THE PRESIDENT'S TASK FORCE ON
21ST CENTURY POLICING

Building Trust & Legitimacy
Submitted Written Testimony Received by January 13, 2015
Presented Alphabetically by Last Name
Primary Source Documents

A-F

This document contains all Primary Sources for testimony and public comment submitted to the Task Force for the first listening session on Building Trust & Legitimacy. Ninety-three documents are broken into three sections compiled alphabetically by last name when available or by the name of the organization when not provided. This document contains submissions ending in A-F. A complete list of submissions for A-Z is also provided as an easy reference when looking for specific names or organizations.

Note:
*Oral presenters who submitted written testimony
**Invited written testimony
***Written public testimony

Primary Source Documents A-F

1. **Abraham, Robert** – Chair, Gang Resistance Education & Training (GREAT)***
2. **Agnew, Philipp** – Executive Director, Dream Defenders***
3. **Alpert, Geoffrey** – University of South Carolina**
4. **American Friends Service Committee*****
5. **Amnesty International*****
6. **Bandele, Monifa** – Communities United for Police Reform***
7. **Beary, Richard** - President, International Association of Chiefs of Police*
8. **Berman, Greg** – Center for Court Innovation***
9. **Blackwell, Angela** – Founder/CEO, Policy Link***
10. **Buchner, Brian** - President, National Association for Civilian Oversight of Law Enforcement (NACOLE)**
11. **Bueerman, Jim** – President, Police Foundation**
12. **CALEA*****
13. **Campbell, Melanie** – President and CEO, National Coalition on Black Civic Participation**
14. **Canady, Mo** – Executive Director, National Association of School Resource Officers (NASRO)**

15. **Canterbury, Chuck** - President, National Fraternal Order of Police*
16. **Carter, Hugh** – Adjunct Professor, Department of Rowan University**
17. **Chavis Simmons, Kami**- Professor of Law and Director of Criminal Justice Program, Wake Forest University School of Law**
18. **Coffield, Faye** – CJ Federal Task Force***
19. **Color of Change***
20. **Corson Lake, Jill** – Director, Parsons New School for Design New York***
21. **Couper, David** – Retired Chief of Police, Minneapolis Police Department***
22. **Darakshan, Raja** – Program Manager, Washington Peace Center**
23. **Dellums Commission: National Collaboration for Health Equity***
24. **deLone, Madeline** – Executive Director, The Innocence Project***
25. **Eisen, Lauren-Brooke** – Council Justice Program, NYU School of Law***
26. **Evangelical Lutheran Church of America***
27. **Fachner, George** – CNA Corporation***
28. **Fagan, Jeffrey** – Professor of Law, Columbia Law School***
29. **Fridell, Lorie,** Ph.D., Associate Professor of Criminology at the University of South Florida***
30. **Ford, Johnny** – Mayor, Alabama Conference of Black Mayors***

FOR REFERENCE

Primary Source Documents G-N

31. **Garcia, Ethan** – Youth Specialist, Identity Inc.
32. **Gerhardstein, Al-** Civil Rights Attorney**
33. **Ginyard, Fred** – Organizing Director, FIERCE***
34. **Graham, Aaron** – Rev., The District Church**
35. **Green, Virgil** – Chief, Future America National Crime Solution Commission***
36. **Greenburg, Sheldon** – Professor, Johns Hopkins University**
37. **Haas, Robert** – Chief Commissioner, Cambridge Police Department (MA)**
38. **Hayes, Louis** – Police Officer, Ret.***
39. **Herring, Maulin Chris** – Trainer/Consultant, Public Safety***
40. **Ifill, Sherilynn** - President and Director-Counsel, NAACP Legal Defense and Educational Fund, Inc.*
41. **Ingram, Janaye** – Executive Director, National Action Network (NAN)**
42. **Jones-Brown, Delores** – Professor, Department of Law Police Science and Criminal Justice Administration***
43. **Kaufman, Keith** – Captain, Hawthorne Police Department (LA County)**
44. **Knee, Stanley** – Chief, Austin Police Department***
45. **Kumar, Maria Teresa** - President and CEO, Voto Latino*

46. **Kunard, Laura** – Senior Research Scientist, CNA Corporation**
47. **Lauter, Deborah** – Director of Civil Rights, Anti-Defamation League**
48. **Lumpkin, Bruce - **
49. **Major County Sheriff's Association**
50. **Masterson, Mike** – Chief, Boise Police Department**
51. **McCauley, R. Paul** – Police Officer/Educator, Academy of Criminal Justice Sciences***
52. **McDevitt, Jack** – Dean, College of Social Studies and Humanities, Northwestern University**
53. **McMurray, Harvey** – Chair, Department of Criminal Justice, North Carolina Central University***
54. **Medlock, Harold** – Chief, Fayetteville Police Department**
55. **Mellis, Doug** – Chief, MCOPA***
56. **Moe, Charlene** – Program Coordinator, Center for Public and Safety and Justice, University of Illinois
57. **Murphy, Laura** - Director, ACLU Washington Legislative Office*
58. **Myers, Richard** – Chief, Newport News Police Department**
59. **Nash, Toye** – Sgt. Phoenix Police Department***
60. **National Association of Counties**
61. **National Association of Police Organizations**
62. **National Organization of Black Law Enforcement Executives (NOBLE)**
63. **National Sheriff's Association**
64. **Nutter, Michael** - Mayor, City of Philadelphia*

Primary Source Documents O-Z

65. **Ogletree, Charles** - Harvard Law School Jesse Climenko Professor of Law, and Executive Director of the Charles Hamilton Houston Institute for Race and Justice*
66. **O'Connor, Barbara** – President, National Association of Women Law Enforcement Executives
67. **O'Neill, Patricia** – CEO/Executive Producer, Not in Our Town
68. **Pasco, James** – Executive Director, National Fraternal Order of Police***
69. **Peralta, Andrew** - President, National Latino Police Officers Association*
70. **Perez, Carmen** - The Gathering for Justice and Justice League of NYC*
71. **Perry, David** – President, International Association of Campus Law Enforcement Administrators (ICLEA)**
72. **PICO National Network**
73. **Price, Megan** - Director, School for Conflict Analysis and Resolution, George Mason University**
74. **Rawlings-Blake, Stephanie** - Mayor, City of Baltimore*
75. **Razer, Tess** – Teacher, Brooklyn, NY***

76. **Reddy, Vikrant** - Senior Policy Analyst, Texas Public Policy Foundation*
77. **Rosenbaum, Dennis** – Professor, University of Illinois at Chicago**
78. **Ryan, Julia** – Community Safety Initiative Director, LISC***
79. **Skiba, Russell** - Indiana University Center for Evaluation and Education**
80. **Skogan, Wesley** – Professor, Institute for Policy Research Northwestern University**
81. **St. Germain, Jim** -Co-founder of Preparing Leaders of Tomorrow, Inc. (PLOT)*
82. **Santa Fe College and Police Department**
83. **Stoudt, Brett** – Professor, John Jay College of Criminal Justice***
84. **Stoudt, Brett** – Public Science Project, Morris Justice Project, Research for Fair Policing***
85. **Streetwise & Safe***
86. **Team Kids***
87. **Turner, Nicholas** – President and Director, Vera Institute of Justice**
88. **Tyler, Tom** - Macklin Fleming Professor of Law and Professor of Psychology, Yale University*
89. **Unnever, James** – Professor of Criminology, University of South Florida**
90. **Walker, Samuel** -Professor Emeritus of Criminal Justice, University of Nebraska at Omaha*
91. **Warren, Vincent** – Executive Director, Center for Constitutional Rights***
92. **Weinstein, Barbara** – Associate Director, Religious Action Center of Reform Judaism***
93. **Winkler, Jim** - President and General Secretary, National Council of Churches of Christ in the USA*

Gang Resistance Education And Training (G.R.E.A.T.) Program

An Effective Tool for Improving Police Relations
With Youths and Communities

Testimony to the President's Task Force on 21st Century Policing
Submitted by Robert M. Abraham, Chair, G.R.E.A.T. National Policy Board
and Assistant Chief, La Crosse, Wisconsin, Police Department

Gang Resistance Education And Training (G.R.E.A.T.) is an evidence-based, multicomponent, primary prevention program aimed at reducing youth crime, violence, and gang involvement. It is designed for children in the years immediately before the typical ages for introduction into gangs and delinquent behavior. The G.R.E.A.T. Program is built around school-based, law enforcement officer-instructed classroom curricula. It provides a continuum of components for children and their families, including a six-lesson elementary school curriculum, a 13-lesson middle school curriculum, a summer component, and a special component for the families of at-risk children and youth.

The G.R.E.A.T. Program has **three primary goals**: (1) teach youths to avoid gang membership, (2) prevent violence and criminal activity, and (3) **assist youths to develop positive relationships with law enforcement**. This is accomplished by using a skills-based approach that addresses three domains of learning: cognitive, behavioral, and affective. The G.R.E.A.T. Program produces attitude and behavioral changes through a unique combination of skills training, cooperative learning, discussion, and role playing. Students are provided with many opportunities to model and practice relevant life skills. Once students have rehearsed these skills, they will be more likely to use them in real-life situations.

Through the G.R.E.A.T. Program, officers encounter youths in their familiar environments in the schools, but G.R.E.A.T. is not strictly a school-based program. In addition to the school-based curricula for elementary and middle school students, officers are able to interact with the families of at-risk youth in constructive, trust-building forums through the G.R.E.A.T. Families Component and strengthen relationships with students outside of the school environment through the G.R.E.A.T. Summer Component, often in partnership with other community leaders. These added components provide G.R.E.A.T.-involved police agencies a much broader community outreach.

G.R.E.A.T. Has a Proven Record of Improving Police-Youth Relations

Since its inception in the 1990s, G.R.E.A.T. has undergone three university-led evaluations, commissioned by the National Institute of Justice (NIJ), to determine its effectiveness in meeting its goals. A common result in all of the evaluations is the finding that children and youth who have participated in G.R.E.A.T. have significantly more favorable attitudes toward police than children and youth who have not had the Program. This was first noted in a one-year, 11-city cross-sectional study held in 1995.[1] These results were confirmed in a six-city longitudinal study conducted over a five-year period from 1995 to 1999.[2] The third study, another longitudinal outcome evaluation conducted in seven geographically diverse cities between 2006 and 2012, again found statistically significant positive program effects for youths' attitudes toward police.[3]

While that finding is the most significant for the purposes of the task force, G.R.E.A.T. also demonstrated important beneficial effects on a number of other measures. It should be noted that the earlier longitudinal study, while showing promising effects on a number of measures, did not indicate significant reductions in gang joining, one of the primary goals of the Program. To address this concern, program leadership chose to convene a multidisciplinary group to recommend and develop changes in the curriculum. This resulted in a completely revamped curriculum that was guided by evidence-based practices and informed by the work of educators and prevention specialists and the growing body of risk factor research.[4] The new middle school curriculum was fully implemented in 2003. Around that same time, the Program introduced a complementary component for families, and a revised elementary school curriculum followed in 2005.

To determine the impact, if any, of the revamped curriculum on Program outcomes, NIJ commissioned a new process-and-outcome evaluation in 2006. The research team used a classic double-blind, randomized control trial to measure outcomes. At the one-year post-program follow-up, the researchers found statistically significant differences between the treatment students and the control students on 14 attitudinal and behavioral measures, including:

- ❖ More positive attitudes about police
- ❖ More positive attitudes about having police in classrooms
- ❖ Less positive attitudes about gangs
- ❖ More use of refusal skills
- ❖ More resistance to peer pressure

- ❖ Higher collective efficacy
- ❖ Less use of hitting neutralizations
- ❖ Fewer associations with delinquent peers
- ❖ Less self-centeredness
- ❖ Less anger
- ❖ Lower rates of gang membership (39% reduction in odds)
- ❖ Less use of lie neutralization
- ❖ More pro-social peers
- ❖ More pro-social involvement

The researchers found it remarkable, in light of the rather small program dosage of 13 lessons that averaged 40 minutes per lesson, that upon the four-year follow-up, the analyses revealed results similar to the one-year post-program effects, although (as expected over time) with somewhat smaller effect sizes.[5] These results reflect the significant impact on numerous key risk and protective factors associated with the odds of becoming involved in gangs, violence, and delinquency. The collective body of risk factor research suggests that prevention programs should attempt to address risk factors in multiple domains and to do so earlier, rather than later, in adolescence, both before the factors accumulate and before the typical age of onset for gang involvement; i.e., prior to the age of about 14.[6] G.R.E.A.T. was designed specifically to address multiple factors across multiple domains and to be presented between grades four and seven, when students are typically 9 to 13 years of age.

The primary criticism of the study results has been that the effect sizes are relatively small. In fact, it would be very surprising if they were not. G.R.E.A.T. is a universal prevention program and is offered to all children rather than attempting to select for specific risk groups. Because the majority of the children are not likely ever to engage in violent or delinquent behavior, the Program will serve as a reinforcement for the preexisting prosocial values those children already espouse but is unlikely to register as change for those children. The fact that a universal program has the significant measurable impact that G.R.E.A.T. demonstrates, and does so with such a small investment of time and resources, is really quite remarkable.

In addition to measuring program impact on kids through the outcome study, the most recent G.R.E.A.T. research included a process evaluation that surveyed G.R.E.A.T.-trained

officers and school personnel. By overwhelming majorities, police officers serving as G.R.E.A.T. instructors agreed that:

- ❖ G.R.E.A.T. improved police-youth relationships (91%);
- ❖ G.R.E.A.T. contributed to a better relationship between law enforcement and local schools (91%);
- ❖ G.R.E.A.T. strengthened police-community relationships in general (80%).[7]

Surveys of school personnel found that:

- ❖ 91% of administrators and teachers support having police officers in their schools;
- ❖ 94% of administrators and 87% of teachers favor having G.R.E.A.T. in their schools;
- ❖ 85% of administrators and 91% of teachers believe that G.R.E.A.T. improves students' perceptions of police;
- ❖ 100% of administrators and 83% of teachers say that G.R.E.A.T. addresses the problems facing their students.[8]

Challenges Facing the G.R.E.A.T. Program and Recommendations to the Task Force

For the last two decades, G.R.E.A.T. has been implemented by law enforcement officers in numerous schools and communities throughout the nation, with excellent and usually enthusiastic reception. However, even in most of the cities and towns where it has been introduced, the Program has rarely achieved the kind of widespread distribution that could result in a measurable impact on entire communities. As demonstrated by the research studies and indicated by abundant anecdotal reports, the Program has made a significant difference in many individual classrooms, schools, and small communities but is often not implemented widely enough to have broader impacts. As an example, the Chicago Police Department has had more officers trained to instruct the G.R.E.A.T. Program than any other single agency, yet in 2013, only 3 of 51 middle schools in the Ninth District, one of the most violence-ridden districts in the city, were receiving the Program. The Bureau of Justice Statistics reports that there are almost 18,000 state and local law enforcement agencies nationwide, but there are only between 500 and 600 agencies currently utilizing the G.R.E.A.T. Program.

Although G.R.E.A.T. is an inexpensive program to implement and maintain, there are various obstacles to wider growth and adoption of the Program, with the greatest of them being the reluctance of cash-strapped local agencies to commit limited resources to a prevention program, which is often seen as not being an essential police function. There are three primary expenses involved in implementing G.R.E.A.T.: the training of new instructors, the printing and distribution of G.R.E.A.T. curriculum materials, and providing law enforcement personnel the time required to present the Program. The training and the printed materials are provided through a federal grant from the Office of Juvenile Justice and Delinquency Prevention (OJJDP), so only the third expense must be directly borne by local agencies. That is still, for many, a considerable obstacle. Large cuts in the OJJDP budget have resulted in less money being available for the training program and for publication of materials, so that even with reduced demand as police agencies' personnel numbers have diminished, the Program is no longer able to meet many of the requests for training and technical assistance.

The G.R.E.A.T. Program has, since its inception, been a highly successful example of federal/state/local collaboration. It is led by a board composed of representatives from participating local and federal agencies, which work together cooperatively to maintain the relevance and integrity of the Program. As the current Chair of the G.R.E.A.T. National Policy Board, I strongly urge the Task Force on 21st Century Policing to include among its recommendations that G.R.E.A.T. be advocated as part of local law enforcement agencies' strategies for building trust between police and the youth and communities they serve, as well as a means of helping prevent youth violence, delinquency, and gang involvement.

End Notes

[1] Esbensen, Finn-Aage, and D. Wayne Osgood. 1999. "Gang Resistance Education And Training (G.R.E.A.T.): Results from the National Evaluation." *Journal of Research in Crime and Delinquency* 36:194−225.

[2] Esbensen, Finn-Aage, D. Wayne Osgood, Terrance J. Taylor, Dana Peterson, and Adrienne Freng. 2001. "How Great Is G.R.E.A.T.?: Results From a Quasi-Experimental Design." *Criminology and Public Policy* 1:87−118.

[3] Esbensen, Finn-Aage, D. Wayne Osgood, Dana Peterson, Terrance J. Taylor, and Dena C. Carson. 2013. "Short and Long Term Outcome Results from a Multisite Evaluation of the G.R.E.A.T. Program." *Criminology and Public Policy* 12:375−411.

[4] Esbensen, Finn-Aage, Dana Peterson, Terrance J. Taylor, Adrienne Freng, D. Wayne Osgood, Dena C. Carson, and Kristy N. Matsuda. 2011. "Evaluation and Evolution of the Gang Resistance Education And Training (G.R.E.A.T.) Program." *Journal of School Violence* 10:53−70.

[5] Esbensen, Finn-Aage, Dana Peterson, Terrance J. Taylor, and D. Wayne Osgood. 2012. "Is G.R.E.A.T. effective? Does the program prevent gang joining?: Results from the National Evaluation of G.R.E.A.T." *Department of Criminology and Criminal Justice, University of Missouri-St. Louis*.

[6] Thornberry, Terence P., Marvin D. Krohn, Alan J. Lizotte, C. A. Smith, and Kimberly Tobin. 2003. *Gangs and Delinquency in Developmental Perspective*. New York: Cambridge.

[7] Carson, Dena C., Finn-Aage Esbensen, Terrance J. Taylor, and Dana Peterson. 2008. "National Evaluation of G.R.E.A.T.: Results from Surveys and Interviews with G.R.E.A.T.-trained Officers." *Department of Criminology and Criminal Justice, University of Missouri-St. Louis*.

[8] Peterson, Dana, Vanessa R. Panfil, Finn-Aage Esbensen, and Terrance J. Taylor. 2009. "National Evaluation of G.R.E.A.T.: School Personnel Survey Report." *Department of Criminology and Criminal Justice, University of Missouri-St. Louis*.

8330 Biscayne Blvd.
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January 6, 2015

President's Task Force on 21st Century Policing
US Department of Justice
Office of Community Oriented Policing Services
145 N Street NE
Washington, DC 20530
via email PolicingTaskForce@usdoj.gov

Dear Co-Chairs Ramsey and Robinson, and members of the Task Force:

The Dream Defenders welcome the opportunity to comment on policing reform and bring further attention to the racial justice crisis facing our country in advance of the January 13, 2015 listening session before the President's Task Force on 21st Century Policing. The Dream Defenders is a Florida-based organization made up of Black and Brown youth fighting for a more equitable and just society. We are a new generation of influencers, artists, thinkers and organizers tired of having our lives cheapened and our dreams deferred.

The recent killings of unarmed black people, and the unsurprising but devastating decisions not to hold the police officers involved accountable, has unmasked a system that continues to undermine the value of Black life. In the 150 days since the killing of Michael Brown, Jr., the people of Ferguson and St. Louis, Missouri, led by young people of color, have not let a single night pass without engaging in active resistance to injustice. As youth of color, we are leading an active struggle against state-sanctioned killings, violence and repression that target Black and Brown communities. We stand in solidarity with leaders across the country from Missouri to New York and Ohio, and with struggles abroad against white supremacy and oppression led by our brothers and sisters in Palestine, Mexico, Brazil and beyond.

In a recent meeting with President Barack Obama, we made it clear that we are not the "People's Spokespeople." We told him that we had neither the power, positions, nor desires to stop the eruptions in the streets and that they would continue until a radical change happened in this country. We told him that we had no faith in anything, church or state. We told him that the country was on the brink and that nothing short of major capitulations at all levels of the government to the demands of the people could prevent it.

Today, we echo those same truths. He listened, as we know you will today, but is the actions that follow, the action that is incumbent upon you, upon us all, to dismantle these systems of oppression that we will be remembered by.

We have been asked to offer comments on building trust and legitimacy between communities and the police that are paid to serve and protect them. So long as the police view us as criminal, as communities to be controlled, they will never win our trust. Trust and legitimacy are two way streets – in order for us to be able to respect the police, the police need to treat us with respect, dignity and understanding.

DEFINING THE ROLE OF THE POLICE IN A DEMOCRATIC SOCIETY / COMMUNITY ENGAGEMENT AND DIALOGUE

Police are supposed to serve and protect all people in a democratic society, such that they can enjoy their human rights to life, liberty and the pursuit of happiness. However, the current models of policing place Black and Brown communities under constant surveillance by police forces, yet do nothing to make them these communities safer. The War on Drugs and policies like Zero Tolerance and the Broken Windows Policing philosophies have led our communities to see the police as occupying forces, where we feel over-policed but under-protected. Under these circumstances, it is all the more troubling to see local police forces increasingly militarized. If police have the equipment, they will use it. This model of aggressive yet ineffective policing creates an atmosphere of tension, agitation and surveillance, where Black and Brown bodies are criminalized for their very existence.

In order to reverse these entrenched trends, the federal government must divest from discriminatory policing, militarization, and punitive policies and invest in community economic development and the cultivation of human capital. This includes demands to:

1. Eliminate the 1033 Excess Property Program and place strict limits on the transfer and use of military equipment by local law enforcement departments;
2. End the use of language such as the "war on drugs" to describe domestic policies and the tactics which follow from these programs;
3. Refrain from using militarized "hot spot" policing methods that use military tactics against American citizens as if they were enemy combatants; and
4. Defund police departments that engage in discriminatory policing practices and excessive use of force.

Communities must have more say in the priorities and practices of local law enforcement. This requires an investment in building structures that ensure a critical mass of community members and stakeholders to have agency in determining budgeting around police priorities. This is not simply about engagement or dialogue, but allowing communities to be a partner in building a democratic society and create their own accountability mechanisms. An investment in community-led programs that provide alternatives to policing and incarceration will yield dividends far and beyond the punitive models currently being operated in many cities. Job training, community programming and community-led social services aimed at addressing the root causes of poverty are also essential ingredients for success.

With respect to investment, the federal government should:

1. Use COPS and other DOJ funds to create grants to support and implement community oversight mechanisms based on community based alternatives to law enforcement and incarceration. This may include support for civilian review boards/commissions, restorative justice practices, amnesty programs to clear open warrants, and know-your-rights-education;
2. Support youth employment and community programming that meets basic needs of residents;[1]
3. Support restorative justice programs in schools to mitigate the School-to-Prison Pipeline and transform school climates into generative and nurturing environments for our youth; and
4. Pass the End Racial Profiling Act.

We shouldn't be aiming for a society where police forces and mass incarceration are a given; but one where the development of robust, healthy communities is the end-goal. Accordingly, the ability to reduce dependence on a state institution intended to control should be a marker of our advancement as a democratic society.

BUILDING A CULTURE OF TRANSPARENCY/PROCEDURAL JUSTICE

As the killings of Michael Brown Jr., John Crawford III, Eric Garner, Israel Hernandez, Tanisha Anderson, Tamir Rice, and countless others across the country illustrate, the reluctance to hold police officers accountable for their misconduct creates an atmosphere of impunity that allows police violence to go on unchecked. This in turn translates into insecurity and distrust in communities of color that have learned to fear the police as a matter of survival.

Accountability

Time and time again, we have seen state prosecutors fail to hold officers accountable for taking Black lives. While deep reform of our justice system is necessary to ensure that our lives matter not only to our communities but also in a court of law, there are some basic reforms that can be made to help the curb police violence that is currently going unchecked:

1. Appoint independent prosecutors in all police misconduct cases;
2. Provide mandatory guidelines developed with input from communities vulnerable to police brutality with strict regulations on the use of force by state and local law enforcement departments that receive federal funding. Violation of these standards should result in financial penalties or reduction in federal funding; and
3. Incentivize compliance with DOJ best practices through other positive recognition of good policing.

Data Collection & Reporting

Understanding the complete picture of police practices is an urgently unmet need. Complete, accurate, timely, and disaggregated data on the number of police killings and shootings should be available to the public immediately. The Department of Justice

should:

1. Complete a comprehensive review of data collection practices by local law enforcement and the development of a new data collection system that allows for annual reporting of data on the disaggregated rates of stops, frisks, searches, summonses, and arrests;
2. Create best practices for data collection, use of force and community collaboration and condition federal funding on their adoption; and
3. Develop a review trigger based on departments' refusal to report data on excessive use of force or policing practices and withhold funding when law enforcement agencies do so.

Community Oversight and Civilian Review of Misconduct

Local police departments must be accountable to the communities they serve. Independent Civilian Review Boards can be a vehicle of community oversight and a tool to build trust and ensure accountability. However, Civilian Review Boards that are not legally empowered to subpoena and investigate complaints or who are not equipped with the staff or resources to evaluate incidents of police misconduct are empty symbolic bodies that erode trust. Civilian Review Boards must be representative of the communities they purport to represent and must have the resources and power to effectively do their job. This includes: adequate and consistent funding; subpoena and investigative powers (including access to internal affairs files); and annual reporting mandates that ensure transparency and allow the public and elected officials access to data about the frequency and scope of community complaints against police. Lastly, Civilian Review Boards should also have a say in final disciplinary outcomes for officers involved in misconduct against communities.

HIRING A DIVERSE WORKFORCE

Police forces should be reflective of the communities they police through mechanisms such as residency requirements and gender parity. Additionally, there should be a minimum population requirement to form a police department. All recruits should be screened for mental health issues and supported with adequate resources to address trauma or stress issues that could impact their work, especially those returning from military combat.

POLICE LEADERSHIP DEVELOPMENT/RACIAL RECONCILIATION

As elaborated in the Organization for Black Struggle's Quality Policing Initiative,[ii] training is an important element in leadership development and addressing implicit racial and gender bias concerns among police forces. These include: Enhanced Personal Unarmed Combat Training, Conflict Resolution Training, Threat Progression Training, and Anti-Racism Training. Use of these tactics should be incentivized and rewarded so as to create an environment that discourages the resort to deadly force before employing de-escalation techniques.

IMPROVING POLICE AND YOUTH RELATIONS

The same principles that apply to improving community relations apply to improving police and youth relations. We must immediately end policies that lead to the School-to-Prison Pipeline and dismantle the systems that continue to funnel Black, Brown and LGBTQ youth into the prison system at alarmingly disproportionate rates. Police simply do not belong at our schools. School district after school district has shown that when you remove police from campuses, fundamentally change the role of police to focus only on immediate threats to safety, put discipline back in the hands of trained educators, and resource schools with social workers and counselors to address the real issues impacting students' lives, safety indicators, school climate and academic outcomes dramatically improve. Key to these established success, in places like Denver, CO, Broward County, FL and Baltimore, MD, is the leadership of students and community stakeholders and the audacity to take racial disparities head on.

In our schools and our neighborhoods, the solution is clear – police must follow the lead of the communities they serve. So long as communities feel criminalized and dehumanized by the police forces that are intended to protect them, trust and legitimacy will be impossible to achieve.

Thank you for this opportunity to provide testimony.

Sincerely,

Phillip Agnew
Executive Director
Dream Defenders

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[i] Washington Post, *Chicago gave hundreds of high-risk kids a summer job. Violent crime rates plummeted,* (December 26, 2014) http://www.washingtonpost.com/blogs/wonkblog/wp/2014/12/26/chicago-gave-hundreds-of-high-risk-kids-a-summer-job-violent-crime-arrests-plummeted/
[ii] Organization for Black Struggle, Quality Policing Initiative (2014) http://obs-stl.org/news/item/quality-policing-initiative-2

WRITTEN TESTIMONY TO THE PRESIDENT'S TASK FORCE ON 21ST CENTURY
POLICING

Geoffrey P. Alpert
University of South Carolina

Jeffrey Rojek
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We would like to the thank the members of the President's Task Force on 21st Century
Policing for the opportunity to provide written testimony on building trust and legitimacy in
police organizations. The police in the United States enjoy a high level of general support from
the community members they serve. However, recent attention on high profile use-of-force
events highlight that such support is fragile and a goal that police organizations must continually
strive to achieve. Indeed, the level of support for the police is uneven across community
members. It is important to acknowledge that policing in the United States has evolved over time
and the police organizations today have greatly improved their professionalism and attentiveness
to the community members they serve compared to their predecessors from a few decades ago.
The challenge is to continue this evolution of improvement into the 21st Century. Central to such
efforts will be improving and maintaining a quality relationship between the police and all
community members.

This relationship between the police and community is a fundamental pillar to a constitutional
and democratic form of policing. An important aspect of policing is the development of trust and
confidence and willingness of citizens to inform the police of criminal activity, potential criminal
activity, and other concerns. A growing body of literature on procedural justice and legitimacy
illustrates this willingness is influenced by the degree of trust citizens have in in the police and
the extent to which they view policing as a legitimate institution. Moreover, it has been shown
that these components of trust and perceived legitimacy are influenced by the extent that officers
are procedurally fair when interacting with citizens, which includes unbiased actions, a
willingness to explain decisions, a show of respect, and to allow individuals the opportunity to
express "their side of the story." The challenge that lies ahead is finding paths for translating
these empirical findings on procedural justice into practice by building officer receptivity to the
related concepts, and developing skill sets among officers that will allow them to employ this
approach in the field. The development of social capital requires an affirmative effort by the
police to become part of the communities they serve.

We are confident there are respected scholars who will provide testimony to this Task Force on
the empirical findings related to procedural justice and can offer direction to translate this
information into practice. As a result, we would like to focus the rest of our testimony on
infrastructure elements within police organizations that can foster trust and perceptions of

legitimacy among citizens. The first of these components is defining the role of the police in a democratic society.

Policing in the 21st Century includes procedural justice metrics for assessment of police success. The performance measures police agencies have traditionally used focus on reported crimes, arrests, clearance rates, and response times. The relevance of these measures filter throughout the agency. The evaluation of quality performance among police supervisors and officers is guided by the extent that their efforts support the accomplishment of the metrics. These measures will continue to be relevant in policing. However, following the adage "what gets measured gets managed," agencies need to incorporate a routine process for capturing citizen perceptions of trust and legitimacy if strategies of procedural justice are to become a central component of 21st Century policing. This would include the regular use of properly administered citizen surveys to capture and track these concepts as performance measures, with the intent that such measurement would trickle down to become an indicator of quality performance by supervisors and front-line officers and perhaps incorporated into individual officer evaluations.

A second component for fostering perceptions of trust and legitimacy is to build a comprehensive and transparent accountability system, which is consistent with the task force focus on building a culture of transparency. We want to stress that the vast majority of police officers are fair, hard-working and understand how to interact with most citizens. Unfortunately, there are some officers who lack the skills necessary to show respect, restraint and to act responsibly with some citizens. The "us-against-them" mentality lives and even thrives in some agencies and often manifests in patterns of inappropriate behavior including excessive force. A foundation for addressing officer behavior is the establishment and administration of a system of use-of-force reporting in all police agencies. Such reporting will often flag potential problem suspects, officers and areas, but many police departments either lack robust use-of-force reporting protocols, or when such policies are in place, they are not taken seriously. Tangible reform requires a commitment to use-of-force reporting, compiling and assessing the data on a national level.

Systemic reforms should also ensure robust citizen oversight and an independent, external auditor of policing practices. The threats to citizen trust and perceptions of legitimacy stem from a concern that the police are unaccountable, and the overwhelming majority of its investigations of misconduct are insulated from public view. An open and accessible citizen complaint system coupled with an independent auditor tasked with reviewing and assessing responses to citizen complaints, and conducting independent investigations of misconduct could go a long way in the identification and elimination of misconduct.
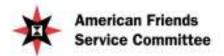
A third infrastructure element, while not necessarily falling under one of the focus points of the task force but nonetheless critical, is the process by which citizens are selected to become police officers. The recruitment of those interested in becoming police officers must include psychological and physical testing to identify officers who may have challenges interacting with

people outside of their community and comfort zone. In addition to early identification of potential problem officers, we must also hold our officers accountable if they are found unfit to serve. If an officer is reprimanded for serious misconduct or removed from service in one department, it is not in our best interest that they are merely moved to other departments.

When officers demonstrate that they cannot meet the challenge of constitutional, appropriate, fair and impartial policing, there needs to be a better way to take away their humbling powers and de-certify them as police officers. Too many officers provide early warning signs that they should not be allowed to continue as a public servant with a badge, a gun and a car. Still, too many of these officers leave one department only to be hired by another, usually a smaller agency that wants to save money by hiring a licensed officer. In fact, the St. Louis Post-Dispatch in 2003 did a reporting series on this issue, highlighting how officers in the region were relieved from one agency only to be hired by another small agency in the region. There needs to be more thorough background checks on past performance and real consequences for police departments that fail to investigate the officer, or knowingly hires an officer who was unfit to serve in another agency.

A parallel component of this decertification approach is the responsibility of the initial firing or investigating agency A number of states have decertification mechanisms, and a National Decertification Index is managed by the International Association of Directors of Law Enforcement Standards and Training. However, the database is not mandatory and only a portion of states and agencies contribute cases to the index. Thus, officers from non-participating states can avoid the system and find employment in other agencies in states due to this lack of participation. Many agencies that have officers leave under an investigative cloud merely close the case, allowing the officer to seek employment in another agency.

While we have suggested only a few organizational ways to improve policing in the 21st Century, we believe the implementation of these suggestions will go a long way to increase procedural justice and improve citizen trust and legitimacy of the police.

Written Comments for the President's Task Force on 21st Century Policing
Building Trust and Legitimacy Listening Session
January 13, 2015

Thank you, Director Davis, Co-Chairs Ramsey and Robinson, and members of the President's Task Force on 21st Century Policing, for the opportunity to submit written comments from the American Friends Service Committee regarding policing practices and establishing greater trust between police departments and local community members.

The American Friends Service Committee (AFSC), a Quaker organization promoting lasting peace with justice as a practical expression of faith, has worked for nearly 100 years to advance civil and human rights among our core priorities. In the course of this work we have become deeply concerned by the increasing militarization of policing and the disparity in treatment of people of color. These trends are dangerous, costly, ineffective in keeping communities safe, and exacerbate the gulf between law enforcement and the communities they serve. Instead of violent and disproportionate policing tactics in response to community needs and their demands for equal treatment regardless of race, we call for policing that restores trust and builds the peace by bringing together community members and law enforcement officials for shared solutions.

AFSC is deeply concerned about the intersection of increased police violence with the ongoing challenges of police accountability and systemic racism. We stand with and among communities who continue to lift up the value of black lives. Those who pay the cost of these policies are disproportionally young people of color – and with alarming frequency that cost is death at the hands of police. Existing tensions, divisions, and biases are deepened when policing responses are rooted in violence, moving police further and further from the humanity of the communities they serve.

Racial discrimination in policing and its consequences can no longer be ignored. A recent ProPublica investigation found that young black men are shot and killed by police at 21 times the rate of young white men. The Department of Justice Statistics concluded that African American men are six times more likely to be incarcerated than white men, and 2.5 times more likely to be imprisoned than Hispanic men. If current trends continue, one in every three black men born today will serve time in prison. Black men are not the only ones subjected to being devalued and subjected to unequal treatment by law enforcement. The Kellogg Foundation reported that 68 percent of Latinos are concerned about police brutality, perhaps because nearly one in five stated that someone they knew had been the victim of excessive force by police. Understanding these facts will assist the Task Force in addressing some of the root causes of tense relationships between police departments and communities and the prevalent "us versus them" mentality.

Disproportionate harassment and killings of African American youth and young adult males by law enforcement is only one example, and it connects to far too many other ways that these people are devalued and oppressed, and are ultimately fed by schools and the criminal justice system into the pipeline of incarceration.

In addition to the relationship between police and communities, the Task Force must also consider the role military equipment and tactics play in deepening the divide between these two groups. Initiatives such as the Department of Defense 1033 Program, the Edward Byrne Memorial Justice Assistance Grant Program under the Department of Justice, and the Homeland Security Grant Program provide tools that are terribly inappropriate for community policing. As the old adage goes, if your tool is a hammer every problem looks like a nail; providing local police departments with military-style supplies positions them for warfare, plain and simple. This is not good for police and it is certainly not good for communities.

Throughout our century of work in conflict areas around the world, we have witnessed time and again how violence begets violence, while dialogue and restorative approaches work wonders to reduce tensions, right wrongs, and end cycles of violence. Based on lessons learned from our experiences we offer to the Task Force these policy recommendations:

- **The Department of Justice must fully investigate officers and bring civil rights charges when applicable,** when the public and community's trust has been broken. We applaud local and federal investigations into excessive uses of force but find the lack of prosecution suggests a culture of impunity for police violence that cannot be penetrated regardless of the merits of the case.

