to locate abducted children, the Blue Alert would enlist the help of the public in finding suspects after a law enforcement officer is killed in the line of duty. Some similar state systems do exist, but there are large gaps; a national system is needed. In addition to aiding the apprehension of suspects, it would send a message about the importance of protecting law enforcement from undue harm.

6.1.2 **Action Item:** The U.S. Department of Justice, in partnership with the U.S. Department of Health and Human Services, should establish a task force to study mental health issues unique to officers and recommend tailored treatments.

Law enforcement officers are subject to more stress than the general population owing to the nature of their jobs. In addition to working with difficult—even hostile—individuals, responding to tragic events, and sometimes coming under fire themselves, they suffer from the effects of everyday stressors—the most acute of which often come from their agencies, because of confusing messages or non-supportive management; and their families, who do not fully understand the pressures the officers face on the job. And as witness Laurence Miller said, “When both work and family relations fray, the individual’s coping abilities can be stretched to the limit, resulting in alcohol abuse, domestic violence, overaggressive policing, even suicide.”

110. Listening Session on Officer Safety and Wellness (oral testimony of Laurence Miller, psychologist, for the President’s Task Force on 21st Century Policing, Washington, DC, February 23, 2015).
To add to the problems of those suffering from psychological distress, law enforcement culture has not historically supported efforts to treat or even acknowledged mental health problems, which are usually seen as a sign of “weakness.” The challenges and treatments of mental health issues should therefore be viewed within the context of law enforcement’s unique culture and working environment.

This task force should also look to establish a national toll-free mental health hotline specifically for police officers. This would be a fast, easy, and confidential way for officers to get advice whenever they needed to; and because they would be anonymous, officers would be more likely to take advantage of this resource. Since nobody understands the challenges an officer faces like another officer, it should be peer driven—anonymously connecting callers to officers who are not in the same agency and who could refer the caller to professional help if needed. An advisory board should be formed to guide the creation of this hotline service.

6.1.3 **Action Item:** The Federal Government should support the continuing research into the efficacy of an annual mental health check for officers, as well as fitness, resilience, and nutrition.

Currently, most mental health checks are ordered as interventions for anger management or substance abuse and are ordered reactively after an incident. Mental health checks need to be more frequent to prevent problems. Because officers are exposed to a wide range of stressors on a continuous basis as part of their daily routines, mental and physical health check-ups should be conducted on an ongoing basis. Furthermore, officer nutrition and fitness issues change with time, varying widely from those of the new academy graduate to those of the veteran who has spent the last five years sitting in a squad car. Many health problems—notably cardiac issues—are cumulative.

6.1.4 **Action Item:** Pension plans should recognize fitness for duty examinations as definitive evidence of valid duty or non-duty related disability.

Officers who have been injured in the line of duty can exist in limbo, without pay, unable to work but also unable to get benefits because the “fitness for duty” examinations given by their agencies are not recognized as valid proof of disability. And since officers, as public servants, cannot receive social security, they can end up in a precarious financial state.

6.1.5 **Action Item:** Public Safety Officer Benefits (PSOB) should be provided to survivors of officers killed while working, regardless of whether the officer used safety equipment (seatbelt or anti-ballistic vest) or if officer death was the result of suicide attributed to a current diagnosis of duty-related mental illness, including but not limited to post-traumatic stress disorder (PTSD).

Families should not be penalized because an officer died in the line of duty but was not wearing a seat belt or body armor. Though these precautions are very important and strongly encouraged, there are occasions when officers can be more effective without them.\(^\text{111}\)

A couple of situations were mentioned by task force member Sean Smoot, who described the efforts of an officer who took off his seat belt to tend to the injuries of a victim in the back of the car as his partner sped to the hospital. Another\(^\text{111}\)

\(^\text{111}^\) Listening Session on Officer Safety and Wellness: Voices from the Field (oral testimony of William Johnson, executive director, National Association of Police Organizations, for the President’s Task Force on 21st Century Policing, Washington, DC, February 23, 2015).
scenario he mentioned was the rescue of a drowning woman by an officer who shed his heavy body armor to go into the water. Charles Ramsey, task force co-chair, also noted that these types of situations could be further mitigated by the invention of seatbelts that officers could quickly release without getting tangled on their belts, badges, and radios, as well as body armor that is lighter and more comfortable.

6.2 Recommendation: Law enforcement agencies should promote safety and wellness at every level of the organization.

Safety and wellness issues affect all law enforcement professionals, regardless of their management status, duty, or tenure. Moreover, line officers are more likely to adopt procedures or change practices if they are advised to do so by managers who also model the behavior they encourage. According to witness David Orr, buy-in from the leaders as well as the rank and file is essential to the success of any program.112

6.2.1 Action Item: Though the Federal Government can support many of the programs and best practices identified by the U.S. Department of Justice initiative described in recommendation 6.1, the ultimate responsibility lies with each agency.

Though legislation and funding from the Federal Government is necessary in some cases, most of the policies, programs, and practices recommended by the task force can and should be implemented at the local level. It is understood, however, that there are no “one size fits all” solutions and that implementation will vary according to agency size, location, resources, and other factors.

6.3 Recommendation: The U.S. Department of Justice should encourage and assist departments in the implementation of scientifically supported shift lengths by law enforcement.

It has been established by significant bodies of research that long shifts can not only cause fatigue, stress, and decreased ability to concentrate but also lead to other more serious consequences.113 Fatigue and stress undermine not only the immune system but also the ability to work at full capacity, make decisions, and maintain emotional equilibrium. Though long shifts are understandable in the case of emergencies, as a standard practice they can lead to poor morale, poor job performance, irritability, and errors in judgment that can have serious, even deadly, consequences.

6.3.1 Action Item: The U.S. Department of Justice should fund additional research into the efficacy of limiting the total number of hours an officer should work within a 24–48-hour period, including special findings on the maximum number of hours an officer should work in a high risk or high stress environment (e.g., public demonstrations or emergency situations).

112. Listening Session on Officer Safety and Wellness (oral testimony of David Orr, sergeant, Norwalk [CT] Police Department, to the President’s Task Force on 21st Century Policing, Washington, DC, February 23, 2015).

6.4 Recommendation: Every law enforcement officer should be provided with individual tactical first aid kits and training as well as anti-ballistic vests.

Task force witness Dr. Alexander Eastman, who is a trauma surgeon as well as a law enforcement professional, noted that tactical first aid kits would significantly reduce the loss of both officer and civilian lives due to blood loss. Already available to members of the military engaged in combat missions, these kits are designed to save lives by controlling hemorrhaging. They contain tourniquets, an Olaes modular bandage, and QuikClot gauze and would be provided along with training in hemorrhage control. Dr. Eastman estimated that the kits could cost less than $50 each and require about two hours of training, which could be provided through officers who have completed “train the trainer” programs.114

This would be a national adoption of the Hartford Consensus, which calls for agencies to adopt hemorrhage control as a core law enforcement skill and to integrate rescue/emergency medical services personnel into community-wide active shooter preparedness and training. These activities would complement the current “Save Our Own” law enforcement-based hemorrhage control programs.115

To further reduce officer deaths, the task force also strongly recommends the provision of body armor to all officers with replacements when necessary.

6.4.1 Action Item: Congress should authorize funding for the distribution of law enforcement individual tactical first aid kits.

6.4.2 Action Item: Congress should reauthorize and expand the Bulletproof Vest Partnership (BVP) program.

Created by statute in 1998, this program is a unique U.S. Department of Justice initiative designed to provide a critical resource to state and local law enforcement. Based on data collected and recorded by Bureau of Justice Assistance staff,

114. Listening Session on Officer Safety and Wellness: Officer Safety (oral testimony of Dr. Alexander Eastman, lieutenant and deputy medical director, Dallas Police Department, for the President’s Task Force on 21st Century Policing, Washington, DC, February 23, 2015).

in FY 2012 protective vests were directly attributed to saving the lives of at least 33 law enforcement and corrections officers.

**6.5 Recommendation:** The U.S. Department of Justice should expand efforts to collect and analyze data not only on officer deaths but also on injuries and “near misses.”

Another recommendation mentioned by multiple witnesses is the establishment of a nationwide repository of data on law enforcement injuries, deaths, and near misses. Though the Federal Bureau of Investigation (FBI) does maintain a database of information pertinent to police procedures on officers killed in the line of duty, it does not contain the medical details that could be analyzed by medical providers and scientists to improve medical care, tactics, training, equipment, and procedures that would prevent or reduce injuries and save lives. The Police Foundation, with the support of a number of other law enforcement organizations, launched an online Law Enforcement Near Miss Reporting System in late 2014, but it is limited in its ability to systematically analyze national trends in this important data by its voluntary nature. By

**6.6 Recommendation:** Law enforcement agencies should adopt policies that require officers to wear seat belts and bullet-proof vests and provide training to raise awareness of the consequences of failure to do so.

According to task force witness Craig Floyd, traffic accidents have been the number one cause of officer fatalities in recent years, and nearly half of those officers were not wearing seat belts. He suggests in-car cameras and seat belt sensors to encourage use along with aggressive safety campaigns. Some witnesses endorsed mandatory seat belt policies as well.

The Prince George’s County (Maryland) Arrive Alive Campaign initiated by task force witness Chief Mark Magraw to promote 100 percent seat belt usage relied on incentives and peer pressure for success. The message was, “it is not just about you, it is also about your family and your department.”

There were also many calls for mandatory requirements that all officers wear soft body armor any time they are going to be engaging in enforcement activities, uniformed or not. It was also suggested that law enforcement agencies be required to provide these for all commissioned personnel.

**6.7 Recommendation:** Congress should develop and enact peer review error management legislation.

The task force recommends that Congress enact legislation similar to the Healthcare Quality Improvement Act of 1986 that would support the development of an effective peer review error management system for law enforcement similar to what exists in medicine. A robust but nonpunitive peer review error management program—in which law enforcement officers could openly and frankly discuss their own or others’ mistakes or

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117. Listening Session on Officer Safety and Wellness (oral testimony of Craig Floyd, National Law Enforcement Officer Memorial Foundation, for the President’s


119. The Health Care Quality Improvement Act of 1986 (HCQIA), 42 USC §11101 et seq., sets out standards for professional review actions. If a professional review body meets these standards, then neither the professional review body nor any person acting as a member or staff to the body will be liable in damages under most federal or state laws with respect to the action. For more information, see “Medical Peer Review,” American Medical Association, accessed February 28, 2015, http://www.ama-assn.org/ama/pub/physician-resources/legal-topics/medical-peer-review.page.

