STATEMENT OF THE HONORABLE KAROL V. MASON
ASSISTANT ATTORNEY GENERAL, OFFICE OF JUSTICE PROGRAMS
BEFORE THE TASK FORCE ON 21ST CENTURY POLICING
WASHINGTON, DC

Good morning. My name is Karol Mason, and I am the Assistant Attorney General for the Office of Justice Programs (OJP) in the United States Department of Justice (DOJ). I am very pleased to be here and grateful for the opportunity to talk to this committee about the work OJP and its partners are doing to support law enforcement in strengthening relationships with the communities they serve. I believe that building trust between citizens and police is one of the biggest public safety challenges we face in America today, and the President could not have chosen a more qualified, more respected group to take on this challenge.

I would like to take just a few minutes to tell you about some of the efforts under way in my office.

Last September, the Attorney General announced a major initiative being led by OJP in partnership with divisions across the Department of Justice, specifically the COPS Office, DOJ's Civil Rights Division, the Community Relations Service, and the Office on Violence Against Women. It's called the National Initiative on Building Community Trust and Justice, and its goal is to take what we know about procedural justice, implicit bias, and racial reconciliation and expand our base of knowledge about what works.

We are partnering with a renowned group of criminal justice experts from the John Jay College of Criminal Justice, Yale University, the Center for Policing Equity at UCLA, and the Urban Institute. These are the brightest minds in the field and they have a wealth of experience working with state and local police departments and communities on these issues. They have accumulated a vast knowledge of evidence-based models that they will test, refine, and expand in communities that are facing challenges stemming from suspicion and distrust.

The initiative will tackle a number of issues: It will address the strained relationships between minority communities and law enforcement; it will look to enhance the criminal and juvenile justice system response to youth; it will tackle responses to the concerns of the LGBTQ community; and it will aim to improve interactions between police and domestic violence and sexual assault victims. And we will keep a focus on victims because we know that people who reside in minority communities are victimized at higher rates, and the way law enforcement responds to a victim has an outsize impact on that victim's sense of justice and perceptions of fairness.

There are five major components of the initiative: first, we will select pilot sites to test strategies and provide training on procedural justice, implicit bias, and racial reconciliation; second, we will create a central information clearinghouse that will provide technical assistance to the field; third, we will support new research; fourth, we will develop materials to help carry that research into practice; and fifth, we will promote public discussion of issues around race and policing. We are already off and running. We are now considering candidates for the five pilots, and we will have those selected by the beginning of March. We expect the online clearinghouse to go live at about the same time.

One thing that is important to mention about the initiative is that we are approaching these issues from the perspective that trust-building is the responsibility of all parties. This is not only about what law enforcement can do to bridge the divide of trust; it's also about the civic obligation that communities have in engaging with police. And we will be emphasizing that point heavily during the course of our work.

This effort is part of the President's *My Brother's Keeper* Initiative. *My Brother's Keeper* is a partnership with private partners and local governments that is designed to help young people who are willing to work hard and play by the rules reach their full potential. It's about creating ladders of opportunity for our youth – and we know that many of the youth who need a boost live in minority communities where crime and disorder are prevalent. Building trust between law enforcement and communities is a key emphasis of the initiative.

We are also working closely with law enforcement agencies and associations to address the increasing demand for use of body-worn cameras. We have evidence indicating that body-worn cameras can help de-escalate potentially violent encounters. Preliminary research shows that departments that deploy cameras receive fewer public complaints. As part of his Community Policing Initiative, the President has proposed investing $15 million to support the purchase and storage of body-worn cameras for state, local, and tribal law enforcement agencies. OJP will be responsible for administering that money.

Of course, there are a number of issues that must be addressed in deploying this equipment, from procurement and retention to training and privacy. To that end, our Bureau of Justice Assistance is planning to convene a two-day Body-Worn Camera Expert Panel in February. The goal is to develop a toolkit and website that address these issues and that can support our law enforcement partners as they deploy this equipment. We are also investing $2 million through our Smart Policing Initiative to help local jurisdictions, in collaboration with a research partner, develop comprehensive plans and best practices for deploying body-worn cameras.

Equipment, particularly the use of military and military-style equipment, has been at the center of our discussions around race and policing. The President has been clear that the federal government must do a better job of standardizing procedures for transferring military-style equipment to law enforcement agencies. In the coming days, he will be issuing an executive order to create a federal working group aimed at improving the process for acquiring equipment that is appropriate to the needs of the community. We expect that the Attorney General will be asked to lead the group, and that it will have 120 days to issue recommendations to strengthen these transfer programs.

Along with strengthening law enforcement-community relationships, a twin challenge is sustaining the remarkable reductions in crime we've seen in recent years. Through our Byrne Justice Assistance Grants Program – which is the largest single source of federal

criminal justice funding – and other efforts like our Smart Policing Initiative, we are helping law enforcement agencies adopt evidence-based practices.

A newer effort, launched just last fall, is our Violence Reduction Network. This is an approach to violence reduction that leverages resources across DOJ in cities with violent crime rates above the national average. The current participating cities are Chicago; Detroit; Camden, New Jersey; Wilmington, Delaware; and Oakland and Richmond, California. The goal is to coordinate DOJ resources – from OJP, the COPS Office, and DOJ's enforcement agencies – and focus them on the most pressing violence problems at each site, using data-driven methods to tackle those problems. The lessons we learn from these sites over the next two years will be replicated in other communities. The plan is to add five additional cities next year.

Finally, I know you will hear from my counterpart in the Department's Civil Rights Division, Vanita Gupta, about the importance of diversity in our nation's law enforcement departments. At OJP, we are working to help state and local agencies ensure that they have more diverse workforces. OJP's Office for Civil Rights is responsible for ensuring that recipients of funds from OJP, the COPS Office, and the Office on Violence Against Women comply with federal laws that prohibit employment discrimination based on race, sex, and other protected classes.

For example, our Office for Civil Rights began conducting compliance reviews of state law enforcement agencies as part of a project to improve the recruitment, hiring, and retention of female troopers. And we enforce provisions of the Safe Streets Act that require grant recipients to analyze their workforces to determine whether they need to improve efforts to recruit and hire members of minority groups. We believe that a diverse police force is important to improving public safety, not to mention to ensuring credibility in the eyes of the public they serve.

As you can see, we are investing a great deal of our resources in strengthening law enforcement-community relationships, and I think that our work will go a long way toward improving police-citizen encounters and restoring confidence in our criminal justice system.

I want to thank you all for the work you are doing, and I am grateful for your time.

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REMARKS FROM

VANITA GUPTA
ACTING ASSISTANT ATTORNEY GENERAL
CIVIL RIGHTS DIVISION
DEPARTMENT OF JUSTICE

AT THE

BRIEFING OF THE PRESIDENT'S TASK FORCE ON 21st CENTURY POLICING
EISENHOWER EXECUTIVE OFFICE BUILDING

MONDAY, JANUARY 12, 2015

Good morning and thank you for the opportunity to appear before you to discuss the Civil Rights Division's work on policing and criminal justice reform.

As recent events across the country have revealed, the work of this Task Force is critically important and timely. A fair, transparent and equitable criminal justice system is one of the strongest pillars of this Nation's democracy. Police officers are the front line of that system and the authority we give police is among the most profound in our constitutional form of government. The exercise of this power must be measured not only against legal standards, but community values and community priorities.

For the last several months, our nation has been engaged in an important national dialogue about police practices, community-police trust, racial justice, public safety, and officer safety. Yet, as you all are well aware, these conversations are not new and are not just a response to isolated incidents – they are the latest stage in our decades-long public conversation about effective self-governance, crime, our history of racial discrimination, and the pursuit of justice. Evaluating critically the relationship between law enforcement agencies and the communities they serve, particularly communities of color, has always been a key part of that dialogue. Many people in communities of color, communities living in poverty and others perceive police, courts, and corrections systems as arbitrary, biased, and unfair. These perceptions, whether real or imagined, undermine the legitimacy of those institutions and place the public, law enforcement personnel, and the health and wellbeing of communities at risk.

What I hope does not get lost in this conversation is that the overwhelming majority of the women and men who serve as police officers do their very difficult and sometimes dangerous job with honor, pride, and distinction. We owe a debt of gratitude to the brave law enforcement officers who dedicate their lives to protecting us. We know that the vast majority of police officers want to be, and want to be perceived as, part of the communities that they serve. And I know that law enforcement and community leaders alike feel a sense of urgency at the moment to rebuild mutual trust and respect.

There is no single panacea and solutions will not come overnight. But I am hopeful that the best practices and recommendations that this Taskforce ultimately presents to the President will provide a blueprint for developing strong and thriving relationships between local law enforcement and the communities they serve.