- **Individual states, through the Governor's office and/or state assembly, must appoint special state prosecutors** who can fairly judge law enforcement matters without the burden of institutional relationships with the police. Special prosecutors who do not rely on police assistance for other cases can be more impartial when prosecuting police misconduct.

- **The insidious supply of military grade equipment and weapons, as well as military inspired policing tactics, should be terminated for use in local policing**. The more pervasive this weaponry is and the more widespread the training in its uses, the easier it is for police to look upon community members as enemy combatants.

- **Civilian review boards must be strengthened**. This includes the power to subpoena law enforcement officers and to compel testimony; to engage in independent investigations; to hold fair and impartial administrative trials; and to enact penalties independent of police department review. Boards must be independent from the police department, be fully funded to carry out their mission, and allow for direct participation of community members.

- **Police behavior and culture must be modified** in ways that ensure the highest standards of public accountability. Dashboard and body cameras should be implemented to safeguard the safety of officers and the public. All officers should receive training in non-violent conflict resolution, how to interact with people different from themselves, positive community engagement practices, and communication skills.

We are proud of the young people with whom we work in local communities across the country, who are using peaceful means to work for fundamental change in systems that perpetuate racism and inequality. They deserve both applause and help for their leadership in healing and organizing their communities. Most of all we heed and support their vision of what democracy looks like: It looks like police accountability for abuses committed against those they are designated to protect. It looks like equal access to justice. It looks like treating residents not as a threat but as partners in fulfilling their vision of a vibrant community. It looks like the demilitarization of police and an end to violent tactics.

As a Quaker organization that believes in the worth of every person, we call on you to address the systemic and structural racism at the roots of the highly publicized recent killings that are so deeply disturbing in their familiarity to so many communities nationwide. Our nation will only prosper when we invest in cultivating peaceful, respectful relationships between communities and law enforcement.

Thank you. The American Friends Service Committee looks forward to continuing this dialogue with the Task Force on approaches to and implementation of new policing practices in local communities.

We thank you for holding this timely listening session on building trust and legitimacy between law enforcement agencies and the communities they serve. This discussion comes at a critical time for many communities across the country. The recent deaths of Michael Brown, Eric Garner, Ezell Ford, Tamir Rice and others at the hands of police set off a long-overdue conversation on race, policing and justice as well as protests around the country that are ongoing. The human rights impacted range from the right to life, to freedom from discrimination and equality before the law, to freedom of expression and assembly. These incidents of lethal force have demonstrated the need to take a deeper look at policing tactics and biased policing involving communities of color on a national level. Law enforcement policies on the use of force vary widely from agency to agency and state to state and may not meet international standards. International standards provide that law enforcement officers should only use force as a last resort and that the amount of force must be proportionate to the threat encountered and designed to minimize damage and injury. Officers may use firearms as a last resort – when strictly necessary to protect themselves or others against the imminent threat of death or serious injury. The intentional lethal use of firearms is justified only when "strictly unavoidable in order to protect life."[i]

Many departments now have policies which broadly meet international standards. Despite this, some officers still use firearms in unwarranted circumstances, and officers involved in controversial shootings are often shown to have been inadequately monitored or disciplined. Unarmed suspects have been shot while fleeing from minor crime scenes; mentally ill people have been shot when they could have been subdued by other means; victims have been shot many times, sometimes after they had already been apprehended or disabled. Police officers are often in difficult situations where they may believe that their lives or those of others are in danger. However, controversial shootings occur with alarming regularity in certain common sets of circumstances. A lack of clear standards and training cannot excuse a lack of accountability for human rights violations committed by police officers.

Disturbingly, there is no accurate, national data on the number of people fatally shot or injured by police officers — data which is essential for meaningful policy-making at both national and local levels. Hundreds of individuals may be shot and killed by law enforcement annually. Due to the failure of the Department of Justice (DOJ) to collect accurate, comprehensive national data on police use of force, including the numbers of people killed or injured through police shootings or other types of force, it is impossible to truly understand the enormity of the issue across the country. It is imperative that the DOJ begin collecting and publishing this data (disaggregated on the basis of race, ethnicity and gender) annually, in accordance with the Violent Crime Control and Enforcement Act (1994). The DOJ should play a key role in collecting and publishing data

on police shootings in order to determine whether shootings are indicative of trends for individual officers or law enforcement agencies. Federal funding to state and local law enforcement agencies should be contingent upon reporting of these statistics to the DOJ.

Furthermore, the President and Congress have a duty to comprehensively examine and produce recommendations on policing tactics, including use of force and lethal force, discriminatory policing, the militarization of police and the policing of protests, and ensure adherence of all law enforcement agencies to human rights standards for law enforcement. These recommendations should come with scalable measures and implementation strategies.

There is a widespread and persistent problem of unnecessary or excessive force by police across the USA. Thousands of individual complaints about police abuse are reported each year and local authorities pay out millions of dollars to victims in damages after lawsuits. Internal investigations into such incidents, when they do happen, often lack transparency. Police officers have beaten and shot unresisting suspects; they have misused batons, chemical sprays and electro-shock weapons; they have injured or killed people by placing them in dangerous restraint holds. The overwhelming majority of victims in many areas are members of racial or ethnic minorities, while most police departments remain predominantly white. Relations between the police and members of minority communities — especially young black and Latino males in inner city areas — are often tense, and racial bias is reported or indicated as a factor in many instances of police abuses. In 2014, the United Nations Committee on the Elimination of Racial Discrimination reviewed and criticized the United States' record on racial profiling and excessive use of force by law enforcement, noting the specific impact on communities of color, and urged the US government to take concrete steps to address these issues.[ii]

Police officers are responsible for upholding the law and protecting the rights of all members of society. Their job is often difficult and sometimes dangerous. Experience from around the world shows that constant vigilance is required to ensure the highest standards of conduct — standards necessary to maintain public confidence and to meet national and international obligations. In the USA, despite reform programs in several major police departments, the authorities still fail to deal effectively with police officers who have committed abuses. The disciplinary sanctions imposed on officers found guilty of abuses are frequently inadequate, and officers are rarely prosecuted for excessive force. The "code of silence" — in which officers fail to report or cover up abuses — commands widespread loyalty, contributing to a climate of impunity. Although there has been pressure on police departments to become more publicly accountable in recent years through independent oversight mechanisms, these remain inadequate or wholly absent in many areas. There is no reliable national data on the excessive use of force by police, and local reporting systems are patchy and often unreliable. Such data is essential to enable the authorities to take effective action. Amnesty International believes that police forces throughout the USA must be made more accountable for their actions through the establishment of effective monitoring mechanisms. National, state and local police authorities should ensure that unnecessary or excessive force and other abuses are not tolerated: all allegations of police abuse should be promptly, fairly and independently investigated and those responsible brought to justice. Instead of simply paying compensation to victims, emphasis should be placed on stopping and preventing the abuses.

Violations of standards
Standards of conduct for police officers are set out under the UN Code of Conduct for Law Enforcement Officials and the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials. These provide, among other things, that law enforcement officers should use force only as a last resort and that the amount of force must be proportionate to the threat encountered and designed to minimize damage and injury. Many US police departments have guidelines which broadly conform to these standards. Most large departments set out a scale of force levels, ranging from verbal persuasion and hands-on force, to the use of non-lethal weapons, impact weapons and deadly force. However, in many instances these guidelines are disregarded and police officers have used levels of force entirely disproportionate to the threat faced.[iii]

Patterns of abuse
Most complaints of police abuse involve unnecessary or excessive physical force by patrol officers during the course of arrests, searches, traffic stops, the issuing of warrants, or street incidents. Common forms of ill-treatment are repeated kicks, punches or blows with batons or other weapons, sometimes after a suspect has already been restrained or rendered helpless. There are also complaints involving various types of restraint holds, pepper (OC) spray, electro-shock weapons and firearms. Inquiries have consistently found a tolerance of abuse among patrol officers and supervisors in certain high crime areas. They have also found that victims include not only criminal suspects but also bystanders and people who questioned police actions or were involved in minor disputes or confrontations.[iv]

Reports of discriminatory treatment by police toward racial and ethnic minorities are common. One of the most persistent claims is that African Americans and other minorities are far more likely than whites to be stopped and searched without cause.[v] Black people who are arrested for minor offences appear particularly liable to suffer police brutality. Another persistent claim is that black drivers are targeted as suspected drugs offenders on the basis of so-called "race-based police profiles"— a practice so common that it is widely known as "driving while black". In a number of cases, young black men have been shot by police who believed them to be armed, revealing an apparent readiness to stereotype black people as potential criminals and to disregard their right to life.

Less-than-lethal weapons
The police have a variety of so-called "less-than-lethal" weapons at their disposal, including chemical sprays (such OC-spray), electro-shock weapons and batons. These devices are designed to stun or temporarily disable, although the risk of death is not totally eliminated. International standards encourage the development of non-lethal incapacitating weapons, in order to decrease the risk of death or injury. However, the standards also state that these should be "carefully evaluated" and that "the use of such weapons should be carefully controlled".[vi] While most large police departments have guidelines and reporting procedures for the use of such weapons, many smaller departments do not. Where police departments do have guidelines, they vary widely. Many authorize the use of less than lethal weapons if officers face a serious physical threat, but others allow them to be used more widely.

Recommendations

Federal, state and local authorities should take immediate action to halt human rights violations by police officers. They should make clear that abuses including unnecessary or excessive force, torture or other ill-treatment by police officers will not be tolerated; that officers will be held accountable for their actions; and that those responsible for abuses will be brought to justice. Victims of abuse by police officers should be guaranteed effective and timely reparation. International human rights standards should be fully incorporated into police codes of conduct and training.

1. The administration should seek, and Congress should provide, adequate funding to enable the Justice Department to fulfill its mandate under the Police Accountability Act provisions of the Violent Crime Control and Law Enforcement Act of 1994. The Justice Department should compile and regularly publish detailed national data on police use of force (including all police fatal shootings and deaths in custody), with analysis of patterns of concern and policy recommendations.

2. The federal government should increase its use of Title VI of the Civil Rights Act of 1964 to seek to eliminate racially discriminatory treatment by law enforcement agencies. Funding should be contingent upon agencies which engage in discriminatory practices taking effective steps to eliminate them.

3. Congress should pass the End Racial Profiling Act, the National Criminal Justice Commission Act, the Stop Militarizing Law Enforcement Act, and the Law Enforcement Torture Prevention Act.

4. All allegations of human rights violations and other police misconduct should be fully and impartially investigated, in line with best practice for such investigations. All officers responsible for abuses should be adequately disciplined, and, where appropriate, prosecuted.

5. There should be greater transparency in the investigation of complaints of human rights violations. Complainants should be kept informed of the progress of these investigations. The outcome of all criminal, disciplinary and administrative investigations into alleged violations, and into all disputed shootings and deaths in police custody, should be made public promptly after the completion of the investigation.

6. Police departments should provide information on the internal disciplinary process by publishing regular statistical data on the type and outcome of complaints and disciplinary action. They should also publish regular statistics on the number of people shot and killed or injured by police officers and other deaths in custody.

7. City and county authorities should be required to forward information on civil lawsuits alleging police misconduct to the police department and to relevant oversight bodies. They should regularly make public information on the number of lawsuits filed, and judgments and settlements.

8. Police departments should ensure that their policies on the use of force and firearms conform to international standards.

9. The federal authorities should establish an independent review of the use of OC (pepper) spray by law enforcement agencies. Police departments which continue to authorize the spray should introduce strict guidelines and limitations on its use, with clear monitoring procedures.

10. Strict national guidelines on police use of Tasers and similar stun weapons – also known as Conducted Energy Devices (CEDs) – should be developed. Law enforcement and

correctional agencies should be restricted to those situations where police would otherwise consider using firearms.

11. Federal, state and local authorities, including police departments, should ensure that training programs include: international standards on human rights, particularly the prohibition on torture and other ill-treatment; how to deal with situations which have often led to excessive force, including pursuits and how to cope with disturbed individuals; gender issues; and sensitivity to minority groups.

12. Police departments should establish early warning systems to identify and deal with officers involved in human rights violations. They should establish clear reporting systems and keep detailed records of every officer's conduct. They should conduct regular audits of these records in order to identify, and take remedial action in respect of, any patterns of abuse, including racial bias or other discriminatory treatment. These audits should be open to inspection or view by independent oversight bodies.

13. Police departments should issue clear guidelines requiring officers to report abuses, and officers with chain-of-command control should be held responsible for enforcing those guidelines and strictly enforcing penalties for failing to report, or covering up, abuses.

14. State, local and federal authorities should establish independent and effective oversight bodies for their respective police agencies. In particular, these bodies should:
   - have the authority to investigate or review complaints of human rights violations by the public against the police;
   - be able to conduct regular audits of the police internal complaints and disciplinary process and, where necessary, conduct their own investigations;
   - have the power to require witnesses to appear and to insist on cooperation from police departments and individual officers;
   - require police agencies to provide information on action taken in individual cases, with reasons for inaction;
   - have the authority to review and make recommendations on policy and training;
   - provide detailed public reports, at least annually, giving relevant data, including the type of complaint and the race and gender of the complainant and the accused officer;
   - publicize the complaints procedure within the community and ensure that it is accessible to the public; information about complaints procedures should be prominently displayed in all police stations.

Amnesty International is a global movement of more than 7 million people who campaign for a world where human rights are enjoyed by all. We reach almost every country in the world. Our vision is for every person to enjoy all the rights enshrined in the Universal Declaration of Human Rights and other international human rights standards. We are independent of any government, political ideology, economic interest or religion and are funded mainly by our membership and public donations.

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[i] Article 3, UN Code of Conduct for Law Enforcement Officials (1979); Principle 9, U.N. Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

[ii] Concluding observations on the combined seventh to ninth periodic reports of United States of America, Committee on the Elimination of Racial Discrimination, 25 September 2014, CERD/C/USA/CO/7-9, available at: http://www.state.gov/documents/organization/235644.pdf

[iii] See Amnesty International reports on this issue, such as Police brutality and excessive force in the New York City Police Department (1996), available at http://www.amnesty.org/en/library/asset/AMR51/036/1996/en/7b6bf842-eb05-11dd-aad1-ed57e7e5470b/amr510361996en.pdf; Rights for All (1998), available at: https://www.amnesty.org/en/library/asset/AMR51/035/1998/en/0440cd04-da99-11dd-80bc-797022e51902/amr510351998en.pdf, Race, Rights and Police Brutality (1999), available at: http://www.amnesty.org/en/library/asset/AMR51/147/1999/en/735f2b8c-e038-11dd-865a-d728958ca30a/amr511471999en.pdf; Stonewalled: Police Abuse and Misconduct against lesbian, gay, bisexual and transgender people in the U.S. (2005), available at:http://www.amnesty.org/en/library/asset/AMR51/122/2005/en/2200113d-d4bd-11dd-8a23-d58a49c0d652/amr511222005en.pdf; Less than Lethal?: The Use of Stun Weapons in Law Enforcement (2008), available at: http://www.amnesty.org/en/library/asset/AMR51/010/2008/en/530be6d6-437e-4c77-851b-9e581197ccf6/amr510102008en.pdf.

[iv] For instance, see the the Mollen Commission of Inquiry into corruption in the New York City Police Department (NYPD) in 1994 and the 1991 Christopher Commission of Inquiry into the Los Angeles Police Department (LAPD); For further examples, see Amnesty International, USA: Rights for All, 30 September 1998, AMR 51/035/1998, available at: http://www.amnesty.org/en/library/asset/AMR51/035/1998/en/0440cd04-da99-11dd-80bc-797022e51902/amr510351998en.pdf.

[v] Floyd v. City of New York, No. 13-3088, 2013 WL 5998139, (2d Cir. Nov. 13, 2013).

[vi] Principles 2 and 3 of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

Testimony of Monifa Bandele
On Behalf of Communities United for Police Reform (CPR)

Submitted to the President's Task Force on 21st Century Policing
For January 13, 2015 Listening Session on Building Trust & Legitimacy

Dear Members of the Presidential Task Force on 21st Century Policing:

My name is Monifa Bandele. I am a mother and community organizer from New York City. I am presenting this testimony on behalf of Communities United for Police Reform, an unprecedented campaign of over 60 organizations to end discriminatory policing practices in New York.

My testimony is organized in three principle sections: (1) A brief introduction of Communities United for Police Reform; (2) An overview of the problems we face that demand action and the impact these have on individuals, communities, and police legitimacy; and (3) Recommendations that we believe will begin to build trust and legitimacy by keeping our communities safe and protecting our rights.

1. Who is CPR?

Communities United for Police Reform (CPR) is an unprecedented campaign to end discriminatory policing practices in New York City. We aim to help build a lasting movement that promotes public safety and policing practices based on respect for the rights and dignity of all New Yorkers. The partners in this campaign, which includes over 60 organizations, come from all five boroughs, all walks of life, and represent many of those unfairly targeted by the New York Police Department. It includes community-based, legal, and policy advocacy groups, as well as researchers. CPR works for systemic, policy and cultural change to promote safety while respecting the rights and dignity of all New Yorkers.

Through this campaign, we have helped to change the local conversation on public safety, increased the knowledge and practice of New Yorkers in observing and documenting police misconduct, and led the movement to enact the Community Safety Act – two landmark laws promoting increased accountability and transparency of the NYPD to all New Yorkers. The Community Safety Act, passed by the City Council overriding a mayoral veto, was a historic victory as it established the first Inspector General of the NYPD and an enforceable ban on bias-based policing.

While much of our work focuses primarily in New York, we know that the problems we face are happening on a regular basis in cities across the country. We stay in regular contact with partners across the country to ensure that we are building towards a unified set of solutions and co-convened a national meeting on police accountability in the fall of 2014, with the Center for Popular Democracy and Local Progress. The recommendations we offer in the area of "Building Trust and Legitimacy" are critical to keeping our communities safe while respecting the rights of all Americans.

2. What is the problem?

We are encouraged by the opportunity that this Task Force offers to acknowledge and to confront serious problems in regards to policing in America. As these problems are significant, the urgency and demand to act to address them is even greater. Indeed, we are in a state of emergency.

This emergency is literally a fight for our lives. The unnecessary and tragic recent killings of Eric Garner, Akai Gurley, and Ramarley Graham in New York, Mike Brown in Ferguson, Tamir Rice, Tanisha Anderson and John Crawford in Ohio, Ezell Ford in Los Angeles, and too many others have cast a bright spotlight onto the abusive and discriminatory policies and practices that our communities face on a regular basis. When I speak of our communities, I am principally speaking of low-income communities of color, including: Black and Latino communities, youth, immigrants, LGBT and gender non-conforming people, women, people who are homeless, people with disabilities, and those perceived to be Muslim.

This state of emergency has also posed a crisis of legitimacy for police. In order to understand and begin to address these, we need to unpack what is driving them day in and day out on streets across America. To do so, I will briefly highlight some of the key strategic, structural, and practical factors before discussing the impact of these factors on individuals and communities.

Rather than being a case of a few bad apples, the problem, at its heart, is strategic and structural. Strategically, it begins with outdated and unfounded law enforcement policies, such as broken windows, that disproportionately target and criminalize our communities and that rely upon racial and other discriminatory profiling as well as aggressive, order-maintenance policing tactics. This discriminatory profiling and resulting policies and practices demonize our communities, often considering us as enemies to be controlled or expelled with force rather than residents or citizens, whose human dignity should be respected, let alone to serve and protect.

Structurally, we suffer from a legacy of racial injustice, racial and other discriminatory profiling as well as an embarrassing absence of accountability and transparency. Police officers are rarely held accountable for their actions or effectiveness; the recent grand jury decisions in the deaths of Eric Garner and Mike Brown being just the tip of the iceberg. Investigations into police misconduct and violence are rarely independent or partial as they are entrusted to the police to conduct themselves or to prosecutors who often rely upon a cooperative and non-adversarial relationship with the police. Likewise, civilian complaint review boards are often weak and toothless as they lack meaningful independence, budgets, or investigatory and disciplinary powers. In regards to effectiveness, rather than holding police to account for fair and legitimate policing, they are often measured by easily quantifiable performance indicators that encourage high numbers of unlawful stops, as well as summons or arrests for low-level and largely nonviolent infractions.

Transparency is also largely non-existent. Little publicly reported data, let alone disaggregated on grounds such as race, gender, or religion, is required of police officers and departments. Police are largely not required to report their use of force, including deadly or excessive force. Nor are they required to report on the outcomes of their internal disciplinary procedures.

In practice, these underlying strategic and structural factors carry devastating effects on individuals and communities. They manifest themselves in practices such as:

- Unlawful and discriminatory stops, frisks, and searches
- Selective and discriminatory enforcement of minor offenses,
- Unlawful and often discriminatory searches and marijuana arrests,
- Unlawful searches and use of condoms as arrest evidence,
- Unlawful and discriminatory surveillance of Muslim communities and political activists, and
- A high and regular use of force, particularly excessive and deadly force in communities of color

These practices, which are driven by racial and other discriminatory profiling, as well as policies such as broken windows, are just a sample of the daily treatment that most in our communities face at the hands of the police. Rather than being a simple inconvenience, these cause significant personal and collective harm which in sum weaken trust and legitimacy in police. Our member organizations and other partners regularly document and report the impacts these carry.

Individuals, particularly low-income communities of color, are regularly hit with fines and arrests, quickly marked as criminals, and entered into the vast criminal justice system which is often difficult to then pull oneself out from. Arrests for low-level offenses negatively impact one's ability to get a job, loans, licenses, and higher education, as well as negatively impacting self-esteem.

When this practice is amplified by the thousands within specific communities this generates collective feelings of alienation, resentment, and hostility. It has become a terrible rite of passage in communities of color across the country where parents need to talk to and guide our children about encounters with police in order for them to return home safely. Millions of families too commonly have loved ones who are stopped, harassed, or even assaulted on their way to school, for hanging out in a park, for the way they dress or for the way they look.

Young people shouldn't have to plan extra time to get to school in case they're stopped by the police. Parents shouldn't have to worry about whether their child will be beaten or shot by the police when they are playing outside. Families shouldn't be ripped apart by loved ones who are fined and arrested as a result of unlawful searches or for nonviolent and low-level offenses, like riding their bicycle on the sidewalk. People should not have to worry about practicing their religion due to fear of surveillance and profiling. And yet, this is the case. These stories and experiences are not isolated, but take place far too often and carry collective impacts. They are the reality of policing in America. A reality we cannot live with. This is why one sees tens of thousands on the streets across the country.

This is why we say we are in a state of emergency. It is as a result of these policies and practices that police suffer from a crisis of legitimacy in towns and cities across the country. These lived experiences cause many of us to lose trust and faith in the police. As a result, many people may be less likely to call the police for service or to cooperate with them during investigations.[1] This is not because we are anti-police, but rather because policing has failed us. These policies and practices fail to meet community needs for safety and accountability. They fail to treat us with respect and maintain our human dignity. Rather than having a police service, we have a police force. And in many communities, this appears as an occupying force.

3. What are our recommendations?

We offer a number of recommendations that aim to protect our civil and human rights while promoting communication, trust, transparency and accountability in everyday interactions between the police and the public. We want to live in safe towns and cities where the police treat all residents with dignity and respect, and where police are not considered to be above the law. This is the demand of 21st century policing. These recommendations can help achieve them:

Policy and Practice

1. **An end to broken windows, and other discriminatory and abusive policing policies.** This includes hyper-aggressive selective enforcement of low-level offenses, discriminatory arrests for violations (non-criminal offenses), enforcement of possession of small amounts of marijuana; blanket surveillance of Muslim communities and political activists.

2. **Establish meaningful police-community initiatives** designed to ensure that organizations led by and for communities impacted by discriminatory and abusive policing have a formal and structured role in reform and in identifying safety needs.

3. **Standardized use of force policies** that seek to eliminate excessive use of force and incentive de-escalation.

4. **End the use of condoms as evidence** of all prostitution-related crimes.

5. **An immediate demilitarization of local and state police.** Federal government should immediately suspend the Section 1033 program that provides military surplus equipment and weapons to local police forces. A full and public audit should be conducted of the program to date.

6. **Federal government should revoke federal funding to local police departments** found to engage in discriminatory practices under Title VII of the Civil Rights Act.

7. **Expand, pass, and implement anti-profiling measures, such as the End Racial Profiling Act (ERPA),** to be include race, ethnicity, religion, national origin, as well as age, gender, gender identity or expression, sexual orientation, immigration status, disability and housing status.

8. **Obama Administration should develop, legislate, and enact a National Plan for Racial Justice** that address persistent and ongoing forms of racial discrimination and disparities that exist in nearly every sphere of life including: criminal justice, employment, housing, education, health, land/property, voting, poverty and immigration.

Accountability

In regards to stop and search requirements:
1. **Require officers to identify themselves and provide the officer's name, rank, command and a phone number** for the applicable Civilian Complaint Review Board at the end of police encounters that do not result in an arrest or summons.

2. **Require officers to provide the specific reason for their law enforcement activity** (e.g. vehicle search, stop-and-frisk).

3. **Require officers to explain that a person has the right to refuse a search** when there is no legal justification for a search and **ensure objective proof of voluntary and informed consent** when it is provided.

4. **Require police to document and publicly report on all stops, frisks, searches, summonses and arrests**, including documentation of the reason for the action/s, its outcome, use of force, and demographic information (including race, gender, age of persons in these encounters). A copy of the encounter form should be provided to the person at the end of the encounter and it should include information on how to file a complaint, if desired. Summaries of such activities should be regularly reported to the public.

   In regards to disciplinary measures:
5. **Full accountability through police disciplinary procedures and the criminal justice system, including DOJ investigations**, for all officers responsible for killing Eric Garner, Akai Gurley, Ramarley Graham, Mike Brown, Tamir Rice, Tanisha Anderson, John Crawford, Ezell Ford, and others.

6. **Establishment of special prosecutors** for cases involving civilians killed by police and/or while in police custody.

7. **Prohibition on police disciplinary policies to be subject to union contract negotiations**.

Transparency
1. **Require all stop, frisk, search, summons, arrest, and use of force data to be collected and analyzed** (including demographic data of those involved in each encounter) on a monthly basis by police departments, while protecting personal privacy data.

2. **Requirement to publish quarterly and annual reports of stop, frisk, search, summons and misdemeanor arrests,** including use of force and disaggregated demographic data such as race, gender, age, precinct.

3. **Establishment of a federal database on use of force and civilian deaths, including firearm discharges, killings by police, and deaths while in police custody,** disaggregated by demographic data such as race, gender, and age.

4. **The Department of Justice should launch an investigation into broken windows policing and the use-of-force policies and practices of the NYPD.**

5. **Convene a Congressional Hearing to investigate the criminalization of communities of color**, racial and other discriminatory profiling, surveillance, police abuses and torture by law enforcement agencies.

ⁱ Academic research also demonstrates this effect. See, for instance: Bradford, B., Jackson, J. and Stanko, E.A. (2009), "Contact and confidence: Revisiting asymmetry in the impact of encounters with the police," *Policing and Society*; Tyler, T.R. (2006), "Psychological perspectives on legitimacy and legitimation," *Annual Review of Psychology* 57: 375-400; Tyler, T.R. (2006), *Why People Obey the Law.* New Haven: Yale University Press; Tyler, T.R. and Huo, Y.J. (2002), *Trust in the Law: Encouraging Public Cooperation with the Police and Courts*. New York: Russel Sage Foundation; Bradford, B. and Jackson, J. (2010), "Cooperating with the Police: Social Control and the Reproduction of Police Legitimacy", available at SSRN: http://ssrn.com/abstract=1640958.

Testimony of Chief Richard Beary
President of the International Association of Chiefs of Police

Before the Task Force on 21st Century Policing
Listening Session: Building Trust & Legitimacy
January 13, 2015

Commissioner Ramsey, Professor Robinson, and members of the Task Force on 21st Century Policing, thank you for inviting me to testify today at the first listening session. My name is Richard Beary and I am the Chief of Police at the University of Central Florida and the President of the International Association of Chiefs of Police (IACP). I have over 37 years of law enforcement experience, and I am here today to testify on behalf of the IACP.

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

Over the past three decades, many communities throughout the United States have witnessed a remarkable decline in the rate of crime. America in 2015 is a far safer place than America in 1985. In fact, the most recent Federal Bureau of Investigation Uniform Crime Report shows that incidence of violent crime in the United States fell to the lowest number since 1978. This is a testament to both the great work done by law enforcement and a shared commitment by community and political leaders to create and maintain safer communities.

Years of effective and targeted enforcement efforts by federal, state, and local agencies have transformed our neighborhoods from havens of fear to safer, more secure communities.

The law enforcement profession is better, more professionalized, and smarter about how we combat crime and protect our nation's streets, neighborhoods, and schools. We engage in partnerships with federal, state, local, tribal, and territorial public safety agencies, as well as the public and private sector, to confront daily threats to our communities.

We recognize that no single factor has been more crucial to reducing crime levels than the partnership between law enforcement agencies and the communities we serve. We know that in order to be truly effective, police agencies cannot operate alone; we must have the active support and assistance of citizens and communities.

Unfortunately, the future of this vital and successful partnership is at risk because of a rising level of outrage and rhetoric over issues surrounding police conduct and tactics that is driving a wedge between law enforcement officers and the citizens they are sworn to protect. Tragically, as a result, the heroic acts and great work being done on a daily basis by the law enforcement profession has been overshadowed by these few, high-profile incidents. What isn't talked about is that, for the most part, law enforcement officers have great relationships with their communities. They walk their beats, attend community meetings, check up on residents, implement evidence-based approaches, and always keep a watchful eye to make sure their community members are safe and well cared for.

What many don't realize is that the majority of contact law enforcement has with citizens is non-violent and non-controversial. The recent incidents that have been the center of focus are

not the norm. To put things into perspective, the average number of arrests per year is 12.5 million, which equates to about 34,000 per day. Of the millions of arrests police have each year, fatal encounters with law enforcement occur at a rate of far below 1%. While any death or injury is, of course, regrettable, these incidents are rare; especially when you consider that many of the individuals arrested are under the influence of drugs and alcohol; have anger management issues; suffer from mental illness; or simply choose to be combative.

It should also be noted that law enforcement is a particularly dangerous profession. Each year, there are more than 50,000 assaults on law enforcement officers which result in more than 14,000 officers being injured each year. This past year 126 officers were killed in the line of duty and violent ambush-style attacks on law enforcement officers increased. In 2014, 15 officers nationwide were killed in ambush assaults, matching 2012 for the highest total since 1995.

The root causes of tension between police officers and the communities they serve are as understandable as they are historic. Law enforcement officers occupy a unique position in a free society. They patrol the narrow line that separates freedom from lawlessness and even the most basic enforcement action taken by police officers can appear to infringe on the rights of others. The very nature of their duties ensures that law enforcement officers will be placed in the center of situations that are typified by stress and hostility. As a result, law enforcement officers are often the focal point for rage and confusion. If you add to this already volatile combination the perception that the officers may be acting in an unfair or inequitable fashion, it becomes clear why some members of the community view law enforcement officers with suspicion and contempt instead of with trust and respect.

The complexity of the community-police relationship is further intensified by host of other factors that police have no ability to impact. These include disparities in education; economic challenges; inequitable wealth distribution; and deficits in resource and service allocation.

Recognition and response of this complexity lies at the heart of building sustainable, trusting community-police relationships. However, the variation and individuality of the various groups that comprise a community demands that law enforcement employ a myriad of tools, strategies, protocols, and training to address the needs of each. It also requires that each community segment and the police join forces to create safe, peaceful neighborhoods in all communities.

A key strategy to overcome these challenges has been the adoption of a community policing philosophy by law enforcement agencies. Community policing strategies are designed to strengthen police legitimacy, while also controlling crime. These strategies address community problems in concert with the community, and position community members as force multipliers to the police department in keeping the community safe, and addressing community-defined issues.

A community that is engaged and feels heard by its police department is likely to be more supportive of its police department. That support can translate into the community providing

the resources necessary for police departments to do their job, which, in turn, contributes to the city's economic strength and viability. Indicators of strong relationships with the community include community members who provide critical information to the police during investigations, as well as those who are willing to testify in criminal cases when necessary.

However, despite the broad adoption of community policing over the last 30 years, police departments have been challenged to fully reach the promise of community policing as it was intended for a number of reasons.

First, resource shortages have made consistent, sustained community policing efforts difficult or impossible in many departments. Police departments continue to take on more responsibilities, making it difficult to recruit and retain the skills and resources necessary to address all issues facing individual communities. In addition, fully implementing community policing strategies often requires a greater commitment than traditional policing strategies and require a larger amount of personnel and resources. Unfortunately, community policing "duties" are often sacrificed when budget cuts or other resource deficiencies require reductions. These resource challenges contribute to inconsistencies in sustained community policing efforts.

Additionally, depleted resources in social/human service systems, and in law enforcement agencies, have forced police to take on more responsibilities and more complex work, and to do so with fewer resources. Police departments are not just responding to crime, overt violence, and disruption, but also to homeland security concerns, cybercrime, an exponential increase in non-criminal crisis calls, and more. These responsibilities take time and resources away from patrols and community policing duties.

Further, community demographics and changes in how communities operate make it difficult for many police departments to find ways to partner with unique segments. Many jurisdictions are experiencing increased diversity, becoming home to people of every nationality, culture, and religion; moreover, communities are also becoming less cohesive and more "loosely coupled," making it challenging for the police department to effectively engage. The fluidity of the changing community dynamic is a challenge for law enforcement.

Partnerships and engagement with certain segments is further complicated when those members have expressed interest in harming police officers. Law enforcement is not immune to fear, and when community members are vocal about wanting to act out in violence, it makes building those relationships a true challenge.

Finally, each community is unique and presents its own challenges. There will be no perfect one-size fits all model. Some relations with an entire community or just certain segments of a community may need strengthening, while other relationships are extremely solid.

While it is clear that progress has been made, there is always room for improvement and police departments can further strengthen their trust with communities, particularly those

communities that have felt mistreated or disenfranchised. Now is the time to re-evaluate, re-invigorate, renew, re-instate, rebuild, and restart departmental efforts to build meaningful community-police relationships. But, it is essential that we all recognize that no one group or system owns the problem, and that no one group or system will provide the entire solution. It is incumbent on all of us to work together to identify solutions and approaches that can be implemented by not just the law enforcement community, but the criminal justice system and the nation as a whole.

Realizing the necessity for action, the IACP took proactive steps to try to further enhance community-police relations, including holding a ***National Policy Summit on Community-Police Relations: Creating a Culture of Cohesion/Collaboration***. This summit brought together a wide range of law enforcement officials, community leaders, academic researchers, and policy experts from around the globe to discuss issues and concerns that shape and impact the relationship between police departments and the communities they serve.

Summit participants identified three overarching conceptual elements of strong community-police relations. They are communication, partnership, and trust. Summit participants identified a number of ways that law enforcement agencies can begin to mold a culture of trust and inclusion and improve community-police relationships.

This includes:

- Educating the community about police practices. If law enforcement is transparent with information and helps the community gain knowledge of what police are able to share, there will be a greater understanding of law enforcement's capabilities.

- Consistent communication with the community and internally within a department is key. This includes creating an environment that welcomes dissent and critical conversations.

- Partnerships and collaboration with the community are crucial element of a successful community-police relationship. Community engagement should occur beyond ancillary programs and could include a citizen advisory board, or another opportunity for the community to contribute in shaping the strategic planning process for the police department.

In addition, consistency should be established in efforts to build community-police relationships with a focus on sustained equity, justice, and constitutional policing.

These are just a few highlights from the summit report being released today and it is our hope that law enforcement will implement the recommended measures that are appropriate for their departments and communities. We are also hopeful that the Task Force will provide additional thoughtful recommendations for actions the community and others should take because establishing and maintaining a safe community requires an ongoing concerted effort

by all to work together. While much of the focus has been surrounded on what law enforcement should and can be doing, more also needs to be done by community residents and leaders, businesses, advocacy groups, media, politicians, and others.

These groups too must be willing participants and actively engage with their police department. This includes having thoughtful and meaningful discussions even when things are tense or difficult. This also means that leaders from the community, advocacy groups, and businesses should help police departments navigate the political terrain by being a vocal supporter of ideas or strategies that a chief and police department can employ to further community-police relations.

Finally, while we commend the Task Force members for their undertaking and look into community-police relations, it cannot stop there. 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.

Again, thank you for convening this listening session and for the opportunity for the International Association of Chiefs of Police to express its views on the state of community-police relations in the United States and offer suggestions on ways to build sustainable community-police relations. I welcome any questions from Task Force members.

On behalf of the Center for Court Innovation, we are honored to submit this testimony to the President's Task Force on 21st Century Policing.

The Center for Court Innovation has been engaged in reforming the justice system for more than twenty years. Starting with the award-winning Midtown Community Court in 1993, the Center for Court Innovation has created a range of demonstration projects in New York and New Jersey that have attempted to reengineer the relationship between justice agencies and crime-plagued communities, including low-income neighborhoods and communities of color.[1]

Many of these projects have been documented to improve public trust in justice while at the same time reducing crime and the use of incarceration. For example, approval ratings of local police in Brooklyn have increased more than three-fold since the Red Hook Community Justice Center opened, while community-level crime rates and individual recidivism rates have significantly declined.[2]

This testimony attempts to spell out some of the lessons that we have learned over the past two decades -- both from our own experiments and from our research into others' efforts -- that might be relevant to the current conversation about how to bolster police legitimacy and improve police-community relations. Here are 9 ideas worthy of consideration.

