

# POLICING STRATEGIES FOR THE 21ST CENTURY

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## HEARING

BEFORE THE

## COMMITTEE ON THE JUDICIARY HOUSE OF REPRESENTATIVES

ONE HUNDRED FOURTEENTH CONGRESS

FIRST SESSION

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MAY 19, 2015

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## **POLICING STRATEGIES FOR THE 21ST CENTURY**

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**TUESDAY, MAY 19, 2015**

HOUSE OF REPRESENTATIVES  
COMMITTEE ON THE JUDICIARY  
*Washington, DC.*

The Committee met, pursuant to call, at 10:09 a.m., in Room 2141, Rayburn Office Building, the Honorable Bob Goodlatte (Chairman of the Committee) presiding.

Present: Representatives Goodlatte, Chabot, Issa, King, Franks, Gohmert, Jordan, Poe, Marino, Gowdy, Farenthold, Collins, DeSantis, Walters, Buck, Ratcliffe, Bishop, Conyers, Nadler, Lofgren, Jackson Lee, Cohen, Johnson, Pierluisi, Chu, Deutch, Gutierrez, Bass, Richmond, DelBene, Jeffries, Cicilline, and Peters.

Staff Present: (Majority) Shelley Husband, Chief of Staff & General Counsel; Branden Ritchie, Deputy Chief of Staff & Chief; Allison Halataei, Parliamentarian & General Counsel; Chris Grieco, Counsel, Subcommittee on Crime, Terrorism, Homeland Security, and Investigations; Kelsey Williams, Clerk; (Minority) Perry Apfelbaum, Staff Director & Chief Counsel; Danielle Brown, Chief Legislative Counsel & Parliamentarian; Kennan Keller, Counsel; and Maggie Lopatin, Clerk.

Mr. GOODLATTE. Good morning. The Judiciary Committee will come to order. And without objection, the Chair is authorized to declare recesses of the Committee at any time.

We welcome everyone to this morning's hearing on policing strategy for the 21st century. I will begin by recognizing myself for an opening statement.

Policing is an inherently dangerous job. Our law enforcement officers deserve our gratitude for the work they do on a daily basis to make sure that our streets are safe, the most helpless in our communities are protected, and those who commit crimes are brought to justice.

I am very concerned that force is used appropriately, and that police officers are taking appropriate steps to protect innocent civilians when they make encounters. There is increasing unrest in our urban communities about policing. Protests in Ferguson, New York, and Baltimore were the outgrowth of the use of force by police officers stopping a suspect. Although no charges were filed against the officers in question in two of those cases, it is clear that there is widespread disagreement about the actions of police in those instances.

What started as peaceful protests turned into violent riots where, again, the police reaction to those riots was brought into question.

At the same time, I am increasingly concerned with the repeated targeting of our police and law enforcement personnel. Last week, we learned that two more police officers were killed. Officers Dean and Tate responding to a routine traffic stop in Hattiesburg, Mississippi, were gunned down by a group of five men.

This comes on the heels of the more widely known murders of Officers Ramos and Liu in New York. It has been reported that they were specifically targeted by a man looking to kill a police officer.

While I refuse to consider the actions of police officers in Ferguson and New York as justifying the responses that befell those cities, it is clear that we must find a better way for our police and citizens to interact both in everyday situations and when more difficult circumstances arise.

We have a distinguished panel before us today with deep knowledge of police training, tactics, and policies. We have longstanding leaders in the police community. We have instructors responsible for police training. Finally, we have those tasked with monitoring those police departments that have not met the standards we require of them.

I am hopeful that this will be a constructive and positive hearing that focuses on current rules and regulations in place, the training our officers receive, and how we can train them better in order to apprehend criminals while minimizing harm to innocent citizens.

I am especially interested to hear what we can do to raise the level of trust among our police officers and citizens while still protecting both.

Policing will never be an easy or safe job, but I believe we must do everything we can to ensure that our officers have the tools and training they need to protect themselves and our Nation's citizens.

I would also like to thank the gentleman from Michigan, Mr. Conyers, the Ranking Member, for working with us so closely to arrange this hearing. And I was also inspired by the gentlewoman from Texas, Ms. Jackson Lee, who has been speaking with me for some time about this issue. I thank them both.

I want to assure all of you that the purpose of this hearing and the ongoing efforts of this Committee following this hearing is to make sure that we are doing everything possible to address the problems that have arisen in recent months, to make sure that our communities are safer, our police officers are safer, our citizens' rights are protected, and that we will not rest until we make progress in those regards.

At this time, it is my pleasure to recognize the Ranking Member of the Committee, the gentleman from Michigan, Mr. Conyers, for his opening statement.

Mr. CONYERS. Thank you, Mr. Goodlatte, our Chairman.

Members of the Committee, and to our distinguished witnesses, and to those who have come to this hearing, law enforcement accountability is an issue that is very topical, given current events, but also one that has long been a concern of mine and many other Members.

As a Member of Congress, I have stood on the streets of Detroit with a bullhorn and appealed for calm while my city burned around me in 1967. Thinking back, there was a race riot in Detroit in 1943.

On too many occasions, I have met with the grieving relatives of those who have lost their lives at the hands of police. But I have also met with the families of police officers who lost their lives in the line of duty. Some of these officers were killed by violent criminals while other officers were inadvertently killed by some of their colleagues who could only see the color of their skin.

I have cochaired town hall meetings with fellow Members of Congress and others across this Nation in response to policing incidents in Chicago, Miami, New York, and Los Angeles. At these meetings, we tried to help the residents of these cities make sense of how to respond to their collective sense of loss and to understand the role of the Federal Government in protecting their civil rights.

I have proposed numerous bills to both help protect the safety of police officers and to provide a system of accountability for law enforcement.

For example, I worked with Attorney General John Ashcroft at the invitation of President George Bush to craft Federal legislation intended to end use of racial profiling in police practices, which is currently pending in this Committee as H.R. 1933. Next month, I plan to introduce comprehensive legislation dealing with accreditation, data collection, and policing practices.

Fortunately, our Committee has generally approached the issue of policing with a strong, bipartisan spirit. We have enjoyed success in passing reform legislation—notably, the passage of the Pattern and Practice Enforcement statute, which was codified as Section 14141 of Title 42 of the United States Code in 1994. And we twice passed the Traffic Stops Statistics Study Act under the chairmanship of Chairman Henry Hyde.

By scheduling today's hearing, Chairman Goodlatte continues this legacy and is commended for his willingness to face a difficult issue that has divided communities around the United States.

Any discussion of law enforcement accountability must be premised on the recognition of the dangerous and difficult job that all police officers perform. The vast majority of police officers perform their jobs professionally and without bias. But like any profession, there are those who make it difficult for the rest to serve their communities.

At the outset, I must agree with Professor Orlando Patterson when he says that the complex and confounding questions raised by Ferguson, Baltimore, and other cities go well beyond the issues of racism and violent police behavior. What occurred in those cities clearly resulted from a vicious tangle of concentrated poverty and culturally disenfranchised youth, as well as a countervailing culture of law enforcement disconnected from their communities and that is lacking appropriate standards and oversight.

Yesterday, President Obama was in Camden, New Jersey, to highlight his Administration's initiatives to address the challenges of policing in our inner cities. While I support the President's efforts and look forward to working with him to implement his programs, there is no substitute for concrete performance standards

for State and local law enforcement agencies that receive billions of dollars each year in Federal funding.

For reform-focused police executives, many of the current administrative programs are merely icing on the cake and probably will not reach many chronically underperforming or troubled departments.

The entire purpose of Section 14141 was to add teeth to Federal enforcement that was absent in the grantmaking process. Although pattern and practice enforcement has been effective in cases of individual departments, it is far too resource-heavy to reach across the more than 17,000 police departments in our country.

There must be another way, and I hope that today we can talk about the combination of Federal, State, and local measures that are essential to support necessary changes in policing culture.

The national outcry that arose after Michael Brown's death is nothing new to those who are students of policing practices. From the Sean Bell, Abner Louima, and Amadou Diallo incidents in New York, to the Eddie Macklin shooting in Miami, to the Timothy Thomas Over-the-Rhine shooting in Cincinnati, and the Donovan Jackson beating in Englewood, the response is nearly always the same: national outcry followed by well-intentioned programs that never quite get to the heart of the matter.