The Civil Rights Division is engaged in a broad range of criminal justice reform work, including in our nation's prisons, jails, school, juvenile justice, and indigent defense systems. I am focusing my remarks today on what some of us at the Civil Rights Division call our "Policing work 2.0." Through the Violent Crime Control and Law Enforcement Act of 1994, our Special Litigation Section gained jurisdiction to review law enforcement practices that may be violating people's federal rights. We call the last five years of our enforcement "2.0" because we learned a lot from the first 15 years of enforcement and we have incorporated lessons learned from that first decade and a half into our more recent efforts. Since 2009 alone, we have opened more than 20 investigations into police departments across the country. We are currently enforcing no fewer than 15 agreements with law enforcement agencies – including eight consent decrees – to correct unconstitutional policing practices. Reform is underway in New Orleans; Seattle;

Albuquerque; Cleveland; Portland, Oregon; Puerto Rico; and elsewhere. This work has resulted in landmark agreements that are changing the way that police services are being delivered, and reforming use of force practices, as well as racial and ethnic bias in policing. They are rebuilding mutual trust and respect between law enforcement and the community.

The Civil Rights Division is usually invited into jurisdictions by local officials and law enforcement leaders to investigate concerns about unconstitutional policing. Our investigations entail exhaustive engagement with the community through individual interviews and town hall meetings. We meet with local officials and civil rights leaders. We learn from law enforcement leaders. And we spend a lot of time speaking with line officers and with police unions. From them we learn too often about how they lack adequate support, training, policy guidance, supervision, and even equipment to keep them safe and allow them to engage in constitutional policing that keeps them and the public safe. Engagement by the Civil Rights Division is aimed at giving police officers the tools to be more effective, to partner with civilians to enhance officer and public safety, to make their jobs safer and to ensure that the criminal justice system is equitable and seen by all as legitimate. Even after we announce our findings, we continue intensive engagement with all of the various stakeholders, including community leaders and line officers and police unions to help shape the remedies that we negotiate at arms length with city officials. These stakeholders must feel some investment in the remedies laid out in our agreements for them to be successful and sustainable.

I want to spend the few minutes I have with you to briefly highlight ten themes that have emerged from our work with police departments and in communities that may provide context for the Task Force's deliberations. Each of our investigations and agreements provide concrete ways to address the issues described below. Every agreement we reach is unique because it reflects the input of law enforcement and community stakeholders. The Civil Rights Division will submit them as a set of resources to guide your thinking about ways to concretely address some of the questions with which you are wrestling.

First, Police Departments Must Belong to the Communities They Serve. Where there exists a dichotomy between police and the communities they serve, components of the community cease to trust the police, and, just as importantly, police cease to trust components of the community. Restoring mutual trust requires concrete measures to ensure that individual officers employ community policing strategies; that departments commit to community engagement; and also that there are potent mechanisms for civilian oversight and transparency.

Law enforcement leaders and the Civil Rights Division have emphasized that community engagement must occur at all levels of a law enforcement agency, from line officers to police leadership. Line officers need to interact with and develop relationships with the people they are most likely to take enforcement action against and with vulnerable populations in a context other than law enforcement actions. Police leadership has a dual role of supporting and rewarding community interactions and setting the tone for the entire department. Police leaders also should be present in their jurisdictions, and make a special effort to engage affected areas where police will apply new tactics or enforcement strategies.

Second, Transparency is Essential to Ensuring that Police Departments Operate As Democratic Institutions. The public too often has scant information about police departments and knows little about the operation of these critical public institutions. Frequently, we have seen that patterns and practices of constitutional violations have developed and been permitted to fester because of the inherent opacity of police operations. Through our agreements, we seek to provide communities with better access to information about the reforms underway and their impact on police services. The confidence that comes from transparency builds trust between the police and communities and promotes greater cooperation.

The public should have access to as much information as they can about the operation of their police department without compromising confidential information or effective police operations. The more communities know, the more they can influence operations to reflect community values and priorities through their elected representatives. Transparency will ensure that the public has a complete picture of the department and that controversial incidents are not the only basis for perceptions about the effectiveness of police services. We have found that the information that the public should have access to includes: police policies and procedures; data on enforcement activities such as stops, searches and arrests and the use of force; information on complaints and how they are processed and resolved; basic information on the work force, including demographic details; and the department's assessment and evaluation of the public safety impact of particular police priorities, tactics and strategies.

Third, Accountability Must be Robust. Effective and constitutional policing requires that there be robust internal and external systems of accountability. Internally, this means supervisory reviews, early warning systems, corrective as well as disciplinary options for misconduct, and effective "after action" assessments. Police departments must adopt a culture of self-examination and be "learning organizations." Line officers have complained in numerous jurisdictions where we have open matters that too often internal accountability mechanisms barely exist or are deployed arbitrarily. Internal accountability measures must be fair and consistent in their application to officers engaging in misconduct.

In the Civil Rights Division we attempt to build meaningful community engagement into all of our agreements as a key external accountability measure. We make this a priority because we know that reform is not inherently permanent and that changes will only take root if there is a strong institutional capacity to support assessment and course correction. For example, the evidence from our work shows that effective civilian oversight mechanisms lead to longer-lasting, more effective reform. While the type of oversight varies greatly based on the jurisdiction, some form of independent civilian review is essential.

Fourth, Officers Must Be Given the Support, Training, and Tools to Do Their Jobs Consistent with Community Values. Police officers are given complex responsibilities and are often called upon to deal with some of the most challenging social problems. We must ensure that police are provided with the proper training, support, and equipment to interact with all members of the community in a constitutional and bias-free manner.

For example, police officers often respond to persons in mental health crises or persons with intellectual and physical disabilities. These interactions can be difficult and, on occasion,

dangerous. Specialized training including de-escalation techniques, access to other support services, knowledge of the dynamics of mental health and supervisory support are often necessary to ensure that the encounter avoids unnecessary force or risk of harm. Officers also need to be given the capacity to meaningfully and effectively interact with limited English speakers and people who are deaf or who have hearing loss.

In addition, departments need specialized training and techniques to effectively and appropriately handle sexual assault and domestic violence cases. The violent nature of sexual assaults and the trauma caused to victims of these crimes creates inherent challenges to the investigation, including how to sustain the involvement of the victim, and how to ensure that gender bias and other stereotyping do not influence the resolution of the matter. That is why it is so important that police officers practice trauma-informed investigative techniques and ensure that victims are treated with dignity and respect.

Police officers must also be given the mental health support to address their own trauma and stress from the difficult circumstances they encounter on the job. The health and well-being of officers can affect how they operate under stress when interacting with the community in challenging or complex circumstances. Accordingly, it is important that officers receive assistance and support, including measures to ensure that all law enforcement personnel have ready access to mental health and support services and that supervisors are trained in making referrals in a manner that minimizes stigma.

Finally, equipment, such as less lethal force weapons and body and car cameras can be important law enforcement tools. The right equipment can provide safety and transparency. However, there is a risk in overreliance on technology. Technology should augment, not supplant, the other accountability measures or community engagement I just described.

Fifth, Data Collection and Analysis is Essential. Police departments collect vast amounts of data. Far too often, the data is never compiled or reviewed nor used to assess whether police activity promotes or undermines community trust or public safety. Time and again we will uncover patterns of troublesome conduct from reviewing a department's own reports that the department itself had never known nor understood. As previously noted, the collection and publication of core data points would permit police executives, line officers, political leaders and community members to better understand and address the performance of the department.

Using the Uniform Crime Reporting system and the National Incident-Based Reporting System as models, data should also be collected nationally so it can be used to identify problems, study promising practices, and promote evidence based public policy initiatives.

Sixth, Explicit and Implicit Biases Need to be Identified and Corrected. Race, gender, gender identity, sexual orientation, age, disability and other demographic characteristics influence the perceptions of police officers as well as members of the public. As Assistant Attorney General Mason's remarks highlighted, prejudice and bias, explicit and implicit, are prevalent in our culture. We all hold implicit biases. Police officers are no exception and the consequences of these biases can be particularly damaging. But those biases can be overcome

through training, policy, supervision and accountability. Data collection and assessment are critical to identifying and correcting bias. Developing effective metrics on the impact of bias in police services should be a priority.

Seventh, We Must Strengthen Capacity and Multiply Impact of Civil Rights Enforcement. The Civil Rights Division cannot open a matter in every city or town that may request or benefit from our intervention. Thankfully, as you know from AAG Mason's presentation, several other parts of the Justice Department including namely OJP and COPS, are deeply engaged in supporting law enforcement through a variety of tools, and we are grateful for their work and our partnership.

To respond to the limitations on our capacity, the Division has attempted to leverage the impact of our work through strategic case selection, and greater transparency and engagement about our work with professional policing and civilian oversight organizations. We are also in the beginning stages of designing a project to review the information and data collected from our investigations and enforcement actions and determine what lessons can be drawn that will assist others who are looking to advance constitutional policing and build trust between law enforcement and the community. We would also include law enforcement and community perspectives from jurisdictions around the country where we have been present. I have heard from both law enforcement leaders and advocates that such a project would be very welcome.

Eighth, Diversity in Law Enforcement is an Important Component to Building Mutual Trust and Respect. Any consideration of policing also needs to take a close look at who our police officers are, and whether the demographic composition of a police force reflects the community that those officers are sworn to serve.