1. Spread community justice: The Center for Court Innovation has created community court projects in a variety of New York City neighborhoods, including midtown Manhattan, Harlem, the Bronx, Brownsville, and Red Hook, Brooklyn. (There are several dozen community courts outside of New York as well.) Each of these projects is unique, but most focus on creating alternatives to incarceration for misdemeanor offenses. And they all share a goal of engaging the public in doing justice and restoring local trust in government.

Police typically play a significant role in the planning and implementation of community courts. Moreover, the availability of social services and case management in a trusted location provides police with additional tools for dealing with street problems and tricky populations – a place to bring in troubled teens or mentally-ill homeless people without necessarily making an arrest.

The National Center for State Courts recently conducted an independent evaluation of the Red Hook Community Justice Center that documented that the project was able to change the behavior of offenders (reducing reoffending by adult defendants by 10 percent and juvenile defendants by 20 percent) because it significantly improved perceptions of legitimacy.[3] A Rand Corporation evaluation of the San Francisco Community Justice Center also documented reductions in recidivism.[4]

Given these kinds of results, local jurisdictions should be encouraged to create community justice centers, particularly in neighborhoods with high crime rates and low rates of public trust in justice. It also makes sense to appropriate funding to the US Department of Justice's Bureau of Justice Assistance to seed local experiments in community justice.

2. Promote procedural justice: All of the Center for Court Innovation's operating programs have attempted to advance the idea of procedural justice.[5] Rather than processing cases like widgets in a factory, we have encouraged justice system players (attorneys, clerks, judges, court officers,

etc.) to treat defendants as individuals.[6] This includes communicating in plain English (rather than using abbreviations and legal shorthand), making eye contact, offering clear explanations of the rationale for official decisions, and providing opportunities for defendants to tell their side of the story, both in and out of the courtroom. (For example, we have created a peacemaking program that uses a non-adversarial approach adopted from Native American traditions to resolve selected cases.)

One defendant interviewed by independent evaluators from the National Center for State Courts compared his experience at the Red Hook Community Justice Center to the conventional criminal court in Brooklyn this way:

> I went to Brooklyn Criminal Court before Red Hook. [It was a] horrible place, horrible. I wouldn't wish that place on my enemy. Red Hook is 100 times better…. [The Red Hook judge] allows you to speak…he likes to interact and get your opinion. I don't get the feeling that he's one of those judges that looks down on people. To me, he's fair, I'll put it that way. The court officers treat you like a person too, not like that other court over there. I learned that there's two different types of ways that courts treat people. You have these obnoxious goons and then you have those that look at you like, ok, you made a mistake.

The importance of procedural justice in underlined by the multi-site drug court evaluation, a National Institute of Justice study conducted by the Center for Court Innovation, the Urban Institute, and RTI International that compared defendants in 23 drug courts with those in six conventional courts.[7] The study documented reductions in substance abuse and reoffending among drug court participants. The strongest predictor of reduced future criminality was the attitude of defendants towards the judge – drug court participants were more likely to view their judge positively and thus more likely to be law-abiding.

Building on this research suggesting that procedural justice makes a difference, we worked with the US Department of Justice's Bureau of Justice Assistance and the National Judicial College to develop and pilot a procedural justice training curriculum for judges and other court personnel.[8] It would be a worthwhile investment to create similar training regimens for police departments around the country to improve the communication skills of officers as they tackle some of the most common types of interactions with the public, including making traffic/street stops, interviewing witnesses, and providing security at large community events.

3. Facilitate informal interactions between police and local residents: Our operating projects have employed a variety of formal mechanisms to engage local residents and justice system actors in meaningful joint work – advisory boards, community service projects, "call-in" forums, police-teen dialogues, etc. Police departments that have not created such mechanisms should be encouraged to do so.[9]

As important as it is to establish formal vehicles for community input, feedback, and partnership, our experience suggests that creating opportunities for positive, informal interactions between justice professionals and community residents is just as, if not more, meaningful. For example, our operating programs have launched a variety of unconventional activities -- holiday toy drives, little league baseball leagues, youth photography exhibits -- where justice professionals

have the chance to interact with local residents, particularly young people, in more informal settings. Informal interactions can help break down barriers, challenge misconceptions, and address tensions. Engaging police in these kinds of informal connections can go a long ways towards promoting healthier community relations and encouraging citizen involvement in the justice system (as witnesses, jurors, etc.).

4. Invest in alternatives to incarceration: While important, just creating opportunities for improved police-community interactions is not enough – simply continuing with business as usual in a kinder, gentler fashion will not result in changed attitudes toward the justice system. In particular, we must tackle the problem that hangs over the criminal justice system: the misuse of incarceration that has proceeded mostly unabated for more than a generation.

While the police are not, of course, responsible for mass incarceration, as the most visible representation of the justice system they bear the brunt of the ill will that mass incarceration has engendered. Efforts to improve police-community relations must be accompanied by serious efforts to reduce the use of local jails and prisons. The public must understand that the entire apparatus of the justice system is not designed to ensnare them in incarcerative settings, and that, to the contrary, jail and prison are viewed by justice professionals as a last resort, reserved for the most incorrigible and high-risk of offenders.

This means that local police should take pains to invest in crime-fighting strategies that do not lead to increased arrests. For example, we are currently working with the NYPD to create police diversion programs in several pilot precincts, providing line officers with an opportunity to divert minor cases involving teenagers to community-based programs in lieu of formal case processing. We are also working with the COPS Office to assist local jurisdictions that are attempting to employ a public health approach to curb youth violence in distressed communities.[10]

Even as police are encouraged to look for new ways to reduce crime, we also must acknowledge that transforming police-community relations is not solely the responsibility of the police – prosecutors, judges, criminal justice policymakers, and elected officials must play a role as well as the system looks for meaningful alternatives to incarceration.

5. Foster buy-in at all levels of police departments: To the extent that we have had success in introducing new ideas to the New York judiciary over the past 20 years, this has been driven both by the support of judicial leadership (most notably, New York State Chief Judge Jonathan Lippman and his predecessor Judith Kaye) and by the engagement of dozens of judges who have actively sought out new ways of handling their daily caseloads. At the end of the day, successful implementation of any new idea always depends upon staff at the ground-level, be they social workers, judges, or police officers.[11] (One need look no further than the current arrest reductions in New York City to see the power that line officers can wield).

To transform the relationship between police and aggrieved communities will require buy-in at all levels of local police departments, from leadership to frontline officers. Our research suggests that reform efforts that take a top-down approach to change often end up failing.[12] Winning the hearts and minds of officers won't happen overnight and it won't happen on a timetable dictated by the politics of the moment – we should be prepared to make a long-term

investment in introducing ideas like procedural justice, racial reconciliation, and community engagement not just to police chiefs but to line officers as well.

*6. Think about design***:** A whole host of environmental factors – the cleanliness of a waiting area, the language used on forms, the images used on signage – contribute to citizens' perceptions of the justice system. At our operating programs, we have tried to use design to advance the goal of improving public trust in justice.

For example, at the Midtown Community Court, we have designed the courthouse to be welcoming to the public while at the same time communicating respect for the law. The courtroom design includes the use of light finishes (rather than the dark wood that is typical in courthouses) and a judicial bench that is raised just enough to allow the judge to see eye-to-eye with most defendants (rather than looking down on the top of their heads). Perhaps most important, the facility's holding cells do not have any bars – specially treated glass is used instead. This year, we have also overhauled the public signage at the Red Hook Community Justice Center in an effort to improve comprehensibility and users' navigation of the building.[13]

Many of the ideas that we have tested in courts can be adapted to police uses. What do citizens experience when they first walk in the door of a local police precinct: a welcoming, informative sign or a tattered, poorly mimeographed reprimand? Are rules clearly posted and easy to read? When was the last time that commonly-used forms (e.g. summonses) were reviewed for comprehensibility? Is information provided in commonly spoken languages other than English? Are public areas clean and well-maintained? What kind of seating is provided for the public? Some police precincts excel in these areas, but many do not. Police departments should be encouraged to use design (and to reach out to graphic designers, architects, communications experts and other consultants as appropriate) to support their programmatic goals.

7. Focus on victims: Experience tells us that if police do not handle victims with sensitivity, they can undermine justice system legitimacy. While all victims deserve special attention, in recent years, the Center for Court Innovation has attempted to focus on two populations in particular that have been underserved by the justice system.

The first population is young men of color. In an effort to address their unique needs, we have launched a special program in Crown Heights, Brooklyn, to help participants address trauma reactions and other difficulties that arise from the disproportionate amount of violence they experience as victims and witnesses. The second population that we have been working to serve better are victims of human trafficking, many of whom are arrested on prostitution charges. Here, we have been working with courts in New York to improve identification and to develop alternative sanctions so that victims do not end up being penalized with jail sentences and criminal convictions.

These are complicated populations to work with in many respects, including the fact that they often get arrested. In addition, many of these individuals resist being labelled as "victims." Police departments would be well served to create special programs for such populations, including providing line officers with the latest research about the impacts of trauma on brain functioning and behavior.

8. Invest in research: Any significant new programs, protocols or practices employed by local police departments should be accompanied by an investment in research to document both the process of implementation and the impacts on community conditions and resident perceptions, with a particular focus on specific populations of interest (e.g. victims, teens, arrestees, immigrants, communities of color). In our experience, evaluation is a crucial tool in spreading new ideas to skeptical audiences – it is difficult to argue against programs that have been independently documented to be successful. Police departments should be encouraged to partner with local research institutions to conduct baseline survey research concerning the attitudes of community residents on the legitimacy of law enforcement and to evaluate new initiatives for possible replication. And the National Institute of Justice should be provided with the necessary funding to support new studies in this area.

9. Encourage innovation: Much of the current conversation about building trust between the police and local communities focuses on the need for more public accountability. There is also a need for more creativity.

A couple of years ago, the Center for Court Innovation conducted a national survey of criminal justice leaders in an effort to determine the extent to which criminal justice agencies were willing and able to engage in a process of trial and error.[14] Several dozen police chiefs participated in the survey. While we learned that there was a great deal of interest among criminal justice leaders in learning about the latest research and evidence-based programs, we were also able to document some common obstacles to innovation. In addition to concerns about funding, among the most common barriers cited were: "the stakes are too high to test brand-new ideas" and "trying new things could cost me my job if they are unsuccessful."

While there are many promising strategies that police departments can employ to enhance legitimacy, the truth is that there is no off-the-shelf strategy that is guaranteed to build trust. It would be a shame if one of the results of the current focus on police-community relations was a hardening of police resistance to new ideas. Instead, we should encourage police departments to continue to experiment and to talk as openly as possible about the results of these experiments – this is the only way to build knowledge and tackle problems that have proven resistant to conventional solutions.[15]

* * *

The past generation has seen remarkable gains within the criminal justice system. Crime is down dramatically in many American cities. A variety of different interventions – community court, HOPE probation, Cure Violence, Compstat, cognitive behavioral therapy, motivational interviewing, drug court, focused deterrence, etc. – have been documented to reduce crime and change the behavior of offender populations. The field has gotten smarter about assessing risk and spreading evidence-based programs. All of these gains are imperiled, however, if the public does not view the criminal justice system as legitimate. This is the challenge that all of us who believe in the American justice system – not just police – must tackle in the months to come. We commend President Obama for convening the task force on 21st century policing and we look forward to seeing the results of your deliberations.

[1] Based in New York City, the Center for Court Innovation is an independent, non-partisan, non-profit organization that seeks to reform the justice system by creating operating programs that test new ideas, by performing original research, and by providing technical assistance to reformers around the world. For more information, please visit www.courtinnovation.org. The Center for Court Innovation operates over two dozen demonstration projects in and around New York City. Current projects include: community justice programs (Bronx Community Solutions, Brooklyn Justice Initiatives, Brownsville Community Justice Center, Harlem Community Justice Center, Midtown Community Court, Newark Community Solutions, and the Red Hook Community Justice Center); youth justice projects (Queens Youth Justice Center, Staten Island Youth Justice Center, and Youth Justice Board); and Cure Violence replication efforts in Crown Heights and Bedford-Stuyvesant, Brooklyn, and in Morrisania and the South Bronx in the Bronx.

[2] Swaner, Rachel. 2010. "Community Perceptions of Red Hook, Brooklyn: Views of Quality of Life, Safety, and Services." Available at http://www.courtinnovation.org/sites/default/files/Community_Perceptions.pdf.

[3] Lee, Cynthia et al. 2013. "A Community Court Grows in Brooklyn: A Comprehensive Evaluation of the Red Hook Community Justice Center. National Center for State Courts. Available at http://www.ncsc.org/~/media/Files/PDF/Services%20and%20Experts/Areas%20of%20expertise/Problem%20solving%20courts/11012013-Red-Hook-Final-Report.ashx.

[4] Kilmer, Beau and Jesse Sussell. 2014. "Does San Francisco's Community Justice Center Reduce Criminal Recidivism?" Available at http://www.rand.org/pubs/research_reports/RR735.html.

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[9] With support from the US Department of Justice's COPS Office, the Center for Court Innovation developed "Police-Youth Dialogues: A Toolkit," a how-to guide for communities and stakeholders interested in using positive communication strategies to improve police-youth relations. Publication is forthcoming in 2015.

[10] The Center for Court Innovation was recently awarded a grant to serve as the site coordinator, evaluator, and technical assistance provider for the jointly funded Minority Youth Violence Prevention project of the US Department of Justice's COPS Office and the US Department of Health and Human Services' Office of Minority Health. Nine sites have been selected nationally to implement youth violence prevention models utilizing partnerships between local public health agencies and law enforcement. For more information, see: http://minorityhealth.hhs.gov/Blog/BlogPost.aspx?BlogID=26.

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Angela Glover Blackwell
Founder and CEO

January 9, 2015

To the President's Task Force on 21st Century Policing,

Thank you for your important work to improve policing practices that promote effective crime reduction while building public trust. We are so pleased that Connie Rice, co-director of Advancement Project, has been named to the Task Force — PolicyLink and Advancement Project agree that building strong, collaborative relationships between local law enforcement and the communities they protect is essential to increasing safety and strengthening communities. To that end, our organizations have issued two briefs as part of an ongoing series entitled Beyond Confrontation: Community-Centered Policing Tools that lifts up promising practices across the country that help build trust between communities and police:

- Engaging Communities as Partners: Strategies for Problem Solving (http://www.policylink.org/sites/default/files/pl_police_commun%20engage_121714_c.pdf); and
- Limiting Police Use of Force: Promising Community-Centered Strategies (https://policylink.box.com/s/hogqru0s7tmjmnpqymyd).

Two other briefs, due for release in early 2015, will focus on demilitarizing local police departments and the role of values and leadership in hiring, training, and information-sharing. The Beyond Confrontation series updates and expands a report released by PolicyLink and Advancement Project in 2001, entitled Community-Centered Policing: A Force for Change (http://www.policylink.org/sites/default/files/CommunityCenteredPolicing_final.pdf).

We encourage you to use these briefs and the 2001 report as resources to help inform your recommendations to the President.

PolicyLink would be glad to support the work of the task force as you move forward. Please do not hesitate to contact me or the following PolicyLink directors if you would like to engage further or have any questions:

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Thank you,

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The President's Task Force on 21st Century Policing:
Building Legitimacy and Public Trust Through Civilian Oversight
Submitted by The National Association for Civilian Oversight of Law Enforcement
January 9, 2015

I. Introduction

The current crisis of mistrust and breaking or broken relationships between police and the communities they are sworn to serve and protect is one of the most pressing challenges facing the nation. In communities of color particularly, policing practices that are perceived to be overly harsh, unjust, or unfair, regardless of whether those practices are deemed lawful, can undermine police legitimacy. A single officer-involved shooting has the potential to not only shake the public's confidence in the police but, as has been seen in Ferguson, Missouri, rock its very foundation. When the members of one racial group are significantly more likely to be stopped, searched, arrested, or even shot by the police, maintaining trust becomes immensely more difficult. A lack of transparency only serves to increase the divide.

Time and again, cities everywhere have found themselves scrambling to establish civilian oversight in the wake of a scandal and complaints of law enforcement misconduct (irrespective of whether or not allegations are substantiated). People are demanding changes, but what does it mean when the cry for civilian oversight is issued?

The public expects, and experience has shown, that strong, independent oversight builds legitimacy and public trust, through increased police transparency and accountability to the public served. Oversight fosters accountability through independent investigations or auditing of police misconduct complaints, and also can identify needed changes in police practices and training, provide a meaningful voice or forum for the public, and form a crucial bridge between the public and the police. Just as importantly, oversight encourages enhanced transparency about the work of law enforcement. Increased transparency, trust, and communication between the police and the public, facilitated through effective oversight, can lead to greater cooperation between the police and the public in achieving the ultimate goal of decreased crime and increased public safety.

Importantly, civilian oversight provides a mechanism to bring together the many stakeholders involved in supporting trusted, respectful, and effective law enforcement efforts. Oversight breaks down the walls between police and the public and enhances their understanding of each other by reminding police that they ultimately serve the public's interests, and by educating the community on the unique and difficult challenges officers encounter every day. While many take polarizing, divisive positions regarding the role of law enforcement, civilian oversight practitioners strive to work collaboratively with all interests involved to ensure careful, unbiased evaluation of facts and policies in order to achieve solutions that address both the needs of police to protect public safety and the needs of the public to trust their police.

Citizen oversight of law enforcement is a critical facet of any well-founded effort to strengthen the relationship between police and communities and to build public trust, all while promoting effective policing. And it is one of the only mechanisms proven to ensure sustainable reforms. Civilian oversight alone is not sufficient to yield the legitimacy in which both the public and law enforcement share an interest; without outside oversight, however, no collection of efforts to secure such legitimacy can be considered complete or directly responsive to the public's demands for greater participation in, and understanding of, their local law enforcement.

II. Background of civilian oversight of law enforcement and NACOLE

In its simplest meaning, civilian oversight may be defined as one or more individuals outside the sworn chain of command of a police department who take up the task of holding that department and its members accountable for their actions. Contrasted with internal accountability mechanisms commonly found in law enforcement (i.e., internal affairs), independent police review offers a method of civilian involvement in accountability that is often, but not always, external to the department. Its independence from the agency or the sworn chain of command that it seeks to hold accountable allows it to address a wide range of concerns without any actual or perceived bias, and to ensure that policing is responsive to the needs of the community.

Civilian oversight may be established in response to recurring problems in a particular law enforcement agency, such as a pattern or practice of the use of excessive force or repeated complaints of racial profiling. Sometimes oversight is initiated proactively by a local municipality to identify and correct such issues before they become more widespread and difficult to rectify. Often, however, oversight is generated in response to a single, particularly high-profile allegation or incidence of police misconduct. Whatever the circumstances, police oversight is now found in cities and counties both large and small, and in every geographic region of the nation, as well as in other countries.

While practices vary according to the roles of the oversight entity or the laws of its jurisdiction, it is common for civilian oversight agencies to be both an independent source and a repository of qualitative and quantitative data. Oversight agencies may issue public reports on the number, type, and outcome of misconduct investigations; lawsuits; uses of force; or detentions and arrests. They may provide on-scene monitoring of critical incidents, such as officer-involved shootings, or of mass social gatherings, including protests and demonstrations; and they may subsequently provide the public with a singularly independent account of the actions taken by the police, evaluating whether those actions were appropriate under the circumstances or showed a need for some measure of reform. In addition to the issuance of public reports, qualified and experienced oversight entities may also assess a police department's policies, training curricula, and recruitment standards, among other procedures, in order to compare them against the prevailing standards in a perpetually dynamic profession. The effectiveness of oversight in any particular community is dependent on a host of factors including political and budgetary support, ready access to information including police files, records, and performance data, the training and expertise of oversight personnel, and acceptance by the local law enforcement agency and community.

In 1995, as citizen oversight experienced significant growth and expansion across the country—one of several growth periods in the last thirty years—the National Association for Civilian Oversight of Law Enforcement (NACOLE) was established as the nation's only professional

association of organizations and individuals working directly in oversight. With hundreds of members across the nation and around the world, NACOLE has legitimized police oversight as a professional field of study and practice and facilitated the development of professional standards, including a Code of Ethics, as well as core competencies and training guidelines for oversight practitioners. NACOLE also hosts an annual training conference where civilian overseers and other interested stakeholders meet and exchange information and ideas about issues facing law enforcement oversight.

III. Defining the role of police in a democratic society

In a democratic society, the principle obligations of the police are to protect citizens' fundamental rights and freedoms and to prevent crime and disorder. Sir Robert Peel recognized that police must maintain at all times a relationship with the public that gives reality to the historic tradition that the police are the public and the public are the police. Peel's principles form the basis of American law enforcement, and comprise an approach to policing derived almost exclusively from public cooperation, continuously earned and maintained through public approval, trust, and perceptions of legitimacy.

The proper role for police, thus generally defined, is not static. As society changes, what the public expects from police changes. Broadly, the U.S. Constitution provides a framework of limitations for the police, and state legislatures may also pass laws dictating police roles and conduct; but ultimately, the police are required to be responsive to their specific community. However, the needs and views of that community may change over time. Through active dialogues with the public and law enforcement, civilian oversight brings stakeholders together and provides valuable feedback to law enforcement about how their policies and practices are perceived by their specific community, avoiding divisive discourse and toxic rhetoric. Through review of police practices and training, outside auditors and practitioners can help law enforcement identify areas where their perception of their role has become outdated. Oversight also communicates back to the public about how their police force is performing and whether the department's policies and programs maximize the public's interests and reflect local values.

IV. Building a culture of transparency

Civilian oversight, in even its most basic forms, inherently enhances transparency – it allows individuals from outside a law enforcement agency's sworn chain of command access to the inner workings of that agency, albeit to different degrees. A primary focus of civilian oversight is using this expanded transparency to increase accountability and also to advance community understanding of the work of law enforcement. Police departments are often accused of having an insular culture; those departments that have embraced civilian oversight have been able to neutralize this criticism, and ensure appropriate information is made available for public review. Moreover, in those jurisdictions where strict laws prevent public disclosure of significant amounts of information, a properly designed oversight entity can be the eyes and ears for the public, even if unable to release specific, identifiable information itself.

V. Procedural justice

Central to police legitimacy is the idea of procedural justice: perceptions of fairness in the administration of justice and the fair and impartial exercise of police discretion. And, while officers have an obligation to be impartial and enforce the law fairly, procedural justice also calls upon officers to treat people with dignity and respect, as doing so is equally as important, if not

more so. Procedural justice encompasses not only the way an officer interacts with the public, but also requires that members of the public have an effective procedure to raise concerns about police conduct. Unfortunately, individuals who feel they have been wronged by a police officer are often hesitant to approach the department that employs the officer with their concerns. They may feel intimidated, or doubtful that the department will be interested in, or even capable of, taking a truly unbiased look at their concern. Without an alternative procedure to raise concerns about officer behavior, some members of the public are left to conclude that they have no trustworthy, legitimate avenue for such redress and, even more troublingly, view the entire law enforcement "system" as structured in a way for the police to avoid being held accountable.

Outside review of the police provides an opportunity for those who seek to complain against the police to raise their concerns with fellow citizens, who do not fall within the sworn chain of command of the police department. Acknowledging that oversight agencies' authorities vary from place to place, it is often these agencies that skeptical complainants can turn to in order to feel that their concerns will truly be heard and responded to fairly. Beyond providing procedural justice for specific complaints, overseers can also establish a procedure for review of critical and high profile incidents, such as officer-involved shootings, in-custody deaths, and uses of a TASER, all of which can leave a community clamoring for justice and, potentially, lacking faith in the involved police department's ability to remain unbiased. Furthermore, as civilian overseers look at individual complaints or critical incidents, they gain unique insights and perspectives that put them in a position to identify systemic issues that are most effectively addressed through a change in department-wide policy or training. Ultimately, this impact on systemic issues can further improve police-public interactions and strengthen the community's belief that their police are procedurally just.

Finally, as law enforcement agencies work to adopt a culture of procedural justice, civilian oversight can help communicate to the public the steps being taken and why they are worthy of trust and will serve legitimacy. Police oversight also can audit such efforts to provide the community with reliable information about police agency progress. Law enforcement agencies that are proactively and genuinely striving to provide constitutional policing that is responsive to community needs can find that their own attempts to communicate their efforts to the public are futile because the agency has lost credibility with the public. However, when independent overseers who are charged with looking critically at the department communicate the same message about the department's reform efforts, the public may be more receptive to the message. This is one more illustration of how civilian oversight acts as a bridge connecting, or in some cases reconnecting, law enforcement agencies with the communities they serve.

VI. Protection of civil rights

Police oversight is an important mechanism for ensuring civil rights protections. Civilian oversight has its roots in the Civil Rights Movement. Issues of race and policing are central to the history of oversight, as well as NACOLE. Thus, the oversight community recognizes the important role it plays in identifying, understanding, and addressing discriminatory and unconstitutional police practices. Accordingly, oversight practitioners are at the forefront of investigating, reviewing, and auditing individual cases or patterns of potential civil rights violations, foremost amongst them allegations of racial profiling and biased policing, as well as complaints of illegal searches, excessive force, or unlawful detentions and arrests.

Citizen oversight also helps to ensure police engage in long-term, meaningful outreach to historically disenfranchised and marginalized communities, such as persons with mental illness, the LGBTQ community, homeless individuals, and persons with disabilities. Additionally, independent overseers provide a voice and a forum for these communities, both before and after major incidents involving them and the police have occurred. As with other types of complaints, police oversight entities improve the overall quality of internal investigation of allegations of bias and discrimination in police encounters. With the backing of civilian oversight, many law enforcement agencies across the nation support and vigorously protect the rights of minority and marginalized communities in their jurisdictions.

VII. Recommendations

1. Ensure that police officers continue to have the proper tools, guidance, training, and supervision to carry out their law enforcement responsibilities safely and in accordance with individuals' constitutional rights.

2. Make constitutional policing and transparency core values of policing, as well as building systems of accountability that include independent oversight to carry out those values to support the many police officers who uphold their oaths, engendering greater public trust.

3. Ensure police continue to function as a part of the community; that police continue to work to cultivate legitimacy by engaging with the community fairly, impartially, and respectfully; and, that the police become more directly responsive to the community.

4. Improve the quality and integrity of police disciplinary systems, including investigations of misconduct complaints and uses of force, while vigilantly safeguarding the rights of officers.

5. Ensure that independent oversight is a part of efforts to identify and resolve underlying systemic problems within law enforcement, with a primary focus on reducing and preventing misconduct and enhancing accountability, as well as promoting effective policing and developing strategies for positive organizational change.

Respectfully submitted,

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President's Task Force on 21st Century Policing
Listening Session on Building Trust and Legitimacy
Written Testimony of Chief Jim Bueermann (ret.)
President, Police Foundation
Washington, DC
January 6, 2015

Introduction

Fair and effective policing in this century will be identified by   variety of re-engineered metrics. Discarded as inadequate will be traditional measures of policing success that capture typical outputs such as the number of arrests made, the number of tickets issued or the amount of drugs seized. In their place will be outcome measurements that relate to evidence-based crime and disorder reduction strategies, public perceptions of fair, and impartial policing and the diverse outcomes that result in community harm reduction and youth development. By focusing on these overarching markers of success policing can achieve the principle measure of policing success in a democracy such as ours – community belief in the legitimacy of their local police.

To achieve this state police leaders must establish a strong set of organizational values that are developed in concert with the communities they serve. They must create an organizational culture that develops their department as a catalyst for change in how their communities deal with crime and disorder and incorporates the notion of "co-producing" public safety with a diverse set of community stakeholders. They must have an intense focus on, and an unrelenting drive toward, achieving legitimacy in the eyes of those they serve (both internal and external). And they must develop an organization that "naively listens" to concerns of community members, focuses on learning and is constantly evolving in ways similar to other highly successful "learning organizations."

The notion of "The Five Things" we should know about a particular subject is gaining increasing popularity because it encourages a tight focus on the things that "really matter." In terms of organizations like police departments, it also provides a broad organizational roadmap to meaningful and sustainable change. If police leaders focus on "The Five Thing about Effective Democratic Policing" for the 21st Century they will follow the following recommendations:

1. *Be purposeful and value based* (as opposed to rule based);
2. *Focus on legitimate, fair and equitable policing practices* (as derived from community perceptions);
3. *Engage in evidence based policing strategies*;
4. *Focus on the future* (by using future studies concepts and tools); and,
5. *Focus on the "business" of policing* (e.g. organization development, utilizing emerging technologies, the cost of policing, etc.)

To operationalize the strengthening of the public trust in policing and to foster stronger relationships with which police leaders can co-produce public safety, more specificity is

required. The following areas of focus provide a framework for improving responsive, democratic policing.

Defining and "Repositioning" the Role of Police in Society
"Repositioning" products, services or companies is about changing their image to target a new or wider market by changing the way in which consumers think about them. For example, with the explosion of digital photography companies like Kodak have had to reposition themselves as an image company, not a film company. And the coffee industry has repositioned coffee from a rite of passage drink to a contemporary, social experience with preventative attributes. Similarly, reengineering policing's purpose from "fighting crime" to "controlling crime before it occurs by supporting strong families, resilient youth and safe and sustainable communities" is about advancing policing in a way that elicits support from people, even when the police must arrest people. It is akin to repositioning healthcare from being in the sickness business to one of promoting health and preventing illness. Prevention is always cheaper and less painful than the cure – whether the topic is healthcare or crime control.

A balanced and comprehensive model for controlling crime and disorder incorporates *prevention, intervention* and *suppression* strategies. So too, should policing models use this blended approach. Most policing organizations emphasize suppression strategies as their primary focus (sometime their only focus) for addressing crime issues. This may be completely appropriate for addressing immediate problems but will not meet the community-trust-in-the-police needs that exist in every community. If community members believe that the only thing the police do is write tickets, harass their kids and arrest people we should not be surprised when many community members consider the police a necessary evil.

Repositioning policing in the 21st Century from a suppressive, enforcement-oriented model to one that is widely recognized as focused on keeping the peace and controlling crime through collaborative problem-solving, reducing harm to communities and assisting families in the development of their children is essential to building community trust in the police. In addition, repositioning the purpose of policing in the minds of police officers themselves to incorporate the notion that they are "peace officers" and "protectors of the constitution" is a critical component of sustaining this re-engineering.

In 1829, the "Peelian Principles" of modern policing were articulated through the *General Instructions* issued to every police officer in London's Metropolitan Police Department. They have as much relevance today as they did at the time of their issuance. One of these, "to recognize always that the test of police efficiency is the absence of crime and disorder, and not the visible evidence of police action in dealing with them," is important to police leaders trying to re-define the role and legitimacy of their agencies.

One significant way in which the police can "control crime before it occurs" and strengthen public trust and a sense of legitimacy in the police is to focus on the development of the community's youth. The evidence based model of "risk and protective focused prevention" (RPFP) as articulated by David Hawkins and Richard Catalano of the University of

Washington is an example of such a strategy. It gives the police an opportunity to identify and focus on reducing the "risk factors" that place adolescents at-risk for delinquency, violence, substance abuse, dropping out of school and teen pregnancy. It also provides a framework for enhancing the "protective factors" that mitigate the influence of the risk factors. When police organizations reposition themselves as working on reducing risk through preventative strategies such as RPFP as much as they focus on crime suppression strategies, they stand a much greater chance of being viewed by the public as trustworthy and legitimate.

Police Leadership Development

Police organizations do the "right thing," or not, in large part because of the quality and character of their leadership. Whether organizations continue on the "right track" after the frequent leadership changes that characterize contemporary policing, is a function of the leadership development programs to which up-and-coming leaders are exposed. In their *Executive Session on Policing and Public Safety* article, "Toward a New Professionalism in Policing," Christopher Stone and Jeremy Travis identified a lack of a "national coherence" on key policing issues. This coherence is necessary for American policing to achieve a "new professionalism" that focuses on "increased accountability for police in both effectiveness and conduct; greater legitimacy in the eyes of the citizenry; and continuous innovation in tactics and strategies for interacting with offenders, victims, and the general public."

Unlike the United Kingdom, that has a centralized Police College from which every police chief executive must graduate, the United States has no mandatory requirement for advanced training of policing executives, nor a single centralized body that either sets standards or identifies "best policing practices." Although most states have state-wide organizations that set state standards (e.g. commissions on peace officer standards and training, etc.) and independent organizations exist to help create voluntary national standards and identify best practices (e.g. The Commission on Accreditation for Law Enforcement Agencies, Inc., the Police Foundation, the International Association of Chiefs of Police, the Police Executive Research Forum, etc.) the critical pieces to establishing a national coherence on policing of a National Police College and a National Police Commission are missing from the landscape of America's policing. The challenge is to do so within the framework of "states' rights" component of our constitution.

The Federal Bureau of Investigation's National Academy (FBINA) is America's de facto police college. Annually, more than 1000 current and future police executives are trained there. There is no other program like it in the US. It is the best option for this country to create a centralized knowledge delivery system to advance a national coherence about fair and impartial policing framed around key leadership themes. It focuses on developing leaders around several key themes like community trust and legitimacy, evidence based policing, futures studies, innovation in policing and purpose driven policing.

To further the development of America's police leadership, Congress should increase funding to the FBINA, and identify it as America's police college, as a means of advancing this country's police leadership development. In addition, as soon as possible a National Police Commission should be established. Whether this is done through Congressional or

Executive action, a national body that identifies policing's best practices is crucial to advancing a national coherence about constitutionally correct, fair and equitable policing should be operationalized across the country.

Building culture of transparency

Fundamental to this country's belief in fair and impartial policing are the inextricable intertwined concepts of transparency and accountability. When communities the police serve view police agencies as transparent and accountable for their actions the level of community trust in the police is elevated. To create a culture of transparency within a police organization its key leaders must message how important it is to be mindful of the fact that the police work for the community, that taxpayers are the actual "owners" of the department, that most of policing is not secret, and that the department's ability to do its job is a function of the extend to which the community consents to be policed. This messaging must be accompanied by an "alignment: of organizational policies and practices that support the notion of transparency. Critical to the notion of external, community oriented transparency is a sense of internal transparency. The extent to which members of a policing organization believe that its leaders are transparent in their own policies and practices is vital to gaining workforce commitment and cooperation to matters of external transparency.

Before police organizations undertake potentially controversial crime control strategies or purchase potentially controversial equipment like drones or armored vehicles public meetings should be held. This gives the organization an opportunity to explain its rationale and solicit public input. In addition, after a critical incident occurs the organization's leadership should immediately reach out to key community leaders to brief them on the facts. After the facts of the incident are known the department should hold public briefings about the incident. While these may be unpleasant, multiple high profile incidents have occurred in which the police did not provide the public with adequate information in a timely manner that clearly demonstrate how a lack of candid, timely information elevates tension between the police and communities. A truism is that in a void of information, people will fill that void with their own narrative that has been informed by their own experiences and implicit biases.

Several strategies can be used to enhance policing's transparency. Some incorporate information technologies and some are more face-to-face and personal in nature. The size of the community and organization will probably dictate the extent to which the techniques used are of an interpersonal nature.

Recommendations

Policing agencies should have adequate policies that articulate the leader's vision relative to transparency.

Agencies should have websites that give the public adequate insight into organizational values, the leader's vision for the department, crime statistics, volunteer opportunities, department policies and data regarding citizen complaints about the police and use of force cases.

Immediately after a high profile event policing officials should communicate to the public what happened. Going door-to-door after a high-risk traffic stop in a residential neighborhood exemplifies this level of transparency.

After a critical incident police leaders should rapidly communicate to the public the facts surrounding the incident.

Hiring a diverse workforce
Every police leader knows of the importance of creating a diverse workforce. Police agencies that do not have a workforce that reflects the community it serves will eventually have to deal with a heightened level of police-community tension brought on by the lack of police diversity. Many police leaders profess a desire to increase the diversity of their workforces but articulate significant challenges in either realizing a diverse applicant pool or in diverse candidates successfully completing the arduous background/hiring process. Fortunately, there are strategies that have been used successfully to increase the diversity of applicant pools and increase the hiring rate of candidates of color.

Foremost in any attempt to increase workforce diversity is an articulation of this as an organizational goal and value by the chief executive of the organization. A thorough analysis of the agency's recruitment and hiring processes should follow the leadership decision to increase diversity. Reaching out to key community members to assist in the analysis and the creation of a diversity plan is a critical part of the plan's success and creates important avenues toward increased transparency, community engagement and enhanced police legitimacy.

Other, more strategic approaches to enhancing police diversity include the creation of youth programs such as police explorers, public safety academy partnerships with local school districts and cadet programs to "raising your own future police officers." When these programs are developed within the framework of an overarching diversity plan they also leverage an agency's interest in community engagement and improving police and youth relations.

One of the most promising strategies for "raising your own" future police officers is publi safety academy partnerships between school districts and their local police organizations. In Fairfield, CA for example, the police department and the school district have a 6-10th grade public safety academy that boasts a 99% graduation rate and reported significantly better student behavior outcomes both at school and home. In this program, the students come from around the district and attend a magnet school where the curriculum incorporates public safety values, concepts and practices into the typical school education. Other school-police programs are not as ambitious but have promising results. "Schools within schools" are courses structured to give students a public safety emphasis while remaining on their normal school campus. They are frequently viewed as the high school version of "majoring" in public safety.