Out of respect for all who have lost their lives over the last 9 months, both law enforcement and civilian, I hope that we can dedicate ourselves to engaging the difficult issues to make lasting change in our community.

I thank the Chairman.

Mr. GOODLATTE. Thank you, Mr. Conyers.

And without objection, all Members' opening statements will be made a part of the record.

We welcome our distinguished panel of witnesses today. And if you would all please rise, I will begin by swearing you in.

Please raise your right hand. Do you and each of you solemnly swear that the testimony that you are about to give shall be the truth, the whole truth, and nothing but the truth, so help you God?

Thank you very much. Let the record reflect that the witnesses responded in the affirmative.

Sheriff David A. Clarke, Jr., has served as a sheriff in Milwaukee County, Wisconsin, since March 2002, when he was appointed by then-Governor Scott McCallum. He was elected in November 2002 and is currently serving his fourth term as sheriff. Sheriff Clarke holds a bachelor's degree in criminal justice management from Concordia University in Wisconsin, a master's in security studies from the Naval Postgraduate School, and has completed various executive education programs with the FBI and at Harvard University's John F. Kennedy School of Government.

Matthew Barge is the vice president and deputy director of the Police Assessment Resource Center, PARC. Among Mr. Barge's areas of expertise are use-of-force policies; officer training; and counseling law enforcement agencies to achieve efficient, constitutional policing. Mr. Barge graduated summa cum laude from Georgetown University and holds a J.D. from the New York University School of Law.

Susan Rahr is executive director of the Washington State Criminal Justice Training Commission, a position she has held since 2012. From 2005 to 2012, she served as the first female sheriff in King County, Washington. She previously spent over 30 years as a law enforcement officer. She received a bachelor's degree from Washington State University and currently serves as a member of President Obama's Task Force on 21st Century Policing.

W. Craig Hartley Jr. is the executive director of the Commission on Accreditation of Law Enforcement Agencies, CALEA. He began his career with the Greensboro, North Carolina, Police Department in 1989 and served in a number of positions within the agency before becoming assistant chief of police. Prior to joining CALEA, Mr. Hartley worked for the Virginia Department of Criminal Justice Services, where he led the department's Public Policy, Planning, and Research Division. Mr. Hartley holds a bachelor's in criminal justice from Appalachian State University and a master's in public affairs from the University of North Carolina at Greensboro.

Professor Deborah Ramirez teaches criminal justice at the Northeastern University School of Law in Boston, Massachusetts. Much of her work focuses on strengthening partnerships between law enforcement and communities, which is integral to building trust and fair, effective policing. Professor Ramirez received a bachelor's degree at Northwestern University and a J.D. from Harvard Law School.

All of your written testimonies will be entered into the record in their entirety. I ask that each of you summarize your testimony in 5 minutes or less.

To help you stay within that time, there is a timing light on your table. When the light switches from green to yellow, you have 1 minute to conclude your testimony. I shouldn't say this to law enforcement personnel, but it works like a traffic light. When the light turns red, it signals that your 5 minutes have expired. But when it turns yellow first, that means speed up. [Laughter.]

Sheriff Clarke, you may begin.

**TESTIMONY OF DAVID A. CLARKE, JR., SHERIFF,  
MILWAUKEE COUNTY SHERIFF'S OFFICE, MILWAUKEE, WI**

Sheriff CLARKE. Good morning, Mr. Chair, and honorable Members of the Committee on the Judiciary. Thank you for the opportunity to state my view, which is backed by 37 years of experience from ground level concerning police accountability, aggression toward police, public safety concerns, and what might be the right thing for us to work on now.

Since the events that led to riots in Ferguson, Missouri, police use of force has become scrutinized nationally. Police use of force should be scrutinized—locally, that is. It should be examined in terms of factual data and circumstances that led to the police action and not from the emotional foundation of false narratives or catchy slogans like, “hands up, do not shoot,” “no justice, no peace,” or “Black lives matter.” Let us leave that conduct for the public to engage in, not the mainstream media or those elected officials who cannot resist the opportunity to exploit the emotions of an uninformed or misinformed public simply for political gain.

We will no doubt hear a lot of statistics thrown about today, some distorted to achieve a predetermined agenda. Others are legitimate.

In 2013, the U.S. Department of Justice under Attorney General Eric Holder did a study in conjunction with the National Institute of Justice on traffic stop data. They found that when you use control factors that statistics and research require for legitimate findings, any racial disparities are attributed to differences in offending.

The studies show that Black drivers violated speeding and other traffic laws at much greater rates than Whites. That conclusion of the study under an Eric Holder-led DOJ might be ugly to some, but is what the data and research have found.

That same study showed that three out every four Black drivers said the police had a legitimate reason for stopping them.

The same is true in arrest and incarceration data for African-American males. Participation rates in violent crime explain the disparity of why so many Black males are locked up in prison. Black males are disproportionately involved in violent crime, and this violence is predominantly perpetrated against other Black people. It is not the result of a discriminatory criminal justice system.

Blacks make up 37.5 percent the prison population at the State and Federal level. If we release those convicted on drug charges alone, the percentage of Black males in prison would drop to 37 percent, a mere one-half of 1 percent. So much for the myth of Black males filling our prisons merely for drug convictions, not to mention that illegal drug use is the scourge of the Black community and leads to a great deal of the violence that occurs.

The police use of force data also tells a different story than the false narrative propagated by cop-bashers and the liberal mainstream media. A recent study that looked into police use of force between 2009 and 2012 showed this breakdown: 61 percent, or 915 of the 1,491 people who died from police use of force were White males, while 32 percent, 481, were Black males.

It is a myth that police kill Black males in greater numbers than anyone else.

Black-on-Black crime is the elephant in the room that few want to talk about. We could talk about the police use of force, but it does not start with transforming the police profession. It starts by asking why we need so much assertive policing in the American ghetto.

Are police officers perfect? Not by any stretch of the imagination. Are police agencies perfect? Not even close. But we are the best that our communities have to offer.

Instead, the conversation should be about transforming Black underclass subculture behavior. The discussion must start with addressing the behavior of people who have no respect for authority, who fight with and try to disarm the police, who flee the police, and who engage in other flawed lifestyle choices.

Bashing the police is the low-hanging fruit. It is easier to talk about the rare killing—fortunately, rare—of a Black male by police because emotion can be exploited for political advantage.

The police are easier to throw overboard because they cannot fight back politically. This, however, is counterproductive and will

lead to police pulling back in high-crime areas where good, law-abiding Black people live. Black people will be the losers in all this as violent crime rates skyrocket over time. This means more Black crime victims.

Economist and author Thomas Sowell, a man I admire, said this about policing: If people who are told that they under arrest, and who refuse to come with the police, cannot be forcibly taken into custody, then we do not have the rule of law when the law itself is downgraded to suggestions that no one has the power to enforce.

Sowell further pointed out that, for people who have never tried to take into custody somebody resisting arrest, to sit back in the safety and comfort of their homes or offices and second guess people who face the dangers inherent in that process—dangers for both the officer and the person under arrest—is yet another example of the irresponsible self-indulgences of our time, unquote.

Thank you very much.

[The prepared statement of Sheriff Clarke follows:]

May 19, 2015  
Washington, D.C.

Remarks by Sheriff David A. Clarke Jr., Milwaukee County, Wisconsin to the Honorable Members of the United States House of Representatives, Committee on the Judiciary, Washington, D.C.:

Good morning, Mr. Chair, and Honorable Members of the Committee on the Judiciary. Thank you for the opportunity to state my view, which is backed by 37 years of experience from ground level concerning police accountability, aggression towards police, public safety concerns, and what might be the right thing for us to work on now.

Since the events that led to riots in Ferguson, Missouri, police use of force has become scrutinized nationally. Police use of force *should* be scrutinized—locally, that is. It should be examined in terms of factual data and circumstances that led to the police action, and not from an emotional foundation of false narratives or catchy slogans like “Hands Up, Don’t Shoot,” or “No Justice, No Peace” or “Black Lives Matter.” Let’s leave that conduct for the public to engage in, not the mainstream media or those elected officials who can’t resist the opportunity to exploit the emotions of an uninformed or misinformed public simply for political gain.