For many years, the Civil Rights Division's Employment Litigation Section has sought to address diversity in law enforcement, and we have brought litigation challenging hiring practices that unnecessarily screen out minorities disproportionately. We cannot and will not achieve progress on this issue through litigation alone however. That is why we have recently started working with the Office of Justice Programs, the Equal Employment Opportunity Commission, and the Department of Labor to explore other ways to encourage police departments, particularly smaller ones that may have more challenges in this area, to take steps to diversify their ranks. We want to hold up police departments that have been particularly successful in this area and find ways to share and spread the steps they took to ensure that their officers reflect the communities they serve.

While we are only in the beginning stages, I am optimistic it will yield meaningful results. I hope this Task Force will emphasize the importance of diversity in policing. To aid in that process, I will provide a list of experts on this matter, whose input the Task Force will find valuable. The Civil Rights Division, in collaboration with our colleagues at OJP, EEOC, and DOL, will also prepare and submit a short literature review on this topic.

Ninth, Effective Reform Requires Engagement Across Criminal Justice Sectors, Beyond Policing. Although this Task Force is focused on policing, we know police do not operate in isolation. They are part of a continuum that includes prosecutors, defenders, courts,

correctional institutions and community supervision. The effectiveness of the entire system—as well as community confidence—depends on the fairness and legitimacy of each component. While all of these components are critical, I want to highlight the role of one that is sometimes forgotten: legal aid organizations and public defenders. These offices are often on the frontlines, and are uniquely situated to identify recurring problems that undermine community trust and involvement. For example, community defender offices, where they exist, can be powerful partners in bridging law enforcement and community. I encourage the Taskforce to consider how these offices can be better incorporated into our national conversation about policing reform.

Tenth, No One Owns the Solutions; the Most Effective and Sustainable Remedies have Community and Law Enforcement Input and Buy In. Our enforcement experience tells us that sustaining reform, transforming mutual perceptions and suspicions, and promoting public and officer safety requires constant and authentic engagement at the local level between law enforcement and the communities they serve.

Conclusion

In closing, let me say that again thank you for your work and this opportunity to speak with you. The Civil Rights Division looks forward to helping you in any way we can.

REMARKS BY DEBORAH L. SPENCE, SUPERVISORY SOCIAL SCIENCE ANALYST, THE COPS OFFICE

AT THE PLANNING MEETING FOR THE PRESIDENT'S TASK FORCE ON POLICING IN THE 21st CENTURY

JANUARY 12, 2015

Comprehensive Law Enforcement Review Project

Overview

Neither a chronology nor a forecast, the Comprehensive Law Enforcement Review is a foundational document *that summarizes what is understood about the current state of law enforcement from research, empirical evidence, and practice* in eight thematic areas: police legitimacy and public trust, crime reduction strategies, efforts to fight terrorism, alternatives to incarceration, officer wellness and safety, technology, federal initiatives and policy reform, and the future of policing.

Background and Methodology

In recent years, many of the organizations that represent the voice of law enforcement in the United States have called for another Presidential Commission. To make their case they pointed to the effectiveness of the 1965 Commission on Law Enforcement and Administration of Justice in advancing the field. They also called attention to the fundamental ways in which expectations of law enforcement have changed in the last fifty years, particularly in our post 9/11, high-tech, global economy.

The Commission on Law Enforcement and Administration of Justice

•On July 23, 1965, recognizing the urgency of the nation's crime problem and the depth of ignorance about it, President Johnson established a Commission on Law Enforcement and Administration of Justice through Executive Order 11236. Two years later, the commission released its final report, The Challenge of Crime in a Free Society.

•It was the work of 19 commissioners, 63 staff members, 175 consultants, and hundreds of advisors, who called three national conferences, conducted five national surveys, held hundreds of meetings, and interviewed tens of thousands of persons.

•It produced two hundred concrete recommendations covering just about every aspect of the criminal justice system that the commissioners believed would lead to a safer and more just American society.

Nine law enforcement organizations (International Association of Chiefs of Police, Major Cities' Chiefs Association, Major County Sheriffs' Association, National Sheriffs' Association, Association of State Criminal Investigative Agencies, National Organization of Black Law Enforcement Executives, Police Executive Research Forum, National Association of Police Organizations, and Fraternal Order of Police) presented Attorney General Eric H. Holder with a white paper in 2014, stating the need for a new national commission.

Based on this white paper and discussions with the organizations, the Attorney General instructed the Department of Justice's Office of Community Oriented Policing Services (COPS Office) to undertake a comprehensive law enforcement review.

- Department of Justice staff and executive directors and officers of nine leading law enforcement association agreed to a plan for implementing this review process, which included examination of eight major themes and critical sub-topics through a collaborative team approach for the law enforcement review.
- The COPS Office assigned a project manager to coordinate and facilitate eight separate subject matter teams. Each team consisted of the following: a COPS Office senior analyst to oversee discussions and help reach consensus agreements, a research assistant, a subject matter expert/academic advisor, staff from the National Institute of Justice and Bureau of Justice Assistance, and practitioner advisors nominated by the nine law enforcement associations.
- The teams met multiple times by conference call to discuss the topic areas, identify key materials, develop findings and conclusions, review drafts, and finalize their chapters. The research assistants, assisted by the subject matter experts/academic advisors, conducted extensive literature reviews of evidence-based research and practice-based case studies, and presented the content for validation by the practitioner members.

Summary of Findings and Themes
This report is organized in a progressive order of topics and concepts.

- Chapter one addresses police legitimacy and public trust. In a democratic society, public trust and confidence is central to the legitimacy of a police force. The fear of oppression and discriminatory law enforcement can be as debilitating to a community as the fear of crime, so without legitimacy and trust there is no platform for the remaining discussions.
- Chapter two looks at crime reduction strategies. Law enforcement agencies are expected to respond to, and prevent, a diversity of violent and non-violent crimes and behaviors. Proven strategies are critical to the ability to do that effectively and efficiently.
- Chapter three discusses how 9/11 was a seminal event in the American Policing narrative, and how it created a new and dynamic responsibility not only for the public, but for agencies and officers at all levels of government.

- Chapter four examines alternatives to incarceration and strategies for re-entry. Long-term imprisonment on a massive scale is cost-prohibitive, and most incarcerated individuals will eventually be released. As a result, law enforcement has a role to play both in managing the flow of people to prisons and jails, and in helping those released effectively integrate back into communities.
- Chapter five looks at officer wellness and safety. The law enforcement field must take care of its own in order to take care of their communities.
- Chapter six addresses technology. In a rapidly changing technological landscape, police must not only be able to identify and adopt new technology, but also do so in ways that improve their effectiveness without infringing on individual rights.
- Chapter seven discusses federal initiatives and policy reform. While policing is an inherently local activity, there are policies at the federal level that impact how even small municipalities practice.
- Chapter eight looks at the future of policing. How can we build the police agency of the future? How can the law enforcement field prepare itself now for effectively recruiting, hiring, training, and leading the next generation? These are critical questions which must be answered to ensure that law enforcement agencies are effective at what they do and legitimate in the eyes of the people they serve.

Across the eight issue areas, five key themes emerged

1. Effective Law Enforcement is Dependent on Public Trust

The theme of police legitimacy and public trust is universal to the entire Review.

- In efforts to reduce and prevent crime, there are strategies and techniques that may prove effective in the short run, but at great long term cost to public support and agency legitimacy.
- The use of new technologies and even some of the tactics now at law enforcement's disposal can pose serious threats to individual rights to privacy and free expression if rules for governance and use are not carefully explored in transparent ways.
- The way we police terrorism can have profound implications for civil liberties. The focus of these activities cannot simply be on preventing a future attack, but must also include their effect on public trust in law enforcement.
- Efforts to keep officers safe on the job must also consider legitimacy issues. Protective gear and situational protocols that are designed only with officer safety in mind can result in public perception that officers do not trust and respect them.

2. Effective Law Enforcement Requires Collaboration

Law enforcement officers are perhaps the most visible ambassadors of local government.

- This visibility means that police officers are called upon to address an amazing array of crime and social disorder problems, with many of the underlying causes and solutions ultimately beyond their control. But this truth has never tempered public expectations.
- The problem-solving approach that emphasizes addressing community concerns through collaborations with both other public services and the private sector is simply a better way of doing business.

3. Effective Law Enforcement is Nationally Coherent

It is easy to refer to American law enforcement as a singular entity, but in fact we see great variation in the delivery of law enforcement services across the country.

- Some variation is statutory and some a function of geography. But what is consistent is the public expectation of what law enforcement can do and how officers should behave.
- Neighboring jurisdictions may have incompatible communications systems or duplicate investments in infrequently used resources which, theoretically, could be shared, but seldom are.
- Innovations in addressing specific types of crime spreads unevenly through informal networks rather than through systematic replication of empirical evidence.
- More work is needed to mitigate the challenges inherent in having more than 17,000 law enforcement agencies at work within the nation's borders.

4. Effective Law Enforcement Starts with Effective Leadership

For agencies to succeed at the multi-dimensional demands placed on them by the public, they need to cultivate leadership excellence.

- Like military organizations where managers always come from within the ranks, policing is dependent upon itself to develop its leaders.
- Challenges of exercising local police leadership in a globally connected society merit special attention at this point in the profession's evolution.
- Leaders need to master a growing body of knowledge, including technology procurement, evidence-based decision making, multi-dimensional performance management, and diverse platform communications to be successful in managing effective and efficient organizations.