Finally, when policing organizations reposition their purpose and recruiting efforts as framed around service, rather than adventure they may appeal to a wider, more divers applicant pool. "Hiring in the spirit of service" (as opposed to adventure) was an initiative advanced by the US DOJ COPS Office. It helped policing agencies better understand the nature of their true service-oriented "purpose" and increased the breadth of their recruiting to appeal to potential candidates who saw their "purpose" as framed around providing services to their community (rather than simply the "adventure" of chasing and arresting criminals).

Recommendations
Police leaders should articulate the increasing of their organization's diversity as a primary goal.

Police leaders should engage the community in the analysis of current diversity efforts and the development of new strategies.

To advance the notion of "raising our future police officers" police organizations should:
- collaborate with local school districts to create policing oriented career academies
- create police explorer-like programs
- create cadet programs modeled after the military's ROTC programs

Improving police and youth relations
Science has shown that the teen brain functions differently than the adult brain. Progressive police organizations recognize this and are providin their officers with "teen brain" training that focuses on the scientific discoveries in this field and the implications for policing policies and practices. In addition, the California Endowment and the Police Foundation are currently developing a "youth policing" training for police leaders to help them understand that our country's youth are a special population that require a tailored style of policing.

Giving young people a voice about local policing is a powerful mechanism for improving the relationship between the police and youth. Youth advisory committees, youth appointments to standing governmental committees and holding youth oriented listening session are ways in which local police leaders can work to improve these relations. In addition, providing youth summer employment and volunteer opportunities within police organizations is another way to increase the police-youth relationship.

Finally, when young people see that the police are working as hard at helping facilitate their healthy development as they are at writing them tickets or arresting them, they are more likely to accept the premise that the police are not always the "bad guys." School resource officers (SRO's), while controversial for many people can be of great assistance in this area. SRO's who are given direction that their primary focus in not to arrest as many students as possible, but instead, to help remove students' "off campus barriers to learning" are viewed more favorably by young people.

The Emergence of CALEA as a Supporting Resolve:
A Continuing Dynamic Solution for Police/Community Accountability

The Emergence of CALEA as a Supporting Resolve:
A Continuing Dynamic Solution for Police/Community Accountability

Just after the midpoint of the last century, the United States began to experience a culture shift regarding the issue of race relations and the rights of all citizens without regard to color or class. The period was marked with events like the Detroit Race Riot of 1967 that digressed to mass disorder following a police raid of a reported illegal alcohol establishment in a low income and predominantly minority community. Later, similar events of riotous behavior occurred across the country. In these cases police brutality was documented as the primary reason for the uprising. The broader view included segregation, unemployment and civil rights concerns. Because of the dynamic nature of the period and role of the police within the environment, distrust began to further develop and the legitimacy of the police as a public safety institution was brought into question.

Media accounts clearly depicted actions that detracted from the professional image of the police and served as a medium for bringing the concerns to full view within the greater populous. Those that attempted to support actions to restore civil order found it increasing difficult to generate positive results due to overwhelming differences in perspectives, a lack of consensus regarding the understanding of roles, failures to trust in government, and ongoing symbolic events that continuously polarized even healing communities.

The movement associated with the troubling events should not necessarily be characterized as negative within the history of the United States, as it provided a channel to create change. And, the change was clearly needed to address inequities within the country. However, the loss of a safe environment for the public was and will always be an issue of concern, regardless of the cause. To this end, there must remain an institution within any democracy that can be trusted to maintain peace, order and general safety, which allows for the enjoyment of protected rights by all citizens.

Rarely is there a singular solution for addressing any public policy issue like the historical one described above, and the contemporary concerns regarding the relationship between police and their service communities is no different. In fact, initiatives with collective purposes must be implemented across the various spectrums and interest groups to move toward a comprehensive resolve with meaningful and sustainable outcomes. In the later portion of the 1970's following the previously denoted period of civil unrest, several of the leading professional associations representing the law enforcement community recognized this and acted to develop a contributing solution of professional accountability. The solution was grounded in the concepts of <u>standards of performance</u> as measures of success and the establishment of <u>industry recognized best practices</u> as guidelines for the management of resources and the delivery of services.

The professional associations that took action included the International Association of Chiefs of Police (IACP), National Sheriff's Association (NSA), National Organization of

Black Law Enforcement Executives (NOBLE), and Police Executive Research Forum (PERF). They recognized that accountability must begin with police leadership and be perpetuated through actions that not only fostered police engagement with the community, but created processes that promoted transparency and encouraged access to information by the public regarding police activities. The discussions focused on reconstituting public trust and building law enforcement capacity anchored to the rule of law, adherence to constitutional rights, the principles of democracy, and fairness and equity in the delivery services. Furthermore, this cast of progressive thinkers understood the symbiotic relationship between the rights of the citizenry and the power of the police.

As one of their contributions to the broader solution, the **Commission on Accreditation for Law Enforcement Agencies (CALEA)** was created as an independent body of professionals with the responsibility of promulgating standards for the industry, based on evidenced-based practices and generally accepted professional principles, as well as the administration of a credentialing process to recognize those police agencies that apply the respective standards appropriately in the delivery of services. The organization has now been in existence for over 36 years and has provided these services to the law enforcement community under the following tenets:

- Engagement in the process is voluntary to promote accountability
- Peer review by disinterested and trained assessors is critical on an ongoing basis
- The service environment is ever-evolving and requires a dynamic process of standards development and adherence
- The public safety community has a responsibility to create accountability measures to the public
- Community engagement and capacity building is essential to the effectiveness of any public safety organization
- Transparency and public trust must be institutionalized as key objectives and constantly measured by organizations responsible for the public's safety
- Police powers and resources are provided by the public and must be cared for through review, inspection, research, and relentless follow-up
- Reports to the public are essential and efforts must be applied to ensure the community's needs are addressed within the constructs of fairness, equity and the democratic principles of a civilized society
- Feedback loops with the public are essential to understanding the service delivery landscape and fostering effective relationships that contribute to public order and safety

Although the enrollment of public safety agencies in CALEA Accreditation programming has been variable, currently just over five percent of the nation's 18,000 law enforcement agencies participate. This equates to slightly more than twenty-five percent of the police officers in the United States working for organizations that participate in the program. Invariably, participating entities have created organizational cultures that adhere to the conceptual tenets described previously. They embrace the concept of external review for the purpose of creating enhancements in accountability

and are open to professional changes in procedures to ensure their delivery of service complements contemporary best practices. Their collective involvement works to define the role of police in a democratic society, and this role is created through not only peer involvement, but through community engagement required by the accreditation process. As examples, relevant standards include content on the agencies' role in the community, limitations on authority, compliance with constitutional requirements, and alternatives to arrest. Additionally, the process of review for accreditation involves public information collection sessions and opportunities for the community to share their thoughts about the activities and interactions of the candidate agency.

The accreditation model stringently works to define the use of police authority. This includes the adherence to standards associated with the use of force, review and analysis of related events for the purpose of policy reformation, sharing information regarding citizen complaint findings and statistics, and the use of discretion in the delivery of police services.

The concept of bias in the delivery of law enforcement service is also addressed within the constructs of accreditation. This includes policy and training related to prohibitions in bias based activities related to such events as traffic enforcement contacts, field interviews, and asset forfeiture. It requires the application of corrective measures with findings of prohibited activities and involves documented annual administrative reviews of related practices and citizen concerns in this area. The accreditation process also applies trend analyses of individual officer activities to promote alertness to irregular patterns that deserve awareness and corrective measures.

The process of accreditation not only mandates the incorporation of public-facing accountability processes, such as documented surveys of citizen attitudes and opinions that focus on agency performance, competency, professionalism, and community suggestions, but also internal assessment measures. These include analyses of disciplinary actions, employee grievances, promotional processes, and employment outcomes. Each of these contribute to building internal capacities that enhance the agency's ability to provide external services in a manner that adhere to the public's sense of fairness and equity.

CALEA Accreditation mandates work performance reviews of police personnel against job related activities and requires scheduled training in areas such as interactions with citizens with mental illness, the application of force, and other critical service delivery issues. And, there exist requirements related to demonstrated proficiencies and documented understanding of organizational philosophy as it relates to response to unusual and critical events.

The adherence to CALEA Standards requires attention to the rights of not only those under investigation, but also victims and the families of victims, regardless of the circumstances.   It promotes stronger relations with the media to create an atmosphere of trust with information sharing and actually mandates discussions with representatives of the press in developing or reviewing public information policies. This concept alone

works to foster understanding and reduce inaccuracies in reporting resulting from an absence of information during developing events.

As a prerequisite to being recognized as a CALEA Accredited agency, participating organizations must create and demonstrate the effectiveness of citizen complaint procedures. These procedures must include the investigation of all complaints, including those of an anonymous nature. The agency's model for receiving complaints must be accessible to the public and create accountability in reviewing the issues. The associated process must establish timelines for notifications to complainants and result in the posting of summaries of data for the public's consumption about related findings.

The concept of integrity in criminal investigative procedures is included in the accreditation process. This involves accountability with the preservation, collection, maintenance, and presentation of evidence. Polices related to interviews, line-ups and show-ups must also be developed and followed. The standards within this topical area reflect contemporary research and a desire to support <u>appropriate</u> arrest, prosecution and conviction of suspects.

CALEA promulgates and requires agencies to develop and address community involvement practices to include establishing liaisons with significant community organizations, the involvement of community members in the development of policy, publicizing agency objectives and activities, improving agency practices with impacts on community relations, and developing problem oriented policing strategies. This topical area also requires reporting on significant community concerns, potential community problems, statements of recommended actions, and progress toward desired results.

Although these examples are only a sampling of the comprehensive nature of the accreditation process, it clearly demonstrates a bias toward the development of police agencies that continuously engage the community and its membership for the purpose of professional service delivery. It recognizes the value of ongoing assessment for the purpose of continuous accountability and it focuses the resources of the agency on supporting the maintenance of a well informed and safe community. The process recognizes that significant events will occur in every community that pull at the appropriate balance between safety and freedom, but works to establish relationships that promote civil discussion to ensure the needs of the community are maintained as the priority.

The process of standards development and review employs the professional wisdom of seasoned public safety leaders, city and county managers, judicial and elected officials, academicians, business representatives, and other subject matter experts to hold participating agencies accountable. These individuals serve as CALEA Commissioners and include representatives from both within and outside the domestic borders of the United States. They rely on contemporary research and evidence based findings to guide their decision making and they are all involved in other professional organizations that provide opportunities to learn about leading edge issues facing the public safety community and the services they are sworn to provide.

The concerns of police and community relations that were recognized during the late 1960s required a decisive action on the part of professional public safety leaders to ensure constitutional protections could be maintained. This required a recognition that the police must implement specific actions to build effective relationships, improve internal and external facing processes, devise policies and train on issues sensitive to contemporary concerns, constantly assess to identify risks, and remain open to external review to promote transparency.   One response that has recognized success and continues to provide a framework for progressive pubic safety agencies is CALEA Accreditation. The ongoing endorsement of the programming by the major professional associations further demonstrates its value of the concept and provides a resource for any agency willing to accept the associated challenge.

Although CALEA has documented successes, any relationship that involves the application of activities that limit the constitutionally protected rights of citizens will always be subject to allegations of the abuse of power. As a result, it must include processes that demonstrate accountability and provide for the development of positive relationships. It must provide opportunities for growth based on new concerns and recognize that the absence of substantive feedback systems will yield undesirable outcomes that will ultimately erode the safety of the community.

CALEA Accreditation has consistently been used as a resource for nearly four decades to support the professional requirements of police organizations, while maintaining a connectivity to the needs of the public in a responsible and contemporary manner. As the program has matured it has transitioned to a level of accountability beyond simple compliance with standards and now applies outcome measures through data collection and temporal reviews. As an example of its dynamic application of process improvement, it is currently transitioning from triennial audits to annual reviews of compliance to promote ongoing organization professionalism and attention to requirements, and it is leveraging technology to support agencies in the collection of information that provides data to make informed policy decisions on issues ranging from youth/police programing to contract provisions with police unions.

Progressive police leaders understand that in today's environment of competing resources and priorities, the process of accreditation works. It assisted in moving the country past the prior challenges of police and community concerns in the last century, it continues to contribute to the advancement of agencies today, and it will remain a steadfast tool in meeting the challenges of tomorrow for public safety organizations and their citizens.

More information about CALEA and its accreditation programming can be reviewed at the organization's website located at www.calea.org.

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January 9, 2015

Mr. Ronald L. Davis
Executive Director, President's Task Force on Policing in the 21st Century
Office of Community Oriented Policing Services
U.S. Department of Justice
145 N Street, N.E. 11th Floor
Washington, DC 20530

Dear Mr. Davis,

On behalf of the National Coalition on Black Civic Participation (The National Coalition), I am writing to submit our recommendations on *building trust and legitimacy* to the President's Task Force on Policing in the 21st Century.

The National Coalition envisions a nation in which all people, from youth to seniors, have the tools to participate fully in the democratic process at the local, state, national and global levels. By continuing to fight to eliminate barriers to civic participation, The National Coalition promotes greater social and economic justice to enhance the quality of African American life.

A core component of living in a barrier-free democracy includes being confident that law enforcement lives up to their sworn duty to protect and serve all people in our communities and nation.

The National Coalition respectfully submits the following recommendations that we believe are vital to rebuilding trust between law enforcement and communities of color:

Defining the role of the police in a democratic society
- Review of local police mission statement, goals and objectives with local multicultural civic groups
- Appointment of national & state-based civic groups to review Commission for the Accreditation of Law Enforcement Agencies (CALEA) accreditation standards
- Protest and First Amendment response training to law enforcement officers via initial non-escalating behaviors

Building a culture of transparency
- Review of local open records laws
- Mandatory release of certain information to the public in high profile incidents within a reasonable time frame. (without tampering with investigative procedures or violating privacy laws)
- Outfitting of law enforcement agencies with body cameras governed by policies of transparency
- Establish a third party camera review board that includes local community-based leaders
- Active inclusion of minorities in civilian review boards and citizen police academies

Hiring a diverse workforce
- Engagement of multi-cultural organizations in minority recruiting and minority retention
- Engagement of cultural institutions of higher learning (HBCU's) in recruiting efforts as well as law enforcement career training and orientation
- Applying demographic indicators and strategies to monitor and ensure (respectively) departmental staffing levels parallel to the cultural make up of served communities
- Active engagement of youth regarding law enforcement careers at a middle school level
- Active engagement of female-centered organizations/institutions in recruiting and career orientation efforts (i.e., women's colleges/universities, civic and social justice organizations)
- Active engagement of faith-based community in recruiting efforts and orientations

Procedural justice
- Modifying civilian review board responsibilities and tasks to include court monitoring and sentencing guidelines and recommendations
- Obtaining procedural recommendations from professional legal organizations in communities of color. (i.e., National Bar Association, NAACP LDF, Lawyers Committee for Civil Rights Under Law, ACLU, The Advancement Project, National Hispanic Bar Association). Include recommendations for alternative sentencing in non-violent criminal actions.

Racial reconciliation
- Review and recommendations from cultural and institutions of higher learning regarding post incident reconciliation. Behavioral specialists should be a part of the strategic teams and processes.
- Develop active cultural sensitivity committees in local communities to include law enforcement, youth, community leaders, faith-based representatives and government officials
- Recommend the inclusion of racial diversity orientations and best practices in public and private education curriculums

Community engagement and dialogue

- Local community engagement seminars conducted by professional entities to include voting education and registration, governmental roles and policy development, due process and education to include the importance of jury participation
- The inclusion of faith based institutions, youth groups and civic organizations in discussion and dialogue around crime prevention and the mitigation of violence and gun crime
- Community service mandate as part of annual service requirement of police departments
- Reinstitute and/or expand community policing as a key component of law enforcement models that helps to rebuild community trust and reduce crime

Improving police and youth relations

- Include proven mandatory mentor training platforms for law enforcement officers assigned to youth programs (i.e., 100 Black Men On-Line Mentoring Across a Lifetime)
- Active enhancement of youth recreational and after-school programs to include collaborative coalitions of organizations such as Police Athletic Leagues (PAL), NOBLE and 100 Black Men of America)
- Criminal law literacy summits and forums for youth in public schools and community programs
- Appointing teenage youth to participate in orientations with civilian review boards and in sensitivity forums within the juvenile justice system

Police leadership development

- Active inclusion of cultural institutions of higher learning (HBCU's) in professional development of law enforcement officials
- Collaborative development of cultural sensitivity curriculums for law enforcement (Civic organizations, HBCU's, Behavioral professionals, (included recommendations from youth representatives from student government associations in high school and college
- Annual cultural sensitivity education in mandatory recertification classes at all levels of the organization
- Mandatory leadership education involving sustainability for first line supervisors and mid-level management
- Additional Post-hire behavioral assessment for law enforcement officers with 5 or more years of service and/or officers initially promoted to supervisory rank. Assessment should include cultural sensitivity and communication skills for community and employee interaction.

We thank you for the opportunity to provide these recommendations to assist the President's Task Force on 21st Century Policing in its mission to identify effective strategies and best practices to strengthen and rebuild public trust between law enforcement and the communities and promote effective crime reduction.

Sincerely,

Melanie L. Campbell
President & CEO, National Coalition on Black Civic Participation
and Convener, Black Women's Roundtable

cc: Charles H. Ramsey, Co-Chair, President's Task Force on 21st Century Policing
       Laurie O. Robinson, Co-Chair, President's Task Force on 21st Century Policing

Testimony of Mo Canady, Executive Director,
National Association of School Resource Officers (NASRO)
Before the President's Task Force on 21st Century Policing

January 7, 2015

Executive Director Davis, Co-chair Ramsey, Co-chair Robinson and members of the
President's Task Force on 21st Century Policing

Thank you for allowing me to testify through this statement for the record. I am Mo
Canady and I serve as the Executive Director of the National Association of School
Resource Officers (NASRO). NASRO, the world's leader in school-based policing, is a
not-for-profit organization founded in 1991 with a solid commitment to our nation's
youth. My testimony will focus on the topic of improving relations between law
enforcement and adolescents. This topic has been the primary focus of our
organization since it was founded 25 years ago. The number one goal of school
based policing is to "bridge the gap" between law enforcement and youth and this
concept is woven into every aspect of our association. NASRO is comprised of
school-based law enforcement officers, school administrators, and school
security/safety professionals working as partners to protect students, faculty and
staff, in their school community. The "school resource officer," (SRO) also known as
a "school safety liaison," or "school based law enforcement officer," refers to
commissioned law enforcement officers selected, trained, and assigned to protect
and serve the education environment. The first SRO program was instituted in 1953
in Flint, Michigan, and later expanded to Fresno, California in 1968. Programs grew
slowly at first, then more rapidly during the 1990s. For some school officials, this
expansion was prompted by the 15 deadly, highly publicized campus rampages that
occurred from 1993–1999. Other educators had equally compelling data in hand to
influence the decision such as their own campus incident reports and the
perceptions of school personnel, students, and parents. Today, school resource
officers have become a vital component in school safety planning and the SROs are
seen as effective resources in reducing campus disruptions and in enhancing
educators' and students' feelings of safety while on school grounds.

The work of NASRO is to provide the highest quality of training to school-based law
enforcement officers in order to promote safer schools and safer kids.   The goal of
NASRO is to provide safe learning environments in our nation's schools, provide
valuable resources to school staff, foster a positive relationship between our
nation's youth and law enforcement, and develop strategies to resolve problems
affecting our youth with the objective of protecting every child so they can reach
their fullest potential.

At its core, the School Resource Officer program is truly Community Based Policing at its best. When the program is conducted properly, positive relationships between youth and law enforcement are certain to occur. But it doesn't end there, the relationship building continues with educators as well as parents and guardians of students. One could say that there is already an extension of this successful program in the community through the positive relationships that occur between SRO's and parents/guardians.

Is it possible that the strategies used for a successful SRO program could also be used by law enforcement officers in other areas of a given community? The answer is most certainly yes. However, it is necessary to examine the three foundational elements which are a part of every successful SRO program and to further explore how these elements may be adapted to the patrol, traffic and investigative functions of any law enforcement agency.

The three elements essential to success are;

1. Collaboration.
2. Recruitment and selection of high quality personnel.
3. Proper training of personnel for the given assignment.

Collaboration

SRO's in and of themselves do not create a safe school environment. It requires collaboration of school personnel, emergency services, students and parents/guardians. The same is true outside of the school. Law Enforcement Officers cannot successfully police a community without collaboration. There must be a true partnership that occurs between law enforcement officers and the citizens of the community. Organized citizen groups within individual communities can be a good starting point to build positive relationships.

The most successful school based programs are those which have an open line of communication as well as a positive working relationship with law enforcement. There must also be a willingness on the part of both agencies to understand and accept the core principles that are necessary for each entity to function effectively. The collaborative effort between school districts and law enforcement agencies is reinforced through well thought out written agreements or memorandums of understanding (MOU). These agreements spell out the generalities and in some instances the specifics of how law enforcement officers will function in the school environment. It may be possible that a similar type MOU could be used between law enforcement and certain citizen groups. Any agreement would of course have to remain within the confines of the law and would certainly not interfere with officer's ability to enforce criminal laws. However, the agreement could certainly include strategies such as; providing education to citizens groups on topics such as law enforcement's standard operating procedures or simply agreeing to have on-

going law enforcement representation at meetings of citizen groups.

As positive relationships are built between individual communities and law enforcement agencies, this will naturally open the door for police-led programs that will benefit youth. These types of programs are something that SRO's have been engaged in at the school-based level for decades. Some of these programs include confidence building courses, distracted driving education, and archery, assistance with school work, after-school basketball leagues and music programs. These types of programs provide the opportunity for excellent relationship building between youth and law enforcement and could certainly be effective outside of the school environment. For years, organizations such as the National Police Athletic League have laid a solid foundation for sports related programs which unite law enforcement and adolescents.

Recruitment and selection of high quality personnel

School Based Policing is without a doubt the most unique assignment in law enforcement. I spent the last 12 years of my career as the commander of my department's school services division and the most difficult task for me was the process of selecting officers for this assignment. This is such a high profile assignment and it can be quite detrimental to the law enforcement agency in particular if the wrong officer is selected for the job. In reality, this philosophy should apply not only to the school resource officer but also to law enforcement in general. As I visit with Chiefs and Sheriff's across the country one of the consistent concerns discussed seems to be the quality of the applicants as well as retention.

As we look at 21st Century Policing, recruitment must be a priority. In order to build positive relationships between law enforcement and youth, the department must have officers in the field who are high-quality individuals and are trained and motivated to fulfill the role of relationship building. NASRO members are involved on a daily basis in the recruitment of students whom they serve. SRO's are specifically trained on the topic of law related education, they present this topic in the classroom at all grade levels and within this topic they are also educating students on careers in Law Enforcement. This is an excellent recruiting tool that can be used at all levels of law enforcement and can also be edited for use with adult groups such as citizen coalitions and civic clubs. Many SRO's also serve as advisors for law enforcement explorer programs which is an excellent training and recruiting tool and helps serve the goal of "bridging the gap".

Proper training of personnel for the given assignment

For almost 25 years, NASRO has conducted training around the world. Our program cannot be successful without properly trained officers and the curriculum is based on a community based policing strategy to be applied in the school environment with the number one goal of "bridging the gap" between law enforcement and youth. The foundational course offered by NASRO is the Basic SRO Course.

There is no doubt that every law enforcement officer in the country could benefit from this type of training. I would like to share with the task force a few of the topics that are presented in the basic course and briefly explain the potential benefit to law enforcement in general.

1. Adolescent Emotional Issues – This block of instruction provides the attendee with knowledge to recognize possible indicators for suicidal youth. In addition, the participant will develop a working knowledge of key strategies for assisting youth with a variety of emotional issues to include appropriate referrals regarding health and safety issues. The benefits to law enforcement in general is to have a better understanding of issues that youth face on a daily basis. Understanding these issues should increase the officer's empathy for youth, thereby leading to greater opportunities for relationship building.
2. **Effective Communication in Schools** - Course participants learn how to provide informal counseling based on their expertise as law enforcement officers and they also learn how to make referrals to social workers or counselors. The benefits to law enforcement in general is to give them a better understanding of how to effectively communicate with adolescents in different settings and scenarios, whether in a school or in their community.
3. **Children with Special Needs** - It is the goal of this block of instruction to educate the SRO on the legal issues and rights of children with special needs and helps the SRO to understand their role of assisting the administration with any safety issues that might arise in the classroom. Law enforcement in general could benefit significantly from training on this particular subject. It has made a sizeable difference in the manner in which SRO's conduct themselves. For example, when law enforcement officers have some understanding of how certain mental health issues can effect an individual's behavior, it can have a unique impact on the officer's response resulting in a more positive outcome.

This is only a small portion of the training provided to SRO's that can also be beneficial to positive relationship building between law enforcement and youth.

<u>Summary</u>

Thank you for the opportunity to submit this testimony on behalf of the members of the National Association of School Resource Officers. We stand ready to assist the President's Task Force on 21st Century Policing.

TESTIMONY

from

Chuck Canterbury

National President,

Grand Lodge, Fraternal Order of Police

on

"Building Trust and Legitimacy"

before the
President's Task Force on 21st Century Policing"

13 January 2015

Good morning Chief Ramsey, Ms. Robinson and distinguished members of the President's Task Force on 21ˢᵗ Century Policing and thank you for allowing me to be here today to share with you the perspective of the rank-and-file officers who serve in harm's way each and everyday in our streets and communities. I am the National President of the Fraternal Order of Police and have the honor to represent more than 330,000 officers of every rank in every region of the country. It is their views which I offer today for your consideration.

All of us here know that there has been an erosion in trust and respect between law enforcement officers and the communities they protect, particularly in communities of color. Similarly, law enforcement officers are growing more distrustful of the citizens in many communities because of an increase in violence that targets law enforcement officers. A rise in firearm fatalities and assaults, especially ambush attacks and flat-out assassinations, have forced officers to be more wary when responding to any call for service. That is why I have called upon the President and the Congress to amend Federal hate crimes laws to include police officers. Enough is enough!

It is imperative that we bridge the gulf of trust and respect between police and their communities and work together to bridge the gap. I am proud that law enforcement as a profession has been at the forefront in acknowledging and addressing this problem and I pledge to work with the Task Force to improve our profession and the safety of our officers.

I urge the Task Force to take a broad, holistic approach–the issues of trust and legitimacy are not just a law enforcement problem. It is a systemic issue throughout government and society. Our citizens and communities are losing faith in government services and in public officials and public servants. The lack of trust and respect may be most obvious in law enforcement because our officers are the most visible of government servants, but the issue is pervasive. Schools are failing parents and students alike, eroding confidence in the idea that, with a good education, anything is possible. Instead, schools process our children without guaranteeing them an education. Elected officials cannot make good on their promises and basic social services wither on the vine as funding dries up or the demand for service overwhelms the ability of the government to provide it. Poverty, both poverty of income and poverty of true opportunity, is the common denominator as more and more of our

citizens, especially our young people and people of color, no longer trust that the American dream is within their reach.

For a young man of color to finish high school without a basic education because of social promotion, he is robbed of opportunity and that's a kind of robbery law enforcement cannot respond to. His world view was likely shaped not by an American civics class, but by social media saturated with a subculture that celebrates anger toward authority, disrespect to women and willingness to use violence to ensure they are not disrespected especially in front of their peers, which often triggers a swift escalation of even the most routine encounter with police or other authority figures. I don't need to remind anyone here that these problems have been building for generations and a three month study will not provide all the solutions. This endeavor will have to be a permanent work in progress and we all need to commit ourselves to it.

The FOP wants to be part of changing the culture of policing, but we as a society and a nation also have a responsibility to make changes. We first must reject any notion that law enforcement culture is intrinsically racist. It is wrong to think a man a criminal because of the color of his skin, but it is equally wrong to think a man is racist because of the color of his uniform. Enough is enough.

We must also reject the tacit legitimization of violence and law-breaking as a weapon or agent of social change. No grand jury decision or government action should result in local leaders, elected officials or national spokesmen justifying, openly or not, the burning of businesses, looting of shops or wanton destruction of property. When these criminal acts are not swiftly condemned as wrong but are instead met with a shoulder shrug or explained away as a completely reasonable release of pent up frustrations, we invite an increase in that violence which leads to events like the assassination of New York City Police Officers Rafael Ramos and Wenjian Liu. The killer of these two officers believed that his outrage at a perceived failure of justice was reason enough to end their lives and then his own. Enough is enough.

I also recall another assassination attempt in Tuscon, Arizona when a man who had become obsessed with Representative Gabrielle D. Giffords (D-AZ) killed five people and shot her in the head.

The trust gap and lack of respect for our government and its institutions led these two unbalanced men to see murder as a reasonable response. We need to get away from the inflammatory rhetoric so prevalent in our culture today which leads criminals and

mentally unbalanced individuals to believe hostile and violent actions against police will be validated. I ask that we keep this goal uppermost in our minds as we go forward with discussions about police legitimacy, racial reconciliation, procedural justice and transparency.

I believe that one of the most important things we can do to strengthen the bonds of trust and mutual respect between government and our communities is to restore our public confidence in and commitment to due process. Law enforcement officers acknowledge that individual officers will have their actions scrutinized. Sadly, the media and public figures often engage in a rush to judgement and make statements about an event without all the relevant facts. This will sometimes inflame public passions and exacerbate the community situation, especially in cases where the initial opinions offered turn out to have been mistaken. This undermines trust and does damage to the concept of due process.

It is critical to demonstrate our faith in and commitment to due process. Due process must be unaffected by negative media coverage, threats of criminal activity, mass violence or other retribution by the public.

Law enforcement officers, as public employees, have the right to due process as anyone else in our nation. We need to make that clear, especially if law enforcement managers persist in efforts to create a database of "decertified" officers. The FOP has opposed this effort in the past and must continue to do so unless and until due process laws for all police officers are uniform throughout the nation. Perhaps this effort will bolster our latter efforts to improve due process for officers.

Thank you for having me here today and I would be pleased to answer any questions you might have.

THE PRESIDENT'S TASK FORCE ON
21ST CENTURY POLICING

COMMENTS OF

HUGH CARTER DONAHUE, PH.D.
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EXECUTIVE SUMMARY:

The great opportunities for the Task Force are deterrence, real time transparency and constitutional guidance:

i.) pre-emptive deterrence inflects youth toward professional attainments, remunerative careers and civic engagement,

ii.) real time transparency builds trust among police and communities, and

iii.) constitutional guidance equips municipal law enforcement and municipal, county and state prosecutors to implement equal protection and due process protections.

The approach steers Department of Justice decision makers away from

i.) relaxed norms, which could enable recurrence of panhandling, drunken conduct, addiction, prostitution, loitering and vagrancy in public spaces and

ii.) militarization of municipal police with armed services ordinance, vehicles and equipment.

"For Heaven's Sake,
Safe us from the Philosophers!"

Daniel Webster citing British Ambassador Sir Henry Fox
approvingly dismissing creation of an expert panel
to be appointed by the Kings of Prussia, Sardinia and Saxony
to define contested Canada-United States borders
prior to their successful resolution by the Webster Ashburton Treaty, 1842[1]

FOREWORD

Daniel Webster is apposite, because the President's Task Force on 21st Century Policing is addressing the borders and boundaries of public order.

In settling the northeastern Canadian-United States border, Secretary of State Daniel Webster's negotiations with Maine and Massachusetts on their claims prior to U.S.-British resolution proved masterful. Irresolution of the northeastern Canada-U.S. border had hounded Presidents John Quincy Adams and Andrew Jackson and worsened with President Van Buren. John Quincy Adams, Henry Clay and Albert Gallatin had tried settling the border earlier, fruitlessly, negotiating the Treaty of Ghent, Christmas Eve Day, 1814, concluding the War of 1812. Then, in 1841 and 1842, as Secretary of State in the Tyler Administration, Webster uniquely secured prior assent to territorial claims by Maine and Massachusetts. Historian Jared Sparks came forward with a map of Benjamin Franklin's designating a boundary[2] in negotiations culminating in the 1783 Treaty of Paris securing independence and concluding the Revolutionary War, which Sparks had discovered in French archives. During Lord Ashburton's negotiations with Webster, the British withheld a map drafted by British negotiators at the Treaty of Paris with a different boundary and released it later. Both American and British negotiators then concurred both maps were proposals. With a treaty in hand, the Franklin map had served its purpose, a boundary was set and peace assured. One and all, American, Canadian, British could be well gratified respective plenipotentiaries had documented negotiations so conscientiously. Approximately 61 years out from Cornwallis's surrender at Yorktown, September, 1781 and 59 years from Benjamin Franklin, John Adams, Henry Laurens and John Jay's Treaty of Paris negotiations, Webster had settled northeastern boundaries for all but fish.

In the same way, the Task Force can redefine boundaries of public order to inflect historic solutions, comparable to border settlement, as fully as is possible in a dynamic society, by deterring youth from crime, implementing real time transparency and constitutional guidance for municipal police and municipal, county and state prosecutors and grand juries. Approximately 50 years out from mid-sixties civil disorders and 33 from publication of James Q Wilson's and George L. Kelling's seminal "Broken Windows" article, fresh appraisal is timely.

RECOMMENDATION: DETERRENCE, REAL TIME TRANSPARENCY & CONSTITUTIONAL GUIDANCE

i.) pre-emptive deterrence or inflection[3] directs youth toward professional attainments, remunerative careers and civic engagement,

ii.) real time transparency builds trust among police and communities, and

iii.) constitutional guidance equips municipal law enforcement and municipal, county and state prosecutors to implement equal protection and due process of law protections.

Issues at hand for the Task Force are whether and how Smart on Crime Policing will sustain and supersede elements of the Broken Windows regime and the ways in which Attorney General Holder and his successors may supplant James Q. Wilson and George L. Kelling as architects of public order.

The Task Force's job is to articulate policy for Community Oriented Policing Services, the implementation platform for the Smart on Crime initiative, to enable SoC and COPS to maintain public order while palliating and mitigating unintended consequences of Broken Windows implementation, now regarded as costly and ineffective, if not wholly, or at least substantially, counterproductive,[4] with findings and recommendations advancing equal justice well into future.

DETERRENCE

Through inflection or deterrence, youth acquire fuller understandings of the boundaries of conduct in public spaces and acquire skills to traverse class borders. Youth initiatives would forestall crime by i.) developing marketable and creative skills increasing employment prospects and ii.) deploying peers articulating these goals within schools and communities and through social media. COPS could enhance safer schools and other initiatives with this approach. A prototype can be demonstrated.

REAL TIME TRANSPARENCY

Foot patrol and squad car officers could transmit Twitter feeds and place Facebook posts highlighting salutary acts (e.g., this foot patrol officer just made sure emergency medical services took care of an ill person) and efficient outcomes (this squad car just cleared an access ramp of collision vehicles blocking traffic), among other successes. While a primary goal inflects public opinion for law enforcement, as importantly real time transparency inoculates the department through individual foot patrol and squad car tweets and posts. Instead of an impugned organization, when enforcement devolves to controversy, an individual foot patrol or squad car officer's social media feeds become transparent, and the department can then locate and identify the

action(s) for the organization as a whole. Proof of concept trials could determine feasibility and define standards and practices.

CONSTITUTIONAL GUIDANCE

With constitutional guidance, police, prosecutors, grand juries would apprehend Smart on Crime standards and practices, or borders, as new enforcement and prosecution boundaries. Among others, guidance could convey Smart on Crime standards and practice specifying "fairer enforcement of the laws…[to] alleviate disparate impacts of the criminal justice system and to ensure just punishments for low-level, nonviolent convictions."

The Task Force could find and recommend that SoC thought leaders and COPS program officers infuse 14th Amendment due process and equal protection standards and practices as constitutional guidance among municipal police and municipal, county and state prosecutors to strengthen their integrity. Municipal law enforcement and county and state prosecutors would then be able to self-correct unintended consequences of the Broken Windows regime and to oversee grand juries.

BENEFITS

All three approaches employ available communications and information technologies for recurrent peer reinforcement and monitoring among youth, trust with the public, and constitutional guidance and compliance with police and prosecutors.

Each is replicable nationally at low unit costs.

All rationalize Congressional support for SoC and COPS budgets and staffs by integrating SoC standards and COPS programs at local levels across generations and institutions.

Instead, the great temptation, tasked with three month duration, will be to take vetted proposals off DOJ shelves.[5] So doing may assure administrative convenience and could fail to advance Smart on Crime effectiveness or COPS efficacy.

The Task Force would wisely guide Smart on Crime leaders away from i.) relaxed norms which would enable recurrence of panhandling, drunken conduct, addiction, prostitution, loitering and vagrancy and ii.) militarization of municipal police with armed services ordinance, vehicles and equipment.

Either outcome would be provocative with citizens and is unpalatable to many.