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near misses without fear of legal repercussions—would go a long way toward reducing injuries and fatalities by improving tactics, policies, and procedures. Protecting peer review error management findings from being used in legal discovery would enable the widespread adoption of this program by law enforcement.

The Near Miss anonymous reporting system developed by the Police Foundation in Washington, D.C., currently collects anonymous data that can be very helpful in learning from and preventing mistakes, fatalities, and injuries—but a program that enabled peer review of errors would provide even more valuable perspectives and solutions.

6.8 RECOMMENDATION: The U.S. Department of Transportation should provide technical assistance opportunities for departments to explore the use of vehicles equipped with vehicle collision prevention “smart car” technology that will reduce the number of accidents.

Given that the FBI’s 2003 to 2012 Law Enforcement Officers Killed in Action report showed that 49 percent of officer fatalities were a result of vehicle-related accidents, the need for protective devices cannot be understated. New technologies such as vehicle collision prevention systems should be explored.

Figure 3. Total law enforcement fatalities from 1964–2014

IMPLEMENTATION

The members of the President’s Task Force on 21st Century Policing are convinced that these 59 concrete recommendations for research, action, and further study will bring long-term improvements to the ways in which law enforcement agencies interact with and bring positive change to their communities. But we also recognize that the Administration, through policies and practices already in place, can start right now to move forward on the bedrock recommendations in this report. Accordingly, we propose the following items for immediate action.

7.1 Recommendation: The President should direct all federal law enforcement agencies to review the recommendations made by the Task Force on 21st Century Policing and, to the extent practicable, to adopt those that can be implemented at the federal level.

7.2 Recommendation: The U.S. Department of Justice should explore public-private partnership opportunities, starting by convening a meeting with local, regional, and national foundations to discuss the proposals for reform described in this report and seeking their engagement and support in advancing implementation of these recommendations.

7.3 Recommendation: The U.S. Department of Justice should charge its Office of Community Oriented Policing Services (COPS Office) with assisting the law enforcement field in addressing current and future challenges.

For recommendation 7.3, the COPS Office should consider taking actions including but not limited to the following:

- Create a National Policing Practices and Accountability Division within the COPS Office.
- Establish national benchmarks and best practices for federal, state, local, and tribal police departments.
- Provide technical assistance and funding to national, state, local, and tribal accreditation bodies that evaluate policing practices.
- Recommend additional benchmarks and best practices for state training and standards boards.
- Provide technical assistance and funding to state training boards to help them meet national benchmarks and best practices in training methodologies and content.
- Prioritize grant funding to departments meeting benchmarks.
- Support departments through an expansion of the COPS Office Collaborative Reform Initiative.
- Collaborate with universities, the Office of Justice Programs and its bureaus (Bureau of Justice Assistance [BJA], Bureau of Justice Statistics [BJS], National Institute of Justice [NIJ], and Office of Juvenile Justice and Delinquency Prevention [OJJDP]), and others to review research and literature in order to inform law enforcement agencies about evidence-based practices and to identify areas of police operations where additional research is needed.
- Collaborate with the BJS to
  - establish a central repository for data concerning police use of force resulting in death, as well as in-custody deaths, and disseminate this data for use by both community and police;
• Provide local agencies with technical assistance and a template to conduct local citizen satisfaction surveys;

• Compile annual citizen satisfaction surveys based on the submission of voluntary local surveys, develop a national level survey as well as surveys for use by local agencies and by small geographic units, and develop questions to be added to the National Crime Victimization Survey relating to citizen satisfaction with police agencies and public trust.

• Collaborate with the BJS and others to develop a template of broader indicators of performance for police departments beyond crime rates alone that could comprise a Uniform Justice Report.

• Collaborate with the NIJ and the BJS to publish an annual report on the “State of Policing” in the United States.

• Provide support to national police leadership associations and national rank and file organizations to encourage them to implement task force recommendations.

• Work with the U.S. Department of Homeland Security to ensure that community policing tactics in state, local, and tribal law enforcement agencies are incorporated into their role in homeland security.
APPENDIX A. PUBLIC LISTENING SESSIONS & WITNESSES

The President’s Task Force on 21st Century Policing hosted multiple public listening sessions to gain broad input and expertise from stakeholders. The information collected in these meetings informed and advised the task force in developing its recommendations.

Listening Session 1. Building Trust & Legitimacy
Washington, D.C., January 13, 2015
Panel One: Subject Matter Experts
Jennifer Eberhardt, Associate Professor of Psychology, Stanford University
Charles Ogletree, Jesse Climenko Professor of Law, Harvard Law School
Tom Tyler, Macklin Fleming Professor of Law and Professor of Psychology, Yale Law School
Samuel Walker, Emeritus Professor of Criminal Justice, University of Nebraska Omaha
Panel Two: Community Representatives
Carmen Perez, Executive Director, The Gathering for Justice
Jim St. Germain, Co-Founder, Preparing Leaders of Tomorrow, Inc.
Jim Winkler, President and General Secretary, National Council of Churches of Christ in the USA
Panel Three: Law Enforcement Organizations
Richard Beary, President, International Association of Chiefs of Police
Chuck Canterbury, National President, Fraternal Order of Police
Andrew Peralta, National President, National Latino Peace Officers Association
Richard Stanek, Immediate Past President, Major County Sheriffs’ Association
Panel Four: Civil Rights / Civil Liberties
Sherrilyn Ifill, President and Director-Counsel, National Association for the Advancement of Colored People Legal Defense and Educational Fund
Maria Teresa Kumar, President and CEO, Voto Latino
Laura Murphy, Director, Washington Legislative Office, American Civil Liberties Union
Vikrant Reddy, Senior Policy Analyst, Texas Public Policy Foundation Center for Effective Justice
Panel Five: Mayors
Kevin Johnson, Sacramento
Michael Nutter, Philadelphia
Stephanie Rawlings-Blake, Baltimore

Listening Session 2. Policy & Oversight
Cincinnati, Ohio, January 30, 2015
Panel One: Use of Force Research and Policies
Geoffrey Alpert, Professor, University of South Carolina
Mick McHale, President, National Association of Police Organizations
Harold Medlock, Chief, Fayetteville (North Carolina) Police Department
Rashad Robinson, Executive Director, Color of Change
Panel Two: Use of Force Investigations and Oversight
Sim Gill, District Attorney, Salt Lake County, Utah
Jay McDonald, President, Fraternal Order of Police of Ohio
Kirk Primas, Assistant Sheriff, Las Vegas Metropolitan Police Department
Chuck Wexler, Executive Director, Police Executive Research Forum
Panel Three: Civilian Oversight

Charlie Beck, Chief, Los Angeles Police Department
Brian Buchner, President, National Association for Civilian Oversight of Law Enforcement
Darius Charney, Senior Staff Attorney, Center for Constitutional Rights

Panel Four: Mass Demonstrations

Christina Brown, Founding Organizer, Black Lives Matter: Cincinnati
Garry McCarthy, Superintendent, Chicago Police Department
Rodney Monroe, Chief, Charlotte-Mecklenburg (North Carolina) Police Department
Sean Whent, Chief, Oakland (California) Police Department

Panel Five: Law Enforcement Culture and Diversity

Malik Aziz, National Chairman, National Black Police Association
Hayley Gorenberg, Deputy Legal Director, Lambda Legal
Kathy Harrell, President, Fraternal Order of Police, Queen City Lodge #69, Cincinnati, Ohio
Barbara O’Connor, President, National Association of Women Law Enforcement Executives

Kenton Rainey, Chief, Bay Area Rapid Transit, San Francisco
Richard Van Houten, Sergeant, Fort Worth (Texas) Police Officers Association

Panel Three: Technology Policy

Eliot Cohen, Lieutenant, Maryland State Police
Madhu Grewal, Policy Counsel, The Constitution Project
Bill Schrier, Senior Policy Advisor, Office of the Chief Information Officer, State of Washington
Vincent Talucci, Executive Director / Chief Executive Officer, International Association of Chiefs of Police

Panel Four: Social Media, Community Digital Engagement and Collaboration

Hassan Aden, Director, Research and Programs, International Association of Chiefs of Police
DeRay McKesson, This is the Movement
Steve Spiker, Research and Technology Director, Urban Strategies Council
Lauri Stevens, Founder and Principal Consultant, LAwS Communications

Listening Session 4. Community Policing & Crime Reduction

Phoenix, Arizona, February 13, 2015

Panel One: Community Policing and Crime Prevention Research

Bill Geller, Director, Geller & Associates
Dr. Delores Jones-Brown, Professor, John Jay College of Criminal Justice, City University of New York
Dr. Dennis Rosenbaum, Professor, University of Illinois at Chicago
Dr. Wesley G. Skogan, Professor, Northwestern University

Panel Two: Building Community Policing Organizations

Anthony Batts, Police Commissioner, Baltimore Police Department
Jeffrey Blackwell, Chief, Cincinnati (Ohio) Police Department
Chris Magnus, Chief, Richmond (California) Police Department
Patrick Melvin, Chief, Salt River Police Department (Salt River Pima-Maricopa Indian Community)
Appendix A

Panel Three: Using Community Policing to Reduce Crime
Kevin Bethel, Deputy Police Commissioner, Philadelphia Police Department
Melissa Jones, Senior Program Officer, Boston’s Local Initiatives Support Corporation
David Kennedy, Professor, John Jay College of Criminal Justice, City University of New York
J. Scott Thomson, Chief, Camden County (New Jersey) Police Department
George Turner, Chief, Atlanta Police Department