5. Effective Law Enforcement is Challenging

Sometimes we can be so focused on any one part of a system that we fail to see the interconnectedness of all the parts, or understand how complicated the system actually is. To

have any discussion on the state of law enforcement and where it might go in the future, we should keep in mind the sheer complexity and challenging nature of the job.

- The nature of police work is that it is dangerous. Officers are constantly called upon to put themselves into situations others are running from.
- In addition to their obvious crime and public safety responsibilities we also ask to police to deal with everything from traffic control, to persons with mental illness, to homeless individuals, public intoxication, and issues associated with an aging population.
- There must be individuals in the organization who can manage the acquisition and management of technology, respond to populations with unique needs, evaluate strategies and tactics from multiple perspectives, manage communications through multiple platforms, and conduct complex analyses.
- A police agency is also a customer service agency that responds to the short and long-term needs of diverse communities which may have different or conflicting agendas.

What to Expect in the Briefing Books
At present the approximately 200-page report is in editing, and will then be reviewed by the leadership of the stakeholder groups prior to finalization and public distribution. In order to help you make use of the research captured in the Comprehensive Law Enforcement Review, four to five page executive summaries of the key research findings (and practice examples) detailed in the full report that are germane to the listening session will be provided as part of your briefing books.

DIVERSITY IN LAW ENFORCEMENT:

A LITERATURE REVIEW

U.S. Department of Justice
Civil Rights Division
Office of Justice Programs

U.S. Equal Employment
Opportunity Commission

January 2015

Recent events have placed a spotlight on the lack of diversity within police departments and other law enforcement agencies across the nation. After this past summer's events in Ferguson, Missouri, many news organizations focused on the racial demographics of the Ferguson Police Department.[i] Although approximately two-thirds of Ferguson, Missouri's residents are African American, only three of the town's fifty-three commissioned police officers are African American.[ii] Ferguson is far from alone in this regard: there are police departments in every corner of the United States where there are severe mismatches between the racial composition of the police force and the demographics of the community at large.[iii]

The Department of Justice's Civil Rights Division (CRT) and Office of Justice Programs (OJP) have joined with the Equal Employment Opportunity Commission (EEOC) to respectfully submit the attached literature review. It has been our collective experience that any consideration of policing effectiveness is incomplete without attention to who our police officers are, as well as whether the police force reflects the community that its officers are sworn to serve.[iv] Although workforce diversity alone may not resolve all issues related to the fairness and effectiveness of policing,[v] achieving diversity in law enforcement agencies can increase trust between those agencies and the communities they serve.[vi] That basic trust can be an essential part of defusing tension, investigating and solving crimes, and creating a system where citizens believe that they can rely on their police departments and receive fair treatment. Indeed, victims and witnesses of crime may not approach or engage with law enforcement officials if they do not perceive them to be responsive to their experiences and concerns. A diverse police department is also less likely to be insular, and therefore can be more receptive to change.

Moreover, a commitment to diversity in hiring and promotion opens crucial public sector jobs to all Americans and helps ensure equal employment opportunity in public safety jobs. These jobs are the backbone of a community: they offer long-term and rewarding careers; bring families into the middle class; and create investment in the community, all of which have a significant positive impact on that community's schools and housing and, indeed, in all other aspects of the American dream.

Lack of diversity in police departments directly implicates some of our nation's most fundamental civil rights laws and protections.[vii] Title VII of the Civil Rights Act of 1964 (Title VII),[viii] which is enforced by both the EEOC and CRT, prohibits employment discrimination on the basis of race, sex, color, religion, and national origin. Title VII prohibits intentional discrimination—for example, where a job applicant, despite being qualified for the position, is not hired because of race, sex, or another protected characteristic. Unfortunately, intentional employment discrimination still remains a substantial barrier in the law enforcement context. For example, two years ago CRT's Employment Litigation Section brought a case, which was referred from the EEOC, on behalf of a woman serving as a sergeant at a small police department who had been passed over to be assigned shift commander in favor of a man with less

experience.[ix] This victim was the only woman who worked at the police department; in fact, twenty-three years earlier she had to bring a lawsuit just to obtain a position with the department. In the most recent case, the sergeant filed another discrimination charge in order to receive equal treatment. As a result of CRT's involvement in the case, she obtained the promotion to shift commander she deserved.

Title VII also prohibits the use of neutral selection practices that fall more heavily on one group unless those practices have been shown to be job related and consistent with business necessity. The Department of Justice, the EEOC, and private plaintiffs have a long history of successfully challenging facially neutral job screening devices—such as height requirements, written tests, or physical tests—that have an adverse impact on protected groups and are not job related or consistent with business necessity. For example, CRT successfully sued a state regarding its written examination for police sergeants; as a result, some of the small communities that use the challenged examination promoted their *first ever* African-American sergeants this year.[x] Following an EEOC investigation, CRT also successfully sued the New York City Fire Department regarding its written examination for entry-level hires.[xi] The *New York Times* chronicled the success of one of the African-American firefighters hired as a result of that lawsuit; at the first fire he fought, he located and helped rescue a five-month-old child.[xii] For more on the EEOC's work in this area, please see Chair Jenny Yang's written testimony submitted on January 21, 2015, and attached here as Appendix B.

The federal government cannot investigate or litigate every meritorious case of employment discrimination that may exist, especially given that there are nearly 18,000 state and local law enforcement agencies in the United States. The President's Task Force on 21st Century Policing, however, is uniquely situated to highlight the importance of workforce diversity for police departments and other law enforcement agencies. We believe that a crucial component of that message should be identifying barriers that undermine diversity and equal employment opportunity, while also highlighting best practices that departments can use to recruit, hire, and retain qualified and diverse personnel.

We hope that the attached review—which assembles research and academic scholarship that have addressed the issue of diversity in law enforcement—can aid in that process. Although this review is not exhaustive, it is designed to provide a cross-section of relevant information that we hope will be helpful and informative to the Task Force. We present the literature review in four categories:

- **Why Diversity Matters.** Diversity can be a crucial element in establishing and expanding trust between law enforcement and the community. Workforce diversity may also have positive effects on law enforcement agencies; making them less insular and

more receptive to change. In addition, the officers who are hired often reap tremendous benefits that inure to their families and communities.

- **Barriers to Achieving Diversity.** A wide range of barriers may undermine diversity at every stage of the recruiting, hiring, and selection process. There is substantial evidence that these barriers have made it difficult for underrepresented groups (i.e., racial/ethnic minorities, women, and LGBTI individuals) to secure positions in law enforcement.

- **Best Practices for Achieving Diversity.** There are concrete steps law enforcement agencies can take that will result in greater diversity among their personnel. By examining and, when necessary, reforming recruitment, selection, and training efforts, law enforcement agencies can attract and retain highly qualified workforces that better reflect the communities they serve.

- **Characteristics of High Quality Law Enforcement Personnel.** Traditional measures for hiring and training police officers and other law enforcement personnel not only have adverse impact on diversity, but also serve to undermine the ability to attract the most qualified and effective individuals for important public safety jobs. By identifying the factors and skills that are critical to effective law enforcement, police departments and other agencies can design procedures that will attract individuals that are both highly qualified and diverse.

We have also attached, as Appendix A to the review, a list of experts on the issue of workforce diversity in law enforcement with whom the EEOC and the Department of Justice have worked. This list is non-exhaustive; we hope that it can serve as a resource and starting point if the Task Force desires additional perspectives or information about the matters covered in this document and the attached literature review.

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[i] *See, e.g.*, Bathya Ungar-Sargon, *Lessons for Ferguson in Creating a Diverse Police Department*, FIVETHIRTYEIGHT POLITICS, Jan. 5, 2015, http://fivethirtyeight.com/features/lessons-for-ferguson-in-creating-a-diverse-police-department/.

[ii] Emily Badger, *When Police Departments Don't Look Like the Cities They're Meant to Protect*, WASH. POST, Aug. 12, 2014.

[iii] *See* Jeremy Ashkenas and Haeyoun Park, *The Race Gap in America's Police Departments*, N.Y. TIMES, Sept. 4, 2014; *see also* Emily Badger, Dan Keating, and Kennedy Elliott, *Where Minority Communities Still Have Overwhelmingly White Police*, WASH. POST, Aug. 14, 2014.

[iv] Issues of diversity were raised repeatedly in the testimony that this Task Force received as part of its listening session on Building Trust and Legitimacy. *See, e.g.*, Written Testimony of Chief Jim Bueermann (ret.), President, Police Foundation ("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."); Written Testimony of National Organization of Black Law Enforcement Executives ("The challenge to hiring a diverse workforce in law enforcement is reflected by the faces of the organization's leadership. The key to diversity in law enforcement is visibility of diversity, opportunity to engage people on their terms, and opportunities to advance."); Written Testimony of National Association of Women Law Enforcement Executives ("It has been known by us and many others, that in order to best police a certain area, the diversity of a police force should be representative of the community they serve.").