CONTEXT

James Q. Wilson's and George L. Kelling's "Broken Windows," published in *The Atlantic Monthly*, March, 1982, originated from Kelling's monitoring of a State of New Jersey "Safe and Clean Neighborhoods" initiative following mid-sixties urban riots. Civil disorders had roiled Elizabeth, Jersey City, Newark, Paterson and Plainfield, and New Brunswick Mayor Patricia Sheehan's responsiveness quelled citizens well enough that "the New Brunswick riot… failed to materialize," the Commission determined.

This occurred amid absences of sustained federal follow through of Report of The National Advisory Commission on Civil Disorders, or Kerner Commission, forecautionings that the United States could devolve into "two societies, one black, one white—separate and unequal" if the nation did not address and remediate systemic racism.[6]

The State of New Jersey came forward with funds to deploy municipal police on foot patrols to supplement and replace squad car deployments in the mid-seventies. Kelling, who had observed foot patrols in Kansas City, Missouri and was a board member of the Police Foundation, which the Ford Foundation had created in 1970, observed the patrols. The Police Foundation published Kelling and his colleagues' findings[7] in The Newark Foot Patrol Experiment (1981), and Wilson approached Kelling, then a Fellow at the Kennedy School at Harvard University, with a proposal to co-author the *Atlantic Monthly* article.

In "Broken Window," Wilson and Kelling redefined the boundaries of urban space for public order through a prophylactic approach forestalling disorder. Their metaphor is primarily a border making and boundary enforcement norm foreclosing anyone, who fails to comply with conduct sanctioned within boundaries, from the space. So doing, Wilson and Kelling contended, would diminish "the fear of being bothered by disorderly people. Not violent people, nor, necessarily, criminals, but disreputable or obstreperous or unpredictable people: panhandlers, drunks, addicts, rowdy teenagers, prostitutes, loiterers, the mentally disturbed." Individuals would then be more engaged with one another and more willing to live, work and visit cities. Achieving the outcome would necessarily entail that "police will be inculcated with a clear sense of the outer limit of their discretionary authority. That limit, roughly, is that the police exist to help regulate behavior, not to maintain the racial or ethnic purity of a neighborhood." [8]

Broken Windows practitioners achieved successes in Los Angeles on Skid Row and New York City with squeegee men and mass transit turnstile jumpers. On Skid Row, police could direct vagrants to shelters and missions, which accommodated the impoverished and deranged. Squeegee men and turnstile jumper bookings often yielded outstanding warrants, so individuals in each cohort stopped intimidating motorists and annoying mass transit commuters.

In these applications, the Broken Windows approach evokes Anatole France's withering encomium: "the law, in its majestic equality, forbids the rich as well as the poor to sleep under bridges, to beg in the streets, and to steal bread."[9]

And, the Broken Windows approach made cities more habitable for all classes, races, genders, orientations and ages.[10]

By the third Bloomberg Administration (2010-2013) in New York City, however, a stop and frisk policy revived concerns of earlier, discredited police practices with vagrancy and disorderly conduct laws and led to contentions of profiling young black and Latino men.

Coupled with vast numbers of incarcerated individuals, many young and black for narcotic crimes in connection with the War on Drugs, dubiety grew about the efficacy and equity of the Broken Windows approach.

Then, in February, 2012, the death of Trayvon Martin, an unarmed black teenager in an altercation with neighborhood watchman George Zimmerman in Sanford, Florida, the August, 2014 death of Michael Brown, also unarmed though reaching for a police officer's gun in an altercation in Ferguson, Missouri, the July, 2014 death of Eric Garner on Staten Island and the death of a Tamir Rice, a 12 year old playing with an air rifle in Cleveland, November 2014, all combined to animate a fresh appraisal of the impartiality of criminal justice.

Civil disorders, along racial lines as the Kerner Commission had forecautioned, appeared poised to become a staple in the high mix of jarring wealth disparities and disabilities, palliative reform and sclerotic government. Fifty years out from the Civil and Voting Rights Acts, racial caste yet bound. "The masses of the Negro people...unlike the more advantaged leaders, professionals, and businessmen, derive almost none of the compensatory gains from the caste system," Gunnar Myrdal had observed in 1944, and their plights persisted seventy years later. "They sense how they are hampered...more acutely than might be expected."[11]

On the basis of news reports, police adhered to the prophylactic Broken Windows approach foreclosing rowdy teenagers and loiterers from public spaces at the onsets of altercations with Brown and Garner. Police initially ask Brown to walk on the sidewalk rather than in the street. Police subsequently learn via police radio of an allegation of stealing cigarillos and see cigarillos in Brown's hand. Brown then reportedly reaches for the officer's firearm. The altercation transpires. Police had approached Garner a number of times beforehand admonishing him to stop selling loose cigarettes on the sidewalk. He retorts and complains of harassment. Apprehension devolves tragically. At the conclusions of police actions, the Broken Windows boundaries of their discretionary authority implicated state grand juries whose decisions not to bring indictments in turn provoked protests, riots, traffic blockages, mass transit station shut-downs, restaurant

disruptions and peaceful protests and social media campaigns decrying the integrity and challenging the impartiality of criminal justice.

Based on news reports, Rice's death strikes more an instance of the ubiquity of hand guns and firearms in the fifty odd years since the mid-sixties urban riots. Perhaps, in 1964, a police officer might doubt a 12 year old has a firearm and surmise instead that he is playing with an air rifle. Nowadays, it's a different prospect.

Martin's death is less an unintended consequence of Broken Windows implementation than a neighborhood watchman's frustrations with punks. Sanford, Florida police dispatched an officer in response to the watchman's suspicious person call and instructed him to await his arrival. Instead, Zimmerman pursued Martin.

SUMMARY: 21ST CENTURY POLICING BOUNDARIES AND BORDERS

Of four, gratuitous deaths, two are teenagers and one a 12 year old, all worthy of inflecting toward professional lives, families and civic engagement to traverse borders constraining their humanity and to enrich public space for their wellbeing and society's.

Real Time Transparency employs social media to build trust with communities.

Constitutional guidance inculcating Smart on Crime standards and practices would equip police and prosecutors with fresh borders and boundaries effecting public order in a democratic society.

These approaches steer SoC thought leaders and COPS planners away from

i.) relaxed norms which could enable recurrence of panhandling, drunken conduct, addiction, prostitution, loitering and vagrancy and

ii.) further militarization of municipal police with superannuated, armed services ordinance, vehicles and equipment.

Either is provocative with citizens and unpalatable to many.

Endnotes

[1] Remote control alienates local residents and provokes pushback regarding solutions, which can be perceived as artificial and arbitrary, Webster observes.

"It was asked in the House of Commons, not inaptly, What would the people of Maine think, when they should read that they were to be visited by three learned foreigners, one from Prussia, one from Saxony, and one from Sardinia? To be sure, what would they think, when they should see three learned foreign professors, each speaking a different language, and none of them the English or American tongue, among the swamps and morasses of Maine in the summer, or wading through its snows in winter – on the Allegash, the Maguadavic, or among the moose deer, on the precipitous and lofty shores of Lake Pohenagamook—and for what? To find where the division was, between Maine and New Brunswick! Instructing themselves by these labors, that they might repair to Frankfort on the Main, and there hold solemn scientific arbitration on the question of a boundary line, in the deepest wilderness of North America…..I viewed the case as hopeless, without an entire change in the manner of proceeding….I did say to Mr. Fox…that I was willing to attempt to settle the dispute by agreeing on a conventional line, or line of compromise."

Daniel Webster, *Speak for Yourself, Daniel A Life of Webster in His Own Words*, 1969, p. 308

[2] "I have marked with a strong red line, according to your desire, the limits of the United States as settled in the preliminaries between the British and American plenipotentiaries," Franklin to Count de Vergennes, December 6, 1782, cited in Webster, p. 311.

[3] "To be effective, federal efforts must also focus on prevention….," DOJ notes in Smart on Crime.

[4] For instance, "the United States today has the highest rate of incarceration of any nation in the world, and the nationwide cost to state and federal budgets was $80 billion in 2010 alone," the Department of Justice observes in Smart on Crime. "This pattern of incarceration is disruptive to families, expensive to the taxpayer, and may not serve the goal of reducing recidivism. We must marshal resources, and use evidence-based strategies, to curb the disturbing rates of recidivism by those reentering our communities. These findings align with a growing movement at the state level to scrutinize the cost-effectiveness of our corrections system. In recent years, states such as Texas and Arkansas have reduced their prison populations by pioneering approaches that seek alternatives to incarceration for people convicted of low-level, nonviolent drug offenses."

[5] Such an outcome seems foreordained: "The Task Force will build on the extensive research currently being conducted by COPS; will examine, among other issues, how to promote effective crime reduction while building public trust; and will be directed to prepare a report and recommendations within 90 days of its creation," the White House announced.

Depending on what's at hand, the approach could perseverate.

"I read the report… of the 1919 riot in Chicago, and it is as if I were reading the report of the investigating committee on the Harlem riot of 1935, the report of the investigating committee of the Harlem riot of 1943, the report of the McCone Commission on the Watts riot. I must again in candor say to your members of this Commission – it is a kind of Alice In Wonderland with the same moving picture reshown over and over again, the same analysis, the same recommendations, and the same inaction," the Kerner Commission quotes Dr. Kenneth B. Clark in its conclusion. *Report of the National Advisory Commission on Civil Disorders*, 1968, p.265.

[6] The Kerner Commission Report did not elicit universal approbation. Police response and the size of black communities in cities experiencing riots did not receive adequate evaluation, some contended.

[7] "[F]oot patrol had not reduced crime rates. But residents of the foot patrolled neighborhoods seemed to feel more secure than persons in other areas, tended to believe that crime had been reduced, and seemed to take fewer steps to protect themselves from crime (staying at home with the doors locked, for example). Moreover, citizens in the foot-patrol areas had a more favorable opinion of the police than did those living elsewhere. And officers walking beats had higher morale, greater job satisfaction, and a more favorable attitude toward citizens in their neighborhoods than did officers assigned to patrol cars…..,[C]itizens of Newark… knew that having officers walk beats did in fact make their neighborhoods safer." Kelling found. Cited in Broken Windows

[8] Wilson and Kelling are sensitive to age, race, class and individual idiosyncrasies. "We might agree that certain behavior makes one person more undesirable than another but how do we 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? How do we ensure, in short, that the police do not become the agents of neighborhood bigotry? We can offer no wholly satisfactory answer to this important question. We are not confident that there is a satisfactory answer except to hope that by their selection, training, and supervision…" and the quote continues in the text. James Q. Wilson and George L. Kelling, "Broken Windows," *The Atlantic Monthly*, March 1982.

[9] Anatole France, *The Red Lilly*, 1894.

[10] Wilson and Kelling articulate Broken Windows as follows: "A determined skeptic might acknowledge that a skilled foot-patrol officer can maintain order but still insist that this sort of "order" has little to do with the real sources of community fear—that is, with violent crime. To a degree, that is true. But two things must be borne in mind. First, outside observers should not assume that they know how much of the anxiety now endemic in many big-city neighborhoods stems from a fear of "real" crime and how much from a sense that the street is disorderly, a source of distasteful, worrisome encounters. The people of Newark, to judge from their behavior and their remarks to interviewers, apparently assign a high value to public order, and feel relieved and reassured when the police help them maintain that order.

Second, at the community level, disorder and crime are usually inextricably linked, in a kind of developmental sequence. Social psychologists and police officers tend to agree that if a window in a building is broken and is left unrepaired, all the rest of the windows will soon be broken. This is as true in nice neighborhoods as in rundown ones. Window-breaking does not necessarily occur on a large scale because some areas are inhabited by determined window-breakers whereas others are populated by window-lovers; rather, one unrepaired broken window is a signal that no one cares, and so breaking more windows costs nothing." "Broken Windows," *The Atlantic Monthly*, March 1982.

[11] Gunnar Myrdal, *An American Dilemma The Negro Problem and Modern Democracy*, 1944, p. 29.

Building A Culture of Transparency Within Local Police Departments

Testimony of Kami Chavis Simmons·
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Brief Statement of the Problem

The deaths of Michael Brown and Eric Garner have vigorously reignited not only the debate about law-enforcement officers and the extent to which they use force when apprehending unarmed suspects, but whether the broader institutional context within which these officers operate encourages excessive uses of force or racially-biased policing. Experts have identified several troubling characteristics of police culture within the United States, including a pervasive belief that violence is a necessary and acceptable component of the police function, fierce group loyalty among officers, and lax supervision and discipline of officers. These cultural characteristics have caused widespread distrust among community members who believe that police officers are an occupying force in their communities rather than community partners and protectors of the peace. Furthermore, when there is an officer-related death or serious use of force, the perceived lack of accountability and transparency causes the broader community to distrust the investigative process, and this lack of trust threatens the stability of the entire community. Thus, demonstrating the integrity of police officers and the credibility of the local police departments where they work is critical to maintaining the legitimacy of law enforcement.[1]

Specific Recommendation

In order to increase transparency and accountability, local police departments should adopt many of the common reforms already included in the negotiated agreements or consent decrees resulting from federal governments pattern or practice authority pursuant to 42 U.S.C. §14141. Pursuant to these agreements, the federal government has recommended that local police departments implement early warning tracking systems to identify "problem" officers, devise and implement best practices, collect information on the race of citizens stopped or searched by police, and guidelines for handling citizen complaints. Federal intervention,

however, is not always necessary because there is no identifiable "pattern or practice" of consitutional violations. Even where necessary, federal intervention may not be feasible because the federal government simply does not have the resources to identify and require reforms in every local agency that may need oversight. Thus, state and local jurisdictions should, on their own, begin to develop and implement specific initiatives that will increase accountability. Federal funding should be used to incentivize local police departments to implement these reforms (already viewed as "best practices" by the federal government) with the goal of decreasing excessive uses of force, increasing accountability, and improving trust within the communities they serve. Furthermore, using the federal reforms as a minimally acceptable standard, states and municipalities can create locally tailored reforms that are effective, sustainable, and have the "buy-in" of local stakeholders.

Discussion

I.   *The Organizational Culture of Police Departments*

Many scholars and independent commissions examining the causes of police misconduct have concluded that the roots of police misconduct are organizational in nature.[2] Several important characteristics of police culture include "(1) the phenomenon known as 'the blue wall of silence;' (2) a lack of effective identification and discipline of problem officers; and (3) the widespread belief among various levels and ranks of police officers that some violence or brutality is a necessary part of effective policing."[3] Not only do these organizational characteristics promote an organizational structure within law-enforcement institutions that tolerates and encourages a culture of police misconduct, but they also contribute to an "us versus them" mentality between the officers and the communities they serve.[4] The "blue wall of silence," discourages officers who witness the misconduct of other officers to report that wrongdoing.[5] In addition to the code of silence, several commissions examining the issue have found that aggressive policing styles are common in many local police departments. Ineffective supervision and inadequate discipline contribute to an organizational police culture that facilitates police misconduct.[6]

The types of police misconduct vary. First, there is excessive use of force by police officers. In 2002, "[s]tate and local law enforcement agencies, representing ... 59% of officers,

received a total of 26,556 citizen complaints about police use of force."[7] Police perjury is another form of police misconduct. It is widely accepted that some police officers frequently offer false testimony while testifying in court or otherwise falsify evidence.[8] A third form of police misconduct is racial profiling. The term racial profiling can generally be defined as occurring "whenever a law enforcement officer questions, stops, arrests, searches, or otherwise investigates a person because the officer believes that members of that person's racial or ethnic group are more likely than the population at large to commit the sort of crime the officer is investigating."[9] For example, in 2006 in New York City, of 508,540 reported stops by police, 55% involved blacks, 30% involved Hispanics, and only 11% involved whites.[10] In isolation or collectively, the aforementioned practices exemplify the institutional nature of police misconduct. Individual officers who engage in these practices generally do so because the institutional culture within the police agency allows, tolerates, or encourages the behavior. Thus, it is the institution itself that must change.

II. The Federal Government's Role in Increasing Accountability and Transparency in Local Police Departments

Criminal justice issues are typically viewed as "local issues," but federal intervention is sometimes necessary where the local government has neither the resources, nor the resolve to ensure a fair proceeding or the implementation of sustainable reforms.[11] With the enactment of 42 U.S.C. § 14141, the federal government now has the authority to address the institutional factors that lead to distrust and a lack of public accountability. The "pattern or practice" authority of the U.S. Department of Justice ("DOJ") has been used to implement organizational reforms in several jurisdictions including Washington, DC, Los Angeles, and Buffalo.[12] The federal government has also initiated an investigation in Ferguson, MO.

The DOJ's pattern or practice investigations recognize the role of institutional culture, and the recommendations from these investigations embody measures to address the institutional culture of the department. Thus, unlike other mechanisms to deter and remedy police misconduct (e.g., criminal prosecution of officers, civil suits pursuant to 42 U.S.C. § 1983, internal investigations, proceedings before citizen review boards), the DOJ's primary focus in its pattern or practice investigations has been to implement prospective, forward-looking measures that are

designed to influence the current organizational culture of the particular department.[13]
The reforms the DOJ has recommended for implementation in the affected police departments are all aimed at increasing transparency and public accountability.

The most common provisions included in the agreements developed between the DOJ and the police departments include the development of an early intervention system, collection of use-of-force reporting, and development/improvement of a citizen-complaint review process.[14] The DOJ has required many police departments subject to its pattern or practice legislation to create and implement an Early Warning Tracking System or Early Intervention System to identify officers within the police department who have been involved in multiple incidences, which might indicate a problem.[15] In addition to early intervention systems, the consent decrees and agreements typically address "substantive use-of-force polic[ies], incident reporting requirements, the investigation of force incidents, and entry of force: reports into a departmental early intervention (EI) or risk management system.[16] Finally, another common provision in the agreements with police departments pursuant to § 14141 involves improvements related to the complaint process such as (1) developing a citizen-complaint process; (2) improving upon the police department's existing citizen-complaint process; or (3) developing a new system to handle citizen complaints.[17]

A recent empirical study identified some of the limitations with the enforcement of DOJ's pattern or practice authority.[18] The study determined that the DOJ's enforcement of § 14141 is both limited and inconsistent.[19] In total, the DOJ has initiated around fifty-five investigations since the passage of § 14141.[20] This means that the DOJ has only formally investigated around three departments per year.[21] The relatively small number of investigations appears to be a product of the high cost of each investigation.[22] If patterns or practices of misconduct exist in only one out of every 100 law-enforcement departments, then the DOJ only has the resources to investigate less than 2 percent of these departments each year.[23] The study also determined that enforcement varies dramatically depending on the President and executive branch politics.[24] For the deterrent rational of §14141 to be effective, there must be a reasonable likelihood that it will be enforced, which is currently not the case, according to the study.[25] However, the study suggests that with more routine enforcement and transparency, §14141 investigations can be more effective and lead to real reform.[26]

III. *Recommendations for Incentivizing State and Local Governments to Implement Institutional Police Reforms*

Congress, through its Spending Power, should incentivize states and local governments to adopt many of the reforms DOJ has already recommended in other jurisdictions. While DOJ may not have the ability to increase enforcement, the federal government can financially incentivize local jurisdictions to adopt reforms aimed at increasing accountability. The Community Oriented Policing Services Program ("COPS") was an important feature of the Violent Crime Control and Law Enforcement Act of 1994.[27] Section 3796dd(a) of the Act grants the Attorney General the power to "make [] grants to States, units of local government, Indian tribal governments, other public and private entities, and multi-jurisdictional or regional consortia."[28] Notably absent from COPS authorizing statute is any requirement that the departments using these federal funds implement measures to promote accountability among the officers hired or increase transparency in investigations of uses of force. Despite Congress' recognition of the organizational roots of police misconduct, as evidenced by § 14141, there is no federal legislation requiring local police departments to adhere to many of the principles that the federal government has utilized to promote police accountability in the departments subject to its pattern or practice authority.[29]

One proposal to encourage states to implement measures to promote police accountability, would involve having Congress condition federal funds disbursed to states via COPS upon the state's compliance with minimum standards for promoting police accountability. Pursuant to its authority under the Spending Clause of the U.S. Constitution, Congress can place conditions upon federal funding to encourage states to play a greater role in implementing police accountability measures at the local level.[30] While policing and issues related to law enforcement have historically been viewed as local issues, there is a strong federal interest in assuring that these agencies respect the rights of citizens and that there are appropriate measures to hold local law-enforcement officials accountable.[31] States, unfortunately, have not risen to the challenge of protecting these rights and thus, the federal government necessarily retains a role in remedying institutional failures under its pattern or practice authority.[32] It is this tension between the need for diversity among local jurisdictions and the need for minimum national standards that elucidates the need for a cooperative-federalism regime in the police-accountability context.[33]

There are two ways to achieve this end. First, the statute authorizing the COPS program, which has provided billions of dollars of federal funds to states for law enforcement purposes, could be amended to provide that states that fail to develop and implement police accountability measures (similar to those already appearing in DOJ's settlements) will be ineligible to receive a percentage of their federal funding under the COPS program. Risking a percentage of the law enforcement funding provides states with an incentive to implement measures and experiment with policy solutions tailored to their local needs. Moreover, this condition simultaneously ensures that in order to remain eligible for the full amount of funds designated for hiring and training officers, local police departments meet minimum standards acceptable to the federal government.[34] Alternatively, (or in addition to withholding funds) the COPS office could distribute grants to departments that develop innovative policy solutions to address institutional police reform.

Incentivizing local entities to through the use of federal dollars would address some of the limitations inherent in DOJ's pattern or practice authority, and could also ameliorate some of the concerns with federal intervention in local policing. First, the DOJ would no longer be the only entity responsible for implementing the important practices the federal government has identified as useful in alleviating patterns or practices of misconduct. States would bear some of this responsibility and the DOJ could shift more of its resources to monitoring the states' compliance with enforcing their own rules, rather than investigating individual departments and superimposing federal recommendations.[35] Similarly, changes in the priorities of different political administrations would not have the pronounced impact that they have had in the past because states would have an active role in enforcing their own regulations.[36] Further, the proposed amendment would encourage information sharing among jurisdictions and potentially lead to greater substantive reforms.[37]

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[1] Reenah L. Kim, Note, *Legitimizing Community Consent to Local Policing: The Need for Democratically Negotiated Community Representation on Civilian Advisory Councils*, 36 Harv. C.R.-C.L. L. Rev. 461, 478 (2001).

[2] Kami Chavis Simmons, *Stakeholder Participation in the Selection and Recruitment of Police: Democracy in Action*, 32 ST. LOUIS PUB. L. REV. 7, 11 (2012) (See, e.g., THE CHRISTOPHER COMM'N, REPORT OF THE INDEPENDENT COMMISSION ON THE LOS ANGELES POLICE DEPARTMENT (1991) [hereinafter Christopher Commission], *available at* http://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=2&cad=rja&ved=0CDEQFjAB& url=http% 3A%2F%C2Fwww.parc.info% 2Fclient_files%2FSpecial%C2520Reports%C2F1%2520-

%2520Chistopher%2520Commision.pdf&ei=aEBWUNCsC aayQGnzYCoAg&usg=AFQjCNEWmdeKoK5vb4nUgBmHFcVI2q1kJA (discussing the LAPD's management culture and its relation to police misconduct); HUMAN RIGHTS WATCH, SHIELDED FROM JUSTICE: POLICE BRUTALITY AND ACCOUNTABILITY IN THE UNITED STATES 1, 33, 45 (1998), available at http:// www.hrw.org/legacy/reports/reports98/police/index.htm (reporting that many of the problems identified in police departments across the nation had an organizational component); Armacost, supra note 1, at 493-94 (detailing the organizational roots of police brutality); see also THE N.Y.C. COMM'N TO INVESTIGATE ALLEGATIONS OF POLICE CORRUPTION AND THE ANTI-CORRUPTION PROCEDURES OF THE DEP'T, COMMISSION REPORT 51 (1994) [hereinafter Mollen Commission], *available at* http://www.parc.info/client_files/Special%20Reports/4%20-% 20Mollen%20Commission%20-%20NYPD.pdf ("[P]olice culture--the attitudes and values that shape officers' behavior--is a critical component of the problem of police corruption today")).

[3] *Id.* at 12 (Kami Chavis Simmons, *New Governance and the "New Paradigm" of Police Accountability: A Democratic Approach to Police Reform*, 59 CATH. U. L. REV. 373, 381-82 (2010) (noting that the basis of police misconduct is the organizational culture of police departments)).

[4] *Id.* (See generally Barbara E. Armacost, *Organizational Culture and Police Misconduct*, 72 GEO. WASH. L. REV. 453, 501 (2004) (noting that the bond developed between police officers breeds an intense loyalty that pits police officers against citizens); see also David Crump*, The Social Psychology of Evil: Can the Law Prevent Groups From Making Good People Go Bad?*, BYU L. REV. 1441, 1442 (2008) (citing testimony of former LAPD officer Rafael Perez at his sentencing hearing: "The 'us against them' ethos of the overzealous cop began to consume me.").

[5] *Id.* at 15 (Andrew J. McClurg, *Good Cop, Bad Cop: Using Cognitive Dissonance Theory to Reduce Police Lying*, 32 U.C. DAVIS L. REV. 389, 410 (1999) (explaining that the "blue wall of silence" prevents officers from reporting misconduct); see also John Powers, Jr., *Eroding the Blue Wall of Silence: The Need for an Internal Affairs Privilege of Confidentiality*, 5 SUFFOLK J. TRIAL & APP. ADVOC. 19, 27 (2000) (describing the widespread nature of the "blue wall of silence" and how it hinders investigations into police misconduct by preventing officers from reporting cases of misconduct).

[6] *Id.* at 15 (Kami Chavis Simmons, *New Governance and the "New Paradigm" of Police Accountability: A Democratic Approach to Police Reform*, 59 CATH. U. L. REV. 373, 388 (2010); Barbara E. Armacost, *Organizational Culture and Police Misconduct*, 72 GEO. WASH. L. REV. 453, 527 (2004) (noting that the bond developed between police officers breeds an intense loyalty that pits police officers against citizens); see also Laurie Levenson, *Police Corruption and New Models for Reform*, 35 SUFFOLK U. L. REV. 1, 15-16 (2001) (noting that problems in the supervision of officers has been a contributing factor in police misconduct scandals).

[7] Kami Chavis Simmons, *Cooperative Federalism and Police Reform: Using Congressional Spending Power to Promote Police Accountability*, 62 ALA. L. REV. 351, 361 (2011).

[8] *Id*. at 363 (See, e.g., Gabriel J. Chin & Scott C. Wells, *The "Blue Wall of Silence" as Evidence and Motive to Lie: A New Approach to Police Perjury*, 59 U. PITT. L. REV. 233 (1998). Police brutality and police perjury are of course related because many officers who have engaged in or witnessed police brutality may lie about the incident to protect themselves or other officers. See I. Bennett Capers, Crime, Legitimacy, and Testilying, 83 IND. L.J. 835, 866 (2008) ("Police brutality persists, at least in part, because officers are aware that they can misrepresent the truth with impunity. ... [A] reduction in [perjury] might have the collateral effect of contributing to a reduction in brutality and profiling.")).

[9] *Id*. at 365 (*See* Debra Livingston & Samuel R. Gross, *Racial Profiling Under Attack*, 102 COLUM. L. REV. 1413, 1415).

[10] *Id*. at 366 (Christopher Dunn, Civil Rights and Civil Liberties: NYPD Stops and Frisks and the Fourth Amendment, N.Y. L.J., Feb. 27, 2007. at 3.)

[11] Kami C. Simmons, *The Coming Crisis in Law Enforcement and How Federal Intervention Could*

Promote Police Accountability in a Post-Ferguson United States, 2 WAKE FOREST L. REV. 101, 107 (2014), *available at* http://wakeforestlawreview.com/wp-content/uploads/2014/09/Simmons_CommonLaw_9.30.pdf (See 42 U.S.C. § 14141 (2006) (authorizing the Attorney General to conduct investigations and, if warranted, file civil litigation to eliminate a "pattern or practice of conduct by law enforcement officers . . . that deprives persons of rights, privileges, or immunities secured or protected by the Constitution or laws of the United States"); see also Special Litigation Section Cases and Matters, U.S. DEP'T OF JUST., http://www.justice.gov/crt/about/spl/findsettle.php#police (last visited Sept. 25, 2014) (linking to cases and matters in Los Angeles, the District of Columbia, Portland, East Haven, and several other cities that have experienced federal intervention into criminal justice issues)).

[12] *Id.* at 111. (42 U.S.C. § 14141 (2006); Pete Williams, *Justice Department to Investigate Ferguson, Missouri, Police*, NBC NEWS (Sept. 3, 2014, 8:32 PM), http://www.nbcnews.com/storyline/michael-brown-shooting/justice-department-investigate-fergusonmissouri-police-n195271).

[13] Simmons, *supra* note 6 at 356.

[14] These principles are set forth in DEP'T OF JUSTICE, PRINCIPLES FOR PROMOTING POLICE INTEGRITY: EXAMPLES OF PROMISING POLICE TACTICS AND POLICIES (2001), available at http:// www.ncjrs.gov/pdffilesl/ojp/186189.pdf, are focused upon promoting civil rights integrity. Many of these same principles form the basis of the reforms required in the consent decrees and MOA developed by the DOJ under § 14141).

[15] DEP'T OF JUSTICE, PRINCIPLES FOR PROMOTING POLICE INTEGRITY: EXAMPLES OF PROMISING POLICE TACTICS AND POLICIES (2001), available at http:// www.ncjrs.gov/pdffilesl/ojp/186189.pdf

[16] Samuel Walker, *The New Paradigm of Police Accountability: The U.S. Justice Department "Pattern or Practice" Suits in Context*, 22 ST. LOUIS U. PUB. L. REV. 3, 33 (2003).

[17] *Id.*

[18] Stephen Rushin, *Federal Enforcement of Police Reform*, 82 FORDHAM L. REV. 3189 (2014).

[19] *Id*. at 3229.

[20] *Id.* at 3230.

[21] *Id*.

[22] *Id*.

[23] *Id.*

[24] *Id.* at 3231-32.

[25] *Id*. at 3231.

[26] *Id*. at 3243.

[27] Simmons *supra* note 6 at 381 (42 U.S.C. § 3796dd (2006)).

[28] *Id*. (42 U.S.C. § 3796dd(a) (2006)).

[29] *Id*.

[30] *Id*. at 383 (South Dakota v. Dole, 483 U.S. 203, 206 (1987)).

[31] *Id*. at 389.

[32] *Id.*

[33] *Id.*

[34] *Id.* at 383-84.

[35] *Id*. at 398.

[36] *Id.*

[37] *Id.* at 398-99.

RESPONSES TO INQUIRIES

From

THE TASK FORCE ON 21ST CENTURY POLICING

Prepared by

Faye Coffield
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3261 Chaparral Way
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9 January 2015

VIA EMAIL

Mr. Charles Ramsey
Ms. Laurie Robinson
Co-Chair
President's Task Force
on 21st Century Policing
145 N Street NE
Washington, DC

Dear Mr. Ramsey and Ms. Robinson:

Thank you for this opportunity to present my position on various issues concerning 21st Century Policing.   It is an honor to be selected for such a prestigious undertaken. By way of background, I am a retired (2002) Atlanta Police Sergeant with over 22 years of service. Since my retirement I have worked with community based, civil and human rights organizations on issues concerning policing. I have also worked for a Member of Congress. There is a strong need for a concise examination of the current status of policing, especially with regard to its interactions with ethnic groups.

Attached are my responses to specific questions proposed in your inquiry. Due to the short turnaround and space limitations, I have depended upon my work experience and my life experiences to respond. If you require more detailed responses please do not hesitate to contact us.

<div style="text-align: center">

Sincerely yours,

Faye Coffield

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Recruiting, Hiring and Retention Of A Diverse Workforce

The recruiting, hiring and retention of an ethnically diverse police force in a country as diverse as the United States would appear to be a simple matter. However, police departments are increasingly complaining they are unable to find qualified ethnic officers. There are many reasons for this including competition from the private sector, better employment opportunities and a general dislike and distrust of the police. However, I believe there is still a significant pool of qualified applicants if police departments are willing to "step outside the box" in their recruitment efforts. It appears many Departments are attempting to find new hires from three major sources, those leaving the military, other departments and community job fairs. While these may be good sources, efforts should also be made to consider:

1. **Develop An Internal Recruitment Program.** Provide money and/or time off to existing officers for referring successful candidates. Departments should also use programs such as **Police Explorers** and **PAL** programs to prepare and obtain suitable ethnic candidates. Additionally,qualified **current non-sworn** employees should be solicited for transition to officers.
2. **Recruit from non-traditional sources** such as colleges, universities, churches, mosque, fraternities, specialized fields such as social workers, and others resources. **Older civilians** desiring to change careers are another potential source of ethnic officers.
3. **Increase Financial and Benefit Incentives.** Department leaders must meet with local political leaders to insure the salary and benefit package is sufficient to attract and maintain desirable candidates.
4. **Improve The Public Image of Police Among Ethnic Groups.** Departments must work harder to change the image of police among ethnic groups. This will greatly increase the number of qualified candidates seeking positions.

Procedural Justice

Current events are demonstrating the concerns of citizens go beyond the excessive force and the shooting of unarmed citizens. The current demonstrations in many US cities are the result of two recent Grand Juries' failure to indict police in separate questionable civilian deaths - 18 year old Michael Brown by a Ferguson, and Eric Garner by NYPD officers. Although there was a clear independent video of Mr. Garner's encounter with the officers and it was ruled a homicide by the Coroner, neither officer was indicted.   These incidents have combined into massive demonstrations by a multi-racial group.

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Adding further fuel to the situation, during peaceful demonstrations in Ferguson, Police responded with military tanks and weapons. Officers were filmed pointing weapons at peaceful demonstrators including placing "laser dots" from weapons on their bodies. Conflicts between the police and news media were videotaped. In one infamous incident police tear gassed an Al Jazeera film crew after they fled, officers turned their cameras and equipment towards the ground.

These incidents have resulted in a public outcry that something be done to prevent future incidents. In a democratic society these types of incidents cannot be tolerated. Peaceful demonstrators have the Constitutionally guaranteed right to express their dissatisfaction with any area of government. Additionally, the press is allowed to document behavior as long as it does not violate national security or presents a danger to others. Moreover, the recent Grand Juries refusals to indict combined with troubling leaks as to how the information was presented by both District Attorneys is also cause for alarm.

The following recommendations will help to restore the public's trust and to insure similar incidents do not occur in the future:

1. **Creation of a Federal Police Oversight Agency.** This Agency would be staffed by people knowledgeable of police procedures. It would also have its own investigators, attorneys and prosecutors. Among their duties should be the monitoring of all police agencies in the US. They would also investigate the shooting and/or serious injury of unarmed citizens and complaints of a pattern of ongoing abuse by a Department. Most importantly they would prepare the prosecution, including Grand Jury presentations, of any officers they investigate and believe have violated the law.
2. **Internal Affairs Units should contain trained civilian investigators**. An ongoing concern of civilians is the manner in which police complaints are handled. Many believe Internal Affairs Units fail to fully investigate complaints against officers. The question is often asked how police can police themselves. Internal Affairs units should have a sufficient number of trained civilian investigators who will randomly investigate civilian complaints.
3. **Special Prosecutors.** Until a Federal Oversight Agency is created, it is imperative Special Prosecutors be used for investigations of deaths of unarmed citizens and high profile cases of brutality. If these matters are to be presented to a Grand Jury it should be investigated and presented by a special prosecutor from outside the region. By way of example if the incident occurs in New York, the special prosecutor should be selected from the West Coast and vice versa.
4. **Monetary and Other Penalties for Police Departments with Repeated Patterns of Abuse and Misconduct.** The use of military equipment and tatics in Ferguson has been criticized by many including other law enforcement officials. It is unclear if all of this equipment was obtained through Federal programs. In any event, its use against unarmed peaceful demonstrators is

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unacceptable. There must be federal guidelines and federal sanctions for such misuse. Additionally, there are concerns some Departments have demonstrated an ongoing pattern of citizen abuse resulting in lawsuits and financial payments. Once these lawsuits are settled the abusive pattern repeats itself over and over. This is unacceptable. Shortly after Hurricane Katrina I assisted then Congresswoman Cynthia Mckinney in creating proposed legislation to address brutality allegations against the Gretna Police Department. The legislation mandates the return of all federal equipment and personnel, no federal funding for a specific period of time and other sanctions. Although this legislation was not enacted, I believe it would now serve as an incentive for Departments to monitor and correct the improper acts of their personnel. Such legislation should apply to all Departments regardless of their size or perceived "prestige" and/or "privilege".

A copy of the proposed Gretna Legislation is attached to this email as a separate document.

Racial Reconciliation and Community Engagement and Dialogue

I have included Racial Reconciliation in this Section because it is impossible to achieve it without successful engagement and dialogue with the community. The justly perceived centuries of police brutality, abuse and misconduct against Blacks will not be allow for it until there are open discussions and solutions to these concerns.

Community engagement and on going dialogue can be achieved by simply reaching out to all aspect of the community with honest conversations. However, Departments must realize that a community is not just an ethnic grouping but a grouping of people living in the same geographical area and of the same economic and age background. It is not unusual to find two distinct groups from the same race and living in the same police precinct. Senior citizens often have different concerns that working adults ages 35 to 55 and youth 18 to 35 have still different concerns. There may also be pockets of a community where there economic differences.