Panel Four: Using Community Policing to Restore Trust
Rev. Jeff Brown, Rebuilding Every City Around Peace
Dwayne Crawford, Executive Director, National Organization of Black Law Enforcement Executives
Justin Hansford, Assistant Professor of Law, Saint Louis University School of Law
Cecil Smith, Chief, Sanford (Florida) Police Department

Panel Five: Youth and Law Enforcement
Delilah Coleman, Member, Navajo Nation (Senior at Flagstaff High School)
Jose Gonzales, Alumnus, Foster Care and Crossover Youth
Jamecia Luckey, Youth Conference Committee Member, Cocoa (Florida) Police Athletic League
Nicholas Peart, Staff Member, The Brotherhood-Sister Sol (Class Member, Floyd, et al. v. City of New York, et al.)
Michael Reynolds, Co-President, Youth Power Movement

Listening Session 5. Training & Education
Phoenix, Arizona, February 14, 2015
Panel One: Basic Recruit Academy
Arlen Ciechanowski, President, International Association of Directors of Law Enforcement Standards and Training
William J. Johnson, Executive Director, National Association of Police Organizations
Benjamin B. Tucker, First Deputy Commissioner, New York City Police Department

Panel Two: In-Service Training
Dr. Scott Decker, Professor, Arizona State University
Aaron Danielson, President, Public Safety Employee Association/AFSCME Local 803, Fairbanks, Alaska
Dr. Cheryl May, Director, Criminal Justice Institute and National Center for Rural Law Enforcement
John Orlotano, President, Arizona Fraternal Order of Police
Gary Schofield, Deputy Chief, Las Vegas Metropolitan Police Department

Panel Three: Supervisory, Leadership and Management Training
Edward Flynn, Chief, Milwaukee (Wisconsin) Police Department
Sandra Hutchens, Sheriff, Orange County (California) Sheriff’s Department
Kimberly Jacobs, Chief, Columbus (Ohio) Division of Police
John Layton, Sheriff, Marion County (Indiana) Sheriff’s Office
Dr. Ellen Scrivner, Executive Fellow, Police Foundation

Panel Four: Voices in the Community
Allie Bones, MSW, Chief Executive Officer, Arizona Coalition to End Sexual and Domestic Violence
Renaldo Fowler, Senior Staff Advocate, Arizona Center for Disability Law
Keeshan Harley, Member, Communities United for Police Reform
Andrea Ritchie, Senior Policy Counsel, Streetwise and Safe
Linda Sarsour, Executive Director, Arab American Association of New York

Panel Five: Special Training on Building Trust
Lt. Sandra Brown (retired), Principal Trainer, Fair and Impartial Policing
Dr. Randolph Dupont, Professor and Clinical Psychologist, University of Memphis
David C. Friedman, Regional Director of National Law Enforcement Initiatives, Anti-Defamation League
Lt. Bruce Lipman (retired), Procedural Justice /Police Legitimacy Training
Dr. Ronal Serpas, Advisory Board Member, Cure Violence Chicago
Listening Session 6. Officer Safety & Wellness

Washington, D.C., February 23, 2015

Panel One: Officer Wellness

Dr. Laurence Miller, Clinical Forensic Psychologist and Law Enforcement Educator
David Orr, Sergeant, Norwalk (Connecticut) Police Department
Dr. Sandra Ramey, Assistant Professor, University of Iowa College of Nursing
Dr. John Violanti, Research Professor, State University of New York Buffalo
Yost Zakhary, Public Safety Director, City of Woodway, Texas

Panel Two: Officer Safety

Jane Castor, Chief, Tampa (Florida) Police Department
Jerry L. Demings, Sheriff, Orange County (Florida) Sheriff’s Office
Dr. Alexander L. Eastman, Lieutenant and Deputy Medical Director, Dallas Police Department
Craig W. Floyd, Chairman and Chief Executive Officer, National Law Enforcement Officers Memorial Fund

Panel Three: Voices from the Field

Dianne Bernhard, Executive Director, Concerns of Police Survivors
Robert Bryant, Chief, Penobscot Nation
Chuck Canterbury, National President, Fraternal Order of Police
William J. Johnson, Executive Director, National Association of Police Organizations

Jonathan Thompson, Executive Director, National Sheriffs’ Association

Panel Four: Labor/Management Relations

Dr. Chuck Wexler, Executive Director, Police Executive Research Forum
Karen Freeman-Wilson, Mayor, Gary, Indiana
Mark Magaw, Chief, Prince George’s County (Maryland) Police Department
James Pasco, Executive Director, Fraternal Order of Police
Dustin Smith, President, Sacramento (California) Police Officers Association

Listening Session 7. Future of Community Policing

Washington, D.C., February 24, 2015

Panel: Future of Community Policing

Dr. Phillip Goff, Professor, University of California, Los Angeles
Jim McDonnell, Sheriff, Los Angeles County Sheriff’s Department
Dr. Daniel Nagin, Teresa and H. John Heinz III Professor of Public Policy, Carnegie Mellon University
Dr. Lawrence Sherman, Director of the Institute of Criminology of the University of Cambridge, United Kingdom
Jeremy Travis, President, John Jay College of Criminal Justice, City University of New York
APPENDIX B. INDIVIDUALS & ORGANIZATIONS THAT SUBMITTED WRITTEN TESTIMONY

In addition to receiving testimony from those individuals that appeared as witnesses during public listening sessions, the President’s Task Force on 21st Century Policing accepted written testimony from any individual or organization to ensure that its information gathering efforts included as many people and perspectives as possible. The task force thanks the individuals and organizations who submitted written testimony for their time and expertise.

This list reflects organizational affiliation at the time of testimony submission and may not represent submitters’ current positions.

**Individuals**

<table>
<thead>
<tr>
<th>Name</th>
<th>Affiliation</th>
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<tbody>
<tr>
<td>Robert Abraham</td>
<td>Chair, Gang Resistance Education &amp; Training (GREAT) National Policy Board</td>
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<tr>
<td>Phillip Agnew</td>
<td>Executive Director, Dream Defenders</td>
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<td>Kilolo Ajanaku</td>
<td>National Executive Director, World Conference of Mayors’ Dr. Martin Luther King, Jr. American Dream Initiative</td>
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<td>Barbara Attard</td>
<td>Past President, National Association for Civilian Oversight of Law Enforcement</td>
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<td>Paul Babeu</td>
<td>Vice President, Arizona Sheriffs Association</td>
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<td>Monifa Bandele</td>
<td>Communities United for Police Reform</td>
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<td>Dante Barry</td>
<td>Executive Director, Million Hoodies</td>
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<td>David Bayley</td>
<td>Distinguished Professor Emeritus, University of Albany</td>
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<td>Michael Bell</td>
<td>Lt. Colonel (retired), United States Air Force</td>
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<td>Michael Berkow</td>
<td>Chief, Savannah (Georgia) Police Department</td>
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<td>Greg Berman and Emily Gold LaGratta</td>
<td>Center for Court Innovation</td>
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<td>Angela Glover Blackwell</td>
<td>Founder and CEO, PolicyLink</td>
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<tr>
<td>Mark Bowman</td>
<td>Assistant Professor of Justice Studies, Methodist University</td>
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<td>Eli Briggs</td>
<td>Director of Government Affairs, National Association of County and City Health Officials (NACCHO)</td>
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<td>Cherie Brown</td>
<td>Executive Director, National Coalition Building Institute</td>
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<tr>
<td>Steven Brown</td>
<td>Journalist / Public Relations Consultant</td>
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<tr>
<td>Chris Calabrese</td>
<td>Senior Policy Director, Center for Democracy and Technology—with Jake Laperruque</td>
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<tr>
<td>Melanie Campbell</td>
<td>President and CEO, National Coalition on Black Civic Participation</td>
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<td>Mo Canady</td>
<td>Executive Director, National Association of School Resource Officers (NASRD)</td>
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<tr>
<td>Hugh Carter Donahue</td>
<td>Adjunct Professor, Department of History, Rowan University</td>
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<tr>
<td>Anthony Chapa</td>
<td>President, Hispanic American Police Command Officers Association</td>
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<tr>
<td>Lorig Charkoudian</td>
<td>Executive Director, Community Mediation Maryland</td>
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<td>Ralph Clark</td>
<td>President and CEO, SST Inc.</td>
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<td>Faye Coffield</td>
<td>CJ Federal Task Force</td>
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<td>The Hon. LaDoris Cordell</td>
<td>Office of the Independent Police Auditor, San Jose, California</td>
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<tr>
<td>Jill Corson Lake</td>
<td>Director of Global Advising, Parsons The New School for Design</td>
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<tr>
<td>David Couper</td>
<td>Chief of Police (retired), Madison (Wisconsin) Police Department</td>
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<tr>
<td>Madeline deLone</td>
<td>Executive Director, The Innocence Project—with Marvin Anderson, Board Member</td>
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<td>Jimmie Dotson</td>
<td>Police Chief (retired), Houston Independent School District / GeoDD GeoPolicing Team</td>
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<td>Ronnie Dunn</td>
<td>Professor, Cleveland State University</td>
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<td>Lauren-Brooke Eisen and Nicole Fortier</td>
<td>Counsel, Justice Program, Brennan Center for Justice at NYU School of Law</td>
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<td>Christian Ellis</td>
<td>CEO, Alternative Ballistics</td>
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<tr>
<td>Jeffrey Fagan</td>
<td>Professor of Law, Columbia Law School</td>
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</table>
Mai Fernandez, Executive Director, National Center for Victims of Crime

Johnny Ford, Founder, Alabama Conference of Black Mayors and Mayor, Tuskegee, Alabama

Lisa Foster, Director, Access to Justice Initiative, U.S. Department of Justice

Neill Franklin, Executive Director, Law Enforcement Against Prohibition

S. Gabrielle Frey, Interim Executive Director, National Association of Community Mediation

Lorie Fridell, Associate Professor of Criminology, University of South Florida

Allen Frimpong, Activist—Malcolm X Grassroots Movement: New York’s Self Defensive Campaign

Ethan Garcia, Youth Specialist, Identity Inc.