We will no doubt hear a lot of statistics thrown around today; some distorted to achieve a predetermined agenda. In 2013, the USDOJ under Attorney General Eric Holder did a study in conjunction with the National Institute of Justice on traffic stop data. They found that when you use control factors that statistics and research require for legitimate findings, any racial disparities are attributed to differences in

offending.<sup>1</sup> The study showed that Black drivers violated speeding and other traffic laws at much greater rates than whites.<sup>2</sup> That conclusion of this study under the Eric Holder-led USDOJ might be ugly to some, but it is what the data and research found. That same study showed that three out of every four Black drivers said that police had a legitimate reason for stopping them.<sup>3</sup>

The same is true in arrest and incarceration data of African-American males. Participation rates in violent crime explain the disparity of why so many Black males are locked up in prison. Black males are disproportionately involved in violent crime, and this violence is predominantly perpetrated against other Black people.<sup>4</sup> It is not the result of a discriminatory criminal justice system.

Blacks make up 37.5% of the prison population at the state and federal levels.<sup>5</sup> If we released those convicted on drug charges alone the percentage of Black males in prison would drop to 37%, a mere half of one percent.<sup>6</sup> So much for the myth of Black males filling up prisons merely for drug convictions--not to mention that illegal drug use is the scourge of the Black community and leads to a great deal of violent crime.

The police use of force data also tells a different story than the false narrative propagated by cop haters and the liberal mainstream media. A recent study that

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<sup>1</sup> Investor's Business Daily, Holder Frames Ferguson PD For Racism Using Bogus "Disparate Impact" Stats, March 5, 2015

<sup>2</sup> Ibid.

<sup>3</sup> Ibid.

<sup>4</sup> Riley, Jason. *Please Stop Helping Us: How Liberals Make It Harder For Blacks To Succeed*, Encounter Books, New York-London, 2014, p.74.

<sup>5</sup> Ibid.

<sup>6</sup> Ibid.

looked into police use of deadly force between 2009 and 2012 showed this breakdown. 61% (915) of 1,491 people who died from police use of force were white males while 32% (481) were Black males.<sup>7</sup> It is a myth that police kill Black males in greater numbers than anyone else.

Black-on-black crime is the elephant in the room that few want to talk about. We can talk about police use of force but it doesn't start with transforming the police profession. It starts by asking why we need so much assertive policing in the American ghetto. Are police officers perfect? Not by any stretch of the imagination. Are police agencies perfect? Not... even... close. But we are the best our communities have to offer.

Instead, the conversation should be about transforming Black underclass subculture behavior. The discussion must start with addressing the behavior of people who have no respect for authority, who fight with and try to disarm the police, who flee the police, and who engage in other flawed lifestyle choices. Bashing the police is the low-hanging fruit. It is easier to talk about the rare killing of a Black male by police because emotion can be exploited for political advantage.

The police are easier to throw overboard because they can't fight back politically. This however is counter-productive and will lead to police pulling back in high crime areas where good law-abiding Black people live. Black people will be the losers in all this as violent crime rates skyrocket over time. This means more... Black...crime victims.

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<sup>7</sup> Johnson Richard, PhD. *Examining the Prevalence of Deaths from Police Use of Force*, University of Toledo, 2015.

Economist and author Thomas Sowell, a man I admire, said this about policing. *If people who are told that they under arrest, and who refuse to come with the police, cannot be forcibly taken into custody, then we do not have the rule of law, when the law itself is downgraded to suggestions that no one has the power to enforce.* Sowell further points out that, *For people who have never tried to take into custody someone resisting arrest, to sit back in the safety and comfort of their homes or offices and second-guess people who face the dangers inherent in that process--dangers for both the officer and the person under arrest--is yet another example of the irresponsible self-indulgences of our time.*

Thank you.

Mr. GOODLATTE. Thank you, Sheriff Clarke.  
Mr. Hartley, welcome.

**TESTIMONY OF W. CRAIG HARTLEY, JR., EXECUTIVE DIRECTOR, COMMISSION ON ACCREDITATION OF LAW ENFORCEMENT AGENCIES**

Mr. HARTLEY. Chairman Goodlatte, Ranking Member Conyers, and Members of the Committee, on behalf of the Commission on Accreditation for Law Enforcement Agencies, commonly referred to as CALEA, thank you for this invitation today to present ideas on policing strategies for the 21st century. As a part of this discussion, I think it is important to recognize that every year, over 1 million police officers dispersed across 18,000 agencies make over 40 million public contacts, where they encounter incredibly sensitive and highly emotional situations.

These interactions result in millions of arrests annually, and police use force or the threat of force 1.4 percent of the time, using mostly low-level applications. Statistically, this is a strong indication to the adherence to the democratic principles of public safety service in this country. However, this can only occur where there are trusting relationships between the community and the police.

Recently, the country has observed situations where this confidence has eroded, resulting in undesirable outcomes. Although there is no single solution, CALEA accreditation provides a strategy that institutionalizes best practices through the application of policing standards. The model promotes community confidence and instills accountability across all levels of participating agencies.

About 5 percent of law enforcement agencies participate, which equates to a little more than 25 percent of the Nation's law enforcement officers working for enrolled agencies. Given this level of penetration, the standards serve as a powerful tool to influence police policy and practice.

These standards remain relevant through a dynamic process of review by leaders in the public safety industry, which include practitioners, academicians, judicial officials, and other subject matter experts.

Additionally, research from leading professional associations is leveraged, and the process considers information from special interest groups on such topics as victims' right and procedural justice.

CALEA recently launched a review of standards to consider findings from the President's Task Force on 21st Century Policing and recent DOJ investigations of police agencies, all this with a focus on creating service philosophies that balance the need for safety and security with constitutionally protected rights and freedoms.

The process of accreditation also focuses on intended outcomes. This is accomplished through a sophisticated system of linking agency policies to standards, and ensuring practices complement organizational directives. It is reinforced through data collection, onsite observation, agency reporting, community input, and public commission hearings.

As examples of these standards, participating organizations must develop effective citizen complaint procedures. This must include investigations of all complaints, including those of an anonymous nature. The procedures must establish timelines for notification to

complainants and result in the posting of summary data for public consumption.

From an operational perspective, integrity in criminal investigation procedures is included in the accreditation process. This involves accountability with the preservation, collection, maintenance, and presentation of evidence. Policies related to interviews, lineups, and show-ups must be developed and followed.

CALEA accreditation requires agencies to develop community involvement practices to include establishing liaisons with community organizations, the involvement of community members in the development of policy, and publicizing agency objectives.

Although these are only a few outputs of accreditation, it demonstrates how standards address core issues impacting community confidence while supporting police as an institution.

As an association, CALEA supports reasonable legislation to improve professionalism in the field of public safety. We support the concept of voluntary participation in accreditation to promote productive relationships with agencies. We support incentives that support agencies pursuing accreditation. And we advocate for stronger interaction with other governmental and nongovernmental entities for standards development. And we value approaches that gradually and systematically transition public safety agencies to programming with reasonable implementation timelines and technical assistance.

The more than 1,030 public safety agencies enrolled in CALEA accreditation have voluntarily committed to demonstrating professional excellence through standards, compliance, and assessment. I would encourage lawmakers to support accreditation as an important tool for addressing the professional delivery of police services as part of 21st century policing strategies.

Thank you, Mr. Chair.

[The prepared statement of Mr. Hartley follows:]



W. Craig Hartley, Jr.  
Executive Director  
Commission on Accreditation for Law Enforcement Agencies  
May 19, 2015

Policing Strategies for the 21<sup>st</sup> Century

Prepared For:

United States House of Representatives  
Committee on the Judiciary



### **Position Statement:**

Public safety leaders and practitioners operate in challenging environments, which include intense discretionary demands and public scrutiny. Despite the complexity of their responsibilities, routinely they meet their professional obligations effectively. However, this can only occur through the establishment and maintenance of trusting relationships with the community served and accountability at all levels of such organizations.