[v] The existing literature is conflicted about the impact demographic diversity has on the manner law enforcement agencies perform their duties. For example, one article surveyed the research with respect to African-American police officers and found evidence to support either side. David A. Sklansky, *Not Your Father's Police Department: Making Sense of the New Demographics of Law Enforcement*, 96(3) J. CRIM. L. & CRIMINOLOGY 1209, 1224-25 (2006). On the one hand, the article pointed to studies showing that African-American officers were less prejudiced towards other African Americans than white officers, knew more about the African-American community, and got more cooperation from African-American citizens. *Id*. At the same time, the article also highlighted studies concluding that African-American officers were just as likely as their white counterparts to use their firearms, arrest civilians, receive citizen complaints, and be subjected to disciplinary proceedings. *Id*. at 1224. Part of the challenge may stem from the fact that it is very difficult to determine, with any degree of certainty, the role that demographics—for both officers and civilians—have on how law enforcement activities are conducted and perceived. *See id*. at 1225 ("On both sides of this debate, many of the findings are hard to interpret. If, for example, black officers draw more complaints, is that because they act more aggressively, or because they are assigned to tougher beats, or because prejudice makes their assertions of authority seem more objectionable, or because minority citizens feel more comfortable complaining about officers from whom they do not fear retaliation?").

[vi] It has been our experience that there is a growing consensus that diversity can be an important element in establishing trust and improving relations between law enforcement and communities. *See generally* Ungar-Sargon, *supra* note i (quoting an interview with Stanford Law Professor David Sklansky who explained: "When the police force integrates and begins to look more like the community it's policing, it removes one big impediment toward trust. It doesn't guarantee trust, but it removes one thing that makes it hard to develop trust."). And in the wake of this summer's events in Ferguson, Attorney General Eric Holder acknowledged the need to "consider the role that increased diversity can play in helping to build trust within communities." Press Release, U.S. Dep't of Justice, Statement by Attorney General Eric Holder on Latest Developments in Ferguson, Missouri (Aug. 14, 2014), http://www.justice.gov/opa/pr/statement-attorney-general-eric-holder-latest-developments-ferguson-missouri. Yet, despite the widespread belief that diversity in law enforcement can foster community trust, there has been scant research and, at times, mixed empirical findings regarding the relationship between police diversity and community trust. *See, e.g.*, Joshua C. Cochran and Patricia Y. Warren, *Racial, Ethnic, and Gender Differences in Perceptions of the Police: The Salience of Officer Race Within the Context of Racial Profiling*, 28(2) J. CONTEMP. CRIM. J. 206 (2012) (demonstrating, based on a recent empirical study, that officer race may play a more substantial role in the development of citizens' perceptions than previous findings would suggest, providing some evidentiary support for diversification as a viable option for improving citizen-officer relations, and calling for further evaluation of diversification policies).

[vii] To be clear, diversity in law enforcement includes more than just racial and ethnic diversity; it also should involve considerations of sex, national origin, religion, sexual orientation, and gender identity. This literature review focuses on issues of race and ethnicity (and to a lesser extent, sex) in light of the recent attention that has been directed towards these categories. However, all aspects of diversity should be considered when jurisdictions are considering whether their law enforcement agencies are representative and reflective of the communities they serve.

[viii] 42 U.S.C. § 2000e *et seq.*

[ix] *See* Press Release, U.S. Dep't of Justice, Justice Department Settles Sex Discrimination Lawsuit Against the Town of Griffith, Indiana (June 11, 2013), http://www.justice.gov/opa/pr/justice-department-settles-sex-discrimination-lawsuit-against-town-griffith-indiana.

[x] *See* Press Release, U.S. Dep't of Justice, Justice Department Settles Allegations of Employment Discrimination in Promotion of Police Sergeants in New Jersey (Aug. 1, 2011), http://www.justice.gov/opa/pr/justice-department-settles-allegations-employment-discrimination-promotion-police-sergeants.

[xi] *See* Press Release, U.S. Dep't of Justice, Justice Department Reaches Agreement in Principle with the New York City Fire Department Over Discriminatory Hiring Practices Resulting in $98 Million in Relief (Mar. 18, 2014), http://www.justice.gov/opa/pr/justice-department-reaches-agreement-principle-new-york-city-fire-department-over.

[xii] N.R. Kleinfield, *The Race Gap in America's Police Departments Baptism by Fire: A New York Firefighter Confronts His First Test*, N.Y. TIMES, June 20, 2014.

Table of Contents

I.   Why Diversity Matters:

1. Fridell, Lorie, Robert Lunney, Drew Diamond, and Bruce Kubu. 2008. *Racially Biased Policing: A Principled Response*. Washington DC: Police Executive Research Forum.

Abstract: A police agency whose officers reflect the racial demographics of the community they serve fulfills several important purposes in reducing racial bias in policing. First, it conveys a sense of equity to the public, especially to minority communities. Second, it increases the probability that, as a whole, the agency will be able to understand the perspectives of its racial minorities and communicate effectively with them. Third, it increases the likelihood that officers will come to better understand and respect various racial and cultural perspectives through their daily interactions with one another.

2. Sklansky, David A. 2006. "Not Your Father's Police Department: Making Sense of the New Demographics of Law Enforcement." *The Journal of Criminal Law & Criminology* 96 (3): 1209-1243.

Abstract: This article has three parts. The first part describes how the makeup of police workforces has changed over the past several decades. To summarize, the workforce has grown much more diverse with regard to race, gender, and more recently, sexual orientation—but the pace of change has varied greatly from department to department, and virtually all departments have considerable progress to make with respect to diversity. The second part of the article assesses the effects of the changes that have already occurred in law enforcement demographics. The author considers three different categories of effects: competency effects (ways in which minority officers, female officers, and openly gay and lesbian officers may have distinctive sets of abilities), community effects (ways in which the demographic diversity of a police department may affect its relations with the community it serves), and organizational effects (ways in which the workforce diversity may affect the internal dynamics of the department itself). The third part of the article concludes by exploring the ramifications of the changing demographics of law enforcement.

3. Wasserman, Robert. 2010. *Guidance for Building Communities of Trust*. Washington DC: Office of Community Oriented Policing Services.

Abstract: The Guidance describes the challenges that must be addressed by fusion centers, local law enforcement agencies, and communities in developing relationships of trust. These challenges can only be met if privacy, civil rights, and civil liberties are protected. For fusion centers, this requires strong privacy policies and audits of center activities to ensure that the policies and related standards are being fully met. For law enforcement agencies, it means that meaningful dialogue and collaboration with communities needs to occur in a manner that increases the legitimacy of the agency in the eyes of that community. Law enforcement must establish legitimacy in the communities they serve if trusting relationships are to be established. For communities, their leaders and representatives must collaborate with law enforcement and share responsibility for addressing the problems of crime and terrorism prevention in their neighborhoods.

II.   Barriers to Diversity:

1. Comeau, Michelle J. 2011. *Representation and Recruitment: A Three-Part Analysis of the Police Hiring Process Within New York State.* Rochester, New York: Rochester Institute of Technology.

Abstract: The article consists of three separate analyses, each of which examines the representation of women, African Americans, and Latinos in police organization within New York State. The initial study compares department representation to that of the community in regards to race or ethnicity and gender. This is followed by the second study, which does a detailed look at the hiring process of one department within a mid-sized city (Rochester, NY), noting attrition by majority/minority status at each hurdle applicants face. The third study utilizes data from the second study to create a model of attrition for the Rochester Police Department. From the three studies, a series of recommendations for departments was developed, including: (1) identify department needs and allot resources appropriately; (2) track application submissions which can assist in identifying times that departments should increase their recruitment efforts; (3) tailor advertisements in a manner that would promote diverse representation; (4) increase engagement through job fairs and reaching out to local professional organizations and community groups; and (5) hold informational sessions prior to, and during, recruitment efforts to provide interested parties with a realistic portrayal of the police officer position.

2. Jordan, William T., Lorie Fridell, Donald Faggiani, and Bruce Kubu. 2009. "Attracting Females and Racial/Ethnic Minorities to Law Enforcement." *Journal of Criminal Justice* 37 (4): 333-341.

Abstract: Using a national survey of law enforcement agencies, this study: (1) measured agencies' ability to fill sworn positions; (2) identified the strategies used to attract and hire females and minorities; (3) measured agencies' success in filling sworn positions with females and minorities; and (4) measured the impact of agency strategies and characteristics on levels of female and minority applications and hires. The results indicated great variation in agencies' ability to fill sworn positions with females and minorities, as well as considerable variation in the extent to which mechanisms are used to attract females and minorities to policing. The multivariate analyses indicate that investing in a recruitment budget and targeting minorities and women positively affects hiring.

3. Matthies, Carl F., Kirsten M. Keller, and Nelson Lim. 2012. "Identifying Barriers to Diversity in Law Enforcement Agencies." *RAND Center on Quality Policing.* Occasional Paper.