In order to have successful community engagement and dialogue, the Department must:

1. Departments must stop using the same civil rights, community and religious leaders to address the concerns of the community. Through COP efforts must be made to continually develop new voices within the community to address issues.
2. The Departments must hold regularly scheduled open meetings with the community. These meetings should be attended not only by police personnel but specific persons from the local government. If the Department is receiving complaints that are actually code compliance ones, then that agency should attend a meeting.

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3. Another successful means of community engagement and dialogue has been the one stop mini precincts. These mini precincts should be located areas of the community easily accessible by public transportation. Located inside the mini-precinct are various social services and governmental agencies. Citizens can seek information, make non-emergency reports and interact with officers. This is a much needed service in urban areas where citizens either lack the transportation to or knowledge of who to contact. When properly developed these mini precinct one stops help to free up beat officers, reduce the number of 911 non-emergency service call and improve community relation.
4. There must be a return to fully staffed community relations unit. These units provide information on home safety, help preparing neighborhood watch programs and the like. They are a good tool in developing relationships in the community. Youths 18 to 20 could use these positions as a gateway to a police career.

Improving Police and Juvenile Relationships

Far too many young people between the ages of 8 and 18 are returning home from school without structured activities or to empty homes. While it may be argued the overwhelming percentage of these youths avoid trouble, for those who do not the consequences can be devastating to them and the community. If youth in this age range can be reached by police agencies in a positive manner, it is a win win for the Department, the community and most importantly the youth.

Another major problem with ethnic youth between the ages of 8 and 18 is they often either witnessed of been the victim of negative police contacts. This, combined with negative peer pressure, often makes them unwilling to have any type of non criminal interaction with police. Every effort must be taken to not only stop this negative perception but to turn it completely around.

Solutions for improving police and juvenile relationships require creativity and a willingness to listen to their needs and desires. Easily achievable solutions are:

1. **The Police Athletic League.** Many larger Departments have some form of PAL program. PAL programs provide positive police contacts which result in strong and positive lines of communication between the community and the Department. PAL can also serve as an employment gateway to the Departments.
2. **The Midnight Basketball League (MBL)** started in the late 1980s for youths 18-21. This should be one of any Department's target ages because of increases in criminal activity among them. The goals of MBL is not only keeping young men off the street and crime free, but to prepare them for the challenges of life. Participants were required to participate in classes before the start of the basketball game. Like PAL, MBL can serve as a recruitment tool for the Department.

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3. **Police Explorer Programs** although not as popular as they once were the Police Explorer program is not only a wonderful community relations tool. It is also a gateway to police careers.
4. **Non-Traditional Programs**. I was once a Atlanta Police PAL officer. However, I do not play sports. I developed programs and activities, often with help from participants, for those who did not want to participate in sports. Not all children want to play sports. Too often those who do not play sports are left with nothing to do. Any successful program targeted at youth must be directed at all areas of the targeted youth community.

Role of Police Unions and Line Officers in Building Trust.

In reality there is little, if anything, police unions can do to build trust with the Community. The primary duty of a police union is to work almost exclusively for the best interests of its members. Police unions provide lawyers and other resources to officers involved in controversial incidents such as shootings and brutality allegations. Additionally, Police Unions have publicly supported controversial Grand Jury rulings such as those in the MIchael Brown and Eric Garner cases. These conflicts make it impossible for police unions to be an effective and/or trusted partner with the Community.

The ability of the line (patrol) officer to develop trusting relationships with the community is totally dependent upon the Department's position regarding Community Oriented Policing (COP). In communities where the Department has created COP programs in all aspects of the communities, the patrol officer is one of its greatest assets. In COP Departments the patrol officer is well known within the community and thus able to speak directly to citizens. The pre-incident interaction between the patrol officer and the community allows both sides to have ongoing honest lines of communication. Thus when conflict arises, the officer and the community are often able to discuss the matter.

The patrol officer is not only the direct voice of the Department to the community but the ears of the Department. Thus when properly established the patrol officer can become the initial source of information to and from the community. Departments must begin to place more emphasis on patrol officers creating relationships within the community instead of merely responding to calls for service.

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Color of Change

The Color of Change Document is 643 pages of individual comments collected and shared in one submission. This document will be shared with other submitted files that don't meet the page limits for testimony but will still be fully available to the Task Force.

Recommendations for the Task Force on 21st Century Policing

Jill Corson Lake

January 8, 2015

The United States stands at the threshold of what Massachusetts Institute of Technology senior lecturers Peter Senge and C. Otto Scharmer call an emerging future. Positive, lasting change in the relationship between police officers and the public is possible in this country if citizens and government officials engage in dialogue, listen to one another, reflect, and act upon what they have learned. "We must find the common ground so that all parties understand the concerns of others," said Bill Bratton, Commissioner of the New York City Police Department, after the recent funeral of NYPD police officer Rafael Ramos. "Seeing each other, to understand – that means not look past each other, but to really see what is motivating the other" (Pilkington).

The following recommendations for the Task Force on 21st Century Policing address four of the agenda topics identified for the Task Force's first listening session on Building Trust and Legitimacy:

• Community engagement and dialogue

• Racial reconciliation

• Police leadership development

• Defining the role of the police in a democratic society

The recommendations below will be useful to implement in the five pilot communities identified by the Collaborative for Justice Policy and Innovation, which is led by Task Force member Tracey L. Meares and fellow Yale Law School professor Tom Tyler. They will also be useful to implement in New York City, Cleveland, Oakland, Ferguson, Missouri, and other cities

throughout the United States. Contact information for all individuals and organizations identified in the recommendations is listed in the "Resources" section below.

Community Engagement and Dialogue

The Task Force must recommend convening restorative justice meetings in communities throughout the country involving citizens, police officers, and facilitators. After a Seattle police officer shot and killed John T. Williams, a First Nations wood carver, in August 2010, there was great community unrest. Civil rights attorney Andrea Brenneke offered to facilitate a "Restorative Circle consistent with a restorative justice practice developed in Brazil by Dominic Barter" (Brenneke). The Restorative Circle included members of Williams' family, their attorney, and representatives of Seattle's police department. Such dialogues must be held in every community in which a police officer has killed person of color; a person who identifies as gay, lesbian, bisexual, transgender, queer, or intersex; or a person from another marginalized group, including disabled, poor, and homeless individuals.

Please contact and consult with the following individuals who specialize in facilitating dialogue that leads to lasting change in communities:

Adam Kahane, Chairman of Reos North America, who in 1991 and 1992 facilitated the Mont Fleur Scenario Exercise, in which a diverse group of South Africans worked together to effect the transition to democracy. He is the author *Solving Tough Problems: An Open Way of Talking, Listening, and Creating New Realities*, about which Nelson Mandela said: "This breakthrough book addresses the central challenge of our time: finding a way to work together to solve the problems we have created."

The Public Conversations Project of Watertown, Massachusetts, which fosters constructive conversation where there is conflict driven by differences in identity, beliefs, and values. The organization works locally, nationally, and globally to provide dialogue facilitation,

training, consultation, and coaching. It helps groups reduce stereotyping and polarization while deepening trust and collaboration and strengthening communities.

Otto Scharmer, senior lecturer at the Massachusetts Institute of Technology's Sloan School of Management. He is founding chair of the Presencing Institute, a research community dedicated to social innovation, He devised the Theory U system of dialogue and organizational growth, and wrote *Theory U: Leading from the Future as it Emerges.*

Peter Senge, senior lecturer at the Massachusetts Institute of Technology's Sloan School of Management. He is the founding chair of the Society for Organizational Learning, a global community of corporations, researchers, and consultants dedicated to the "interdependent development of people and their institutions." He has written several books and is the co-author of *Presence: Human Purpose and the Field of the Future.*

These groups and individuals can help the Task Force to craft dialogues that permit members of the public and police officers to share their voices, to be seen and heard, to engage in **racial reconciliation**, and to work together to improve policing in the United States.

Police Leadership Development

Task Force member Sue Rahr, Executive Director of the Washington State Criminal Justice Training Commission, has shared information about the Washington state police academy's new program, which trains police officers to be community guardians. The curriculum emphasizes expressing empathy, following constitutional requirements, treating citizens with respect and dignity, and using communication and behavioral psychology as tools to gain control and compliance (Miletich). This program provides a laudable **definition of the role of policing in a democratic society**. It may be replicated by other police academies, and it must include instruction on how to examine and challenge one's assumptions and biases (Kies), how to recognize one's own frame of reference, how to engage in the practice of methodological

belief (Elbow), and how to examine one's own thinking through the process of metacognition (Presseisen).

Trainees and veteran police officers must engage in methodological belief exercises to temporarily stand in another person's shoes and to understand the world through that person's point of view and frames of reference. This is a crucial exercise, says writer Tim Wise. "The inability of white people to hear black reality—to not even know that there is one and that it differs from our own—makes it nearly impossible to move forward" (Wise).

Further, anger management training is a critical requirement. "Expressions of anger in an environment filled with guns has, all else being equal, more dangerous and more deadly a potential than in a world in which the standard expressions can only go so far as fists and sticks" (Flanagan).

Training must also address the strange misconception by some whites that that blacks experience less physical pain than others (Trawalter). Jason Silverstein, a Ph.D. student in Anthropology at Harvard, reviewed a 2012 study by Sophie Trawalter and Kelly M. Hoffman of the University of Virginia's Department of Psychology and Adam Waytz of the Kellogg School of Management research at Northwestern University, which found that white nursing students and others believed that blacks experience less physical pain than others.

Police officer training must address the underlying belief that there is a single black experience of the world. Because this belief assumes blacks are already hardened by racism, some people believe blacks are less sensitive to pain. Because they are believed to be less sensitive to pain, black people are forced to endure more pain (Silverstein).

Training must include African-American history, U.S. civil rights history, histories of other marginalized groups in the U.S. Please contact and consult with **Tricia Rose, Ph.D.**, Director, Center for the Study of Race and Ethnicity in America, at Brown University, and **Doug**

Shipman, Chief Executive Officer, National Center for Civil and Human Rights. And, training must include information about the LGBTQI community (LGBTQ Center).

Claudia Card, professor of philosophy, University of Wisconsin at Madison, explains that such training may be very difficult for individuals. "When our identities are at stake, oppression is hard to face. Beneficiaries face guilt issues and are liable to defensiveness" (Card).

Police officers must be offered the opportunity and encouraged to engage in ongoing dialogue-based support for trauma and PTSD to help them deal with job-related traumatic incidents or trauma endured during military service, if they are veterans.

Please contact and consult with the following individuals who specialize in engaging in dialogue with aid workers, police officers, and veterans who deal with trauma and PTSD:

Bob Doppelt, Executive Director of the Resource Innovation Group, a non-profit affiliated with Willamette University, who leads the Leadership for Resilience Workshop at the Garrison Institute, which teaches mindfulness, calming techniques, and coping skills.

The Garrison Institute, which leads Contemplative-Based Resilience Training, a proactive psychosocial intervention that fosters resilience and thriving for individuals who work in stressful and traumatic environments, such as humanitarian relief and development workers.

Michael C. Johns, Director, Veterans Services Department, Foxborough, MA, who leads "Mutual Mondays" dialogue support group for veterans. His thesis for the M.A. in Critical and Creative Thinking at University of Massachusetts Boston describes this work (Johns).

Thank you for considering these recommendations.

Jill Corson Lake works as Director of Global Advising at Parsons The New School for Design in New York. She is a student in the M.A. program in Critical and Creative Thinking offered by the University of Massachusetts Boston. She may be contacted at corsonj@newschool.edu.

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Resources

Robyn Brentano
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The Garrison Institute
www.garrisoninstitute.org
http://www.garrisoninstitute.org/transforming-trauma/contemplative-based-resilience-training
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Co-chairs Commissioner Charles H. Ramsey and Professor Laurie Robinson and Members of the President's Policing Task Force

From: David C. Couper, Chief of Police (Ret.)
Date: January 8, 2015
Subject: Recommendations for Improving our Nation's Police

Some Background

I entered policing 50 years ago. Some of us believed that this was the dawn of a new era of policing. We had the report on police from a presidential commission, then the findings of the Kerner Commission, and the work of the American Bar Association on policing standards. It was an era of criminal justice research. Surely, a new day was ahead for a cop on the beat like me.

I worked at night as a cop in Minneapolis and when the sun came up, I studied at the university. I was on the street the night Dr. Martin Luther King was assassinated. I went on to graduate school and was selected to be the chief in Burnsville, Minn. I was 30 years old. We tried new things in Burnsville: required a 4-year college degree (today Burnsville continues that standard, held by only one percent of our nation's police departments), wore non-military (blazer) uniforms, and assigned police to area, rather than time of day responsibility -- "turf, not time."

Four years later, I was chosen to lead the police in Madison, Wisc. I was there for over 20 years and learned a lot about organizational transformation, assuring diversity in the ranks, and handling public protest.

After my retirement, I went attended seminary and was ordained into the Episcopal Church. My pastoral work focused on forgiveness, restorative justice, and leadership. Nevertheless, I have still kept up my interest (some say "passion") for the improvement of our nation's police. Along that line, I have written news articles and op-eds, given talks, published another book, and, for the past three years, maintained a very active weblog called "Improving Police" on Wordpress. Currently there are over 300 posts on police and their improvement.

Looking back on a long career, I feel ready to make the following recommendations. The first four recommendations I have discussed and written about in Arrested Development. My last recommendation is new and will be controversial -- yet it must be done.

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We are at a crossroad in America following the tragic events in Ferguson, New York, Cleveland, and others. As a nation, we have a choice. We can choose whether or not to take the path most travelled which is to maintain the status quo and hope for the best. Or we can take the opportunity presented to us to choose the more difficult path which is to act; to act on a path that has the potential to restore trust and support of our nation's police. What is at stake here is having police in our nation who are mistrusted and not supported. This cannot

be tolerated because the effectiveness of our nation's police is directly dependent upon the trust and support they receive from those whom they serve.

We must realize these two maxims:

- Technology, including body cameras, will not save us. It will not improve police work, nor restore the trust that has been lost.

- What will save us is good, educated, and well-trained men and women who have leaders who are committed to modern, collaborative leadership and who have within them the noble vision of police in our society: guardians of our values and way of life, problem-solvers, and protectors of those who cannot care for themselves. Our police are to be guardians of our republic, not warriors.

Having said that, these men and women must be thoroughly trained in effective police tactics in an adult learning environment. In that environment, the values stated above must be strongly identified and reinforced not only in their training but throughout their career. They must be thoroughly trained in effective police tactics within an adult learning environment – no more boot camps, no more stress training that is not related specifically to the demands of the job. In that training environment, the values of our society and the principles of our Constitution and Bill of Rights must be strongly addressed and imprinted. Our police must be among the best of our citizens and they need to be financially compensated accordingly.

Furthermore, police in a free society are to be guardians of our republic, not warriors. The present trend toward militarization must be turned around. Image matters.

My specific recommendations:

1. TOP LEADERSHIP. The number one issue to we face today is the lack of top leadership development within our nation's police. Too often, police departments are run by those who know little about human nature, psychology, or what we have recently learned about leadership. Top leaders must be people who are learned! For example, I would add my "12 Principles of Quality Leadership" to the LPO program now being offered by the IACP as the way forward. I said this in the 1980s about top leadership in *How to Rate Your Local Police:*

"The police chief should be a visible and accessible leader who thoughtfully strives to improve the effectiveness of police services. The leadership ability of the chief is the single most important ingredient in a good police agency… Improvements can be made only if the person at the top is willing to challenge the status quo, take risks, be innovative, and build a coalition of support for change. Improvements are not automatic with a committed police chief, but they are impossible with one."

Years later, I again emphasized the importance of top leadership in *Arrested Development: A Veteran Police Chief Sounds Off About Protest, Racism, Corruption and the Seven Steps Necessary to Improve Our Nation's Police* (2012).

Recommendation: Police must be led by highly educated and developed men and women that are committed to a leadership style that is collaborative and avoids coercion and disrespect.

2. DIVERSITY. Diversity alone will not solve the trust problem. It will take smart, formally educated, well-trained police who are also diverse in gender, race, national origin, and sexual orientation to have a truly representative police.
Recommendation: Police personnel must be as diverse as those they serve.

3. COMMUNITY-ORIENTED POLICING. Community-oriented policing necessitates active engagement, presence, and dialogue with the community. Over the years, the term "community policing" seems to have replaced the more descriptive and original term "community-oriented policing." As a reminder, this is what it "is/isn't:" (http://improvingpolice.wordpress.com/2014/06/19/once-more-policing-is-community-policing/.) Delivering community-oriented services means community members will be listened to, treated with respect, and seen as partners in controlling crime, neighborhood disorder, and solving police-related problems.
Recommendation: The original ideas and concept of community-oriented policing must rise above all other methods of delivering police services. It can no longer be an optional way of delivering police services. It must be the primary method of service delivery by our nation's police.

4. LABOR RELATIONS. For over three decades the Madison Police Department and, for the last decade, the Boise Police Department have had their police union president sit on their management team. In both organizations they experienced a significant reduction in time-consuming, costly, and contentious formal grievances. This is beneficial for everyone and builds internal trust.
Recommendation: Police chiefs should appoint the head of their bargaining or representative police organization to their management team.

5. **REPAIRING BROKEN TRUST**. Police officers and their leaders must realize and understand that there are historic and contemporary reasons why they are viewed by significant numbers of people in our society, especially people of color, as untrustworthy. The repair of trust that has been broken will take a long time, perhaps decades, but the move toward reparative acts needs to begin now. I make this argument in a recent weblog: "The Case For Apology" http://improvingpolice.wordpress.com/2014/12/17/the-case-for-apology-2/
Recommendation: Police must apologize for the past and work to seek forgiveness for their past behavior.

Good luck and Godspeed in your work.

[Sent via email as a PDF on the above date to: U.S. Department of Justice Office of Community Oriented Policing Services; Attn: Jennifer.rosenberger@cops.usdoj.gov and PolicingTaskForce@usdoj.gov.]

President's Task Force on 21st Century Policing

Listening Session: Building Trust & Legitimacy
Statement by the Washington Peace Center

By Darakshan Raja, Program Manager and Helga Herz Peacemaker

In America, every 28 hours[1] a Black person experiences an extrajudicial killing at the hands of law enforcement, security guards, and vigilantes. Racial profiling, police brutality, and mass incarceration are pervasive forms of injustice that disproportionately target Black and Brown communities. Despite the victories of the Civil Rights Movement and racial justice reforms over the past few decades, structural racism, institutional racism, and bias continue to flourish. Since the passage of the Civil Rights Act, the criminal justice system has served as a major enforcer of a racial and class control system that systematically targets and criminalizes poor Black communities under the cloak of ensuring public safety. Consequentially, the very communities in need of a just, fair, and accessible justice system are perpetually locked out of having one of their basic human rights met: freedom from violence.

The public outrage over the murder of Mike Brown, led by the inspirational youth and protesters in Ferguson, who exercised their constitutional right to protest the injustice system, isn't the result of one isolated incident. The public outrage and subsequent demands for swift changes in our criminal justice system are the result of a systemic pattern of constant dehumanization of Black communities, dating back to slavery. Communities are tired of burying their loved ones, and being in perpetual fear of an injustice system due to racial and religious profiling, fear of extrajudicial killings at the hands of law enforcement, and the implications of mass incarceration.

While Ferguson is Ground Zero, we are keenly aware that Ferguson is not alone in reporting disproportionate rates of abuse of police power, racial profiling, and rates of incarceration that punitively target certain communities. Given Ferguson isn't unique in experiencing police brutality, and many of the same environmental factors are present in DC, the Washington Peace Center recommends the President's Task Force find ways to support, amplify, and empower the local work being done at the grassroots level in

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[1] See Eisen-Martin, Tongo. We Charge Genocide Again: A Curriculum for Operation Ghetto Storm: Report on the 2012 Extrajudicial Killings of 31   Black People by Police, Security Guards an   Vigilantes. Published by Malcolm   Grassroots Movement. Accessed from https://mxgm.org/wp-content/uploads/2013/05/we-charge-genocide-FINAL.pdf

communities to improve local policing practices. Moreover, we fully advocate for the demilitarization of local law enforcement agencies and the eradication of the use of profiling as a tool for law enforcement.

These listening sessions also come at a key moment when there is a growing momentum nationally to improve policing and end mass incarceration, which, as Michelle Alexander points out, does serve as the New Jim Crow. [*The New Jim Crow: Mass Incarceration in the Age of Colorblindness*]. The United States has become the world's leading jailer. Currently, 2.2 million people are in America's prisons and jails, and more than 4 million individuals are under some form of criminal justice supervision in the community.

This system applies to DC in significant ways. For example, while DC has similar rates of black and white populations, 91% of marijuana-related offenses are of Black people (ACLU and the Washington Lawyers Committee). Other key facts include the following:

- DC has the highest incarceration rates in the country and has the third leading rate of criminal justice control (Justice Policy Institute)
- In 2010, 9 out of 10 individuals under DC's Department of Corrections were African American, even though African Americans only comprise of 48 percent of the total population;
- About 96 percent of youth that are committed to the Department of Youth Rehabilitation Services (DYRS) are African-American and 4 percent are Latino;
- Since 2001, there has been a 19 percent increase in arrests for women; and,
- DC has some of the highest poverty and unemployment rates in the country.

These daunting facts only touch the surface of the issues that local Black communities are facing in DC. For too long the criminal justice system and its enforcers, law enforcement officers, have enforced practices that are unjust, racist, and inhumane. As an organization dedicated to ending structural racism, we support the policy reforms and points advocated by the ACLU of the Nation's Capital when it refers to fixing MPD's policing practices.

We support their call for further investigating and ending the practice of using Jump-out squads, consent searches, the use of SWAT teams, and the use of excessive force during police interaction with communities. Specifically, we support their call to 1) document all stops in order to promote accountability and transparency; 2) document all police interactions with the public and end the practice of jump out stops; 3) policies where officers must identify themselves during interacting with the public; and, 4) policy changes to remove pre-textual stops from the arsenal of tools of the MPD that are driving racial disparities in arrests.

We also fully support citizen review boards and inclusion of community groups in measuring the efficacy of policing practices in building community trust. Modern day

policing cannot use reduction of crime rates as the sole indicator of successful policing. Agencies must integrate accountability units that are government by citizens and community members. Moreover, these policing accountability units should have the presence of community advocates in order to help individuals who have been abused by officers with the process and inform them of their rights. We also recommend partnering with community groups or victim services agencies for individuals who are too afraid of law enforcement, and may only trust community groups.

Additionally, we urge the Taskforce to ensure that they are centering and prioritizing outreach to communities that are disproportionately impacted. We were disappointed that the first community listening session took place at the Newseum, a jurisdiction located in DC that is inaccessible for residents in SE and SW – the areas that have the highest rates of poverty, mass incarceration and police brutality in DC. Moreover, none of the grassroots organizations in DC were informed ahead of time, or incorporated in the planning process. We recommend that grassroots groups and community groups fighting against police brutality and mass incarceration, especially individuals directly impacted must be an outreach priority in order for subsequent listening sessions the Taskforce will convene in other cities. These listening sessions are an important opportunity for policy makers and practitioners to hear directly from communities, and for community members to have their voices heard at the highest levels of government.

Further, we support the larger efforts by the community to observe, record on video and photograph the actions of all officers. We urge the President's Task Force on 21st Century Policing to defend the First Amendment rights of citizen videographers to bear witness to police activity in our communities, and to protect these citizens against illegal persecution by police. The ability to observe and record the activities of publicly-funded police forces is at the core of our rights, helping to ensure that police act as true peacemakers, and record for the community to see when police actions are abusive, racially-biased or violent.

Finally, we support full accountability – civil and criminal - for violent acts by law enforcement officials against innocent victims, *especially* those which are racially motivated.

Security, peace, and justice are deeply interconnected. Militarization of our local communities through police practices is a symptom of a larger militarization of our entire nation. Freedom from violence is a basic right, and as long as communities that are deeply impacted by violence cannot trust the justice system, we cannot have peace or justice.

Recommendation of the Dellums Commission
Regarding the Excessive Use of Force by Police

National Collaborative for Health Equity

Recent events in communities around the country – include Ferguson, MO; Staten Island, NY, and Cleveland, OH – have focused public and policymaker attention to the problem of excessive use of force by police. While data are lacking to extensively document the problem, it is clear that communities of color – and particularly men of color – are disproportionately victimized by police behavior that too frequently results in injury and death to individuals, and traumatizes entire communities. Activists are calling for policies that can help to prevent tragic instances of excessive police use of force, and to hold officers accountable who respond inappropriately. In this spirit, the Dellums Commission offers the following recommendations to the President's Task Force on Policing in the 21st Century.

The Dellums Commission, first convened by the Joint Center for Political and Economic Studies in 2006, chaired by former Congressman Ronald V. Dellums, was tasked with identifying barriers to life opportunities for boys and men of color (BMoC) as well as policy strategies to address them.

The National Collaborative for Health Equity (National Collaborative) is a national non-profit organization whose mission is to catalyze the partnerships necessary among a range of health equity stakeholders – including communities and community-based organizations, researchers, business leaders, faith organizations, and many others – to advance a health equity movement. To accomplish this, the National Collaborative has re-convened the Dellums Commission to help identify and eliminate structural barriers to opportunity and improve life outcomes by tackling the many forces that marginalize BMoC. The new Dellums Commission will advance comprehensive strategies at local and national levels that:

- Increase stakeholder awareness of the multiple barriers to opportunity experienced by many BMoC, particularly those living in and attending school in highly segregated settings;

- Build support for comprehensive policy strategies that tackle these barriers, such as education reforms linked with housing mobility strategies that offer mutually reinforcing

approaches to improve outcomes for BMoC at the community, rather than just individual, level;

- Elevate the voices of BMoC in policy debates and civic discourse, while building opportunities for leadership and mentorship that can give BMoC reasons for optimism and hope; and,

- Challenge the pervasive, often implicit, and damaging societal view of BMoC as threats to their communities and drains upon public resources, while building a collective vision of BMoC as essential contributors to the vitality and well-being of their community and the nation as a whole.

Recent research has identified multiple determinants of the use of excessive force, raising questions about whether police departments should rely exclusively on pre-employment screening to identify violence-prone candidates and predict future officer performance.

The U.S. Commission on Civil Rights has stated that: "…in diffusing situations, apprehending alleged criminals, and protecting themselves and others, officers are legally entitled to use appropriate means, including force."[1] In dozens of studies of police use of force there is no single, accepted definition among the researchers, analysts, or the police. The International Association of Chiefs of Police (IACP) in its study, *Police Use of Force in America 2001*, defined use of force as: "The amount of effort required by police to compel compliance by an unwilling subject."[2] The IACP also identified five components of force: physical, chemical, electronic, impact, and firearm. To some people, though, the mere presence of a police officer can be intimidating and seen as use of force.

Robert K. Olsen, former Minneapolis Police Chief and Past President, Police Executive Research Forum (PERF), early in 2004 called the use of force "the single most volatile issue facing police departments." [3]

Recommendations on Transparency and Accountability in Police Use of Force

1) <u>Mobilize communities to ensure broad publication of use of force guidelines.</u>
Communities across the country should unite to ensure that individual community members have access to and are educated on the current use of force guidelines in their communities;

2) <u>Publicize opportunities for public input</u>. Community members must insist on having input on how use of force guidelines are written and disseminated;

3) <u>Advertise policies for disciplining officers who violate guidelines.</u> Policies on police conduct and penalties for violating should be available to the public;

4) <u>Require review of cases where guidelines are potentially violated</u>. Community members should have equal opportunities to review cases where use of force guidelines are violated and input on how police officers are penalized;

5) <u>Mobilize communities to ensure that police wear body cameras, and that video from these cameras be made publicly available in cases of questionable conduct</u>. In addition to police wearing body cameras, community members should have the opportunity to employ video as testimony where police officers have violated use of force guidelines;

6) <u>Ensure that transfers of U.S. military equipment to local law enforcement be severely curtailed or stopped, except in cases of extreme need</u>. Community members should ask that their local and state governments disclose whether and when they use outside or U.S. military equipment in communities of color;

7) <u>Ensure that federal grants provided by the Department of Justice (DoJ) require police training on implicit bias, racial anxiety, and masculinity threat</u>. Communities must make certain that local and state police who serve and protect communities of color be adequately trained and qualified in cultural competency;

8) <u>Ensure DoJ data collection on police involved deaths</u>. Local and state governments must make data available to communities where there has been a police involved death to monitor progress on policy use of excessive police force;

9) <u>Require that a special prosecutor investigate and weigh indictments of police involved deaths</u>. Communities should ensure that cases involving police be tried by an outside special prosecutor to ensure an impartial trial;

10) <u>Call for a Uniform Crime Reporting (UCR) index</u>. Communities should ensure that a UCR to be used for making comparisons in and among jurisdictions regarding disorderly conditions as well as accurate standardized survey instruments that can measure citizens' fear of crime and satisfaction with the police.

[1] United Stated Department of Justice. Community Oriented Police Services. Accessed January 7, 2015.
http://www.cops.usdoj.gov/default.asp?Item=1374

[2] International Association of Police Chiefs. *Police Use of Force in America, 2001.* Accessed January 6, 2015.
http://www.theiacp.org/Portals/0/pdfs/Publications/2001useofforce.pdf

[3] Lorie Fridell and Mary Ann Wycoff (Eds.) Community policing - the past present and future 2004. Police Executive Research Forum. Accessed January 7, 2015.
http://www.policeforum.org/assets/docs/Free_Online_Documents/Community_Policing/community%20policing%20-%20the%20past%20present%20and%20future%202004.pdf

January 9, 2015

President's Task Force on Policing in the 21st Century
Office of Community Oriented Policing Services
U.S. Department of Justice
145 N Street NE, 11th Floor
Washington, DC 20530

Dear Chairperson Ramsey, Chairperson Robinson, and Task Force Members:

Thank you for this opportunity to be a part of your important work. These comments and recommendations are part of the Task Force on Policing's upcoming listening session on "Building Trust and Legitimacy."

The undersigned submit these comments as representatives of the Innocence Project and innocent individuals—those wrongly convicted of crimes they did not commit and for which they were later exonerated. The Innocence Project is the headquarters of the Innocence Network, which includes over 50 organizations in the United States that are dedicated to correcting and preventing wrongful convictions. We provide pro bono legal services to identify and free innocent people and engage in advocacy to improve the fairness and accuracy of the criminal justice system. Marvin Anderson is an innocent man who served 15 years of a 210 year sentence in a Virginia prison for a brutal rape that DNA testing proved he did not commit. That same DNA testing confirmed that the individual who had confessed to the crime 14 years earlier was telling the truth. Marvin is now a member of the Innocence Project's Board of Directors.

By these comments we hope to draw the Task Force's attention to the damage that the arrest and wrongful conviction of innocent people has on public trust in the police and on police legitimacy. Through simple improvements to police practice we envision a more reliable, accurate and fairer criminal justice system that ensures procedural justice while preventing the false accusation and conviction of innocent people.

Wrongful Convictions Jeopardize Justice, Public Safety, and Public Confidence in Policing
Over the last twenty years, as the number of documented wrongful convictions has grown, what had been a series of rare but glaring and tragic anomalies has become a problem in need of a solution. To date, 325 innocent people have been exonerated based on post-conviction DNA evidence. Roughly, another 1,200 individuals have been exonerated based on other types of evidence.[i] Mirroring racial

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disparities in the justice system as a whole, 70% percent of the individuals exonerated by DNA evidence are African American or Latino men.[ii] These men and women have spent an average of almost 14 years in prison for crimes committed by someone else, with some serving as many as 35 years.

Together these exonerations demonstrate beyond doubt that our criminal justice system can and does make serious mistakes—sending innocent people to prison. They also reveal the danger to public safety when the wrong person is convicted—the person who committed the crime remains free to commit additional crimes. Indeed, in half of these DNA exonerations, the DNA testing identified the actual perpetrator. Those perpetrators went on to commit approximately 70 rapes and 30 murders, and countless other violent crimes because the wrong person was in prison.[iii] With the exception of the actual perpetrator, no one wins when an innocent person is convicted. The consequences are substantial. The lives of the innocent and their families are destroyed. Crime victims are robbed of justice and closure. Substantial police and other criminal justice resources are wasted on investigating, prosecuting, and imprisoning the wrong person.

And there is another harm. People lose faith. As the number of exonerated people has grown so has the public's awareness of these tragedies. Increasingly the media has begun to cover the stories of innocent people caught up at other stages—but freed before conviction. For example, in September, 2014, the Florida Times Union reported on the case of Joshua Angel, who claimed law enforcement failed to vet video evidence that would have exonerated him and spent nine months in jail before prosecutors dropped the robbery case against him.[iv] The New Yorker Magazine did an in-depth article about Kalief Browder, who was detained for three years on Rikers Island on robbery charges. Mr. Browder refused to take a guilty plea because he was innocent. His case was ultimately dismissed without even a hearing or a trial.[v]

The public needs to know the other side of the story. They need to know that their police are doing everything possible to minimize mistakes by regularly employing evidence-based practices designed to minimize wrongful conviction. They also need to know that when these mistakes happen, there is some accountability—an apology, an investigation, an interest in understanding how to get it right the next time. No one ever apologized to Marvin Anderson when he was exonerated in 2002. Not until 2013 when the recent past President of the International Association of Chiefs of Police (IACP) publicly acknowledged that what happened to Marvin was wrong did any member of law enforcement take responsibility for the failings of the system. And even after more than ten years of freedom it meant something and mattered to Marvin.

Police Play a Critical Role in Preventing Wrongful Convictions
To improve trust and build legitimacy law enforcement must regularly employ the most reliable practices that will reduce the arrest and conviction of the innocent. While it is inevitable that at times the wrong suspect will be picked up, developed, arrested and unfortunately convicted, a system that learns from these mistakes and is committed to developing safeguards to protect against error will gain public trust.

The 325 DNA exonerations provide some guidance on how police procedures can reduce wrongful convictions. The factors most frequently associated with wrongful conviction are eyewitness misidentification, false confession, untruthful informant, the use of unvalidated or improper forensic science, government misconduct, and inadequate defense representation.[vi] We also know from social

and scientific research, and practitioner experience, that changes in police practice can prevent the false accusation and conviction of innocent people.[vii] As the gatekeepers of the system, law enforcement must take action to protect the innocent and help to restore the public's faith in the system.

And they have. Leaders in law enforcement have listened to the advocates, scientists, policymakers, and each other and we are seeing some change. In December 2013, the IACP released a milestone report identifying thirty ways in which agencies can improve investigations and other activities to reduce the possibility of charging and prosecuting an innocent person.[viii] We encourage the Task Force to review the report and consider these thoughtful recommendations. Individual police chiefs and law enforcement agencies across the country have embraced and implemented reforms within their own jurisdictions, with the knowledge that improvements to policing that reduce or eliminate mistakes increase law enforcement's ability to secure public safety and deliver justice.

Working with these law enforcement leaders and agencies, we have been able to craft specific improvements to police practice and procedures that enhance the quality, reliability, and accuracy of evidence and thereby increase police ability to apprehend the true perpetrator and prevent the conviction of innocent people. Improving the truth-seeking function of our criminal justice system to prevent wrongful convictions will undoubtedly result in improved public trust in police and police legitimacy.

<div align="center">Specific Recommendations</div>

We recommend the Task Force consider the following actions to improve trust between citizens and police by reducing the likelihood that the wrong person is arrested and convicted:

1. Scientifically Supported Eyewitness Identification Procedures that Reduce Suggestion and Bias
Mistaken eyewitness identification is the single most common factor in wrongful convictions. At least one mistaken eyewitness identification contributed to the wrongful conviction in nearly 75% of the DNA-based exonerations.[ix]

Brandon Moon, an Army veteran and college student, who was freed from a Texas prison after serving 17 years for a rape that DNA proved he did not commit, was misidentified by five witnesses. Luis Diaz, a Florida cook, who was married with three children at the time of his arrest, was convicted of a string of sexual assaults and served 25 years in prison before DNA exonerated him. He had been misidentified by eight eyewitnesses. Kirk Bloodsworth, a former United States Marine, was convicted of having raped and murdered a little girl in Baltimore County, Maryland based on the mistaken identification of five eyewitnesses. Prior to his exoneration, Mr. Bloodsworth had been sentenced to death.

Social science research over the past three decades has consistently confirmed the fallibility of eyewitness memory and identifications, as well as the unintentional contamination of witness recall through many standard eyewitness identification procedures.[x] Over these decades, a large body of peer-reviewed research and practice has shown how simple reforms to the eyewitness identification process can greatly reduce the inadvertent misleading influences present in traditional eyewitness identification procedures.[xi]

Indeed, these reforms have been adopted and implemented by law enforcement agencies across the country who have found them successful, including eleven states, from New Jersey to North Carolina to Texas; large cities such as Philadelphia, Baltimore, Charlotte, Dallas and Boston; and many small towns.