Recently, the country has observed examples of situations where trust in public safety has been lost, resulting in undesirable outcomes and an inability for effective service to occur. Although there is never a singular solution to multifaceted social issues, the Commission on Accreditation for Law Enforcement Agencies (CALEA) provides a complementary strategy for public safety agencies that institutionalizes industry best practices through the application of standards.

CALEA Accreditation promotes community confidence in public safety through effective and judicious management principles that have the following returns on investment:

- Development and delivery of contemporary training and equipment
- Effective community engagements and relationships
- Access to relevant data for sound decision making
- Alerts to emerging organizational trends and patterns
- Development and implementation of sound policy and procedures
- Organizational culture of transparency and openness to inspection
- Enhanced relationship with other service providers for end-user benefit
- Preparedness for litigation to support staff and promote confidence
- Readiness for unusual occurrences and critical events
- Reduction in service-related risk factors
- Scheduled reviews and audits to promote attentiveness to responsibilities

Although the above denoted points serve only as examples of the broad range of benefits resulting from CALEA Accreditation, they clearly indicate the process fosters the development of a culture of professionalism within participating agencies. Because the applied standards are dynamic and continuously address contemporary issues, the process remains relevant and provides a solution for agencies seeking professional excellence.

### Organization Overview:

CALEA was founded in 1979 by the four leading law enforcement professional associations. These include the International Association of Chiefs of Police (IACP), National Sheriff's Association (NSA), National Organization of Black Law Enforcement Executives (NOBLE), and the Police Executive Research Forum (PERF). Each of these organizations recognized a need for enhanced professionalism in the field of police services four decades ago and developed a plan for the creation and maintenance of relevant standards. This included a credentialing program to acknowledge public safety agencies adhering to the established best practices. The concept has matured into what is now broadly recognized as CALEA Accreditation - The Gold Standard for Public Safety Agencies.

The purpose of CALEA Accreditation is to improve the delivery of public safety services, primarily by:

- ❖ Maintaining a body of standards, developed by public safety practitioners and other experts, covering a wide range of relevant and contemporary public safety responsibilities;
- ❖ Establishing and administering an accreditation process; and
- ❖ Recognizing professional excellence.

Currently, more than 1,030 public safety agencies participate in CALEA Accreditation programming, and the organization has expanded its breadth of services to include public safety communication centers, campus security organizations and public safety training academies, as well as the original focus of law enforcement. Services are also provided on an international basis, as public safety agencies from Canada, Mexico, the Caribbean, and the United States are enrolled.

Throughout the organization's existence it has provided accreditation services to the public safety community under the following tenets:

- Engagement in the process is voluntary to promote accountability.
- Peer review by impartial and trained assessors is critical on an ongoing basis.
- The service environment is ever-evolving and requires a dynamic process of standards development and adherence.
- The public safety community has a responsibility to create accountability measures to the public.
- Community engagement and capacity building is essential to the effectiveness of any public safety organization.
- Transparency and public trust must be institutionalized as key objectives and constantly measured by organizations responsible for the public's safety.

- Police powers and resources are provided by the public and must be cared for through review, inspection, research, and relentless accountability.
- Reports to the public are essential and efforts must be applied to ensure the community's needs are addressed within the constructs of fairness, equity and the democratic principles of a civilized society.
- Feedback loops with the public are essential to understanding the service delivery landscape and fostering effective relationships that contribute to public order and safety.

Specifically, CALEA's goals are to:

- Professionalize public safety services;
- Strengthen crime prevention and control capabilities;
- Formalize essential public safety management procedures;
- Establish fair and nondiscriminatory practices;
- Improve public safety service delivery;
- Solidify interagency cooperation and coordination among service providers; and
- Increase community and staff confidence in the agency.

The CALEA Accreditation process is a proven modern management model; once implemented, it presents the Chief Executive Officer (CEO), on a continuing basis, with a framework that promotes the efficient use of resources and improves service delivery regardless of the size, geographic location, or functional responsibilities of the agency. This accreditation program provides public safety agencies an opportunity to voluntarily demonstrate they meet an established set of professional standards which:

- Require an agency to develop a comprehensive, well thought out, uniform set of written directives
- Establish administrative and operational goals that provide direction to personnel and define mission, purpose and values
- Provide the necessary reports and analyses to make fact-based, informed management decisions
- Require preparedness programs to ensure agencies are ready to address critical incidents, community concerns and a broad range of public safety service issues
- Improve community awareness regarding public safety operations and further trusting relationships that are essential during times of crisis
- Strengthen agency accountability, both internally and externally, through a continuum of standards that clearly define authority, performance, and responsibilities

- Control for liability and risk exposure through compliance verified from an internationally recognized team of independent disinterested CALEA-trained assessors.
- Facilitate the pursuit of professional excellence and ongoing awareness of critical operational and administrative trends, patterns and outcomes.

Although the total enrollment of public safety agencies in CALEA Accreditation programming is variable and increasing, currently just over five percent of the nation's 18,000 law enforcement agencies participate. This equates to slightly more than twenty-five percent of the police officers in the United States working for organizations that participate in the program. Invariably, participating entities have created organizational cultures that adhere to the conceptual tenets described previously. They embrace the concept of external review for the purpose of enhancing accountability and consistently pursue professional changes in procedures to ensure their delivery of service complements contemporary best practices. Their collective involvement works to define the role of police in a democratic society, and this role is created through not only peer involvement, but through community engagement which is required by the accreditation process.

CALEA Accreditation has perpetuated much success during its four decades of existence, as an ever-improving and evolving public safety strategy. As recently as this year, CALEA transitioned from a three-year review cycle to a four-year cycle with annual remote reviews and site-based assessments occurring every fourth year. This approach leverages the value of ongoing feedback and monitoring to support public safety agencies, while resourcefully applying technology to provide the greatest level of inspection in the most cost effective and efficient manner. Additionally, the organization is currently in the process of reviewing all published standards with respect to recent research and findings from such groups as the President's Task Force on 21st Century Policing, PERF, the Police Foundation, and other leading research organizations in the field. This project is being led with a focus on systemic issues that erode public trust and findings from Department of Justice investigations that revealed pattern and practice concerns.

#### **Governing Structure:**

A Commission Board composed of 21 members governs CALEA. Eleven must be law enforcement practitioners; the balance is selected from the public and private sectors. Generally, they reflect a representation from local, state/provincial and international law enforcement and public safety organizations, along with business, academia, the judiciary, and state/provincial and local government. The Commissioners are appointed by the four founding law enforcement organizations.

CALEA operates as an independent, nonprofit (501[c]3) corporation, and maintains a professional staff managed by an Executive Director. The staff conducts all administrative and operational duties as directed by the Commission. As a successful

corporation with a public service mission, efforts are made to invest proceeds in strategies that further advance the organization's purpose.

The voluntary Commission Board serves without compensation and is responsible for the promulgation of contemporary standards and reviews each candidate agency for accredited status. Members of the governing body also serve on standing business and program committees of the organization, and make policy decisions regarding operations and programming.

#### **Standards Development:**

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

The standards are subject to ongoing review and revision by the Commission through the Standards Review and Interpretation Committee (SRIC). When modifications are recommended, they are presented to the SRIC for consideration. If appropriate, SRIC approves draft language and then presents the draft to the Commission for their approval to publicize the proposed change for review and comment from the public safety community. Comments are referred back to the SRIC for consideration. The SRIC then makes a recommendation to the Commission for final approval.

The Commission is open to the receipt of information from other organizations and subject matter experts as it relates to standards development. This is specifically the case with governmental organizations that collect information which contributes to patterns and trends that could be applicable in the development of standards. It is important to remember that CALEA Accreditation affects change quickly and broadly in the public safety community because of the number of operational personnel impacted by the standards. Therefore, the standards serve as a conduit for the advancement of contemporary thinking in the industry and best practices.

Each standard requires agency policy consideration, implementation of complementary practices and ongoing proof of compliance. Furthermore, the Commission is not only concerned with simple standards compliance, there is a focus on intended outcomes that are supported by sound professional actions and procedures, thereby creating progressive agencies with proper mission, purpose and values. This model links training, equipment, employment, promotion, operations and a full range of organizational resources to the stated mission of the participating agency.