Abstract: This paper describes one method that law enforcement agencies can use to better understand and address the challenges of a diverse workforce in law enforcement agencies: a barrier analysis. Barrier analysis is a method of assessment aimed at identifying potential obstacles to obtaining resources or participating in a program. Using this tool, the article encourages law enforcement agencies to evaluate how women and racial/ethnic minorities face obstacles that might account for less-than-proportionate representation among applicants, hires,

and senior leadership. In the context of employment opportunities, the authors focus on how barrier analyses can be used to understand diversity-related challenges at key points in the career lifecycle, such as recruitment, hiring, promotion, and retention practices. They also present a complete barrier analysis that agency leaders can incorporate to identify key barriers and take proactive steps to build a more diverse workforce. Case studies are used to provide guidance for agencies to take proactive steps toward remedying the lack of representation in their workforces.

4. McCafferty, Francis L. 2003. "The Challenge of Selecting Tomorrow's Police Officers from Generation X and Y." *Journal of the American Academy of Psychiatry and the Law* 31 (1): 78-88.

Abstract: Demands on police officers in the past thirty years have grown dramatically with the increasing threats to social order and personal security. Selection of police officers has been difficult, but with the increasing demand and complexity of police work, along with the candidates applying from Generation X and even Generation Y, the selection process has become more critical. The personal characteristics attributed to Generation X—and in the future, to Generation Y—should be factored into the selection process to ensure that those individuals selected as police officers will be able to cope with what has been described as the impossible mandate of police work in a free society. Background information on the X and Y generations is imperative for psychiatrists working with police departments and other law enforcement agencies. This article explores these areas and constructs a paradigm selection process.

5. Miller, Susan L., Kay B. Forest, and Nancy C. Jurik. 2003. "Diversity in Blue: Lesbian and Gay Police Officers in a Masculine Occupation." *Men and Masculinities* 5 (4): 355-385.

Abstract: This study explores how lesbian and gay police officers fare within law enforcement agencies. Using qualitative survey responses from a sample of "out" and "closeted" gay and lesbian police officers in a Midwestern city, the authors examine: (1) how police organizations' cultures inform their experiences; (2) how officers navigate multiple aspects of their identities, including sexual orientation, gender, race, and ethnicity; and (3) the strategies lesbian and gay officers utilize to manage themselves in the workplace. The findings suggest that these officers support a more humane approach to policing and see themselves as particularly qualified to work within vulnerable communities.

6. Richard, Roseann M. 2001. *The Perceptions of Women Leaders in Law Enforcement on Promotions, Barriers and Effective Leadership.* San Francisco, California: The University of San Francisco.

Abstract: The purpose of this study is to identify factors that undermine successful career advancement for women in law enforcement. Through telephone interviews with women holding command positions of Captain or higher, the study described the perceptions of women law enforcement commanders on leadership effectiveness, challenges, and self-perception. The findings presented may be used as the basis for further assessment of effective law enforcement leadership and supervisory practices across various federal, state, local, and campus law enforcement agencies. In addition, the results from the study can be used to guide departmental

development of existing management and supervisory programs; update or create harassment and discrimination training where none previously existed; and allocate departmental resources for promotional test training programs and the testing processes.

7. Stroshine, Meghan S., and Steven G. Brandl. 2011. "Race, Gender, and Tokenism in Policing: An Empirical Elaboration." *Police Quarterly* 14 (4): 344-365.

Abstract: According to tokenism theory, "tokens" (those who comprise less than 15% of a group's total) are expected to experience a variety of hardships in the workplace, such as feelings of heightened visibility, isolation, and limited opportunities for advancement. In the policing literature, most previous studies have defined tokenism narrowly in terms of gender. The current research extends prior research by examining tokenism as a function of gender and race, with an examination of racial/ethnic subgroups. Particular attention is paid to Latino officers, as this study represents the first known study of tokenism and Latino police officers. Quantitative analyses reveal that, for the most part, token police officers do experience the effects of tokenism. Although all minorities experienced some level of tokenism, African-American males and African-American females experienced greater levels of tokenism than Latino officers, suggesting that race is a stronger predictor of tokenism than gender.

8. Wilson, Charles P., and Shirley A. Wilson. 2014. "Are We There Yet? Perceptive Roles of African American Police Officers in Small Agency Settings." *The Western Journal of Black Studies* 38 (2): 123-136.

Abstract: One aspect of police behavior that has not been fully or consistently emphasized is the problem of perception, particularly how African-American police officers serving in smaller law enforcement agencies perceive themselves and their view of how their agencies and the communities they serve perceive them. For this article, African-American police officers were surveyed to determine their perceptions of the positive or negative effects of their presence in local police agencies. Key findings indicate that African-American police officers still find themselves victims of racial indifference and seemingly hostile work environments; believe that racial profiling is both practiced and condoned by their agencies; that agencies do little to improve diversity and provide little support for their efforts; and that they strongly perceive their presence in these smaller agencies to have a positive impact on police interactions in the minority community.

III. Best Practices for Achieving Diversity:

1. Bureau of Justice Statistics. 2012. *Survey: Hiring and Retention of State and Local Law Enforcement Officers, 2008-Statistical Tables*. Washington DC: Office of Justice Programs.

Abstract: A special survey was administered to a nationally representative sample of approximately 3,000 general purpose agencies as part of the 2008 BJS Census of State and Local Law Enforcement agencies. The study examined specific strategies and policies designed to help them meet the challenges of recruiting, hiring, and retaining qualified sworn personnel.

2. Equal Employment Opportunity Commission. 2003. Management Directive 715.

Abstract: The EEOC provides leadership and guidance to federal agencies on all aspects of the federal government's equal employment opportunity program. Management Directive 715 (MD-715) requires agencies to take appropriate steps to ensure that all employment decisions are free from discrimination and sets forth the standards by which the EEOC will review the sufficiency of agency Title VII and Rehabilitation Act programs. MD-715 sets forth and describes six essential elements for model programs. Pursuant to element four, Proactive Prevention of Unlawful Discrimination, agencies "have an ongoing obligation to prevent discrimination on the bases of race, color, national origin, religion, sex, age, reprisal and disability, and eliminate barriers that impede free and open competition in the workplace. As part of this ongoing obligation, agencies must conduct a self-assessment on at least an annual basis to monitor progress, identify areas where barriers may operate to exclude certain groups and develop strategic plans to eliminate identified barriers." The background materials include MD-715, Section IIA of EEOC's Instruction to Federal Agencies for MD-715 (Barrier Identification and Elimination), which provides a detailed explanation of the self-assessment process, and "Tips for Small Agencies Conducting Barrier Analysis under MD-715."

3. Haddad, Abigail, Kate Giglio, Kirsten M. Keller, and Nelson Lim. 2012. "Increasing Organizational Diversity in 21st Century Policing."

Abstract: Both the military and police departments are concerned about recruiting and promoting a racially/ethnically diverse workforce. This paper discusses three broad lessons from the Military Leadership Diversity Commission that can be used to inform police department hiring and personnel management: (1) qualified minority candidates are available, (2) career paths impact diversity, and (3) departments should leverage organizational commitment to diversity. Additionally, specific suggestions are given as to how law enforcement agencies can incorporate each of these lessons.

4. Kasdan, Alexa. 2006. *Increasing Diversity in Police Departments: Strategies and Tools for Human Rights Commissions and Others*. Harvard School of Government.

Abstract: The goal of the article is to help human rights and human relations commissions work with police officials to increase race and gender diversity among law enforcement personnel. The article studies three jurisdictions: Rhode Island, Kentucky, and Atlanta. The article

discusses how states should support local police departments in achieving diversity, including offering grants, training opportunities, and help in assessing diversity. There needs to be a firm commitment to diversity from police chiefs and police administrators. In order to achieve diversity, there needs to be partnerships and collaboration, outreach, hiring reform, and long-term recruitment efforts.

5. Matthies, Carl F. 2011. *Evidence-Based Approaches to Law Enforcement Recruitment and Hiring.* Santa Monica, California: Rand Corporation.

Abstract: Recruiting diverse, qualified candidates is a continual challenge for law enforcement. Around the turn of the millennium, many metropolitan agencies reported a shortage of individuals interested in police work. With the downturn in the economy came a flood of applicants, but funding for recruitment and hiring eventually decreased. Law enforcement can benefit from evidence-based approaches to evaluating recruitment programs and streamlining the application process.

6. Taylor, Bruce, Bruce Kubu, Lorie Fridell, Carter Rees, Tom Jordan, and Jason Cheney. 2005. *Cop Crunch: Identifying Strategies for Dealing with the Recruiting and Hiring Crisis in Law Enforcement.* Police Executive Research Forum.

Abstract: The processes of recruitment and selection are key to developing agencies with high-quality personnel and to producing agencies that are representative of their communities in terms of race and gender. The challenge of recruiting and hiring quality personnel has emerged as a critical problem facing law enforcement nationwide. It threatens to undermine the ability of law enforcement to protect our nation's citizens and to reverse important gains in our efforts to increase the representation on our police forces of racial/ethnic minorities and women. The Police Executive Research Forum conducted this project, with funding from the National Institute of Justice, to examine the nature and extent of the "cop crunch" and identify department-level policies/practices that facilitate the recruiting and hiring of quality personnel, including the recruiting and hiring of quality women and minorities.

7. White, Michael D., Jonathon A. Cooper, Jessica Saunders, and Anthony J. Raganella, 2010. "Motivations for Becoming a Police Officer: Re-assessing Officer Attitudes and Job Satisfaction After Six Years on the Street." *Journal of Criminal Justice* 38 (4): 520-530.