Michael Gennaco, Principal, OIR Group

Al Gerhardstein, Civil Rights Attorney

James Gierach, Executive Board Vice Chairman, Law Enforcement Against Prohibition

Fred Ginyard, Organizing Director, Fabulous Independent Educated Radical for Community Empowerment (FIERCE)

Mark Gissiner, Past President, International Association for Civilian Oversight of Law Enforcement

Becca Gomby, SDR Academy

Rev. Aaron Graham, Lead Pastor, The District Church

Fatima Graves, Vice President, National Women’s Law Center—with Lara S. Kaufmann, Senior Counsel and Director of Education Policy for At-Risk Students

Virgil Green, Chairman, Future America National Crime Solution Commission

Sheldon Greenberg, Professor, School of Education, Division of Public Safety Leadership, The Johns Hopkins University

Robert Haas, Police Commissioner, Cambridge (Massachusetts) Police Department

David Harris, Distinguished Faculty Scholar and Professor of Law Associates Dean for Research, University of Pittsburgh School of Law

W. Craig Hartley, Executive Director, CALEA

Steven Hawkins, Executive Director, Amnesty International USA

Wade Henderson, President and CEO, The Leadership Conference on Civil and Human Rights—with Nancy Zirkin, Executive Vice President

Maulin Chris Herring, Trainer/Consultant, Public Safety

Sandy Holman, Director, The Culture CO-OP

Zachary Horn and Kent Halverson, Aptima, Inc.—with Rebecca Damari and Aubrey Logan-Terry, Georgetown University

Tanya Clay House, Director of Public Policy, Lawyers’ Committee for Civil Rights Under Law

Susan Hutson, Office of the Independent Police Monitor, New Orleans

Ingram Janaye, Executive Director, National Action Network

Melanie Jeffers

Megan Johnston, Executive Director, Northern Virginia Mediation Service

Nola Joyce, Deputy Commissioner, Philadelphia Police Department

Keith Kauffman, Captain, Hawthorne (California) Police Department

Gwendolyn Puryear Keita, Executive Director, American Psychological Association, Public Interest Directorate

Stanley Knee, Chief, Austin (Texas) Police Department

Laura Kunard, Senior Research Scientist, CNA Corporation

David Kurz, Chief, Durham (New Hampshire) Police Department

Deborah Lauter, Director of Civil Rights, Anti-Defamation League—with Michael Lieberman, Washington Counsel

Cynthia Lum and Christopher Koper, George Mason University, Center for Evidence-Based Crime Policy

Bruce Lumpkins

Edward Maguire, Professor of Justice, Law & Criminology, American University

Baron Marquis, Member, Riverside Church, New York

Travis Martinez, Lieutenant, Redlands (California) Police Department

Andrew Mazzara, Executive Director, International Law Enforcement Forum—with Colin Burrows QMP (U.K.), ILEF Advisory Board Chair

R. Paul McCauley, Past President, Academy of Criminal Justice Sciences
V. Michael McKenzie

Harvey McMurray, Chair, Department of Criminal Justice, North Carolina Central University

Pamela Meanes, President, National Bar Association

Doug Mellis, President, Massachusetts Chiefs of Police Association—with Brian Kyes, President, Massachusetts Major City Chiefs Association

Seth Miller, President, The Innocence Network

Charlene Moe, Program Coordinator, Center for Public Safety and Justice, Institute of Government and Public Affairs, University of Illinois

Marc Morial, CEO, National Urban League

Richard Myers, Chief, Newport News (Virginia) Police Department

Toye Nash, Sergeant, Phoenix Police Department

Rebecca Neri and Anthony Berryman—UCLA Improvement by Design Research Group

Chuck Noerenberg, President, National Alliance for Drug Endangered Children

Newell Normand, Sheriff, Jefferson Parish (Louisiana) Sheriff’s Office—submitted with Adrian Garcia, Sheriff, Harris County (Texas) Sheriff’s Office; David Mahoney, Sheriff, Dane County (Wisconsin) Sheriff’s Office; Anthony Normore, Ph.D., Criminal Justice Commission for Credible Leadership Development; and Mitch Javidi, Ph.D., International Academy of Public Safety

Gbadegesin Olubukola, St. Louis University

Patrice O’Neill, CEO/Executive Producer, Not In Our Town

Jim Palmer, Executive Director, Wisconsin Professional Police Association

Julie Parker, Media Relations Division Director, Prince George’s County (Maryland) Police Department

George Patterson, Associate Professor, City University of New York

David Perry, President, International Association of Campus Law Enforcement Administrators (IACLEA)

Megan Price, Director, Insight Conflict Resolution Program, School for Conflict Analysis and Resolution, George Mason University

Sue Quinn, Past President, National Association for Civilian Oversight of Law Enforcement

Tess Raser, Teacher, Brooklyn, New York

Darakhshan Raja, Program Manager, Washington Peace Center

Sir Desmond Rea and Robin Masefield, Northern Ireland Policing Board

Nuno Rocha

Edwin Roessler, Jr., Chief, Fairfax County (Virginia) Police Department

Jeffrey Rojek, University of Texas at El Paso

Iris Roley, Black United Front of Cincinnati

Julia Ryan, Community Safety Initiative Director, LISC

Robert Samuels, Former Acting Director, DOJ Executive Office for Weed and Seed

Kami Chavis Simmons, Professor of Law and Director of the Criminal Justice Program, Wake Forest University School of Law

Russell Skiba, Professor and Director, Equity Project at Indiana University

Ronald Sloan, President, Association of State Criminal Investigative Agencies

Samuel Somers, Jr., Chief, Sacramento Police Department

Don Tijerina, President, Hispanic American Police Command Officers Association

Nicholas Turner, President and Director, Vera Institute of Justice

James Unnever, Professor of Criminology, University of South Florida

Javier Valdes, Executive Director, Make the Road New York

Kim Vansell, Director, National Center for Campus Public Safety

Nina Vinik, Program Director, Gun Violence Prevention, The Joyce Foundation

Vincent Warren, Executive Director, Center for Constitutional Rights

Barbara Weinstein, Associate Director, Religious Action Center of Reform Judaism

Jenny Yang, Chair, U.S. Equal Employment Opportunity Commission
## Organizations

American Friends Service Committee  
American Society of Criminology, Division of Policing, Ad Hoc Committee to the President’s Task Force on 21st Century Policing (Anthony Braga, Rod K. Brunson, Gary Cordner, Lorie Fridell, Matthew Hickman, Cynthia Lum, Stephen D. Mastrofski, Jack McDevitt, Dennis P. Rosenbaum, Wesley G. Skogan, and William Terrill)  
Brooklyn Defender Services  
The Bronx Defenders  
Center for Popular Democracy  
Civil Rights Coalition on Police Reform  
CNA Corporation (George Fachner, Michael D. White, James R. Coldren, Jr., and James K. Stewart)  
Color of Change  
Dignity in Schools Campaign  
Ethics Bureau at Yale (Lawrence Fox, Supervising Lawyer)  
Evangelical Lutheran Church in America  
Harvard Kennedy School (John F. Kennedy School of Government)  
Illinois Coalition for Immigrant and Refugee Rights  
Immigrant Defense Project  
International Association for Human Values (IAHV) / Works of Wonder International  
Latino Justice  
Lawyers’ Committee for Civil Rights Under Law (including A. Phillip Randolph Institute, Black Youth Vote, Empowerment Movement, Hip Hop Caucus, Leadership Conference on Civil and Human Rights, Muslim Advocates, National Association for the Advancement of Colored People [NAACP], NAACP Legal Defense Fund, National Coalition on Black Civic Participation, National Council of Churches of Christ in the USA, PICO National Network, and Rainbow PUSH Coalition)  
Local Initiatives Support Corporation (LISC)  
Major County Sheriffs’ Association  
Make the Road New York  
National Action Network (NAN)  
National Association for Civilian Oversight of Law Enforcement  
National Association of Counties  
National Association of Police Organizations  
National Association of Women Law Enforcement Executives  
National Collaborative for Health Equity, Dellums Commission  
National Day Laborer Organizing Network  
National Immigration Law Center  
National Fraternal Order of Police  
National Organization of Black Law Enforcement Executives (NOBLE)  
National Sheriffs’ Association  
New Sanctuary Coalition of New York  
Northern Manhattan Coalition for Immigrant Rights  
Northwest Immigrant Rights Project  
PICO National Network  
Public Science Project  
Santa Fe College and the Santa Fe College Police Department, Gainesville, Florida  
Southern Poverty Law Center  
Streetwise & Safe  
Team Kids  
Works of Wonder International
APPENDIX C. EXECUTIVE ORDER
13684 OF DECEMBER 18, 2014

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to identify the best means to provide an effective partnership between law enforcement and local communities that reduces crime and increases trust, it is hereby ordered as follows:

Section 1. Establishment. There is established a President’s Task Force on 21st Century Policing (Task Force).

Sec. 2. Membership. (a) The Task Force shall be composed of not more than eleven members appointed by the President. The members shall include distinguished individuals with relevant experience or subject-matter expertise in law enforcement, civil rights, and civil liberties.

(b) The President shall designate two members of the Task Force to serve as Co-Chairs.

Sec. 3. Mission. (a) The Task Force shall, consistent with applicable law, identify best practices and otherwise make recommendations to the President on how policing practices can promote effective crime reduction while building public trust.

(b) The Task Force shall be solely advisory and shall submit a report to the President by March 2, 2015.

Sec. 4. Administration. (a) The Task Force shall hold public meetings and engage with Federal, State, tribal, and local officials, technical advisors, and nongovernmental organizations, among others, as necessary to carry out its mission.

(b) The Director of the Office of Community Oriented Policing Services shall serve as Executive Director of the Task Force and shall, as directed by the Co-Chairs, convene regular meetings of the Task Force and supervise its work.

(c) In carrying out its mission, the Task Force shall be informed by, and shall strive to avoid duplicating, the efforts of other governmental entities.

(d) The Department of Justice shall provide administrative services, funds, facilities, staff, equipment, and other support services as may be necessary for the Task Force to carry out its mission to the extent permitted by law and subject to the availability of appropriations.