Specifically, the *CALEA Standards for Law Enforcement Agencies* address major administrative and operational areas vital to the success of the organization:

- role, responsibilities, and relationships with other agencies and the community;
- organization, management, and administration
- personnel administration
- law enforcement operations, criminal investigations, operational support, and traffic law enforcement
- detainee and court-related services; and auxiliary and technical services

Examples of specific *CALEA Standards for Law Enforcement Agencies* include:

- ✓ Alternatives to Arrest
- ✓ Use of Discretion
- ✓ Use of Reasonable Force
- ✓ Use of Deadly Force
- ✓ Reporting Uses of Force
- ✓ Reviewing Use of Force Reports
- ✓ Annual/Biennial Proficiency Training with Use of Force Implements
- ✓ Analyze Use of Force Patterns and Trends
- ✓ Disciplinary System
- ✓ Role and Authority of Supervisors
- ✓ Recruitment Planning
- ✓ Emotional Stability/Psychological Fitness Examinations
- ✓ Employee Counseling
- ✓ Personnel Early Warning System
- ✓ Criminal investigation Line-ups
- ✓ Criminal Investigation Show-ups
- ✓ Juvenile Operations Policy
- ✓ Citizens Survey
- ✓ Organizational Integrity
- ✓ Complaint Investigation Procedures
- ✓ Prisoner Restraint Requirements

A full list of *CALEA Standards for Law Enforcement Agencies* is attached to this document as an **Addendum**.

### **Process of Accreditation:**

There are five phases in the accreditation process:

- Enrollment
- Self-assessment
- On-site Assessment
- Commission Review and Decision
- Maintaining Compliance and Reaccreditation

Following enrollment, the candidate agency begins a self-assessment phase by complying with applicable standards, developing proofs of compliance, and preparing for the initial assessment process. During this time, a CALEA Regional Program Manager is available to provide guidance on the applicability of standards and attaining compliance. Near the end of the self-assessment phase, the agency, in conjunction with the CALEA Assessment Manager, develops plans for accomplishing assessment activities.

Once the agency has notified CALEA of its completion of the self-assessment phase and its desire to schedule an assessment, the CALEA Assessment Manager schedules a date that is mutually agreeable and in compliance with the agreement between the agency and CALEA. Trained assessors with professionally relevant experience conduct the assessment. The process includes both off-site and onsite reviews. The assessment also includes observations, interviews with citizens and other special interest groups, process mapping, outcomes analysis, and discussions with other professional organizations that interact with the agency. Additionally, the assessment includes public call-in sessions and public hearings. The work culminates in a report of findings to the Commission for review and decision.

The Commission's Agency Review Committees conduct hearings, which are open for public attendance, regarding the agency's compliance to applicable standards. Agency representatives are invited to participate in this review portion of the process to address questions of the Commission.

Given this information, the Commission makes a determination about the candidate's status as an accredited agency. This may result in the findings of accreditation, accreditation denied, accreditation with conditions, or several other categories to ensure the process maintains integrity and adherence to key principles of professional development for participating organizations.

Each agency awarded accredited status must maintain compliance with all applicable standards, keep its proofs of compliance up-to-date, and operate by the letter and spirit of the standards. To retain its accreditation status, the agency is required to annually submit to CALEA, detailed Agency Status Reports, as well as participate in an annual review of select standards.

The focus of the accreditation process is to advance each participating agency's professional capacity and service strategies, while pursuing continuous organization improvement. This includes attention to mission, purpose and values, as well as consideration of data that impacts key measures of agency success.

The process of self-assessment by the agency, annual standards review by trained staff, and on-site observation, interview, process mapping, and outcome measure continues in perpetuity for each accredited agency. This stresses the value of continuous monitoring of changing circumstances and environmental issues impacting the organization and its success. It also requires attention to community concerns and ensures strong relationships are developed to address critical events that could erode public confidence and support if not anticipated prior to such occurrences.

#### **Returns on Investment from CALEA Accreditation:**

- ☐ Relevant standards include content on the agency's role in the community, limitations on authority, compliance with constitutional requirements, and alternatives to arrest. Additionally, the process of review for accreditation involves public information collection sessions and opportunities for the community to share their thoughts about the activities and interactions of the candidate agency.
- ☐ The accreditation model stringently works to define the use of police authority. This includes the adherence to standards associated with the use of force, review and analysis of related events for the purpose of policy reformation, sharing information regarding citizen complaint findings and statistics, and the use of discretion in the delivery of police services.
- ☐ The concept of bias in the delivery of law enforcement service is also addressed within the constructs of accreditation. This includes policy and training related to prohibitions in bias based activities related to such events as traffic enforcement contacts, field interviews, and asset forfeiture. It requires the application of corrective measures with findings of prohibited activities and involves documented annual administrative reviews of related practices and citizen concerns in this area. The accreditation process also applies trend analyses of individual officer activities to promote alertness to irregular patterns that deserve awareness and corrective measures.
- ☐ The process of accreditation not only mandates the incorporation of public-facing accountability processes, such as documented surveys of citizen attitudes and opinions that focus on agency performance, competency, professionalism, and community suggestions, but also internal assessment measures. These include analyses of disciplinary actions, employee grievances, promotional processes, and employment outcomes. Each of these contribute to building internal capacities that enhance the agency's ability to provide external services in a manner that adhere to the public's sense of fairness and equity.

- ☐ CALEA Accreditation mandates work performance reviews of police personnel against job related activities and requires scheduled training in areas such as interactions with citizens with mental illness, the application of force, and other critical service delivery issues. And, there exist requirements related to demonstrated proficiencies and documented understanding of organizational philosophy as it relates to response to unusual and critical events.
- ☐ The adherence to CALEA Standards requires attention to the rights of not only those under investigation, but also victims and the families of victims, regardless of the circumstances. It promotes stronger relations with the media to create an atmosphere of trust with information sharing and actually mandates discussions with representatives of the press in developing or reviewing public information policies. This concept alone works to foster understanding and reduce inaccuracies in reporting resulting from an absence of information during developing events.
- ☐ As a prerequisite to being recognized as a CALEA Accredited agency, participating organizations must create and demonstrate the effectiveness of citizen complaint procedures. These procedures must include the investigation of all complaints, including those of an anonymous nature. The agency's model for receiving complaints must be accessible to the public and create accountability in reviewing the issues. The associated process must establish timelines for notifications to complainants and result in the posting of summaries of data for the public's consumption about related findings.
- ☐ The concept of integrity in criminal investigative procedures is included in the accreditation process. This involves accountability with the preservation, collection, maintenance, and presentation of evidence. Policies related to interviews, line-ups and show-ups must also be developed and followed. The standards within this topical area reflect contemporary research and a desire to support appropriate arrest, prosecution and conviction of suspects.
- ☐ CALEA promulgates and requires agencies to develop and address community involvement practices to include establishing liaisons with significant community organizations, the involvement of community members in the development of policy, publicizing agency objectives and activities, improving agency practices with impacts on community relations, and developing problem oriented policing strategies. This topical area also requires reporting on significant community concerns, potential community problems, statements of recommended actions, and progress toward desired results.

Although these examples are only a sampling of the comprehensive nature of the accreditation process, it clearly demonstrates a bias toward the development of police agencies that continuously engage the community and its membership for the purpose of professional service delivery. It recognizes the value of ongoing assessment for the purpose of continuous accountability and it focuses the resources of the agency on supporting the maintenance of a well informed and safe community. The process

recognizes that significant events will occur in every community that pull at the appropriate balance between safety and freedom, but works to establish relationships that promote civil discussion to ensure the needs of the community are maintained as the priority.

#### **Considerations Regarding Legislative Initiatives:**

It is important to note that CALEA understands its philosophical and practical role in the public safety community and is constantly reinventing its approach to provide the very best return on investment for participating agencies. This includes consideration for the communities and citizens these agencies serve and the impacts resulting from applied deployment strategies. To this end, the mission of CALEA remains, "To promote professionalism in public safety through the promulgation of standards and the administration of an accreditation program."