Abstract: This article was a follow-up to prior research that examined motivations among academy recruits in the New York City Police Department (NYPD). Using the same survey and analysis, this study re-examined motivations among officers from the same NYPD recruit class after six years on the job, and explored both motivation stability and the relationships among motivations and job satisfaction. Results suggested that motivations have remained highly stable over time, regardless of officer race/ethnicity and gender. Findings also suggested that white male officers were most likely to report low job satisfaction, and that there is a link between low satisfaction and unfulfilled motivations. Moreover, dissatisfied officers were much less likely to have expressed strong commitment to the profession through their original motivations, suggesting that low commitment up front may lead to low satisfaction later on. The article

concludes with a discussion of implications for police departments, particularly with regard to recruitment and retention practices and efforts to achieve diversity.

8.   U.S. Commission on Civil Rights. 2000. *Revisiting Who is Guarding the Guardians?*

Abstract: Within law enforcement agencies, claims of sexual and racial harassment, disparity in pay, and low job satisfaction make police careers unattractive. Additionally, the selection process for police officers often contains biases that, in effect, eliminate candidates of color and noncitizen permanent residents from being hired. The Commission recommends, among other things, that law enforcement agencies: (1) develop creative strategies to increase diversity at all levels, (2) improve public perception of the police to attract more applicants, (3) encourage recruits to pursue higher education, (4) eliminate biases in the selection system, and (5) revise recruitment and selection methods.

IV.   Characteristics of High Quality Law Enforcement Personnel:

1. Barrick, Murray R., and Michael K. Mount. 1991. "The Big Five Personality Dimensions and Job Performance: A Meta-Analysis." *Personnel Psychology* 44 (1): 1-26.

Abstract: The study investigated the relation of the "Big Five" personality dimensions (extraversion, emotional stability, agreeableness, conscientiousness, and openness to experience) to three job performance criteria (job proficiency, training proficiency, and personnel data) for five occupational groups (professionals, police, managers, sales, and skilled/semi-skilled). Results indicated that one dimension of personality—conscientiousness—showed consistent relations with all job performance criteria for all occupational groups. For the remaining personality dimensions, the estimated true score correlations varied by occupational groups and criterion type. The findings have numerous implications for research and practice in personnel psychology, especially in the subfields of personnel selection, training and development, and performance appraisal.

2. Ben-Porath, Yossef S., James M. Fico, Neil S. Hibler, Robin Inwald, Joelle Kruml, and Michael R. Roberts. 2011. *Assessing the Psychological Suitability of Candidates for Law Enforcement Positions*.

Abstract: This article describes and elaborates on the International Association of Chiefs of Police's Police Psychological Services Section's recommended procedures for conducting pre-employment evaluations of law enforcement candidates, with an emphasis on steps the hiring agency's administrators can take to ensure adherence to these practices.

3. Chappell, Allison T. 2008. "Police Academy Training: Comparing Across Curricula," *Policing: An International Journal of Police Strategies and Management*. 31 (1): 36-56.

Abstract: This study compared the academy performance of police recruits trained in a traditional curriculum with that of recruits trained under a new curriculum tailored to community-policing tasks; it also compared the characteristics of recruits who performed better under the community-policing curriculum with those who performed better under the traditional curriculum. The study found that recruits in both curricula performed similarly in terms of their mastery of the material; however, the recruits who performed better in the community-policing curriculum were more highly educated and female. The study examined recruit characteristics and performance in Florida's Police Academy under a traditional curriculum that emphasized preparation for law enforcement tasks, such as firearms training, physical training, defensive tactics, and driving, in addition to knowledge areas such as law, arrest procedures, traffic enforcement, and officer safety. Little attention was given to communications, cultural and ethnic diversity, problem solving, and police-community relations. The Florida Police Academy subsequently modified its curriculum to reflect the police tasks emphasized under community policing, which focus on greater police communication, interaction, and cooperation with the community in forging community-based priorities and practices in crime prevention and crime control. The community-policing curriculum focused on the application of learning rather than memorization, the use of a problem-solving model throughout the academy, and the use of scenarios as the basis for learning.

4. Marion, Nancy. 1998. "Police Academy Training: Are We Teaching Recruits What They Need To Know?" *Policing: An International Journal of Police Strategies and Management*. 21 (1): 54-79.

Abstract: The description of the basic police academy focuses on training duration, entrance requirements, class make-up, environment, instruction, and stress. A review of knowledge learning addresses civil liability, ethics, special needs groups, public relations/cultural diversity, and examinations. An overview of skill training considers firearms training, self-defense, physical training, and communication skills. An overview of hazardous-materials training also is provided, along with attitude training. The study concludes that overall this particular police academy is providing the information and skills training required to prepare recruits to be police officers. However, the study found the academy lacking in its ability to transmit the proper attitudes for new police officers. There remains an obvious element of sexism and an element of elitism on the part of some instructors, which was made obvious to the recruits. There are a few areas not included in the training, specifically ethics and helping the elderly or victims of crime. The addition of female and minority instructors may help create change. Possible changes in future police academy training are discussed.

APPENDIX A: LIST OF EXPERTS

Kathleen Lundquist, Ph.D.
President and Chief Executive Officer
APT*Metrics*, Inc.

Mark Killingsworth, Ph.D.
Professor of Economics
Rutgers University School of Arts and Sciences

Marc Bendick, Ph.D.
Co-Founder and Co-Principal
Bendick and Egan Economic Consultants, Inc.

David P. Jones, Ph.D.
President
Growth Ventures Inc.

APPENDIX B:
WRITTEN TESTIMONY OF JENNY YANG
CHAIR, U.S. EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION

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

Jenny R. Yang, Chair
U.S. Equal Employment Opportunity Commission

On behalf of the U.S. Equal Employment Opportunity Commission, I thank Chairs Charles Ramsey and Laurie Robinson, Task Force members, and Executive Director Ronald Davis for inviting written testimony from the EEOC. We write to support the Task Force's efforts "to identify best practices and … make recommendations to the President on how policing practices can promote effective crime reduction while building public trust."[1] In the wake of the events in Ferguson, New York City, Cleveland, and across the country, your efforts are timely and vital. I commend you on the success of the Task Force's first listening session and on your inclusion of workforce diversity as one of the strategies that will aid state and local law enforcement in building trust and legitimacy in the communities they serve and, ultimately, in achieving effective, community-oriented policing.

Promoting equality of opportunity in the public sector is vital to the EEOC's mission to stop and remedy unlawful employment discrimination in the workplace. We write to provide background on the EEOC's work to promote equality of opportunity in policing and to offer recommendations to assist police forces in drawing from the diversity of their community.

EEOC AUTHORITY & RESOURCES

Fifty years ago, Title VII of the Civil Rights Act of 1964 created the EEOC as the leading government agency charged with enforcing civil rights protections in the workplace. Today, we have 53 field offices nationwide, and we enforce federal laws prohibiting discrimination on the basis of race, color, religion, sex, national origin, age (40 or older), disability or genetic information.[2] Our jurisdiction includes private, federal, and public sector workplaces, which include state and local law enforcement agencies.[3]

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[1] Executive Order 13684 to Establish the President's Task Force on 21st Century Policing (December 18, 2014), *available at* https://www.federalregister.gov/articles/2014/12/23/2014-30195/establishment-of-the-presidents-task-force-on-21st-century-policing.

[2] EEO laws also prohibit retaliation on the basis of complaining about discrimination, filing a charge of discrimination, or participating in an employment discrimination investigation or lawsuit.

[3] The EEOC's federal sector enforcement program covers federal agencies, including federal law enforcement agencies. The Commission is authorized to hold hearings on EEO complaints against federal

The EEOC shares enforcement authority for public sector employers with the Department of Justice's Civil Rights Division ("CRT") under Title VII, the Americans with Disabilities Act ("ADA"), and the Genetic Information Nondiscrimination Act ("GINA"). Generally, the Commission receives, investigates, and may attempt to mediate charges of discrimination against public employers. Where the Commission finds reasonable cause to believe an unlawful employment practice has occurred, it attempts to conciliate those charges. Commissioners may also file Commissioner's Charges against public employers. If conciliation of a charge fails, the EEOC refers the charge and its investigative file to CRT, which has authority to sue public employers. The EEOC also has authority under Title VII, ADA, and GINA to sue labor organizations that represent state and local employees or employment agencies that service state and local employers.[4]

Moreover, the Commission has the authority to receive, investigate, attempt to mediate, conciliate, and sue regarding a charge of discrimination against a public employer under the Age Discrimination in Employment Act of 1976 (ADEA) and receive, investigate, and sue under the Equal Pay Act of 1963 (EPA).

The EEOC is also authorized to collect workforce demographic data from employers with more than 100 employees. State and local government workforce data, including data from certain police departments, is captured on the EEO-4 form. The data of individual state and local government employers is not made public, but aggregate data may be shared to provide information about employment by race, ethnicity, and gender in various job groups and by salary bands within those job groups.