Further confirmation in the soundness of these reforms is the recent report of the National Academy of Sciences (NAS) which examined the extant research and "settled the science" so that law enforcement could confidently implement improvements to their existing identification procedures. In October 2014, the NAS affirmatively endorsed, among other things, the use of a blind or blinded identification procedure; the issuance of instructions to the eyewitness; the taking of a confidence statement at the time of the identification procedure; and the recordation of the identification procedure.[xii]

Based on the abundance of scientific research, practitioner experience, and the NAS report, we respectfully ask the Task Force to recommend that all law enforcement agencies implement the following improvements to their eyewitness identification procedures to increase the quality and accuracy of eyewitness evidence:

- Double-blind live lineup and photo array procedures. Even if a lineup administrator does not verbally tell the witness which person in a lineup or photo array is the suspect, he or she could still convey the suspect's identity through unintended body gestures, facial expressions, or other nonverbal cues. Using a double-blind procedure, in which neither the witness nor the administrator knows which person in the lineup or photo array is the suspect, and the witness is told that the administrator does not know, can avoid this inadvertent bias.

- Proper composition of the lineup. The optimal composition of a lineup assures more accurate selections. Among the simple reforms: only one suspect should be included in any lineup; suspect photographs should not bring unreasonable attention to the suspect; fillers should be selected based on their resemblance to the description provided by the witness – as opposed to their resemblance to the police suspect. At the same time, the suspect should also not unduly stand out from among the other "fillers."

- Standardized witness instructions. "Instructions" are a series of statements issued by the lineup administrator to the eyewitness that deter the eyewitness from feeling compelled to make a selection as well as prevent the witness from looking to the administrator for feedback during the procedure. Among other things, witnesses should be instructed that the perpetrator may or may not be in the photo array or lineup and that, regardless of whether the witness identifies a suspect, the investigation will continue.

- Documentation of witness confidence judgments. Scientific research indicates that an eyewitness's level of confidence in his or her identification at the time of trial is not a reliable predictor of their accuracy. The relationship between confidence and accuracy is strongest at the time of initial identification. Law enforcement should elicit and document the witness's level of confidence verbatim at the time when she or he first identifies a suspect.

2. Mandatory Recording of Interrogations
False confessions are a serious problem, and have been found in nearly a quarter of the 325 wrongful convictions proven by DNA.[xiii] Electronically recording custodial interrogations removes serious

questions about the circumstances of such "confessions" by preserving the truest account of the interrogation, improving the quality and reliability of the interrogation evidence and thus reducing the possibility of a wrongful conviction.

Mandatory electronic recording of interrogations is now embraced by an estimated 1,000 law enforcement agencies across the country. Twenty-one states and the District of Columbia require recording by law or court rule in serious cases, and many others have voluntarily implemented recording as a best practice, including large metropolitan cities, such as Philadelphia, Boston, San Diego, San Francisco, Denver, Portland, and Austin.

Recording improves investigations and enhances accountability. By introducing transparency into the process, disputes about the conduct of investigators, including claims of misconduct, will be grounded in evidence available to all parties. Investigators will not have to focus upon writing up a meticulous account of the statements provided by the suspect and may instead focus attention on small details, such as subtle changes in the narrative, which might otherwise have been be missed. Having a record of good interrogation techniques can also provide a valuable training tool for police departments, particularly as cases with distinctive characteristics come to light.

In 2004, Former U.S. Attorney Thomas P. Sullivan published a report detailing police experiences with the recording of custodial interrogations. Researchers interviewed 238 law enforcement agencies which had implemented mandatory recording of interrogations and concluded, "virtually every officer with whom we spoke, having given custodial recordings a try, was enthusiastically in favor of the practice."[i]

Based on the findings from this research and on practitioner experience, we respectfully ask the Task Force to recommend that all law enforcement agencies implement the mandatory recording of custodial interrogations to increase the quality and accuracy of interrogation evidence.

3. *Participate in Sentinel Event Reviews*
Every arrest and conviction of an innocent person is a learning opportunity for the criminal justice system—a chance to understand the cause and where necessary develop a solution. To explore how criminal justice stakeholders might seize this opportunity, the National Institute of Justice has launched the Sentinel Events Initiative, an occasion to learn from error in the criminal justice system through backward-looking reviews aimed at identifying and remedying systemic error. Such reviews, which necessitate not only the participation of researchers and system analysts, but also the involvement of a broad range of criminal justice practitioners, relies upon the active and forthright involvement of law enforcement. A capstone reform, such Sentinel Events initiatives are well-positioned to address system shortcomings or failures in a non-adversarial setting, promising to enhance the accuracy, reliability and legitimacy of the entire criminal process. We encourage the Task Force to review this significant NIJ initiative.

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Thank you for this opportunity to share our experiences and recommendations. We hope that the Task Force will review and adopt these recommendations to ensure the delivery of true justice, prevent wrongful convictions, and increase public confidence in police practice. We look forward to serving as a continuing resource to the Task Force, and to your success as you carry out this critical charge.

Madeline deLone, Esq.
Executive Director, The Innocence Project

Marvin Anderson
Board Member, The Innocence Project

[i] *See* NATIONAL REGISTRY OF EXONERATIONS,
http://www.law.umich.edu/special/exoneration/Pages/about.aspx (last visited Jan. 9, 2015). *See also,*
INNOCENCE PROJECT, http://www.innocenceproject.org/ (last visited Jan. 9, 2015).

[ii] *Know the Cases: DNA Exoneree Case* Profiles, INNOCENCE PROJECT,
http://www.innocenceproject.org/know/ (last visited Jan. 6, 2015.)

[iii] James Acker, *The Flipside Injustice of Wrongful Convictions: When the Guilty Go Free,* 76 ALB. L.
REV. 1629, 1632-33 (2012).

[iv] Topher Sanders, *Reckless Jacksonville Police Work Sees Innocent People Wrongly Arrested, Lawsuit
Claims,* FLA. TIMES UNION, Sept. 11, 2014, http://jacksonville.com/news/crime/2014-09-
11/story/reckless-jacksonville-police-work-sees-innocent-people-wrongly-arrested.

[v] Jennifer Gonnerman, *Before the Law,* NEW YORKER, Oct. 6, 2014,
http://www.newyorker.com/magazine/2014/10/06/law-3.

[vi] *The Causes of Wrongful Conviction,* INNOCENCE PROJECT,
http://www.innocenceproject.org/understand/(last visited Jan. 9, 2015).

[vii] Anthony Batts, Maddy DeLone & Darrel Stephens, *Policing and Wrongful Convictions.* NEW
PERSPECTIVES IN POLICING BULLETIN, U.S. DEPARTMENT OF JUSTICE, NATIONAL INSTITUTE OF JUSTICE
(2014), *available at* https://ncjrs.gov/pdffiles1/nij/246328.pdf.

[viii] INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE & U.S. DEPARTMENT OF JUSTICE, OFFICE OF
JUSTICE PROGRAMS WRONGFUL CONVICTIONS SUMMIT, NATIONAL SUMMIT ON WRONGFUL
CONVICTIONS: BUILDING A SYSTEMIC APPROACH TO PREVENT WRONGFUL CONVICTIONS (Aug. 2013),
available at
http://www.theiacp.org/portals/0/documents/pdfs/Wrongful_Convictions_Summit_Report_WEB.pdf.

[ix] *Understand the Causes: Eyewitness Misidentification,* INNOCENCE PROJECT,
http://www.innocenceproject.org/understand/Eyewitness-Misidentification.php (last visited Jan. 9,
2015).

[x] Id.

[xi] Id.

[xii] IDENTIFYING THE CULPRIT: ASSESSING EYEWITNESS IDENTIFICATION, NATIONAL ACADEMY OF
SCIENCES COMMITTEE ON SCIENTIFIC APPROACHES TO UNDERSTANDING AND MAXIMIZING THE
VALIDITY AND RELIABILITY OF EYEWITNESS IDENTIFICATION IN LAW ENFORCEMENT AND THE COURTS,
COMMITTEE ON SCIENCE, TECHNOLOGY, AND LAW; POLICY AND GLOBAL AFFAIRS; COMMITTEE ON LAW
AND JUSTICE; DIVISION OF BEHAVIORAL AND SOCIAL SCIENCES AND EDUCATION; NATIONAL RESEARCH
COUNCIL (2014), *available at* http://www.nap.edu/catalog/18891/identifying-the-culprit-assessing-
eyewitness-identification.

[xiii] *Understand the Causes: False Confessions,* INNOCENCE PROJECT,
http://www.innocenceproject.org/understand/False-Confessions.php (last visited Jan. 9, 2015).

[xiv] THOMAS P. SULLIVAN, CENTER ON WRONGFUL CONVICTIONS SPECIAL REPORT: POLICE EXPERIENCES
WITH RECORDING CUSTODIAL INTERROGATIONS at 6 (2004), *available at*
http://mcadams.posc.mu.edu/Recording_Interrogations.pdf.

President's Task Force on 21st Century Policing
"Building Trust and Legitimacy"
January 9, 2015
Submitted by
The Brennan Center for Justice at NYU School of Law

Dear Executive Director Davis, Co-Chairs Ramsey and Robinson, and distinguished members of the Task Force:

Thank you for the opportunity to submit written testimony before the Task Force.

The Brennan Center for Justice at New York University School of Law[1] is a nonpartisan law and policy institute that seeks to improve the American systems of democracy and justice. The Justice Program at the Brennan Center is dedicated to ensuring a rational, effective, and fair justice system. Our priority initiative is to improve the criminal justice system so that it better protects public safety while also reducing mass incarceration. The Brennan center offers testimony on two requested topics: defining the role of police and improving procedural justice.

    I.   **Defining the Role of the Police in a Democratic Society**

A. Recommending New Priorities and Performance Measures for Police

The crime rate has fallen for the past 20 years. Violent crime has fallen almost by half since its peak in 1991, and property crime is down 43 percent.[2] What was once seen as a plague, especially in urban areas, is now at least manageable in most places.[3] Today, the country faces very different criminal justice challenges. Fears for safety, and crises such as the crack epidemic, have largely receded into history.[4] With 68 million Americans ensnared in at least some part of the $260 billion criminal justice system, the time is ripe to rethink the priorities of policing so that they reflect changing times and democratic ideals.[5]

The demands for law enforcement have changed dramatically. Yet, priorities and incentives remain focused on strategies that have outlived their usefulness such as focusing on increasing numbers of arrests, amounts of drugs seized, and warrants issued. Today, more police are beginning to focus their efforts not only on enforcing the nation's criminal laws, but also on efforts to ensure that the causes of violence are directly addressed. For example, the Chicago Police Department recently implemented a program where officers visit the homes of individuals they identify as likely victims or perpetrators of crime, almost immediately after violence erupts

in their neighborhoods. Individuals visited by officers as part of the program are offered social services such as job training. Law enforcement members and leadership are calling for ways to reduce crime while also reducing unnecessary arrests, use of force, and incarceration.

This modern approach seeks to shrink the criminal justice system without compromising the country's safety. These policies encourage citations instead of arrests for petty crimes, reduce sentences for nonviolent crimes, offer treatment options instead of prison for those with drug addiction, provide non-prison sanctions for technical parole violations, and parole eligibility for elderly prisoners. Not only are these policies more efficient, they are also more effective and more just. For example, in 2009, California passed the Community Corrections Performance Incentive Act to encourage probation offices to keep people who violate supervisor rules on probation, rather than sending them back to prison – which saved the state millions after only one year.[6] And in New York City, Police Commissioner Bill Bratton recently endorsed giving officers the discretion to write summonses rather than arrest people for possessing small amounts of marijuana in order to curb unnecessary arrests that take officers away from their patrols.

Policing could benefit from a new set of priorities and incentives – ones that align with smart, modern public policy goals, and which create a fairer criminal justice system. And, setting clear targets for success can encourage more effective and just practices. Police alone cannot control and prevent all crime and disorder. There are many factors beyond the control of criminal justice actors that contribute to changes in crime, violence, and incarceration. Yet criminal justice stakeholders recognize that well-crafted success measures can move outcomes toward priorities. As is often the case, what gets measured gets done. Setting clear, quantifiable goals for success can encourage agencies and individuals to use their discretion to achieve priorities.

In 2014, the Brennan Center created an expert advisory group of current and former federal prosecutors to inform our report, Federal Prosecution for the 21st Century. That report issued a new set of priorities and accompanying "success measures" that create incentives driving toward those priorities.[7] Those priorities – reducing serious and violent crime, reducing incarceration, and reducing recidivism – can similarly apply to all parts of law enforcement, including local police.

Specifically, we recommend the following:

- *The Task Force should issue a model set of priorities*. These priorities should entail corresponding success measures that local police can use to measure whether those priorities are achieved. Though each jurisdiction faces different challenges, outcome-based success measures allow police to work toward commonly agreed upon goals while also allowing the maximum flexibility for jurisdictions to decide how to achieve those goals. Success measures for reducing serious and violent crime can include: the decrease in violent crime rate. Measures for reducing incarceration can include: the increase in percent of misdemeanor arrests issued desk appearance tickets or citations. Measures for reducing recidivism can include: the increase in arrestees screened for mental health/drug addiction within 24 hours of arrests.

B. Shifting Federal Funding toward New Priorities

Federal dollars can play a pivotal role in assisting state and local law enforcement when moving toward new priorities. The federal government sends $4 billion to states and cities for criminal justice purposes, largely for law enforcement. Because these dollars travel across the country, federal grants provide the federal government with an opportunity to shift law enforcement practices and outcomes nationwide. Although federal grants represent a small percentage of nationwide dollars spent on criminal justice, they retain an outsize influence on law enforcement activities and policy because state and local need for subsidized police funding has grown dramatically in the last 40 years.

We urge the Task Force to recommend that the President and executive agencies, recast these federal criminal justice grants in a model called "Success-Oriented Funding." [8] That model helps focus criminal justice outcomes on the twin goals of reducing crime and reducing mass incarceration.

Success-Oriented Funding ensures that government dollars are used for specific outcomes that advance these overall goals. The executive branch has authority to recast grants that it administers. Such grants include the Edward Byrne Memorial Justice Assistance Grant, the High Intensity Drug Trafficking Areas program, and the COPS Hiring Program. Depending on the authority granted to agencies, they can tie funding to goals in three ways. Conditioned funding reserves dollars for recipients that show progress toward their goals, saving dollars for agencies that achieve intended outcomes. Bonus funding gives additional dollars to recipients that show progress toward their goals, even when it is not mandatory. Indirect funding requires federal agencies to encourage recipients to achieve specific priorities by providing goals alongside funding.[9] This indirect method can be just as powerful, as it creates strong incentives to use funding for goals. More specifics on this model are laid out in a recent report entitled, Success-Oriented Funding: Reforming Federal Criminal Justice Grants. [10]

By tying funding to big picture, outcome-based goals such as reducing serious and violent crime, reducing incarceration, or reducing recidivism, states and cities can maintain full autonomy to decide how to achieve goals while the nation can move together toward these common sense goals. Success-Oriented Funding for federal grants is supported by a large diverse coalition including: the Police Foundation, the Texas Public Policy Institute, the Police Foundation, the Justice Policy Institute, and the American Civil Liberties Union.

Specifically, we recommend the following:

- *The Task Force should recommend that the President and executive agencies ensure federal criminal justice grants align funding with policy priorities*. The Brennan Center strongly urges the Task Force to recommend that the Administration review and revamp all federal grants that support law enforcement to better focus on 21st century policing priorities. Where grants do not encourage 21st century policing practices, federal agencies should implement a Success-Oriented Funding model to the extent allowable by their executive authority.

II.   Improving Procedural Justice

Another important role for the Task Force is to issue recommendations on best practice for criminal justice investigative techniques (often called improving "procedural justice"). There have been a staggering number of false convictions in the U.S.; according to the Innocence project, at least 324 post-conviction exonerations were due to DNA evidence. Since 1989, there have been tens of thousands of cases where leading suspects were identified and pursued—until DNA testing (prior to conviction) proved that they were wrongly accused. In many of these cases, eyewitness misidentification testimony and false confessions played a large role. Because many criminal cases do not involve DNA evidence, there are likely a vast amount of people wrongly convicted of crimes who will not benefit from scientific evidence to exonerate them. Not only do wrongful convictions send the wrong people to prison, they allow those who committed the crimes to remain free. Instituting procedural safeguards also helps uphold our constitutional principles and allows the public to maintain trust in the criminal justice system.

In order to stem these wrongful convictions, we recommend that the Task Force issue recommendations for best practice to increase the use of technology in investigative techniques. This use of technology can help stem these wrongful convictions and increase trust in the criminal justice system by increasing transparency about criminal investigations. Law enforcement across the nation has begun to take advantage of the advances in policing that the new technology brings. Recommendations from the Task Force can further spur practices in this direction. Specifically, we recommend the following:

- *Ensure videotaping of eyewitness identifications.* After reviewing thirty years of scientific evidence, the National Research Council recommends video recording of eyewitness identification procedures as a best practices.[11] Research indicates that oftentimes eyewitnesses are mistaken, and it is particularly difficult to ensure accuracy in cross-racial identifications. Videotaping identification procedures protects innocent suspects from misconduct by the person administering the procedure, provides additional context to the defendant and the jury, and assists the prosecution by showing a jury that the procedure was legitimate.

- *Ensure videotaping of custodial interrogations.* Over 600 jurisdictions across the nation have implemented the practice of videotaping custodial interrogations[12] and in July of 2014, the U.S. Department of Justice instituted a new policy establishing "a presumption" that U.S. Attorneys and federal agents will electronically record statements made by individuals in their custody. If the entire custodial interrogation process is videotaped, it provides the viewer with the full context and a truer understanding of the voluntariness of a confession. Such videotaping can safeguard against false confessions, ensures an objective record of a significant stage in the investigation of a crime, provides physical evidence that can be judiciously reviewed by all involved parties, and will serve as better context when a statement is provided. It also lessens costs associated with retrying cases.

Respectfully submitted,

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[1] This letter does not represent the opinions of NYU School of Law.

[2] In the twenty years from its peak in 1991, the violent crime rate has fallen from an annual 759 crimes per 100,000 people to 387 crimes per 100,000 people. Property crime has fallen from 5140 to 2905 crimes per 100,000 people. *See UCR Data Online*, Uniform Crime Reporting Statistics, http://www.ucrdatatool.gov/index.cfm (providing crime statistics from 1960 to 2012).

[3] Some cities continue to struggle with crime problems. For example, cities with high and increasing violent crime rates in 2012 include: Flint City, Mich.; Oakland, Calif.; Memphis, Tenn.; and Stockton, Calif. *See UCR Data Online*, Uniform Crime Reporting Statistics, http://www.ucrdatatool.gov/index.cfm.

[4] Between 1993 and 2011, the national homicide rate declined by forty-eight percent. Jennifer Truman, Lynn Langton, & Michael Planty, Bureau of Justice Statistics, Criminal Victimization, 2012 3 (2013). The crime rate today is comparable to the low levels achieved in the 1960s. *See* Federal Bureau of Investigations, Uniform Crime Reporting Statistics, http://www.ucrdatatool.gov/Search/Crime/Crime.cfm (last visited Nov. 5, 2013) (noting, for example, that the 1969 violent crime rate (per 100,000 people) was 328.7 and property crime rate was 3,351.3, while the 2012 violent crime rate was 386.9 and the property crime rate was 2,859.2). In 2011 and 2012, there was a small increase in serious violent crime and property crime victimization; however, neither were statistically significant. Truman et al., *supra* note 3, at 1.

[5] INIMAI CHETTIAR ET AL., BRENNAN CTR. FOR JUSTICE, REFORMING FUNDING TO REDUCE MASS INCARCERATION 49 n.5 (2013), *available at* http://www.brennancenter.org/sites/default/files/publications/REFORM_FUND_MASS_INCARC_web_0.pdf (updating the 2011 calculation of 65 million Americans with criminal records from the National Employment Law Project cited in *infra* note 134); *see also* TRACEY KYCKELHAHN & TARA MARTIN, U.S. BUREAU OF JUSTICE STATISTICS, JUSTICE EXPENDITURE AND EMPLOYMENT SERIES, NCJ 237912, JUSTICE EXPENDITURE AND EMPLOYMENT EXTRACTS, 2010 — PRELIMINARY, *available at* http://www.bjs.gov/index.cfm?ty=pbdetail&iid=4679 (showing that the correctional costs amount to $79 billion). Total criminal justice system spending, federal and state, is $260,533,129,000. This number is the sum of judicial and legal costs ($56.1 billion), police protection costs ($124.2 billion), and corrections costs ($80.24 billion).

[6] In its first year alone, California probation officers sent 23 percent fewer felony offenders back to prison, which saved the state nearly $180 million. CALIFORNIA ADMINISTRATIVE OFFICE OF THE COURTS, SB 678 YEAR 1 REPORT: IMPLEMENTATION OF THE CALIFORNIA COMMUNITY CORRECTIONS PERFORMANCE INCENTIVES ACT 2 (2011), *available at* http://www.courts.ca.gov/documents/SB678-Year-1-Report-FINAL.pdf.

[7] Success measures are clear, concrete data points about performance outcomes that quantify progress toward goals.

[8] *See* INIMAI CHETTIAR ET AL., BRENNAN CTR. FOR JUSTICE, REFORMING FUNDING TO REDUCE MASS INCARCERATION app. A (2013), *available at* http://www.brennancenter.org/sites/default/files/publications/REFORM_FUND_MASS_IN-CARC_web_0.pdf; *see also* NICOLE FORTIER & INIMAI CHETTIAR, BRENNAN CTR. FOR JUSTICE, SUCCESS-ORIENTED FUNDING: REFORMING FEDERAL CRIMINAL JUSTICE GRANTS (2014), *available at* http://www.brennancenter.org/sites/default/files/publications/SuccessOrientedFunding_ReformingFederalCriminalJusticeGrants.pdf.

[9] Research shows that goals (often in the form of performance measures) act as signposts in setting policy and ultimately affect the behavior of actors. Indirect suggestions and positive reinforcement can influence the decisions of individuals just as effectively as requirements. Practical, legal, fiscal, and political considerations can drive which form may be most appropriate for specific funding streams.

[10] NICOLE FORTIER & INIMAI CHETTIAR, BRENNAN CTR. FOR JUSTICE, SUCCESS-ORIENTED FUNDING: REFORMING FEDERAL CRIMINAL JUSTICE GRANTS (2014), *available at* http://www.brennancenter.org/sites/default/files/publications/SuccessOrientedFunding_ReformingFederalCriminalJusticeGrants.pdf.

[11] Nat'l Res. Council, et al., Identifying the Culprit: Assessing Eyewitness Identification (2014), p.74.

[12] *See* Thomas P. Sullivan, *Recording Federal Custodial Interviews*, 45 Am. Crim. L. Rev. 1297, 1305-10 (2008).

Testimony Prepared for
The President's Task Force on 21st Century Policing
January 9, 2015

Executive Summary

The Evangelical Lutheran Church in America (ELCA) affirms the fundamental principles of the U.S. criminal justice system such as due process of law and the presumption of legal innocence. Yet, this church hears people's cries that reflect the current system's serious deficiencies. Drawing from the biblical witness to God's wondrously rich forms of love and justice, we are compelled by a "holy yearning" to address the need for a change in public mindset and for dramatic reforms in policies and practices.

In a Social Statement passed by the ELCA Churchwide Assembly in 2013, the church studied, prayed, listened and sought out the voices of both those in the care of the criminal justice system and those charged with serving the criminal justice system on behalf of the public good.

ELCA social statements are teaching and policy documents that provide broad frameworks to assist us in thinking about and discussing social issues in the context of faith and life. They are meant to help communities and individuals with moral formation, deliberation and thoughtful engagement with current social issues as we participate in God's work in the world. Social statements also set policy for the ELCA and guide its advocacy and work as a publically engaged church. They result from an extensive process of participation and deliberation and are adopted by a two-thirds vote of an ELCA Churchwide Assembly.

That statement calls upon Christians to strengthen or take up ministries of compassion and justice. Drawing on evidence and data, it affirms some current efforts at improving the system while identifying numerous other reforms that urgently need implementation.

In the current political and social context—particularly the anger and reaction of many of our members of the ELCA in the wake of Grand Jury decisions in Ferguson, MO and

New York, NY—we cannot ignore the role of racism that persists in our country. Our world is one where racial and ethnic lines are drawn and enforced. Our world is one where hostility festers along those dividing lines, often bursting out in violence. Our world is one where power and prejudice combine in bitter oppression.

But God has not gathered the Church as yet one more example of brokenness. The Church exists to proclaim Jesus the Christ, whose life, death, and resurrection mean freedom for the world. The Church also exists to teach the law of God, announcing that the God who justifies expects all people to do justice.

The ELCA is grateful to members of the President's Task Force on 21st Century Policing. The following are discerned recommendations that the Church is called to be a public witness for and to advocate change locally, in our states and in the United States.

ELCA Statement on Criminal Justice—Recommendations

The ELCA is prompted to speak and to act because so many cries of suffering and despair emerge from the criminal justice system — from victims, the incarcerated, their families, communities, those wrongly convicted, they who work in the system — and have not been heard.

•Drawing from Holy Scripture, this church holds up a vision of God's justice that is wondrously richer and deeper than human imitations and yet is a mirror in which justice in this world, God's world, must always be assessed.

•In assessing the current system, the ELCA gives thanks for its principles and orientation toward justice. This church recognizes many in the system who serve their professional vocations with competent and humane performance. Yet, this statement recognizes serious deficiencies. An underlying punitive mindset, budgetary constraints and persistent inequalities based on race and class frequently challenge its basic principles and impose significant costs on all involved in the system, and on society as a whole.

•Christians are called to confess that we, as individuals and in our common life together, often have fallen short in responding to criminal justice — both in response to crime's harm and to problems in the justice system.

•Guided by historic "marks" of the church, the ELCA is called to renewed ministry on behalf of those whom the system affects: victims of crime and their families, the incarcerated and their families, affected communities, those who work in the system, and many others.

• Through ministry with and bearing the burdens of those in the criminal justice system members of this church can respond wisely through four practices: hearing the cries, hospitality, accompaniment, and advocacy.

• The ELCA supports positive trends for reform such as greater emphasis on victims' rights and needs, use of restorative justice, community-based alternatives to incarceration, legislation that reduces sentences for certain offenses, the emergence of specialized courts, and the growing emphasis on reentry. These efforts should be funded and supported adequately.

• Because mass incarceration causes significant harms, both personal and social, the ELCA strongly urges those who make and administer correctional policies to take all appropriate measures to limit the use of incarceration as a sanction for criminal offenses. Toward that end this statement identifies three specific paths: pursue alternatives to incarceration, reform sentencing laws and policies, and closely scrutinize national drug policy.

• Four other imperatives also require vigorous action from policy makers: the criminal justice system must acknowledge the disparities, and address the implicit and explicit racism that persists within; it must recognize the special needs of juvenile offenders; it must stop the privatization of prison facilities; and finally, it must foster the full reintegration of ex-offenders into community.

• A fundamental transformation of mindset about criminal justice is required that challenges the logic equating more punitive measures with more just ones. Individuals must be held accountable, but every person in the criminal justice system deserves to be seen and treated as a member of human communities, created in the image of God and worthy of appropriate and compassionate response.

• To God we owe thanks for human reason and its abilities to discern — with compassion and wisdom — how human communities might reflect at least the justice of the law. "For what does the LORD require of you but to do justice, and to love kindness, and to walk humbly with your God?" (Micah 6:8).

A link to the full statement can be found here:
http://download.elca.org/ELCA%20Resource%20Repository/Criminal_JusticeSS.pdf

Community Engagement and Dialogue

One way that we, the members of the Evangelical Lutheran Church in America, will promote a better public life is through example. This church has already committed itself to a moral deliberation that deals openly with conflict and controversy. In fact, such deliberation has helped us to discover new dimensions of mission and new possibilities for ministry.

This church will live up to its commitment to deliberation. Specifically, we will:
- model an honest engagement with issues of race, ethnicity and culture, by being a community of mutual conversation, mutual correction, and mutual consolation;
- model a healthy and healing response to the change that inevitably comes from cultural contact;
- model exchanges in which people of different cultures can find points of agreement while sometimes "agreeing to disagree;"
- encourage and participate in the education of young people, in order that they might be better equipped to live in a multicultural society;
- bring together parties in conflict, creating space for deliberation; and
- participate in identifying the demands of justice, and work with others who would have justice for all.

We submit these examples of our own efforts as examples of how law enforcement agencies can engage communities of color.

This church calls on its political leaders and those in the criminal justice system to consider these examples of the work they can do

Racial Reconciliation

The Evangelical Lutheran Church in America has roots in church bodies with a strong immigrant history. These churches kept the faith once delivered to the saints (Jude 3) in ways appropriate to the cultural background of their membership. Besides preserving the faith, they furthered mission and ministry.

This church clearly shares the brokenness of a society that has responded to cultural diversity through fear and efforts at assimilation. Our society has melded many European ethnic groups into mainstream America, but it has included people of other

cultural identities only insofar as they have taken on the values and behavior of the dominant culture.

Racism—a mix of power, privilege, and prejudice—is sin, a violation of God's intention for humanity. The resulting racial, ethnic, or cultural barriers deny the truth that all people are God's creatures and, therefore, persons of dignity. Racism fractures and fragments both church and society.

We expect our political leadership to name the sin of racism and lead us in our repentance of it. Although racism affects each one of us differently, we must take responsibility for our participation, acknowledge our complicity, repent of our sin, and pray God will bring us to reconciliation.

The Evangelical Lutheran Church in America received from its predecessor church bodies a solid foundation upon which to build advocacy for justice and opposition to racial and ethnic discrimination. We will listen to our advocates as we examine our own institutional life, and will model that for which we call.

Our advocacy will take place in partnership ecumenically, among corporations and local, state, and national governments. We look for positive incentives for change and fair distribution of the social costs of correcting past wrongs. We will work for respect of cultures, for example in mass media and public presentations, in art and advertising, and in other endeavors. We will speak against policy initiatives that discriminate on the basis of language.

This church will support legislation, ordinances, and resolutions that guarantee to all persons equally:
- civil rights, including full protection of the law and redress under the law of discriminatory practices; and to all citizens, the right to vote;
- access to quality education, health care, and nutrition;
- opportunity for employment with fair compensation, and possibilities for job
- training and education, apprenticeship, promotion, and union membership;
- opportunity for business ownership;
- access to legal, banking, and insurance services;
- the right to rent, buy, and occupy housing in any place; and
- access to public transportation and accommodation.

Recommendation to the President's Task Force on 21st Century Policing: Establish a National Center for Police Shootings and Deadly Force Research, Training, and Technical Assistance

By: George Fachner, Michael D. White, James R. Coldren, Jr., and James K. Stewart

Police use of deadly force is one of the defining issues of our criminal justice system, and has been so for more than 50 years. While the decision to use deadly force is often made in a matter of seconds and immediately impacts relatively few individuals, its consequences can be long-term, devastating, and widely dispersed. Deadly force encounters can spur or exacerbate civil unrest, political upheaval, and community violence, in addition to inflicting severe personal trauma on officers and citizens alike.

However, despite noteworthy efforts by the research community, the state of scientific knowledge of the topic remains insufficient. There exists no authoritative source in the U.S. for disseminating even the most basic information about deadly force incidents. Despite the growing awareness of the need to address issues regarding police shootings, there is no national agenda to guide and address these concerns. Such an agenda is urgently needed.

Communities and law enforcement agencies across the country continue to grapple with the issue of deadly force, in large part because of the conspicuous absence of robust data and scientific knowledge on the topic. Yet policy and practice underline cannot progress in an informed manner without a national program to conduct systematic research on this issue.

CNA recommends the establishment of a National Center for Police Shootings and Deadly Force Research, Training, and Technical Assistance to study the prevalence and nature of police deadly force encounters nationwide. By utilizing a national network of scholars, researchers, subject matter experts, oversight agencies, and law enforcement practitioners, the Center will collect comprehensive data on deadly force encounters, conduct studies that illuminate the dynamic incident factors associated with these encounters, disseminate and publicize its work, and develop empirically-based training and technical assistance resources to help law enforcement agencies craft evidence-based policies to reduce unjustified use of deadly force by police. Initially, the benefit of such a Center would be the collective voice that it gives to our concerns about police shootings and use of force, and the promotion of a common understanding and common dialogue about the function of police in society, contemporary standards and practices regarding police use of force, and the development of a viable means of collecting national data to further inform this issue. Longer-term benefits include attaining greater understanding of police use of deadly force, the gravest form of police authority; identification of evidence-based policies and practices; and, ultimately, reduction of unjustified deadly force encounters.

Past Efforts and Current Developments

Past efforts to collect national-level data on police use of deadly force have been unsuccessful due to various constraints. Some efforts halted before they began, because a lack of participation

from law enforcement stymied implementation and efforts to obtain funding. Law enforcement agencies saw little benefit in participating in such a program. With deadly force cases often resulting in litigation, agencies believed that the sharing of such data could very well hurt them. Consequently, concerns over the representativeness and breadth of data that could be collected short-circuited proposed efforts to study the topic on a nationwide basis.

While debates continued regarding the lack of national data on use of deadly force, a number of initiatives that have emerged over the years have touched upon the topic. Notably, none of these sources focus on police use of deadly force, which is apparent when one assesses their limitations. Furthermore, all of these sources focus on fatal incidents only. Many deadly force encounters do not result in fatalities, or even injuries.[i] Therefore, using such sources would result in vastly undercounting the number of deadly force encounters. When an officer decides to use deadly force, whether the subject is killed or not can be determined by a range of factors, such as the number of officers involved or shots fired, the accuracy of the shots fired, and even the incident location's proximity to medical facilities. Lastly, these systems collect little contextual information, which is essential for fully understanding the dynamics of a deadly force encounter. Below, we take stock of the most prominent existing sources of deadly force data.

Uniform Crime Reporting (UCR) Supplemental Homicide Report (SHR). The FBI collects the SHR as part of its UCR program. Although the UCR has broad voluntary participation, the SHR has considerably less. Not all UCR participants submit SHRs. Agencies that submit SHRs are able to categorize a homicide as justifiable or not, and whether it was a citizen or law enforcement killing of a felon. The SHR has been roundly criticized as an unreliable data source, in terms of how it measures police use of deadly force. Comparisons of SHR data to multiple other sources, including the Centers for Disease Control and Prevention's (CDC's) National Center for Health Statistics' (NCHS') data, found that police homicides could be underreported by as much as 50 percent.[ii, iii, iv]

Deaths In-Custody Reporting Program (DCRP). With passage of the Death in Custody Reporting Act (DCRP, Public Law 106-297) in 2003, the Bureau of Justice Statistics (BJS) was assigned responsibility for gathering national data on all arrest-related deaths (ARDs).[v] While the DCRP represented an important step forward, the program suffers from a number of limitations. Most notably, the DCRP is not publicly available, and it represents an incomplete record of ARDs, given the reporting variability that exists across states.[vi] Its data collection also suffers from internal and external inconsistency. For example, in the most recent summary of DCRP data, BJA noted that several states did not report to the program over a period of one to three years. [vii] Additionally, comparisons across DCRP and SHR found considerable inconsistency in the number of arrest-related deaths reported.[viii]

National Violent Death Reporting System (NVDRS). The CDC also gathers information on officer-involved homicides through their NCHS, which uses death certificates to classify deaths according to the International Classification of Disease, 10th Revision (ICD-10) codes.[ix] These deaths are catalogued by the Web-based Injury Statistics Query and Reporting System

(WISQARS), and the Wide-ranging Online Data for Epidemiologic Research (WONDER). Both the WONDER and WISQARS data are publicly available, through the NCHS. One study compared the CDC NCHS data to DCRP and SHR, and found that the former's counts of deadly force were lower, which raised questions about the completeness of the CDC NCHS data.[x] In an effort to improve our understanding of violence more generally, the CDC launched the NVDRS in 2002. This system is designed to provide a more detailed account of violent deaths (including those resulting from legal intervention) through triangulation of multiple data sources, such as death certificates, medical examiner/coroner records, law enforcement records, and records from crime laboratories.[xi] The NVDRS represents an important step forward, but the system is currently in place in only 18 states and the data is limited in terms of time frame. Furthermore, the system captures fatal incidents only.

National Center Concept

After reviewing the state of deadly force data in 2002, renowned police scholar James Fyfe concluded that "we still live in a society in which the best data on police use of force come to us not from the government or from scholars, but from the *Washington Post*".[xii] Save for a handful of other media outlets that have documented police use of deadly force at the local level, this statement rings true more than a decade later. This should not be so. Longstanding issues described in this white paper, coupled with the current environment in the criminal justice field, demand action.

We recommend the establishment of a National Center for Police Shootings and Deadly Force Research, Training, and Technical Assistance. Unlike past efforts and current sources, the Center would focus exclusively on the issue of police deadly force encounters. Likewise, the Center would address use of deadly force *writ large*, accounting for non-injurious, injurious, and fatal incidents. The Center should be organized to achieve the following objectives:

- Collect police use of deadly force data that is nationally representative and contextual;
- Produce analytic reports on the prevalence and nature of police deadly force incidents;
- Produce public education materials regarding police policies and practices involving shootings and use of deadly force;
- Develop a standardized reporting form for police use of deadly force data collection nationwide;
- Serve as an information clearinghouse and analysis center for police use of deadly force;
- Provide technical assistance to law enforcement agencies in the development of deadly force policy, training, investigations, and accountability mechanisms; and
- Leverage on-going policy and training development in select agencies to evaluate their effects on deadly force.