Given the mission of CALEA, its historical influence in the respective field, and its position within the public safety profession, we would offer the following points:

- Although CALEA does not generally participate in lobbying efforts, the organization supports reasonable federal and state legislation promulgated to improve professionalism in the field of public safety.
- The concept of voluntary participation in CALEA Accreditation programming has promoted healthy and productive relationships with enrolled agencies. Although this engagement model has yielded positive outcomes, CALEA can support legislation that provides incentives and encouragement for agencies to participate in accreditation as a tool for public safety professional advancement.
- Federal or state legislative actions that serve to support the involvement of public safety agencies in accreditation with financial resources or technical assistance directly complement the mission and purpose of CALEA.
- The application of grant-based incentives for CALEA Accredited agencies is a responsible action, as such agencies have demonstrated through broad and specific standards compliance the capacity to appropriately manage these resources and also openness to inspection promoting transparency and community confidence.
- The incorporation of special groups, committees and entities with relevant subject matter expertise is an ongoing tenet of standards development and is applied within the CALEA Accreditation environment. The engagement of governmental and community entities with subject matter expertise or interest in a more robust manner would be considered a positive approach.
- The establishment of an institutionalized liaison strategy with the Department of Justice to advance standards through contemporary

investigative findings and lessons learned from trends or patterns would be considered an important advancement and is supported as an approach to provide agencies participating in accreditation with tools to prevent unintended outcomes.

- The application of technical services to support agencies pursuing CALEA Accreditation could be addressed with additional resources through the existing accreditation program infrastructure or could be accomplished through partnerships with other relevant associations, where more intensive requirements exist. It is important to ensure credentialing integrity is not lost through the delivery of technical assistance.
- CALEA values its professional partnerships with other associations and endorses strategies that advance these relationships to support leaders and practitioners in the field of public safety whose missions address community safety and instill confidence in the delivery of law enforcement services.
- CALEA endorses legislative approaches that gradually and systematically transition public safety agencies to value-added programs and include reasonable implementation timelines, technical assistance, funding, and opportunities for proper program application.
- Although over twenty-five percent of the nation's state and local law enforcement officers are employed with agencies participating in CALEA Accreditation, the organization has developed the infrastructure and capacity to provide services to a significantly larger service population and is prepared to make business model adjustments as necessary to support agencies seeking accreditation.

#### **Summary Considerations:**

The leadership of CALEA sees tremendous value in the application of its accreditation programming and standards promulgation process. Additionally, the organization understands the critical nature of public safety as a stabilizing institution within communities across the nation and the important responsibility of police agencies in maintaining Constitutionally-protected freedoms and rights. Based on our organizational values and mission, CALEA is positioned to support public safety leaders and practitioners as they effectively serve their communities through the application of professional standards and credentialing programming, thereby promoting public confidence in their services.

CALEA advocates for voluntary participation in accreditation programming for process integrity. Additionally, the organization advocates for the advancement of accreditation within the respective industry through strategies that encourage agency participation and provide resources to assist in reaching important accreditation-related milestones. The use of directed grant funding and the leveraging of existing professional relationships would be viewed as a significant advancement. Additionally, the creation

of information sharing platforms with governmental and community entities, that have specific interests in improving public safety services, for the purpose of continually evaluating and enhancing standards is a responsible approach.

As an institution with an effective history of meeting its defined mission, CALEA recognizes change is important to ensure ongoing relevance. Therefore, the organization is open to new strategies that further its capacity to enhance professionalism within the field of public safety, and promote the delivery of such services in a responsible manner with sensitivity to procedural justice. The organization also recognizes accreditation serves as an important component of broader public policy strategies to promote safe and secure communities.

## Addendum

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### ***CALEA® Standards for Law Enforcement Agencies***

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Below is a comprehensive list of the titles of all Law Enforcement Standards. The 189 highlighted standards constitute the tier 1 option, **CALEA® Law Enforcement Accreditation Program**. The tier 2 option, **CALEA® Advanced Law Enforcement Accreditation Program**, is composed of all the 484 standards listed.

#### **1 Law Enforcement Role and Authority**

- 1.1 Law Enforcement Agency Role
  - 1.1.1 Oath of Office
  - 1.1.2 Code of Ethics
  - 1.1.3 Agency's Role in Criminal Justice Diversion Programs
  - 1.1.4 Consular Notification
- 1.2 Limits of Authority
  - 1.2.1 Legal Authority Defined
  - 1.2.2 Legal Authority to Carry/Use Weapons
  - 1.2.3 Compliance with Constitutional Requirements
  - 1.2.4 Search and Seizure
  - 1.2.5 Arrest with/without Warrant
  - 1.2.6 Alternatives to Arrest
  - 1.2.7 Use of Discretion
  - 1.2.8 Strip/Body Cavity Search
  - 1.2.9 Bias Based Profiling
- 1.3 Use of Force
  - 1.3.1 Use of Reasonable Force
  - 1.3.2 Use of Deadly Force
  - 1.3.3 Warning Shots
  - 1.3.4 Use of Authorized Less Lethal Weapons
  - 1.3.5 Rendering Aid After Use of Weapons
  - 1.3.6 Reporting Uses of Force
  - 1.3.7 Reviewing Reports of 1.3.6
  - 1.3.8 Removal from Line of Duty Assignment, Use of Force

- 1.3.9 Authorization: Weapons and Ammunition
- 1.3.10 Demonstrating Proficiency with Weapons
- 1.3.11 Annual/Biennial Proficiency Training
- 1.3.12 Issuing Written Directives
- 1.3.13 Analyze Reports from 1.3.6

## **2 Agency Jurisdiction and Mutual Aid**

- 2.1 Agency Jurisdiction and Mutual Aid
  - 2.1.1 Geographical Boundaries
  - 2.1.2 Concurrent Jurisdiction
  - 2.1.3 Written Agreements for Mutual Aid
  - 2.1.4 Requesting Assistance: Federal LE/National Guard

## **3 Contractual Agreements for Law Enforcement Services**

- 3.1 Contractual Agreements
  - 3.1.1 Written Agreement for Services Provided
  - 3.1.2 Employee Rights

## **11 Organization and Administration**

- 11.1 Organizational Structure
  - 11.1.1 Description of Organization
  - 11.1.2 Organizational Chart
- 11.2 Unity of Command
  - 11.2.1 Employee Accountability
  - 11.2.2 Direct Command, Component
- 11.3 Authority and Responsibility
  - 11.3.1 Responsibility/Authority
  - 11.3.2 Supervisory Accountability
- 11.4 General Management and Administration
  - 11.4.1 Administrative Reporting Program
  - 11.4.2 Accountability for Agency Forms
  - 11.4.3 Accreditation Maintenance
  - 11.4.4 Computer Software Policy
  - 11.4.5 Notify CEO of Incident with Liability

## **12 Direction**

- 12.1 Direction
  - 12.1.1 CEO Authority and Responsibility
  - 12.1.2 Command Protocol
  - 12.1.3 Obey Lawful Orders
  - 12.1.4 Functional Communication/Cooperation
- 12.2 Written Directives
  - 12.2.1 The Written Directive System
  - 12.2.2 Dissemination and Storage

## **15 Planning and Research, Goals and Objectives, and Crime Analysis**

- 15.1 Planning and Research
  - 15.1.1 Activities of Planning and Research
  - 15.1.2 Organizational Placement/Planning and Research
  - 15.1.3 Multiyear Plan
- 15.2 Goals and Objectives
  - 15.2.1 Annual Updating/Goals and Objectives
  - 15.2.2 System for Evaluation/Goals and Objectives
- 15.3 Crime Analysis
  - 15.3.1 Establish Procedures

## **16 Allocation and Distribution of Personnel and Personnel Alternatives**

- 16.1 Allocation and Distribution of Personnel
  - 16.1.1 Position Management System
  - 16.1.2 Workload Assessments
- 16.2 Specialized Assignment
  - 16.2.1 Annual Review
  - 16.2.2 Announce Openings
  - 16.2.3 Temporary/Rotating Assignments
- 16.3 Reserves
  - 16.3.1 Program Description
  - 16.3.2 Selection Criteria
  - 16.3.3 Entry Level Training
  - 16.3.4 Uniforms and Equipment
  - 16.3.5 In-Service Training
  - 16.3.6 Use of Force Training & Firearms Proficiency
  - 16.3.7 Bonding/Liability Protection
  - 16.3.8 Performance Evaluations
  - 16.3.9 Educational Requirements
- 16.4 Auxiliaries
  - 16.4.1 Program Description
  - 16.4.2 Training
  - 16.4.3 Uniforms