(e) Members of the Task Force shall serve without any additional compensation for their work on the Task Force, but shall be allowed travel expenses, including per diem, to the extent permitted by law for persons serving intermittently in the Government service (5 U.S.C.5701-5707).

Sec. 5. Termination. The Task Force shall terminate 30 days after the President requests a final report from the Task Force.

Sec. 6. General Provisions. (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to a department, agency, or the head thereof; or

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals.
(b) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

(c) Insofar as the Federal Advisory Committee Act, as amended (5 U.S.C. App.) (the “Act”) may apply to the Task Force, any functions of the President under the Act, except for those in section 6 of the Act, shall be performed by the Attorney General.

THE WHITE HOUSE,
December 18, 2014.
APPENDIX D. TASK FORCE MEMBERS’ BIOGRAPHIES

Co-Chairs

Charles Ramsey
Charles Ramsey is the commissioner of the Philadelphia Police Department (PPD), a position he has held since 2008. Since 2010, he has served as president of the Major Cities Chiefs Association and the Police Executive Research Forum. Commissioner Ramsey began his law enforcement career in 1968 as a cadet with the Chicago Police Department (CPD). Over the next 30 years, he held various positions with the CPD, including commander of the Narcotics Division, deputy chief of the Patrol Division, and deputy superintendent, a role he held from 1994 to 1998. In 1998, he was named chief of the Metropolitan Police Department of the District of Columbia (MPDC), where he served until early 2007. In 2007, Commissioner Ramsey served on the Independent Commission on Security Forces of Iraq, leading a review of the Iraqi Police Force. In addition to his current role at the PPD, he also serves as a member of the Homeland Security Advisory Council. Commissioner Ramsey received a BS and MS from Lewis University.

Laurie Robinson
Laurie Robinson is the Clarence J. Robinson Professor of Criminology, Law and Society at George Mason University, a position she has held since 2012. She served as assistant attorney general for the Office of Justice Programs (OJP) in the U.S. Department of Justice (DOJ) from 2009 to 2012. Prior to that, Ms. Robinson served as the Principal deputy assistant attorney general for OJP and acting assistant attorney general for OJP. Previously, she was a member of the Obama-Biden Transition Team. From 2003 to 2009, Ms. Robinson was the director of the Master of Science Program in Criminology at the University of Pennsylvania. From 1993 to 2000, she served her first term as assistant attorney general for OJP. Before joining DOJ, Ms. Robinson spent over 20 years with the American Bar Association, serving as assistant staff director of the Criminal Justice Section from 1972 to 1979, director of the Criminal Justice Section from 1979 to 1993, and director of the Professional Services Division from 1986 to 1993. She is a senior fellow at the George Mason University Center for Evidence-Based Crime Policy and serves as co-chair of the Research Advisory Committee for the International Association of Chiefs of Police. She also serves on the board of trustees of the Vera Institute of Justice. Ms. Robinson received a BA from Brown University.
Members

**Cedric L. Alexander**

Cedric L. Alexander is the deputy chief operating officer for Public Safety in DeKalb County, Georgia, a position he has held since late 2013. Dr. Alexander is also the national president of the National Organization of Black Law Enforcement Executives. In 2013, he served as chief of police for the DeKalb County Police Department. Prior to this, Dr. Alexander served as federal security director for the Transportation Security Administration (TSA) at Dallas/Fort Worth International Airport from 2007 to 2013. And from 2006 to 2007, he was deputy commissioner of the New York State Division of Criminal Justice Services. From 2005 to 2006, Dr. Alexander was chief of the Rochester (New York) Police Department (RPD), where he previously served as deputy chief of police from 2002 to 2005. Before joining RPD, Dr. Alexander was a faculty member in the Department of Psychiatry at the University of Rochester Medical Center from 1998 to 2002. He began his career as a deputy sheriff in Florida from 1977 to 1981, before joining the Miami-Dade Police Department, where he was as an officer and detective from 1981 to 1992. He received a BA and MS from St. Thomas University in Miami, Florida, and a PsyD from Wright State University.

**Jose Lopez**

Jose Lopez is currently the lead organizer at Make the Road New York (MRNY), a Brooklyn-based non-profit community organization focused on civil rights, education reform, and combating poverty. He became lead organizer of MRNY in 2013. Mr. Lopez began his career in 2000 as youth organizer with Make the Road by Walking, which later merged with the Latin American Integration Center to form MRNY in 2007. He continued to serve as youth organizer with MRNY until 2009 when he became senior organizer. Since 2011, Mr. Lopez has represented MRNY on the steering committee of Communities United for Police Reform, a New York City organization advocating for law enforcement reform. From 2001 to 2004, he was an active contributor to the Radio Rookies Project, an initiative of New York Public Radio. He received a BA from Hofstra University.

**Tracey L. Meares**

Tracey Meares is the Walton Hale Hamilton Professor of Law at Yale Law School, a position she has held since 2007. From 2009 to 2011, she also served as deputy dean of Yale Law School. Before joining the faculty at Yale, she served as a professor at the University of Chicago Law School from 1995 to 2007. She has served on the Committee on Law and Justice, a National Research Council Standing Committee of the National Academy of Sciences. She was appointed by Attorney General Eric Holder to serve on the inaugural U.S. Department of Justice, Office of Justice Programs Science Advisory Board. She also currently serves on the board of directors of the Joyce Foundation. Ms. Meares began her legal career as a law clerk for Judge Harlington Wood, Jr. of the U.S. Court of Appeals for the Seventh Circuit. She later served as a trial attorney in the Antitrust Division at the U.S. Department of Justice. Ms. Meares received a BS from the University of Illinois and a JD from the University of Chicago Law School.

**Brittany N. Packnett**

Brittany Packnett is currently executive director of Teach For America in St. Louis, Missouri, a position she has held since 2012. From 2010 to 2012, she was a director on the Government Affairs Team at Teach For America. Ms. Packnett was a legislative assistant for the U.S. House of Representatives from 2009 to 2010. From 2007 to 2009, she was a third grade teacher in Southeast Washington, D.C., as a member of the Teach For America Corps. Ms. Packnett has volunteered as executive director
of Dream Girls DMV, a mentoring program for young girls, and was the founding co-chair of The Collective-DC, a regional organization for Teach For America alumni of color. She currently serves on the board of New City School, the COCA (Center of Creative Arts) Associate Board, the Urban League of Metro St. Louis Education Committee, and the John Burroughs School Board Diversity Committee. Ms. Packnett received a BA from Washington University in St. Louis and an MA from American University.

Susan Lee Rahr
Susan Rahr is executive director of the Washington State Criminal Justice Training Commission, a position she has held since 2012. From 2005 to 2012, she served as the first female sheriff in King County, Washington. Ms. Rahr spent over 30 years as a law enforcement officer, beginning as a patrol officer and undercover narcotics officer. While serving with the King County Sheriff’s Office, she held various positions including serving as the commander of the Internal Investigations and Gang Units; commander of the Special Investigations Section; and police chief of Shoreline, Washington. Ms. Rahr received a BA from Washington State University. She has served as a member of the National Institute of Justice and Harvard Kennedy School Executive Session on Policing and Public Safety; president of the Washington State Association of Sheriffs and Police Chiefs, and an executive board member of the National Sheriffs’ Association.

Constance Rice
Constance Rice is a civil rights attorney and co-director of the Advancement Project, an organization she co-founded in 1999. In 2003, Ms. Rice was selected to lead the Blue Ribbon Rampart Review Panel, which investigated the largest police corruption scandal in Los Angeles Police Department history. In 1991, Ms. Rice joined the NAACP Legal Defense and Educational Fund, and she became co-director of the Los Angeles office in 1996. She was previously an associate at Morrison & Foerster and began her legal career as a law clerk to Judge Damon J. Keith of the U.S. Court of Appeals for the Sixth Circuit. Ms. Rice received a BA from Harvard College and a JD from the New York University School of Law.

Sean Michael Smoot
Sean Smoot is currently director and chief counsel for the Police Benevolent & Protective Association of Illinois (PB&PA) and the Police Benevolent Labor Committee (PBLC), positions he has held since 2000. He began his career with PB&PA and PBLC as a staff attorney in 1995, before becoming chief counsel of both organizations in 1997. Since 2001, Mr. Smoot has served as the treasurer of the National Association of Police Organizations and has served on the Advisory Committee for the National Law Enforcement Officers’ Rights Center since 1996. From 2008 to 2009, he was a policy advisor to the Obama-Biden Transition Project on public safety and state and local police issues and was a member of the National Institute of Justice and Harvard Kennedy School of Government Executive Session on Policing and Public Safety from 2008 to 2011. Mr. Smoot served as police commissioner of Leland Grove, Illinois, from 1998 to 2008. He received a BS from Illinois State University and a JD from Southern Illinois University School of Law.
Bryan Stevenson

Bryan Stevenson is founder and executive director of the Equal Justice Initiative (EJI), a private, non-profit organization headquartered in Montgomery, Alabama. In addition to directing the EJI since 1989, he is a clinical professor at New York University School of Law. He previously has served as a visiting professor of law at the University of Michigan School of Law. Mr. Stevenson has received the American Bar Association’s Wisdom Award for public service, the ACLU’s National Medal of Liberty, and the MacArthur Foundation “Genius” Award Prize. Mr. Stevenson received a BA from Eastern College (now Eastern University), a JD from Harvard Law School, and an MPP from the John F. Kennedy School of Government at Harvard University.

Roberto Villaseñor

Roberto Villaseñor is chief of police for the Tucson (Arizona) Police Department (TPD), a position he has held since 2009. He joined the TPD in 1980 and has served as officer, sergeant, lieutenant, and captain and as assistant chief from 2000 to 2009. Chief Villaseñor was named Officer of the Year for the TPD in 1996 and has been awarded the TPD Medal of Merit three times. He also received the TPD Medal of Distinguished Service. Chief Villaseñor is the incoming president of the Arizona Association of Chiefs of Police and a board member of the Police Executive Research Forum (PERF). He received a BS from Park University and a MEd from Northern Arizona University.
APPENDIX E. RECOMMENDATIONS AND ACTIONS

0.1 OVERARCHING RECOMMENDATION: The President should support and provide funding for the creation of a National Crime and Justice Task Force to review and evaluate all components of the criminal justice system for the purpose of making recommendations to the country on comprehensive criminal justice reform.