Overcoming Barriers

Longstanding barriers are quickly eroding. Law enforcement agencies are becoming increasingly transparent in their operations, including those involving deadly force incidents. Some agencies,

such as the Las Vegas Metro Police Department and the New York Police Department produce public annual summary reports on the topic. The Philadelphia Police Department has begun posting aggregate officer-involved shooting data on its website, as have other police departments. Another emerging practice is for agencies to post summaries of deadly force investigations online. This is current practice in Dallas, Baltimore, Philadelphia, and Las Vegas. Much of this shift is attributable to the public's demand for greater information about this issue.

The Center would carefully design data collection procedures in ways that mitigate the perceived harm and burden placed on participating agencies. For example, to address concerns over liability, the Center will collect data retrospectively, rather than prospectively. The Center would also apply a flexible and graduated approach to data collection, making participation more collaborative and less burdensome. The Center will identify and enlist a group of strong, geographically diverse partner law enforcement agencies from the outset.

Existing data collection and storage practices will vary across agencies. Therefore, partner agencies will have flexibility in how data are provided to the Center, while working towards a unified reporting system. The Center will work with partner agencies to identify existing systems for reliable data on use of deadly force. Staff at the Center will work to clean, code, optimize, and aggregate the data as appropriate.

Scope of Work

The implementation of the Center should occur over a multi-year period, in two Phases: creating a framework for multi-agency examination of police use of deadly force, and taking the Center to scale.

Phase I: Creating a Framework for Multi-Agency Examination of Police Use of Deadly Force

In Phase I, the Center leadership team would work with a core group of partner police agencies and research partners to implement the core components of the Center. First, the team would collect shooting data covering an eight-year period, (e.g., from 2005-2012) from each agency, and would engage in comprehensive examination of those data. Second, the team would work with partner agencies and researchers to develop a uniform reporting system, using successful DOJ data collection systems as models.

As a result of Phase I, the Center would produce the following: A compilation of the most comprehensive data on deadly force encounters to date; the first-ever universal reporting tool for deadly force incidents; productive partnerships throughout the criminal justice enterprise to address police use of deadly force; and informative analytic work on the general nature and prevalence of police use of deadly force in the United States.

Phase II: Taking the National Center for Deadly Force Research to Scale

In Phase II, the Center's leadership team would work with partner agencies and researchers to invite new agencies into the Center's network. The team would also implement and develop a

regional surveillance network, to capture deadly force incidents in a timely fashion. The uniform data reporting system would be field-tested with the original and new partner agencies, and comprehensive analysis of data would continue. The technical assistance and training components of the Center would also be devised and implemented. As a result of Phase II, the Center will accomplish the following: Expand its network and reach; create a sample dashboard of indicators covering frequency, types, contexts, and trends in deadly force incidents; conduct and publish advanced analyses on environmental, officer, subject, and incident characteristics that factor into deadly force encounters and outcomes; and develop a comprehensive agenda for training, technical assistance, and scientific evaluation of emerging practices in police use of deadly force.

Benefits/Outcomes of the National Center

Existing systems may eventually lead to estimates on the prevalence of law enforcement-related fatalities resulting from the use of deadly force. But the issue of deadly force is more complex than that. Simply counting and comparing the number of deaths at the hands of law enforcement ignores two very important facts. One is that context matters. Deadly force incidents do not occur in a vacuum. The dynamics of the incident need to be accounted for to gain a complete understanding of the incident. The second important fact that is often ignored is that many uses of deadly force do not result in fatalities. If a police officer fires his or her service weapon at a suspect and misses, deadly force was nonetheless used by that officer. Police do not shoot warning shots, nor do they shoot with the explicit intent to maim, injure, or kill. They are trained to aim for center mass and shoot until they no longer perceive a threat. The difference in fatal and non-fatal incidents can be accounted for by various factors, none of which is the intent of the officer. Any officer using deadly force should be prepared to justify his or her taking of a life. Therefore, non-fatal incidents matter.

The current environment provides a rare opportunity to address the joint concerns of law enforcement, the public, scholars, and policy-makers alike. Establishing a National Center for Police Shootings and Deadly Force Research, Training, and Technical Assistance would provide the infrastructure needed to inform and educate interested parties, evaluate existing and emerging operations, develop evidence, and transform police practices. The Center would fill a critical gap in DOJ-supported training and technical assistance on persistent issues encountered in law enforcement. At present, law enforcement agencies make decisions regarding deadly force policy, training, practices, and investigations based largely on what has been done in the past, and on intuition. The Center would provide a vehicle to disseminate and institutionalize practices that are grounded in empirical evidence. Without a Center serving as an information and analysis hub, there can be no widely shared understanding of the issue, and the public, police, and policy-makers will remain in the dark, still seeking to understand these tragic events as they unfold in their communities.

Endnotes

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Testimony to the President's Task Force on 21st Century Policing

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After the tragic deaths of Michael Brown, Eric Garner, Tamir Rice, John Crawford, Ezell Ford and after Akai Gurley, police and prosecutors are now the focus of contentious debates on the present and future of racial justice in killings of unarmed civilians by the police. The racial and political divide in public trust of police and prosecutors threatens to become irreparably breached. Police defiantly resist charges of wrongdoing and bias, and reject calls for stronger oversight by courts and politicians. And prosecutors recoil from allegations of their own partiality toward their law enforcement partners. On both sides of this divide, the legitimacy of actors and institutions of the criminal justice system has suffered. What many see as institutional impunity is, for those in the institutions of criminal justice, a struggle to maintain the prerogatives that are necessary to produce security and to protect the lives of both citizens and police officers.

The conflicts between citizens, police and the law go beyond the classic conflict of rules versus standards. Citizens, especially in the Black communities of the U.S., have lost faith that responsible actors in the criminal justice system will produce justice through strong procedural rules. In fact, those rules have become so elastic as to have lost their meaning and moral grounding in legal norms.[1] The current crisis of legitimacy reflects the shift from the stronger norms or an earlier era to broad administrative discretion and regulation. The agencies, in other words, are running the show, and many citizens have grown to distrust what happens in when legal actors have free reign.

Citizens who experience police contact most often and most intensively have grown to distrust the judgments of police and prosecutors, and have developed a stubborn cynicism toward the law and legal actors.[2] They would prefer substantive rules to govern legal and social responses to instances of police misconduct, narrowing discretion by removing these decisions from the everyday social worlds of criminal justice toward more independent, transparent and accountable entities.

These questions will endure even after the urgency of the tragic deaths in 2014 fades, mainly by the slow pace of change in policing to adapt to new realities in crime and community. Policing today reflects the culmination of an historical arc of crime and its political fallout going back to the 1960s.[3] Its tactics reflect the fight against crime and violence that peaked in the U.S. more than two decades ago, and that (despite stubborn pockets of high crime) has returned for over a decade to levels that preceded the crisis of the earlier era. Yet policing retains the urgency of the models developed at the peak of crime, and that urgency is reflected in the design of police agencies and tactics. That urgency has produced clashes with citizens through the aggressive tactics that are at the heart of the "new policing,"[4] while police have leveraged the urgency of their fight against

crime to build a shield protecting them from external oversight and at the same time, disruptive innovation from within.

Courts and legislatures can make only small contributions to resolving the tensions, for the concerns that gave rise to this crisis are more easily recognized as matters of institutional design and well supervised regulation. At the same time, the popular responses to the crises of the past several months show that the current tensions are neither tolerable nor sustainable. Policing today continues to apply tactics and metrics that anticipate far more crime than there actually may be, and that exclude communities as collaborators in the co-production of security.

The resulting legitimacy gap shows that beyond today's crises, fundamental structural changes in policing are needed. What should policing look like in a future that responds to the crisis of legitimacy, and reflects the new landscape of crime? How should police departments rethink their internal logic at the same time that they shift toward new models of policing to mend the breach in confidence and leverage the capital of good community relations toward a more effective crime control regime? What are the critical components of redesigned police institutions, moving from today's fortress model to a new vision of a democratic and responsive institution of social control? Here are five ideas to reshape policing in the next decade and beyond.

1. Police Accountability. "More training" was the popular instant response to the non-indictment of the officers involved in Eric Garner's death. Training is seen more broadly as imparting skills to reduce friction in the everyday encounters between citizens and police, as well as imparting knowledge about the law. For police executives, training is an important response to crisis and criticism. But training begs the critical question of whether officers are held accountable for the rules and laws on which they are trained. What happens to police when they violate rules and procedures is critical to developing incentives to follow policy rather than the internal social culture of policing.

Stronger and visible accountability mechanisms contribute to the perceived legitimacy of the police. The most heavily policed populations tend to believe that police are held to a different standard, that they can and routinely do avoid discipline or punishment for infractions both large or small. Whatever the merits of broken windows models of policing or proactive policing, applying those same principles internally within police agencies will generate political capital for police that translates into broader citizen cooperation and compliance with laws both major and minor.[5]

But there is a counterweight to this argument: aggressive discipline and organizational redesign could disincentive police from responding to crime. "De-policing" creates risks for both citizens and police. Finding the boundaries of proactive and lawful policing is a challenge that, looking forward, will require organizational innovations – disruptive innovation[6] – and experimentation in a sustained process of reflection and analysis to find the right balance.

2. Learning from Mistakes. Courts routinely award damages to citizens who have

suffered injuries or rights violations from the police. These settlements add up: American cities paid over $1 billion to settle police misconduct cases since 2000.[7] But as the awards pile up, there are few signs that police acknowledged, analyzed or learned from 'mistakes' to avoid their repetition.[8] Learning from mistakes is hardly new in the public sector. Transportation, medicine, and child welfare are public service domains where mistakes are occasions for learning. Many school districts have internalized metrics for learning from performance through an inward look at teaching and school design.   Industry does it routinely. In each of these domains, this process is ongoing and routinized.

Why not police? In an era celebrating data and metrics, the analysis of court cases that produced settlements is rare. The costs of litigation are externalized to taxpayers, and the difficult and uncomfortable process of introspection is avoided. Modern institutions use failure as an opportunity for learning: to see warning signs that were missed, to understand how decisions can be reshaped to prevent failure, to identify information needs that can improve methods.

3. Management By Collaboration.   Police departments have become experts in massing data and designing metrics for benchmarking performance. In contemporary policing, metrics are used not to innovate or analyze, but to develop report cards for officers, precincts and other command units. In that model, the methods of policing are like tablets coming down from the mountain, and the metrics scaled to the methods chiseled into those tablets. There is little room for innovation. Metrics may tell police managers when and where to respond, but not what to do once officers were deployed. Expertise is siloed among individual officers and commanders. In fact, innovation in that agency design is discouraged, because it creates work conditions that may exceed the meaning of the data and metrics. Excessive reliance on management by metrics, in other words, can stifle innovation.

The alternative is management by collaboration.[9] Innovation leverages the expertise of individual officers, aggregates and integrates their knowledge, and generates new models of policing that fit unique and challenging circumstances. In practice, police from across units that service an area might pool knowledge and crime and other conditions, consult with neighborhood "experts." and identify ways to remove crime problems. Crime problems are analyzed using multiple sources of information, and the collective generation of ideas by police with detailed knowledge of what does and doesn't work, and an understanding of the context that generates crime. Collaboration also has the ancillary benefit of redirecting police culture from blaming and risk aversion to productive relations among officers and between officers and supervisors. It offers alternatives, in a Broken Windows regime, to confrontation and arrest, and indirectly changes the social currency of 'collars' between officers.

One other benefit accrues from an institutional design that values collaboration, innovation and experimentation: the social organization of an innovative department can shift tone that incentivizes internal reflection on everyday work. It encourages interactions in the field with citizens, victims and would-be offenders. This is more than simply "getting to know the community." It encourages police to seek out data not just from the metrics of

crimes and arrests, but from the producers of local incentives and controls who can identify factors that are conducive to crime or factors that can support informal controls or collective actions by local actors. Collaboration internally yields to and complements collaboration in field settings where both social action and police action takes place.

4.   *Democratic Regulation.* Policing in the U.S. tends to be walled off from the communities it serves. Local legislative bodies exercise limited oversight, mainly through budget oversight and occasionally passing small bore local ordinances on reporting. Political oversight comes from the executive branch – mayors or county executives. Rarely do mediating institutions have regular interactions with police. In this design, oversight is hierarchical, presenting few opportunities for non-political actors to participate in policing.

Still, such participation is possible and can be productive. Local networks of stakeholders, whether they be neighborhood groups or citywide, have convened in some cities to interact with police in a variety of ways.[10] Some inject their own data from surveys or other sources into the review of police activity. Other groups or entities engage in joint analysis and planning of police activities, bringing local knowledge that might not otherwise be available. The interactions of local groups with police presents opportunities for democratic regulation, with the police as central actors in the process. What is regulated here is less what the police do, than the joint production of security through local institutions. Think, for example, about collaborations of parent associations with school safety officers to assess how to make schools safe and productive settings. Police are stakeholders in the process, but so too are community groups, academics, families, and other professionals. Crime problems often stem from forces beyond the control of the police, and these forms of democratic regulation insert those perspectives into the planning and analysis of efforts to control crime.

5.   *The New Police.* A lower crime era and modern policing challenges present new opportunities to rethink the policing profession. Some argue that we have too many police, the wrong types of police, and that we use these resources inefficiently. This raises new threshold questions that haven't been seriously considered since the social upheavals of the 1960's. What type of police do we need in an era of internet facilitation of crime, of national security threats of both organized and random origins, of lower violent crime rates, of technologically secured property that minimizes risks of burglary and theft, of transnational cooperation in crime, and in an era of increasing competition between federal and state enforcement regimes? And in a social context of widening income inequality and hypersegregation? How should police managers and government balance needs for specialization versus patrol that engages citizens? How many police do we need? And what types of people? These are critical questions moving forward.

In weighing these questions, we might also consider the current dilemmas facing police: numerous departments under federal court oversight due to patterns of officer excesses, increases in police shootings of civilians even as the rate of police officer deaths on the job declines, difficult personal problems that officers bring from the job to home and back again, an increasingly diverse force, and a force that in non-urban areas does not reflect the

makeup of the communities it polices. These are parameters beyond simply human resources challenges. The changing task of policing requires new thinking not just of how many police we need and how we use them, but who they are.

Perhaps we need more specialization among police to reflect the new challenges of crime and security. Perhaps we need fewer police officers that we would compensate and supervise as professionals rather than civil servants. Perhaps we need to more consciously profile police applicants to ensure that investments in the early years of a police career will return benefits later on as this new generation addresses a world very changed from today's obsession with drugs, guns and gangs. Perhaps police should be licensed and regulated as we do with other professionals faced with complex human interactions.[11] Perhaps we need to pay higher salaries to fewer police officers and attract a more skilled work force that can meet the challenges ahead. These are critical questions for the future of the "new policing," and in turn, for the diverse populations who are policed.

Notes

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Testimony Submitted to the President's Task Force on 21st Century Policing

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RELEVANT TOPICS: Hiring a diverse workforce, Procedural justice, Racial reconciliation, Community engagement and dialogue, Police leadership development.

Commissioner Ramsey, Professor Robinson and Members of the President's Task Force on 21st Century Policing:

As several of the members of the Task Force are aware, I have been working on the issue of bias in policing since I served as Director of Research at the Police Executive Research Forum (PERF), between 1999 and 2005. With support from the USDOJ COPS Office, I have continued this work up to the present.

My thinking about bias in policing changed dramatically during this 15-year period–after I was exposed to the modern science of bias. It became clear to me that the policing profession had to "catch up" to the scientific research on (1) how bias and prejudice manifest and (2) what individuals and agencies need to do to prevent discriminatory practices.

Social scientists have been studying "prejudicial attitudes" since the 1950's[i] and report that these attitudes come in different forms[ii]; they also report that the way bias and prejudice manifest in our society has changed over time.[iii] These scientists distinguish between "explicit bias" and "implicit bias" and report that "our grandparents' prejudice" was more likely to be in the form of *explicit* bias and modern day bias is more likely to be *implicit.[iv]* Explicit bias is generally what one envisions when thinking about prejudice and bias. With an explicit bias, a person associates a group with negative characteristics; this association is based on animus and/or hostility toward the group and the person with this bias is well aware of and unconcerned about it.[v] As an example, a racist has explicit biases. He recognizes in himself animus or hostility towards a particular racial group, such as Blacks. This person could–and likely would–describe and justify this bias. This explicit bias can impact on perceptions and behavior, producing discriminatory actions.

As above, we now know that bias *today* is most likely to take the form of *implicit* bias.[1] Like explicit bias, through implicit biases, we link individuals to stereotypes or generalizations associated with their

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[1] Informative and easy-to-assimilate overviews of implicit bias can be found in the documents produced by the Kirwan Institute (www.kirwaninstitute.osu.edu), including Staats, C., (2013). *Implicit Bias Review, 2013* and Staats, C., (2014). *Implicit Bias Review, 2014.*

group(s) (e.g., women, racial/ethnic minorities, gays and lesbians, homeless). These biases can impact on perceptions and behavior–producing discriminatory behavior.[vi] *Unlike* explicit biases, implicit biases are not based on animus and hostility toward groups; they can manifest outside of conscious awareness[vii] even in individuals who, at the conscious level, reject prejudice and stereotyping.[viii] The implications of the modern science of human bias are that (1) all officers—even the best—can produce biased policing because of their human biases; and (2) all agencies must be proactive in producing fair and impartial policing because they hire humans to do the work.

In policing, implicit bias might lead the line officer to automatically perceive crime in the making when she observes two young Hispanic males driving in an all-Caucasian neighborhood. It may make an officer interpret the ambiguous behavior of a Black male as more threatening than the same behavior on the part of a White male. It may manifest among agency command staff who decide (without crime-relevant evidence) that the forthcoming gathering of African American college students bodes trouble, whereas the forthcoming gathering of White undergraduates does not. Although implicit biases pertaining to race and crime/threat are well-documented,[ix] there are other biases that might impact on police. For instance, implicit bias might lead an officer to be consistently "over vigilant" with males and low income individuals and "under vigilant" with female subjects or people of means. Where there is a crash with two different versions of what happened, implicit bias might lead the officer to believe the story of the man in the shirt and tie driving the BMW as opposed to the man in dirty jeans driving a pick-up truck.

Interventions to Promote Fair and Impartial Policing

Hardin and Banaji (2013) point out that our discussions about, and interventions to address, bias in society have to catch up with what we know from the science.[x] They report, "…personal and public policy discussions regarding prejudice and discrimination are too often based on an outdated notion of the nature of prejudice" (p. 13).   This has certainly been true as pertains to the national discussion of bias in policing and to efforts to produce fair and impartial policing.

My five recommendations pertain to how we bring the modern science of bias into police agencies around the country. While the recommendations reflect formidable undertakings, we are not starting from scratch; since 2008 the USDOJ COPS Office has supported the creation of seminal, comprehensive science-based training program for police agencies[xi] and the USDOJ recently funded the National Initiative for Building Community Trust and Justice.

Recommendation #1: Law enforcement executives need information and other resources so that they can implement science-based policies and practices to promote fair and impartial policing.

Efforts on the part of agency leaders to promote bias-free policing have fallen short. To the extent that chiefs and sheriffs have attempted to identify officers who are exhibiting biased policing and hold them to account, they have for the most part focused their efforts on officers who have explicit bias. (Most likely, these well-intentioned executives were unaware that bias could manifest *implicitly*.) The science of bias indicates that agency leaders must expand their focus, and this science has implications for law enforcement policy/practice in the following realms: (1) recruitment, hiring, evaluation and promotion; (2) anti biased-policing policy; (3) the leadership message; (4) supervision and accountability; (4) training; (5) outreach to diverse communities; (6) measurement; and (7) operations. Agency executives—preferably alongside their community leaders—need to become aware of the science of bias and the implications of the science for agency policy and practice. The COPS Office has supported the creation and

dissemination of a 1.5-day training program for executives and community stakeholders that does just this. Trainees learn about the science and then about a "comprehensive program for producing fair and impartial policing." The participants leave the training with preliminary action plans. This program, or ones like it, needs to reach more agencies. Additionally, technical assistance is needed as follow-up to the training to facilitate the *implementation* of the elements of a comprehensive program.

Recommendation #2: Law enforcement agencies should provide science-based "biased policing" training to all personnel.

Training for all levels within law enforcement agencies is the foundation of organizational transformation to produce fair and impartial policing, as recognized in element #4 above (in the comprehensive program to produce fair and impartial policing). Traditional "racial profiling" training of police has been inadequate–based on outdated notions of how bias manifests. According to Dovidio, Kawakami and Gaertner (2000, p. 141.):[xii]

> Approaches for dealing with the traditional form of prejudice are generally less effective for combating the consequences of contemporary forms…. the traditional approach of emphasizing social norms that proscribe the avoidance of negative behavior toward Blacks and other people of color is not likely to be effective for addressing (implicit bias). People possessing this type of bias have already internalized these norms and are very guarded about overtly discriminating against people of color.

Training for personnel needs to increase officers' knowledge of the modern science of bias and then impart relevant skills for producing bias-free behavior. Indeed, the good news from the science is that implicit biases are malleable and controllable; the researchers have identified various mechanisms that can be used to thwart either the *activation* of biases or at least the *application* of them in the form of behavior.[xiii] In other words, individuals can be trained to *reduce* and *manage* their biases.

All police personnel need to learn about the modern science of bias and acquire the individual-level skills for reducing and managing biases. In the COPS-sponsored Fair and Impartial Policing curricula for academy recruits and/or in-service patrol officers, trainees learn about the science and acquire skills through highly interactive and experiential sessions. A key mantra of the training is "policing based on stereotypes and biases is ineffective, unsafe and unjust." Supervisors/managers need additional information; they need to be trained to scan for biased policing on the part of their subordinates and given tools for intervening when bias is suspected. Identifying the appropriate supervisory response to biased policing can be challenging. Not only is biased behavior very difficult to prove, but, for the officers whose biased behavior is not intentional or malicious, punishment would be inappropriate. Since, in many instances, there will only be "indications" and not "proof," it is important to guide supervisors on when and how they can (and should) intervene to stop what *appears* to be inappropriate conduct, while keeping in mind the ambiguous nature of the evidence as well as the sensitive nature of the issue.

As above, the COPS Office has made significant progress in this realm. In addition to supporting the creation of the command-level training, it has supported the creation and dissemination of four additional, science-based curricula designed for the following groups: (1) academy recruits and/or in-service patrol officers, (2) first-line supervisors, (3) mid-level managers, and (4) trainers. Individuals from over 250 local, state and federal agencies in North America have received training in these various curricula. The response to the training has been overwhelmingly positive. Although most trainees—

especially at the lower levels of organizations—come into the sessions defensive or even hostile, their hostility abates as they start to hear about the biases that all human have and acquire the tools they can use to promote bias-free policing. Reducing the understandable police hostility toward the topic of bias is key to producing change.

Recommendation #3a: Scenario-videos that are used to train use-of-force judgment should incorporate scientifically-supported elements that can reduce bias in the application of force.

The theory of implicit bias has implications for maximizing the potential of use-of-force judgment training for reducing the potential impact of bias on use-of-force decisions. As the members of the Task Force know well, in state-of-the art use-of-force training, pre-service and in-service officers respond to video scenarios that play out on the front wall or even in a 360-degree format. The officers must decide if the subject or subjects in the scenario are a threat and, if they are, whether and how much force to use.

Two key concepts from the theory of bias—ambiguity[xiv] and counter stereotypes[xv]–provide guidance on how to maximize the effectiveness of this video/scenario training in terms of reducing biased uses of force.   Video scenarios, reflecting these concepts, have the potential to train officers to reduce or eliminate reliance on demographics when attempting to discern threat (or lack of threat).   Specifically, such training includes ambiguous-threat situations involving counter stereotypes. In other words, in a situation where there is ambiguity regarding threat, the person who turns out to be a threat to the officer must be just as likely to be a woman as a man, just as likely to be a Caucasian as a person of color, just as likely to be an older person as a younger person, just as likely to be a well-dressed person as one who is not.   Unlike a scenario where a person is pointing a gun at the officer, an "ambiguous threat" scenario might involve, for instance, the subject turning quickly and reaching into the car. Laboratory research, such as that conducted by Correll and colleagues, has affirmed the potential of these exposures to train officers that demographics are "non-diagnostic" for threat; the officers, instead, learn to focus on other clues, such as hands and behavior.[xvi] [2] [xvii]

The recently released results of research conducted by Lois James and colleagues[xviii] were counter to those produced by Correll and colleagues, but the implications of the findings for training are the same: Police personnel need high-quality, scenario-based training, involving counter stereotypes in ambiguous threat situations.[3]   Video scenarios reflecting these concepts certainly exist, but greater education of commercial providers and agency purchasers can ensure the greater frequency of their production and more systematic use of them.

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[2]Some preliminary research (Correll et al., 2010) indicates that the backdrop of the scenario—showing a high crime area or a low-crime area—might also impact on the activation of various biases.   The implication is that scenario backdrops should vary, such that sometimes the ambiguous threat scene takes place in what clearly is a high crime area and sometimes the scene takes place in an area that would appear to be a low-crime environment.

[3] The science-based elements of scenario training could be applied to non-video, role-play training, too, such as Simunitions. For some agencies, however, particularly if their role-play "subjects" are agency personnel, it might be a challenge to involve subjects that reflect a range of demographics.

Recommendation #3b: Resources should be made available to agencies so that they can provide frequent, scenario-based, use-of-force judgment training to their personnel.

Again, the video scenarios described above exist and are used in the training of officers. These have the potential to condition officers to make their force decisions—not based on demographics—but on relevant indicators of threat (and non-threat). But, several questions remain: (1) what proportion of agencies have access to video/scenario training resources, and (2) in those agencies with these resources, what is the frequency and dosage of exposure? We don't have accurate answers to those questions, but the research that *has* been conducted (albeit with a non-representative sample) indicates that fewer than half of agencies provide computer-based scenario training and, of those that *do* provide the training, one-quarter expose their personnel to only one scenario annually. (Six in 10 exposed their officers to fewer than 4 scenarios annually.)[xix] And we cannot assume that the few scenarios to which officers are exposed contain the elements described above. I do not claim to know what frequency and dosage of this training is required to produce the theoretically-supported conditioning effect, but I expect, based on the research reported above, that many, if not most, agencies do not achieve it.[4]

Recommendation #3c: Research should be conducted to identify the frequency and dosage of science-based scenario training that is required to reduce/eliminate biased use-of-force decisions and the results should be used to develop standards to guide agencies.

As above, several studies have provided support for the theory of implicit bias as pertains to reducing bias in use-of-force decisions. Indeed, I believe there is sufficient theory and empirical support to implement recommendation #3b in the near future. That said, more research *does* need to be conducted. A top priority would be to initiate research that will examine what frequency and dosage of the scenario-based training produces and maintains the desired outcomes. This research can be used to produce standards for agencies.[5]

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[i] The leading scholar in the early years was Gordon Allport who wrote *The Nature of Prejudice* (1954) Menlo Park, CA: Addison-Wesley Publishing Company.

[ii] The seminal early works detecting implicit biases are Gaertner, S.L. & McLaughlin, J.P. (1983). Racial stereotypes: Associations and ascriptions of positive and negative characteristics. *Social Psychology Quarterly*, 46(1): 23 – 30. And Devine, P.G. (1989). Stereotypes and prejudice: Their automatic and controlled components. *Journal of Personality and Social Psychology*, 56(1), 5 – 18.

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[4] Blair, Ma & Lenton (2001), based on their own research, speculate about the potential long term impact of exposures—which could be exposures to police training videos. They suggest that a single exposure would likely not produce long-term gains, but that repeated exposures over time "ought to effect more stable and long-lasting changes" (p. 838).

[5] The methods used in the research of James and her team could provide a model for future research as her methods, compared to other methods, more closely reflect actual police decision-making.

iii See e.g., Schuman, H., Steeh, C., Bobo, L., & Krysan, M. (1997). *Racial Attitudes in America: Trends and Interpretations*, Revised Edition. Cambridge, MA: Harvard University Press.

iv Fiske, Susan (2008). Are we born racist? *Greater Good*, Summer 2008; pp. 14 – 17, p. 14.

v See e.g., Amodio, D.M. & Mendoza, S.A. (2010). Implicit intergroup bias: Cognitive, affective, and motivational underpinnings. In B. Gawronski & B.K. Payne (Eds.) *Handbook of Implicit Social Cognition* (pp. 253 – 274). New York, NY: The Guilford Press. Dovidio, J.F., Kawakami, K., Johnson, C., Johnson, B., & Howard, A. (1997). On the nature of prejudice: Automatic and controlled processes. *Journal of Experimental Social Psychology*, 33: 510 – 540. Nier, J.A. (2005). How dissociated are implicit and explicit racial attitudes? A bogus pipeline approach. *Group Processes & Intergroup Relations*, 8(1): 39 – 52. Petty, R.E., Fazio, R.H., & Brinol, P. (2009). The new implicit measures: An overview. In R.E. Petty, R.H. Fazio & P. Brinol (Eds.). *Attitudes: Insights from the New Implicit Measures*. Pp. 3 – 18. New York, NY: Psychology Press.

vi See e.g., Dasgupta, N. (2004). Implicit ingroup favoritism, outgroup favoritism and their behavioral manifestations. Social Justice Research*, 17(2): 143 – 169.* Kang, J., Carbado, D., Casey, P., Dasgupta, N., and Faigman, D. (2012). Implicit bias in the courtroom. *UCLA Law Review* 59(5): 1124 – 1186. Dovidio, J.F., Kawakami, K., and Gaertner, S.L. (2002). Implicit and explicit prejudice and interracial interaction. *Journal of Personality and Social Psychology*, 82(1): 62 – 68. Correll, J., Park, B., Judd, C.M., Wittenbrink, B., Sadler, M.S., & Keesee, T. (2007b). Across the thin blue line: Police officers and racial bias in the decision to shoot. *Journal of Personality and Social Psychology,* 92 (6): 1006 – 1023.

vii See e.g., Dovidio, J.F., Kawakami, K., Smoak, N., & Gaertner, S.L. (2009). The nature of contemporary racial prejudice. In R.E. Petty, R.H., Fazio & P. Brinol (Eds.). *Attitudes: Insights from the New Implicit Measures* (pp. 165 – 192). New York, NY: Psychology Press. Greenwald, A.G., & Krieger,L.H. (2006). Implicit bias: Scientific foundations. *California Law Review*, 94(4): 945 – 967. Kang, J., Bennett, M., Carbado, D., Casey, P., Dasgupta, N., Faigman, D., et al. (2012). Implicit bias in the courtroom. *UCLA Law Review*, 59(5): 1124 – 1186. Petty, R.E., Fazio, R.H., & Brinol, P. (2009). The new implicit measures: An overview. In R.E. Petty, R.H. Fazio & P. Brinol (Eds.). *Attitudes: Insights from the new implicit measures*. (pp. 3 – 18). New York, NY: Psychology Press.

viii See e.g., Cunningham, W.A., Preacher, K.J., & Banaji, M.R. (2001). Implicit attitude measures: Consistency, Stability, and Convergent Validity. *Psychological Science*, 12(2): 163 – 170. Dasgupta, N., McGhee, D.E., Greenwald, A.G., & Banaji, M.R. (2000). Automatic preference for White Americans: Eliminating the familiarity explanation. *Journal of Experimental Social Psychology,* 36(3): 316 – 328. Devine, 1989, ibid. Graham, S. & Lowery, B.S. (2004). Priming unconscious racial stereotypes about adolescent offenders. *Law and Human Behavior*, 28(5): 483 -504. Kang, J., Carbado, D., Casey, P., Dasgupta, N., and Faigman, D. (2012). Implicit bias in the courtroom. UCLA Law Review, 59(5): 1124 – 1186.

ix See e.g., Correll, J., Park, B., Judd, C.M., & Wittenbrink, B. (2002). The police officer's dilemma: Using ethnicity to disambiguate potentially threatening individuals. *Journal of Personality and Social Psychology,* 86: 1314 – 1329. Eberhardt, J.L., Purdie, V.J., Goff, P.A., & Davies, P.G. (2004). Seeing black: Race, crime and visual processing. *Journal of Personality and Social Psychology*, 87(6): 876 – 893. Payne, B.K. (2001). Prejudice and perception: The role of automatic and controlled processes in misperceiving a

weapon. *Journal of Personality and Social Psychology*, 81(2): 181 – 192. Plant, A.E., Peruche, M.B., & Butz, D.A. (2005). Eliminating automatic racial bias: Making race non-diagnostic for responses to criminal suspects. *Journal of Experimental Social Psychology,* 41 (2005): 141 – 156.

[x] Hardin, C.D. & Banaji, M.R. (2013). The nature of implicit prejudice: Implications for personal and public policy. In Shafir, Eldar (Ed). *The Behavioral Foundations of Public Policy* (pp. 13 – 31). Princeton, NJ: Princeton University Press.

[xi] Awards form the US Department of Justice Office of Community Oriented Policing Services include 2007-CK-WX-K004, 2010-CK-WX-K015, 2012-CK-WX-K018, 2013-CK-WX-K021

[xii] Dovidio, J.F., Kawakami, K., Gaertner, S.L. (2000). Reducing contemporary prejudice: Combating explicit and implicit bias at the individual and intergroup level. In Oskamp, S. (Ed.) *Reducing Prejudice and Discrimination*. Mahwah, NJ: Lawrence Erlbaum.

[xiii] See e.g., Blair, I.V. (2002). The malleability of automatic stereotypes and prejudice. *Personality and Social Psychology Review,* 6(3): 242 – 261. Blair, I.V., Ma, J.E., & Lenton, A.P. (2001). Imagining stereotypes away: The moderation of implicit stereotypes through mental imagery. *Journal of Personality and Social Psychology*, 5(81): 828 – 841. Dovidio, J.F., Kawakami, K., Gaertner, S.L. (2000), ibid. Dasgupta, N., & Asgari, S. (2004). Seeing is believing: Exposure to counter-stereotypic women leaders and its effect on the malleability of automatic gender stereotyping. *Journal of Experimental Social Psychology*, 40(5): 642 – 658. Dasgupta, N. & Greenwald, A.G. (2001). On the malleability of automatic attitudes: Combating automatic prejudice with images of admired and disliked individuals. *Journal of Personality and Social Psychology*, 81: 800 – 814. Kawakami, K., Dovidio, J.F., Moll, J., Hersen, S., & Russin, A. (2000). Just say no (to stereotyping): Effects of training in the negation of stereotype associations on stereotype activation. *Journal of Personality and Social Psychology*, 78: 871 – 888.

[xiv] See e.g., Bertrand, M., Chugh, D., & Mullainathan, S. (2005). Implicit discrimination. *The American Economic Review*, 95(2): 94 – 98.

[xv] Blair, I.V., Ma, J.E., & Lenton, A.P. (2001). Imagining stereotypes away: The moderation of implicit stereotypes through mental imagery. *Journal of Personality and Social Psychology*, 5(81): 828 – 841. Dasgupta, N. & Greenwald, A.G. (2001). On the malleability of automatic attitudes: Combating automatic prejudice with images of admired and disliked individuals. *Journal of Personality and Social Psychology*, 81: 800 – 814. Kang, J., & Banaji, M. (2006). Fair measures: A behavioral realist revision of 'affirmative action.' *California Law Review*, 94: 1063 – 1118.

[xvi] Correll, J., Park, B., Judd, C.M., & Wittenbrink, B. (2002). The police officer's dilemma: Using ethnicity to disambiguate potentially threatening individuals. *Journal of Personality and Social Psychology*, 86: 1314 – 1329. Correll, J., Park, B., Judd, C.M. & Wittenbrink, B (2007a). The influence of stereotypes on decisions to shoot. *European Journal of Social Psychology*, 37: 1102-1117. Correll, J., Park, B., Judd, C.M., Wittenbrink, B., Sadler, M.S., & Keesee, T. (2007b). Across the thin blue line: Police officers and racial bias in the decision to shoot. *Journal of Personality and Social Psychology,* 92 (6): 1006 – 1023. Correll, J., & Keesee, T. (2009). Racial bias in the decision to shoot? *The Police Chief*, 2009: 54 – 58. Plant, E.A., Peruche, B.M., & Butz, D.A. (2005). Eliminating automatic racial bias: Making race non-diagnostic for responses to criminal suspects. *Journal of Experimental and Social Psychology,* 41 (2005): 141 – 156.

[xvii] Correll, J., Wittenbrink, B., Park, B., Judd, C.M., and Goyle, A. (2011). *Journal of Experimental and Social Psychology*. 47(2011): 184 – 189.

[xviii] James, L., Vila, B. & Daratha, K. (2013). Influence of suspect race and ethnicity on decisions to shoot in high fidelity deadly force judgement and decision-making simulations. *Journal of Experimental Criminology*, 9(2): 189 – 212. James, L., Klinger, D. & Vila, B. (2014). Racial and ethnic bias in decisions to shoot seen through a stronger lens: Experimental results from high-fidelity laboratory simulations. *Journal of Experimental Criminology*, DOI 10.1007/s11292-014-9204-9.

[xix] Morrison, G.B. & Garner, T.K. (2011). Latitude in deadly force training: Progress or problem? *Police Practice and Research*, 12(4): 341 – 361.