## **17 Fiscal Management and Agency Property**

- 17.1 Fiscal Management
  - 17.1.1 CEO Authority and Responsibility
- 17.2 Budget
  - 17.2.1 Budget Process and Responsibility Described
  - 17.2.2 Functional Recommendations to Budget
- 17.3 Purchasing
  - 17.3.1 Requisition and Purchasing Procedures
- 17.4 Accounting

- 17.4.1 Accounting System
- 17.4.2 Cash Fund/Accounts Maintenance
- 17.4.3 Independent Audit
- 17.5 Agency Property
- 17.5.1 Inventory and Control
- 17.5.2 Issue/Reissue Procedures
- 17.5.3 Operational Readiness
- 17.5.4 Electronic Data Storage

## **21 Classification and Delineation of Duties and Responsibilities**

- 21.1 Task Analysis
  - 21.1.1 Task Analysis
- 21.2 Classification
  - 21.2.1 Classification Plan
  - 21.2.2 Job Description Maintenance and Availability

## **22.0 Compensation, Benefits, and Conditions of Work**

- 22.1 Compensation
  - 22.1.1 Salary Program
- 22.2 Benefits
  - 22.2.1 Leave Program
  - 22.2.2 Benefits Program
  - 22.2.3 Personnel Support Services Program
  - 22.2.4 Victim Witness Services/Line of Duty Death
  - 22.2.5 Clothing and Equipment
  - 22.2.6 Employee Assistance Program
  - 22.2.7 Employee Identification
  - 22.2.8 Military Deployment and Reintegration
- 22.3 Conditions of Work
  - 22.3.1 Physical Examinations
  - 22.3.2 General Health and Physical Fitness
  - 22.3.3 Fitness and Wellness Program
  - 22.3.4 Off-Duty Employment
  - 22.3.5 Extra-Duty Employment

## **24 Collective Bargaining**

- 24.1 Collective Bargaining and Contract Management
  - 24.1.1 Agency Role
  - 24.1.2 Ratification Responsibilities

## **25 Grievance Procedures**

- 25.1 Grievance Procedures

- 25.1.1 Grievance Procedures
- 25.1.2 Coordination/Control of Records
- 25.1.3 Annual Analysis

## **26 Disciplinary Procedures**

- 26.1 Disciplinary Procedures
  - 26.1.1 Code of Conduct and Appearance
  - 26.1.2 Employee Awards
  - 26.1.3 Sexual Harassment
  - 26.1.4 Disciplinary System
  - 26.1.5 Role and Authority of Supervisors
  - 26.1.6 Appeal Procedures
  - 26.1.7 Dismissal Procedures
  - 26.1.8 Records

## **31 Recruitment**

- 31.1 Administrative Practices and Procedures
  - 31.1.1 Agency Participation
  - 31.1.2 Assignment/Recruitment
- 31.2 Equal Employment Opportunity and Recruitment
  - 31.2.1 Recruitment Plan
  - 31.2.2 Annual Analysis
  - 31.2.3 Equal Employment Opportunity Plan
- 31.3 Job Announcements and Publicity
  - 31.3.1 Job Announcements
  - 31.3.2 Posting Locations
  - 31.3.3 Maintaining Applicant Contact
  - 31.3.4 Application Rejection

## **32 Selection**

- 32.1 Professional and Legal Requirements
  - 32.1.1 Selection Process Described
  - 32.1.2 Job Relatedness
  - 32.1.3 Uniform Administration
  - 32.1.4 Candidate Information
  - 32.1.5 Notification of Ineligibility
  - 32.1.6 Records
  - 32.1.7 Selection Material Security
- 32.2 Administrative Practices and Procedures
  - 32.2.1 Background Investigations
  - 32.2.2 Training
  - 32.2.3 Records Retention
  - 32.2.4 Polygraph Examinations
  - 32.2.5 Conducted by Trained Personnel
  - 32.2.6 Use of Results

- 32.2.7 Medical Examinations
- 32.2.8 Emotional Stability/Psychological Fitness Examinations
- 32.2.9 Records Retention
- 32.2.10 Entry Level Probation

### **33 Training and Career Development**

- 33.1 Administration
  - 33.1.1 Training Committee
  - 33.1.2 Attendance Requirements
  - 33.1.3 Outside Training Reimbursement
  - 33.1.4 Lesson Plan Requirements
  - 33.1.5 Remedial Training
  - 33.1.6 Employee Training Record Maintenance
  - 33.1.7 Training Class Records Maintenance
- 33.2 Academy
  - 33.2.1 Academy Administration and Operation
  - 33.2.2 Academy Facilities
  - 33.2.3 Outside Academy, Role
  - 33.2.4 Outside Academy, Agency Specific Training
- 33.3 Training Instructors
  - 33.3.1 Instructor Training
- 33.4 Recruit Training
  - 33.4.1 Entry Level Training Required
  - 33.4.2 Recruit Training Program
  - 33.4.3 Field Training Program
- 33.5 In-Service, Shift Briefing, and Advanced Training
  - 33.5.1 Annual Retraining Program
  - 33.5.2 Shift Briefing Training
  - 33.5.3 Accreditation Training
  - 33.5.4 Accreditation Manager Training
- 33.6 Specialized In-Service Training
  - 33.6.1 Specialized Training
  - 33.6.2 Tactical Team Training Program
- 33.7 Civilian Training
  - 33.7.1 Civilian Orientation
  - 33.7.2 Civilian Pre-Service and In-Service Training
- 33.8 Career Development and Education
  - 33.8.1 Career Development Personnel Training
  - 33.8.2 Skill Development Training Upon Promotion
  - 33.8.3 Career Development Program
  - 33.8.4 Educational Incentives

### **34 Promotion**

- 34.1 Professional and Legal Requirements
  - 34.1.1 Agency Role

- 34.1.2 Authority and Responsibility
- 34.1.3 Promotional Process Described
- 34.1.4 Job Relatedness
- 34.1.5 Promotional Announcement
- 34.1.6 Eligibility Lists
- 34.1.7 Promotional Probation

## **35 Performance Evaluation**

- 35.1 Administration
  - 35.1.1 Performance Evaluation System
  - 35.1.2 Annual Evaluation
  - 35.1.3 Quarterly Evaluation of Probationary Employees
  - 35.1.4 Evaluation Criteria
  - 35.1.5 Evaluation Period
  - 35.1.6 Unsatisfactory Performance
  - 35.1.7 Employee Counseling
  - 35.1.8 Rater Evaluation
  - 35.1.9 Personnel Early Warning System

## **41 Patrol**

- 41.1 Administration
  - 41.1.1 Shift/Beat Assignment
  - 41.1.2 Shift Briefing
  - 41.1.3 Special-Purpose Vehicles
  - 41.1.4 Agency Animals
- 41.2 Operations
  - 41.2.1 Responding Procedures
  - 41.2.2 Pursuit of Motor Vehicles
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  - 71.3.2 Immovable Objects
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- 71.4 Temporary Detention Facility Conditions
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  - 72.4.6 Security Inspections
  - 72.4.7 Tool and Culinary Equipment
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  - 72.4.11 Report, Threats to Facility
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- 72.5.2 Intake Forms
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- 72.6 Medical and Health Care Services
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- 72.7.1 Procedure, Detainee Rights
- 72.8 Supervision of Detainees
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- 73.2 Operations
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- 73.3.1 Weapon Lockboxes
- 73.3.2 Use of Restraints
- 73.4 Equipment
- 73.4.1 Identification, Availability, Operational Readiness
- 73.4.2 External Communications
- 73.4.3 Duress Alarms
- 73.5 Court Holding Facilities
- 73.5.1 Training
- 73.5.2 Detainee Searches
- 73.5.3 Detainee Property Security
- 73.5.4 Segregation
- 73.5.5 Procedure for Medical Assistance
- 73.5.6 First Aid Kit
- 73.5.7 Access of Nonessential Persons
- 73.5.8 Minimum Conditions
- 73.5.9 Fire Alarm System
- 73.5.10 Evacuation Plan
- 73.5.11 Sanitation Inspection
- 73.5.12 Securing Firearms

- 73.5.13 Entering Occupied Cells
- 73.5.14 Key Control
- 73.5.15 Facility Door Security
- 73.5.16 Security Checks
- 73.5.17 Security Inspections
- 73.5.18 Designated Control Point
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  - 82.2.3 Case Numbering System
  - 82.2.4 Report Distribution
  - 82.2.5 Reports by Phone, Mail or Internet
- 82.3 Records
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- 91.2 Medical Centers
  - 91.2.1 Agency Role and Responsibilities
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- 91.3 Research Intensive Facilities
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- 91.4 Administration
  - 91.4.1 Position Responsible for Clery Act

Mr. GOODLATTE. Thank you, Mr. Hartley.  
Ms. Rahr, welcome.