0.2 OVERARCHING RECOMMENDATION: The President should promote programs that take a comprehensive and inclusive look at community-based initiatives that address the core issues of poverty, education, health, and safety.

1.1 RECOMMENDATION: Law enforcement culture should embrace a guardian mindset to build public trust and legitimacy. Toward that end, police and sheriffs’ departments should adopt procedural justice as the guiding principle for internal and external policies and practices to guide their interactions with the citizens they serve.

1.2 RECOMMENDATION: Law enforcement agencies should acknowledge the role of policing in past and present injustice and discrimination and how it is a hurdle to the promotion of community trust.

1.2.1 ACTION ITEM: The U.S. Department of Justice should develop and disseminate case studies that provide examples where past injustices were publicly acknowledged by law enforcement agencies in a manner to help build community trust.

1.3 RECOMMENDATION: Law enforcement agencies should establish a culture of transparency and accountability in order to build public trust and legitimacy. This will help ensure decision making is understood and in accord with stated policy.

1.3.1 ACTION ITEM: To embrace a culture of transparency, law enforcement agencies should make all department policies available for public review and regularly post on the department’s website information about stops, summonses, arrests, reported crime, and other law enforcement data aggregated by demographics.

1.3.2 ACTION ITEM: When serious incidents occur, including those involving alleged police misconduct, agencies should communicate with citizens and the media swiftly, openly, and neutrally, respecting areas where the law requires confidentiality.

1.4 RECOMMENDATION: Law enforcement agencies should promote legitimacy internally within the organization by applying the principles of procedural justice.

1.4.1 ACTION ITEM: In order to achieve internal legitimacy, law enforcement agencies should involve employees in the process of developing policies and procedures.

1.4.2 ACTION ITEM: Law enforcement agency leadership should examine opportunities to incorporate procedural justice into the internal discipline process, placing
additional importance on values adherence rather than adherence to rules. Union leadership should be partners in this process.

1.5 Recommendation: Law enforcement agencies should proactively promote public trust by initiating positive nonenforcement activities to engage communities that typically have high rates of investigative and enforcement involvement with government agencies.

1.5.1 Action Item: In order to achieve external legitimacy, law enforcement agencies should involve the community in the process of developing and evaluating policies and procedures.

1.5.2 Action Item: Law enforcement agencies should institute residency incentive programs such as Resident Officer Programs.

1.5.3 Action Item: Law enforcement agencies should create opportunities in schools and communities for positive nonenforcement interactions with police. Agencies should also publicize the beneficial outcomes and images of positive, trust-building partnerships and initiatives.

1.5.4 Action Item: Use of physical control equipment and techniques against vulnerable populations—including children, elderly persons, pregnant women, people with physical and mental disabilities, limited English proficiency, and others—can undermine public trust and should be used as a last resort. Law enforcement agencies should carefully consider and review their policies towards these populations and adopt policies if none are in place.

1.6 Recommendation: Law enforcement agencies should consider the potential damage to public trust when implementing crime fighting strategies.

1.6.1 Action Item: Research conducted to evaluate the effectiveness of crime fighting strategies should specifically look at the potential for collateral damage of any given strategy on community trust and legitimacy.

1.7 Recommendation: Law enforcement agencies should track the level of trust in police by their communities just as they measure changes in crime. Annual community surveys, ideally standardized across jurisdictions and with accepted sampling protocols, can measure how policing in that community affects public trust.

1.7.1 Action Item: The Federal Government should develop survey tools and instructions for use of such a model to prevent local departments from incurring the expense and to allow for consistency across jurisdictions.

1.8 Recommendation: Law enforcement agencies should strive to create a workforce that contains a broad range of diversity including race, gender, language, life experience, and cultural background to improve understanding and effectiveness in dealing with all communities.

1.8.1 Action Item: The Federal Government should create a Law Enforcement Diversity Initiative designed to help communities diversify law enforcement departments to reflect the demographics of the community.
1.8.2 Action Item: The department overseeing this initiative should help localities learn best practices for recruitment, training, and outreach to improve the diversity as well as the cultural and linguistic responsiveness of law enforcement agencies.

1.8.3 Action Item: Successful law enforcement agencies should be highlighted and celebrated and those with less diversity should be offered technical assistance to facilitate change.

1.8.4 Action Item: Discretionary federal funding for law enforcement programs could be influenced by that department’s efforts to improve their diversity and cultural and linguistic responsiveness.

1.8.5 Action Item: Law enforcement agencies should be encouraged to explore more flexible staffing models.

1.9 Recommendation: Law enforcement agencies should build relationships based on trust with immigrant communities. This is central to overall public safety.

1.9.1 Action Item: Decouple federal immigration enforcement from routine local policing for civil enforcement and nonserious crime.

1.9.2 Action Item: Law enforcement agencies should ensure reasonable and equitable language access for all persons who have encounters with police or who enter the criminal justice system.

1.9.3 Action Item: The U.S. Department of Justice should not include civil immigration information in the FBI’s National Crime Information Center database.

2.1 Recommendation: Law enforcement agencies should collaborate with community members to develop policies and strategies in communities and neighborhoods disproportionally affected by crime for deploying resources that aim to reduce crime by improving relationships, greater community engagement, and cooperation.

2.1.1 Action Item: The Federal Government should incentivize this collaboration through a variety of programs that focus on public health, education, mental health, and other programs not traditionally part of the criminal justice system.

2.2 Recommendation: Law enforcement agencies should have comprehensive policies on the use of force that include training, investigations, prosecutions, data collection, and information sharing. These policies must be clear, concise, and openly available for public inspection.

2.2.1 Action Item: Law enforcement agency policies for training on use of force should emphasize de-escalation and alternatives to arrest or summons in situations where appropriate.

2.2.2 Action Item: These policies should also mandate external and independent criminal investigations in cases of police use of force resulting in death, officer-involved shootings resulting in injury or death, or in-custody deaths.
2.2.3 Action Item: The task force encourages policies that mandate the use of external and independent prosecutors in cases of police use of force resulting in death, officer-involved shootings resulting in injury or death, or in-custody deaths.

2.2.4 Action Item: Policies on use of force should also require agencies to collect, maintain, and report data to the Federal Government on all officer-involved shootings, whether fatal or nonfatal, as well as any in-custody death.

2.2.5 Action Item: Policies on use of force should clearly state what types of information will be released, when, and in what situation, to maintain transparency.

2.2.6 Action Item: Law enforcement agencies should establish a Serious Incident Review Board comprising sworn staff and community members to review cases involving officer-involved shootings and other serious incidents that have the potential to damage community trust or confidence in the agency. The purpose of this board should be to identify any administrative, supervisory, training, tactical, or policy issues that need to be addressed.

2.3 Recommendation: Law enforcement agencies are encouraged to implement nonpunitive peer review of critical incidents separate from criminal and administrative investigations.

2.4 Recommendation: Law enforcement agencies are encouraged to adopt identification procedures that implement scientifically supported practices that eliminate or minimize presenter bias or influence.

2.5 Recommendation: All federal, state, local, and tribal law enforcement agencies should report and make available to the public census data regarding the composition of their departments including race, gender, age, and other relevant demographic data.

2.5.1 Action Item: The Bureau of Justice Statistics should add additional demographic questions to the Law Enforcement Management and Administrative Statistics (LEMAS) survey in order to meet the intent of this recommendation.

2.6 Recommendation: Law enforcement agencies should be encouraged to collect, maintain, and analyze demographic data on all detentions (stops, frisks, searches, summons, and arrests). This data should be disaggregated by school and non-school contacts.

2.6.1 Action Item: The Federal Government could further incentivize universities and other organizations to partner with police departments to collect data and develop knowledge about analysis and benchmarks as well as to develop tools and templates that help departments manage data collection and analysis.

2.7 Recommendation: Law enforcement agencies should create policies and procedures for policing mass demonstrations that employ a continuum of managed tactical resources that are designed to minimize the appearance of a military operation and avoid using provocative tactics and equipment that undermine civilian trust.
2.7.1 Action Item: Law enforcement agency policies should address procedures for implementing a layered response to mass demonstrations that prioritize de-escalation and a guardian mindset.

2.7.2 Action Item: The Federal Government should create a mechanism for investigating complaints and issuing sanctions regarding the inappropriate use of equipment and tactics during mass demonstrations.

2.8 Recommendation: Some form of civilian oversight of law enforcement is important in order to strengthen trust with the community. Every community should define the appropriate form and structure of civilian oversight to meet the needs of that community.

2.8.1 Action Item: The U.S. Department of Justice, through its research arm, the National Institute of Justice (NIJ), should expand its research agenda to include civilian oversight.

2.8.2 Action Item: The U.S. Department of Justice’s Office of Community Oriented Policing Services (COPS Office) should provide technical assistance and collect best practices from existing civilian oversight efforts and be prepared to help cities create this structure, potentially with some matching grants and funding.

2.9 Recommendation: Law enforcement agencies and municipalities should refrain from practices requiring officers to issue a predetermined number of tickets, citations, arrests, or summonses, or to initiate investigative contacts with citizens for reasons not directly related to improving public safety, such as generating revenue.

2.10 Recommendation: Law enforcement officers should be required to seek consent before a search and explain that a person has the right to refuse consent when there is no warrant or probable cause. Furthermore, officers should ideally obtain written acknowledgement that they have sought consent to a search in these circumstances.

2.11 Recommendation: Law enforcement agencies should adopt policies requiring officers to identify themselves by their full name, rank, and command (as applicable) and provide that information in writing to individuals they have stopped. In addition, policies should require officers to state the reason for the stop and the reason for the search if one is conducted.

2.11.1 Action Item: One example of how to do this is for law enforcement officers to carry business cards containing their name, rank, command, and contact information that would enable individuals to offer suggestions or commendations or to file complaints with the appropriate individual, office, or board. These cards would be easily distributed in all encounters.