The EEOC is also charged with providing guidance and conducting training and outreach to promote equal employment opportunity and encourage voluntary compliance with the laws we enforce.

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agencies and adjudicate appeals from federal agency administrative decisions. The EEOC also monitors and collects data on agencies' compliance with EEO laws, monitors and evaluates federal agency affirmative employment programs, and conducts education and outreach aimed reducing barriers to equal employment and EEO compliance. As an example, in Fiscal Year 2013, the EEOC found in favor of a class of female agents in a pattern or practice action against the Drug Enforcement Agency involving discrimination in foreign assignments and promotions on the basis of sex. *Garcia v. Dep't of Justice,* EEOC Appeal No. 0120122033, 2013 WL 2903347 (June 7, 2013).

[4] As an example, in Fiscal Year 2012, the EEOC filed suit against Jacksonville Association of Firefighters (Local 122 of the International Association of Fire Fighters). The EEOC alleged that the union negotiated with the City of Jacksonville for a racially discriminatory written exam in the promotion process that it knew to have a disproportionate adverse impact on Black test takers. Case No. 3:12-cv-00491-MMH-TEM (M.D. Fla.). The Department of Justice filed a companion suit against the city. Case No. 3:12-cv-00451-TJC-MCR, (M.D. Fla.).

IMPORTANCE OF EEO COMPLIANCE & DIVERSITY

The EEOC's Strategic Enforcement Plan prioritizes eliminating systemic barriers to hiring and recruitment in the public, private, and federal sectors under all of the laws we enforce.[5] These laws prohibit employers from using recruitment practices or selection procedures that have the purpose or effect of discriminating against individuals based on their protected characteristic(s).

As an example, Title VII permits employment tests to be used as long as they are not "designed, intended or used to discriminate" against covered individuals[6] and imposes restrictions on how tests are scored.[7] Title VII also prohibits employers from using facially-neutral tests or selection procedures that disproportionately exclude covered individuals where the tests or procedures are not "job-related and consistent with business necessity" for the position in question.[8] The Uniform Guidelines on Employee Selection Procedures ("UGESP") were promulgated to be used by employers, including law enforcement agencies, to evaluate their selection practices and assess whether they are in compliance with the law.[9] The use of any selection procedure that has an adverse impact based on a category protected under Title VII will be considered discriminatory unless the procedure is job-related and consistent with business necessity, i.e. it has been properly validated,[10] or the use of the procedure is otherwise justified under federal law.[11]

Although EEO enforcement is distinct from the promotion of diversity in the workplace, the concepts are linked, as compliance with EEO laws will often lead to greater diversity in the workplace. Moreover, the absence of diversity is often a critical indicator of potential barriers to

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[5] *Available at* http://www.eeoc.gov/eeoc/plan/sep.cfm.

[6] *Id.* at § 2000e-2(h).

[7] *Id. at* §2000e-2(l) (it is an unlawful employment practice "to adjust the scores of, use different cutoff scores for, or otherwise alter the results of, employment-related tests on the basis of race, color, religion, sex, or national origin"). The ADA also addresses prohibited practices related to employment tests. *See* 42 U.S.C. §12112(b).

[8] 42 U.S.C. § 2000e-2(k)(1)(A)(1); *see Griggs v. Duke Power Co*., 401 U.S. 424, 431 (1971).

[9] 29 C.F.R. Part 1607; *see Albemarle Paper Co. v. Moody,* 422 U.S. 405, 431 (1975).

[10] *See, e.g., Isabel v. City of Memphis*, 404 F.3d 404, 413-14 (6th Cir. 2005) (City's use of a written test for promotion to police lieutenant resulted in a disparate impact on African Americans; City's procedure was not properly validated and therefore "had no business justification.") UGESP instructs employers to rely upon "criterion-related validity studies, content validity studies or construct validity studies" to validate a selection procedure. 29 C.F.R. § 1607.5(A).

[11] *Id.* at §§ 1607.3, 1607.6; *see Officers for Justice v. Civil Serv. Comm'n*, 979 F.2d 721, 728 (9th Cir.1992) ("[B]efore utilizing a [selection] procedure that has an adverse impact on minorities, the City has an *obligation* pursuant to the *Uniform Guidelines* to explore alternative procedures and to implement them if they have less adverse impact and are substantially equally valid [to other options].").

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equal employment opportunity in the workplace. As witnesses testified during the first Task Force listening session, and as reported by the 1967 Kerner Commission, while a diverse police force will not alone ensure effective community policing or the protection of civil rights, a police force that reflects the community it serves can aid in building trust and legitimacy in the community. This can lead to higher quality and more effective law enforcement. The EEOC is highly interested in the work of the Task Force with respect to diversity, and we encourage the inclusion of diversity and EEO compliance in your final recommendations.

DATA FROM THE FIELD

In Fiscal Year 2014, the EEOC received 1,152 charges against entities listed as "police" or "sheriff" departments.[12] The top basis for these charges was retaliation under all statutes (50.5 percent, with 43.6 percent alleging retaliation under Title VII alone), followed by discrimination on the basis of sex (36.5 percent), race (34.2 percent), disability (29.4 percent), and age (16.5 percent).[13] Sorted by issue raised, the top issues were harassment (34.5 percent), discriminatory terms and conditions of employment (33.2 percent), discriminatory discipline (20.4 percent), and reasonable accommodation related discrimination (12.3 percent). Promotion, assignment, intimidation, suspension, and hiring discrimination were all issues raised, but each category fell under 10 percent.[14]

Although the EEOC's charge data provides insight into employment discrimination issues alleged, it should not alone be used to gauge the scope or severity of discrimination or a particular type of discrimination in any given sector. Many employees and job seekers do not take the step of filing charges and many others, especially in the case of recruitment and hiring discrimination, are not aware that a violation has occurred. [15] In contemplation of this, Congress authorized Commissioners to file charges under Title VII when they have reason to believe discrimination has occurred and similarly authorized the EEOC to file Directed Investigations under the EPA and ADEA.

The EEOC also utilizes its education and outreach programs to promote equal employment opportunity in the public sector. In Fiscal Year 2014, our program analysts conducted 43 trainings for state and local law enforcement agencies. These trainings focused on topics such as an overview of EEO laws, implicit bias, diversity and inclusion, employer responsibility and complaint resolution, and harassment. As a result of our nationwide presence, the EEOC has

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[12] Although the EEOC's system does not separately track charges against police departments *per se*, we can track charges against entities which expressly contain the word "police" or "sheriff." While using this method somewhat undercounts the charges against police departments, some of which, for example, may only name the municipality involved, we do believe it constitutes a representative sample of the kinds of complaints being made.

[13] The percentages for charges in FY 2014 alleging EPA or GINA violations is under one percent.

[14] Also, some charges allege more than one basis or issue of discrimination.

[15] It should also be noted that not all charges will result in a finding of discrimination.

ongoing relationships with state and local governmental employers, sometimes in small localities where there is little federal presence and sometimes as an institutional partner with a larger employer. As an example, the Denver Field Office has partnered with the Denver Sheriff's Department to teach its curriculum on anti-harassment and bullying for new recruits. With the renewed focus on quality community policing and the role diversity plays in achieving it, the EEOC expects and is well positioned to form new and deeper partnerships that will benefit EEO enforcement, police departments, and the public alike.

NEXT STEPS & RECOMMENDATIONS

EEOC Next Steps

The EEOC is working with CRT, others at DOJ, and experts in the field to:

1. Identify instances in which the use of certain recruitment, hiring, and promotion practices in law enforcement may serve as barriers to equal employment opportunity;
2. Facilitate the development of best practices for EEO compliance and achieving and maintaining greater police force diversity; and
3. Develop and deploy effective EEO and diversity/inclusion training for different state and local law enforcement audiences, including department leadership, human resources, and hiring officials (including those in Civil Service Commissions who often design police hiring criteria), union leadership, and individual officers.

The EEOC will also continue evaluating charge and EEO-4 data for outreach and systemic administrative and legal enforcement opportunities.

Recommendations for Task Force

We encourage the Task Force to:

1. Invite oral and written testimony on recruitment, hiring, and promotion practices that promote equal employment opportunity in policing;
2. Examine the qualities needed to be a successful police officer and identify relevant selection practices;
3. Encourage additional research to quantify the benefits of a diverse police force that reflects the community served;
4. Highlight those departments where diversity has proven an effective law enforcement strategy and highlight the approaches taken, as appropriate; and
5. Consider the use of grants to assist small and mid-sized police departments in conducting barrier analyses and taking proactive measures to comply with EEO law and achieve or maintain a diverse workforce.

Resources for the Task Force

To aid the Task Force in its work, in the coming weeks, the EEOC and CRT will:

1. Recommend experts who can provide oral or written testimony on recruitment, hiring, and promotion practices that promote equal employment opportunity in policing; and
2. Submit a literature review on workforce diversity in police departments, including barriers, best practices, and job qualifications.

As resources permit, the EEOC can also provide the Task Force additional information on our charge and EEO-4 data.

CONCLUSION

Thank you again for your consideration of this testimony and the important role diversity plays in ensuring 21st Century policing that meets the needs of our nation. The Commission looks forward to working with you.