2.12 Recommendation: Law enforcement agencies should establish search and seizure procedures related to LGBTQ and transgender populations and adopt as policy the recommendation from the President’s Advisory Council on HIV/AIDS (PACHA) to cease using the possession of condoms as the sole evidence of vice.
2.13 Recommendation: Law enforcement agencies should adopt and enforce policies prohibiting profiling and discrimination based on race, ethnicity, national origin, religion, age, gender, gender identity/expression, sexual orientation, immigration status, disability, housing status, occupation, or language fluency.

2.13.1 Action Item: The Bureau of Justice Statistics should add questions concerning sexual harassment of and misconduct toward community members, and in particular LGBTQ and gender-nonconforming people, by law enforcement officers to the Police Public Contact Survey.

2.13.2 Action Item: The Centers for Disease Control should add questions concerning sexual harassment of and misconduct toward community members, and in particular LGBTQ and gender-nonconforming people, by law enforcement officers to the National Intimate Partner and Sexual Violence Survey.

2.13.3 Action Item: The U.S. Department of Justice should promote and disseminate guidance to federal, state, and local law enforcement agencies on documenting, preventing, and addressing sexual harassment and misconduct by local law enforcement agents, consistent with the recommendations of the International Association of Chiefs of Police.

2.14 Recommendation: The U.S. Department of Justice, through the Office of Community Oriented Policing Services and Office of Justice Programs, should provide technical assistance and incentive funding to jurisdictions with small police agencies that take steps towards shared services, regional training, and consolidation.

2.15 Recommendation: The U.S. Department of Justice, through the Office of Community Oriented Policing Services, should partner with the International Association of Directors of Law Enforcement Standards and Training (IADLEST) to expand its National Decertification Index to serve as the National Register of Decertified Officers with the goal of covering all agencies within the United States and its territories.

3.1 Recommendation: The U.S. Department of Justice, in consultation with the law enforcement field, should broaden the efforts of the National Institute of Justice to establish national standards for the research and development of new technology. These standards should also address compatibility and interoperability needs both within law enforcement agencies and across agencies and jurisdictions and maintain civil and human rights protections.

3.1.1 Action Item: The Federal Government should support the development and delivery of training to help law enforcement agencies learn, acquire, and implement technology tools and tactics that are consistent with the best practices of 21st century policing.

3.1.2 Action Item: As part of national standards, the issue of technology’s impact on privacy concerns should be addressed in accordance with protections provided by constitutional law.

3.1.3 Action Item: Law enforcement agencies should deploy smart technology that is designed to prevent the tampering with or manipulating of evidence in violation of policy.
3.2 Recommendation: The implementation of appropriate technology by law enforcement agencies should be designed considering local needs and aligned with national standards.

3.2.1 Action Item: Law enforcement agencies should encourage public engagement and collaboration, including the use of community advisory bodies, when developing a policy for the use of a new technology.

3.2.2 Action Item: Law enforcement agencies should include an evaluation or assessment process to gauge the effectiveness of any new technology, soliciting input from all levels of the agency, from line officer to leadership, as well as assessment from members of the community.

3.2.3 Action Item: Law enforcement agencies should adopt the use of new technologies that will help them better serve people with special needs or disabilities.

3.3 Recommendation: The U.S. Department of Justice should develop best practices that can be adopted by state legislative bodies to govern the acquisition, use, retention, and dissemination of auditory, visual, and biometric data by law enforcement.

3.3.1 Action Item: As part of the process for developing best practices, the U.S. Department of Justice should consult with civil rights and civil liberties organizations, as well as law enforcement research groups and other experts, concerning the constitutional issues that can arise as a result of the use of new technologies.

3.3.2 Action Item: The U.S. Department of Justice should create toolkits for the most effective and constitutional use of multiple forms of innovative technology that will provide state, local, and tribal law enforcement agencies with a one-stop clearinghouse of information and resources.

3.3.3 Action Item: Law enforcement agencies should review and consider the Bureau of Justice Assistance’s (BJA) Body Worn Camera Toolkit to assist in implementing BWCs.

3.4 Recommendation: Federal, state, local, and tribal legislative bodies should be encouraged to update public record laws.

3.5 Recommendation: Law enforcement agencies should adopt model policies and best practices for technology-based community engagement that increases community trust and access.

3.6 Recommendation: The Federal Government should support the development of new “less than lethal” technology to help control combative suspects.

3.6.1 Action Item: Relevant federal agencies, including the U.S. Departments of Defense and Justice, should expand their efforts to study the development and use of new less than lethal technologies and evaluate their impact on public safety, reducing lethal violence against citizens, constitutionality, and officer safety.

3.7 Recommendation: The Federal Government should make the development and building of segregated radio spectrum
and increased bandwidth by FirstNet for exclusive use by local, state, tribal, and federal public safety agencies a top priority.

4.1 **Recommendation:** Law enforcement agencies should develop and adopt policies and strategies that reinforce the importance of community engagement in managing public safety.

4.1.1 **Action Item:** Law enforcement agencies should consider adopting preferences for seeking “least harm” resolutions, such as diversion programs or warnings and citations in lieu of arrest for minor infractions.

4.2 **Recommendation:** Community policing should be infused throughout the culture and organizational structure of law enforcement agencies.

4.2.1 **Action Item:** Law enforcement agencies should evaluate officers on their efforts to engage members of the community and the partnerships they build. Making this part of the performance evaluation process places an increased value on developing partnerships.

4.2.2 **Action Item:** Law enforcement agencies should evaluate their patrol deployment practices to allow sufficient time for patrol officers to participate in problem solving and community engagement activities.

4.2.3 **Action Item:** The U.S. Department of Justice and other public and private entities should support research into the factors that have led to dramatic successes in crime reduction in some communities through the infusion of non-discriminatory policing and to determine replicable factors that could be used to guide law enforcement agencies in other communities.

4.3 **Recommendation:** Law enforcement agencies should engage in multidisciplinary, community team approaches for planning, implementing, and responding to crisis situations with complex causal factors.

4.3.1 **Action Item:** The U.S. Department of Justice should collaborate with others to develop and disseminate baseline models of this crisis intervention team approach that can be adapted to local contexts.

4.3.2 **Action Item:** Communities should look to involve peer support counselors as part of multidisciplinary teams when appropriate. Persons who have experienced the same trauma can provide both insight to the first responders and immediate support to individuals in crisis.

4.3.3 **Action Item:** Communities should be encouraged to evaluate the efficacy of these crisis intervention team approaches and hold agency leaders accountable for outcomes.

4.4 **Recommendation:** Communities should support a culture and practice of policing that reflects the values of protection and promotion of the dignity of all, especially the most vulnerable.

4.4.1 **Action Item:** Because offensive or harsh language can escalate a minor situation, law enforcement agencies should underscore the importance of language used and adopt policies directing officers to speak to individuals with respect.
4.4.2 **Action Item:** Law enforcement agencies should develop programs that create opportunities for patrol officers to regularly interact with neighborhood residents, faith leaders, and business leaders.

4.5 **Recommendation:** Community policing emphasizes working with neighborhood residents to co-produce public safety. Law enforcement agencies should work with community residents to identify problems and collaborate on implementing solutions that produce meaningful results for the community.

4.5.1 **Action Item:** Law enforcement agencies should schedule regular forums and meetings where all community members can interact with police and help influence programs and policy.

4.5.2 **Action Item:** Law enforcement agencies should engage youth and communities in joint training with law enforcement, citizen academies, ride-alongs, problem solving teams, community action teams, and quality of life teams.

4.5.3 **Action Item:** Law enforcement agencies should establish formal community/citizen advisory committees to assist in developing crime prevention strategies and agency policies as well as provide input on policing issues.

4.5.4 **Action Item:** Law enforcement agencies should adopt community policing strategies that support and work in concert with economic development efforts within communities.

4.6 **Recommendation:** Communities should adopt policies and programs that address the needs of children and youth most at risk for crime or violence and reduce aggressive law enforcement tactics that stigmatize youth and marginalize their participation in schools and communities.

4.6.1 **Action Item:** Education and criminal justice agencies at all levels of government should work together to reform policies and procedures that push children into the juvenile justice system.

4.6.2 **Action Item:** In order to keep youth in school and to keep them from criminal and violent behavior, law enforcement agencies should work with schools to encourage the creation of alternatives to student suspensions and expulsion through restorative justice, diversion, counseling, and family interventions.

4.6.3 **Action Item:** Law enforcement agencies should work with schools to encourage the use of alternative strategies that involve youth in decision making, such as restorative justice, youth courts, and peer interventions.

4.6.4 **Action Item:** Law enforcement agencies should work with schools to adopt an instructional approach to discipline that uses interventions or disciplinary consequences to help students develop new behavior skills and positive strategies to avoid conflict, redirect energy, and refocus on learning.

4.6.5 **Action Item:** Law enforcement agencies should work with schools to develop and monitor school discipline policies with input and collaboration from school personnel, students,
families, and community members. These policies should prohibit the use of corporal punishment and electronic control devices.

4.6.6 Action Item: Law enforcement agencies should work with schools to create a continuum of developmentally appropriate and proportional consequences for addressing ongoing and escalating student misbehavior after all appropriate interventions have been attempted.

4.6.7 Action Item: Law enforcement agencies should work with communities to play a role in programs and procedures to reintegrate juveniles back into their communities as they leave the juvenile justice system.

4.6.8 Action Item: Law enforcement agencies and schools should establish memoranda of agreement for the placement of School Resource Officers that limit police involvement in student discipline.

4.6.9 Action Item: The Federal Government should assess and evaluate zero tolerance strategies and examine the role of reasonable discretion when dealing with adolescents in consideration of their stages of maturation or development.

4.7 Recommendation: Communities need to affirm and recognize the voices of youth in community decision making, facilitate youth-led research and problem solving, and develop and fund youth leadership training and life skills through positive youth/police collaboration and interactions.

4.7.1 Action Item: Communities and law enforcement agencies should restore and build trust between youth and police by creating programs and projects for positive, consistent, and persistent interaction between youth and police.

4.7.2 Action Item: Communities should develop community- and school-based evidence-based programs that mitigate punitive and authoritarian solutions to teen problems.

5.1 Recommendation: The Federal Government should support the development of partnerships with training facilities across the country to promote consistent standards for high quality training and establish training innovation hubs.

5.1.1 Action Item: The training innovation hubs should develop replicable model programs that use adult-based learning and scenario-based training in a training environment modeled less like boot camp. Through these programs the hubs would influence nationwide curricula, as well as instructional methodology.

5.1.2 Action Item: The training innovation hubs should establish partnerships with academic institutions to develop rigorous training practices, evaluation, and the development of curricula based on evidence-based practices.

5.1.3 Action Item: The U.S. Department of Justice should build a stronger relationship with the International Association of Directors of Law Enforcement (IADLEST) in order to leverage their network with state boards and commissions of Peace Officer Standards and Training (POST).
5.2 **Recommendation:** Law enforcement agencies should engage community members in the training process.

5.2.1 **Action Item:** The U.S. Department of Justice should conduct research to develop and disseminate a toolkit on how law enforcement agencies and training programs can integrate community members into this training process.

5.3 **Recommendation:** Law enforcement agencies should provide leadership training to all personnel throughout their careers.

5.3.1 **Action Item:** Recognizing that strong, capable leadership is required to create cultural transformation, the U.S. Department of Justice should invest in developing learning goals and model curricula/training for each level of leadership.

5.3.2 **Action Item:** The Federal Government should encourage and support partnerships between law enforcement and academic institutions to support a culture that values ongoing education and the integration of current research into the development of training, policies, and practices.

5.3.3 **Action Item:** The U.S. Department of Justice should support and encourage cross-discipline leadership training.

5.4 **Recommendation:** The U.S. Department of Justice should develop, in partnership with institutions of higher education, a national postgraduate institute of policing for senior executives with a standardized curriculum preparing them to lead agencies in the 21st century.

5.5 **Recommendation:** The U.S. Department of Justice should instruct the Federal Bureau of Investigation to modify the curriculum of the National Academy at Quantico to include prominent coverage of the topical areas addressed in this report. In addition, the COPS Office and the Office of Justice Programs should work with law enforcement professional organizations to encourage modification of their curricula in a similar fashion.

5.6 **Recommendation:** POSTs should make Crisis Intervention Training (CIT) a part of both basic recruit and in-service officer training.

5.6.1 **Action Item:** Because of the importance of this issue, Congress should appropriate funds to help support law enforcement crisis intervention training.

5.7 **Recommendation:** POSTs should ensure that basic officer training includes lessons to improve social interaction as well as tactical skills.

5.8 **Recommendation:** POSTs should ensure that basic recruit and in-service officer training include curriculum on the disease of addiction.

5.9 **Recommendation:** POSTs should ensure both basic recruit and in-service training incorporates content around recognizing and confronting implicit bias and cultural responsiveness.

5.9.1 **Action Item:** Law enforcement agencies should implement ongoing, top-down training for all officers in cultural diversity and
related topics that can build trust and legitimacy in diverse communities. This should be accomplished with the assistance of advocacy groups that represent the viewpoints of communities that have traditionally had adversarial relationships with law enforcement.

5.9.2 Action Item: Law enforcement agencies should implement training for officers that covers policies for interactions with the LGBTQ population, including issues such as determining gender identity for arrest placement, the Muslim, Arab, and South Asian communities, and immigrant or non-English speaking groups, as well as reinforcing policies for the prevention of sexual misconduct and harassment.

5.10 Recommendation: POSTs should require both basic recruit and in-service training on policing in a democratic society.

5.11 Recommendation: The Federal Government, as well as state and local agencies, should encourage and incentivize higher education for law enforcement officers.

5.11.1 Action Item: The Federal Government should create a loan repayment and forgiveness incentive program specifically for policing.

5.12 Recommendation: The Federal Government should support research into the development of technology that enhances scenario-based training, social interaction skills, and enables the dissemination of interactive distance learning for law enforcement.

5.13 Recommendation: The U.S. Department of Justice should support the development and implementation of improved Field Training Officer programs.

5.13.1 Action Item: The U.S. Department of Justice should support the development of broad Field Training Program standards and training strategies that address changing police culture and organizational procedural justice issues that agencies can adopt and customize to local needs.

5.13.2 Action Item: The U.S. Department of Justice should provide funding to incentivize agencies to update their Field Training Programs in accordance with the new standards.

6.1 Recommendation: The U.S. Department of Justice should enhance and further promote its multi-faceted officer safety and wellness initiative.

6.1.1 Action Item: Congress should establish and fund a national “Blue Alert” warning system.

6.1.2 Action Item: The U.S. Department of Justice, in partnership with the U.S. Department of Health and Human Services, should establish a task force to study mental health issues unique to officers and recommend tailored treatments.

6.1.3 Action Item: The Federal Government should support the continuing research into the efficacy of an annual mental health check for officers, as well as fitness, resilience, and nutrition.
6.1.4 **Action Item**: Pension plans should recognize fitness for duty examinations as definitive evidence of valid duty or non-duty related disability.

6.1.5 **Action Item**: Public Safety Officer Benefits (PSOB) should be provided to survivors of officers killed while working, regardless of whether the officer used safety equipment (seatbelt or anti-ballistic vest) or if officer death was the result of suicide attributed to a current diagnosis of duty-related mental illness, including but not limited to post-traumatic stress disorder (PTSD).

6.2 **Recommendation**: Law enforcement agencies should promote safety and wellness at every level of the organization.

6.2.1 **Action Item**: Though the Federal Government can support many of the programs and best practices identified by the U.S. Department of Justice initiative described in recommendation 6.1, the ultimate responsibility lies with each agency.

6.3 **Recommendation**: The U.S. Department of Justice should encourage and assist departments in the implementation of scientifically supported shift lengths by law enforcement.

6.3.1 **Action Item**: The U.S. Department of Justice should fund additional research into the efficacy of limiting the total number of hours an officer should work within a 24–48-hour period, including special findings on the maximum number of hours an officer should work in a high risk or high stress environment (e.g., public demonstrations or emergency situations).

6.4 **Recommendation**: Every law enforcement officer should be provided with individual tactical first aid kits and training as well as anti-ballistic vests.

6.4.1 **Action Item**: Congress should authorize funding for the distribution of law enforcement individual tactical first aid kits.

6.4.2 **Action Item**: Congress should reauthorize and expand the Bulletproof Vest Partnership (BVP) program.

6.5 **Recommendation**: The U.S. Department of Justice should encourage and assist departments in the implementation of scientifically supported shift lengths by law enforcement.

6.6 **Recommendation**: Law enforcement agencies should adopt policies that require officers to wear seat belts and bullet-proof vests and provide training to raise awareness of the consequences of failure to do so.

6.7 **Recommendation**: Congress should develop and enact peer review error management legislation.

6.8 **Recommendation**: The U.S. Department of Transportation should provide technical assistance opportunities for departments to explore the use of vehicles equipped with vehicle collision prevention “smart car” technology that will reduce the number of accidents.
7.1 **Recommendation:** The President should direct all federal law enforcement agencies to review the recommendations made by the Task Force on 21st Century Policing and, to the extent practicable, to adopt those that can be implemented at the federal level.

7.2 **Recommendation:** The U.S. Department of Justice should explore public-private partnership opportunities, starting by convening a meeting with local, regional, and national foundations to discuss the proposals for reform described in this report and seeking their engagement and support in advancing implementation of these recommendations.

7.3 **Recommendation:** The U.S. Department of Justice should charge its Office of Community Oriented Policing Services (COPS Office) with assisting the law enforcement field in addressing current and future challenges.

For recommendation 7.3, the COPS Office should consider taking actions including but not limited to the following:

- Create a National Policing Practices and Accountability Division within the COPS Office.
- Establish national benchmarks and best practices for federal, state, local, and tribal police departments.
- Provide technical assistance and funding to national, state, local, and tribal accreditation bodies that evaluate policing practices.
- Recommend additional benchmarks and best practices for state training and standards boards.
- Provide technical assistance and funding to state training boards to help them meet national benchmarks and best practices in training methodologies and content.
- Prioritize grant funding to departments meeting benchmarks.
- Support departments through an expansion of the COPS Office Collaborative Reform Initiative.
- Collaborate with universities, the Office of Justice Programs and its bureaus (Bureau of Justice Assistance [BJA], Bureau of Justice Statistics [BJS], National Institute of Justice [NIJ], and Office of Juvenile Justice and Delinquency Prevention [OJJDP]), and others to review research and literature in order to inform law enforcement agencies about evidence-based practices and to identify areas of police operations where additional research is needed.
- Collaborate with the BJS to
  - establish a central repository for data concerning police use of force resulting in death, as well as in-custody deaths, and disseminate this data for use by both community and police;
  - provide local agencies with technical assistance and a template to conduct local citizen satisfaction surveys;
• Compile annual citizen satisfaction surveys based on the submission of voluntary local surveys, develop a national level survey as well as surveys for use by local agencies and by small geographic units, and develop questions to be added to the National Crime Victimization Survey relating to citizen satisfaction with police agencies and public trust.

• Collaborate with the BJS and others to develop a template of broader indicators of performance for police departments beyond crime rates alone that could comprise a Uniform Justice Report.

• Collaborate with the NIJ and the BJS to publish an annual report on the “State of Policing” in the United States.

• Provide support to national police leadership associations and national rank and file organizations to encourage them to implement task force recommendations.

• Work with the U.S. Department of Homeland Security to ensure that community policing tactics in state, local, and tribal law enforcement agencies are incorporated into their role in homeland security.
“When any part of the American family does not feel like it is being treated fairly, that’s a problem for all of us. It means that we are not as strong as a country as we can be. And when applied to the criminal justice system, it means we’re not as effective in fighting crime as we could be.”

—President Barack Obama

These remarks underpin the mission of the President’s Task Force on 21st Century Policing: to identify ways to build trust between citizens and their law enforcement officers so that all components of a community treat one another fairly and justly and are invested in maintaining public safety in an atmosphere of mutual respect.