**TESTIMONY OF SUSAN RAHR, EXECUTIVE DIRECTOR, WASHINGTON STATE CRIMINAL JUSTICE TRAINING COMMISSION AND MEMBER OF PRESIDENT OBAMA'S TASK FORCE ON 21ST CENTURY POLICING**

Ms. RAHR. Mr. Chair, Members of the Committee, it is my honor to be invited to testify today.

I would like you to know a little bit about my background, so you can put my comments in context. I started policing in 1979 as a patrol deputy, and for the next 33 years, I had the privilege of serving my community in assignments such as patrol, undercover narcotics. I commanded our gang unit in the Seattle metropolitan area for 3 years and spent a great deal of time working with police conduct cases and training.

When I retired as the elected sheriff in 2012, I had the good fortune of coming to our State's police academy, where we train all 10,000 law enforcement officers in the State of Washington. I have learned a great deal from those recruits.

As we embark on this dialogue today, I think it is critically important that we consider a wide range of factors that impact the environment in which police operate and that we consider strategies that are most likely to increase public trust and improve public safety.

I would like to highlight two of these major factors. To add to the context, I think we have a tendency to talk about the bad apples. I would like to talk about the barrel and the people who make the barrels.

The first factor is the absence of a national coherence in policing. We have 18,000 individual police departments, each with unique cultures and reflecting the policies and practices that are a product of those 18,000 local governments with a diverse range of values and expectations. Agency size ranges from one officer to more than 34,000 officers. About half of those 18,000 agencies have 10 officers or less.

All of these departments operate in one of our 50 States, each with a unique system of justice that dictates how criminal cases are initiated, processed, and adjudicated. Although many States mandate peace officer certifications and standards for hiring and training, most States exert limited control over their local law enforcement. Outside of consent decrees and the distribution or withholding of Federal funds, the influence of the Federal Government on local policing is also limited.

The bottom line is, there is no single description of United States police culture and practice. The environment and challenges faced by police departments vary widely, and the control and oversight of our police is almost exclusively local.

The second major factor to consider is that police departments do not operate independently. In most cities, police chiefs are hired or fired by the mayor or another elected municipal executive. Most sheriffs are elected by the voters that they are sworn to protect and serve.

When police exert control over citizens, they do so at the behest of an official elected by the people. Crime control strategies do not emerge in isolation, nor do decisions about police accountability. Those decisions are made by independently elected officials and prosecutors.

Too often, the scrutiny of disturbing incidents begins and ends with the police department with little examination of those factors outside the agency that influence priorities and practices.

The importance of a broader focus of inquiry was illustrated in the recent examination into the government practices in the City of Ferguson. The findings serve as a powerful example of the influence of governing forces outside of the police department itself.

Ideas for improving policing in the 21st century need to consider both of these major factors. Most changes in policies and procedures must be adopted by local governments in order to be implemented. For example, the requirement to use body-worn cameras must consider local and State laws related to the gathering, management, and disclosure of data, as well as local and State laws protecting individual privacy.

These changes will take time, require a great deal of cooperation, and, in some cases, the barriers may be insurmountable.

There are, however, meaningful steps that can be taken at various levels of government without changing laws. These steps will improve the culture of policing and expand police training in ways that contribute to increased public trust and improved safety. The recommendations of the President's task force contain a full range of actions that can be implemented immediately and some that are more long-term strategies.

One of the areas of focus contained in the recommendations relates to the police training. I sent to you a copy of an academic report that I co-authored. It was published by the Kennedy School at Harvard and published by the National Institute of Justice. This paper expounds on the importance of addressing the leadership culture in police departments and suggests a path toward improving culture through effective training. I hope these ideas will be beneficial as this Committee explores ways to improve policing in the 21st century.

Thank you very much.

[The prepared statement of Ms. Rahr follows:]

**Policing Strategies for the 21<sup>st</sup> Century**

Submitted by Sue Rahr, Executive Director  
Washington State Criminal Justice Training Commission  
May 19, 2015

Public trust in American policing has been shaken across the nation by the images filling the airwaves beginning in Ferguson last summer and continuing with each new disturbing video that emerges every couple of weeks. These tragic incidents have sparked intense focus on the culture and practices of policing and has ignited a necessary national conversation. As we embark on this dialog it is critically important to consider the wide range of factors that impact the environment in which police operate and consider strategies that are most likely to increase public trust and improve public safety. I'd like to highlight two of the major factors.

The first factor is the absence of a national coherence in policing. We have 18,000 local police departments. That means 18,000 different cultures reflecting the policies and practices that are the product of 18,000 local governments serving communities with a diverse range of values and expectations. Agency size ranges from one-officer to more than 34,000. About half of the 18,000 agencies have less than 10 officers. All of those agencies operate in one of 50 states, each with their unique system of justice that dictates how criminal cases are initiated, processed, and adjudicated. Although many states mandate peace officer certification and standards for hiring and training, most states exert limited control over the routine operations of local police departments. Outside of Consent Decrees and the distribution or withholding of Federal funds, the influence the Federal Government has on local policing is also limited. Bottom line – there is no single description of police culture and practice in the United States. The environments and challenges faced by police departments vary widely, and control and oversight is almost exclusively local.

The second factor to consider is that police departments do not operate independently. In most cities, Police Chiefs are hired and fired by a Mayor, or another elected Municipal Executive. Most Sheriffs are elected by the voters they are sworn to serve and protect. When police exert control over citizens, they do so at the behest of officials elected by the people. Crime control

strategies don't emerge in isolation. Nor do decisions about police accountability. Those decisions are made by independently elected local officials and Prosecutors. Too often the scrutiny of disturbing incidents begins and ends with the police department with little examination into those forces outside the agency that influence priorities and practices. The importance of a broader focus of inquiry was illustrated by the recent examination by the Department of Justice into the government practices in the City of Ferguson. The findings serve as a powerful example of the influence of governing forces outside of the police department itself.

Ideas for improving policing in the 21<sup>st</sup> Century need to be considered with these two important factors in mind. Most changes in policies and procedures must be adopted by local governments in order to be implemented. For example, a requirement to use body cameras must consider local and state laws related to the gathering, management, and disclosure of data as well as local and state laws protecting individual privacy. These changes will take time and require changes in state laws, with some barriers simply insurmountable.

There are, however, meaningful steps that can be taken at various levels of government, without changing laws. These steps will improve the culture of policing and expand police training in ways that contribute to increased public trust and improve public safety. The recommendations of the President's Task Force on 21<sup>st</sup> Century Policing contain a range of actions that can be implemented immediately, as well as longer term strategies. One of the areas of focus contained in the recommendation relates to police training practices. I've attached an academic paper I co-authored that was recently published by The Kennedy School at Harvard and the National Institute of Justice. This paper expounds on the importance of addressing the leadership culture in police departments and suggests a path toward improving that culture through more effective training strategies. I hope these ideas will be beneficial as this committee explores improvements to policing in the 21<sup>st</sup> century.

Mr. GOODLATTE. Thank you, Ms. Rahr.  
Mr. Barge, welcome.

**TESTIMONY OF MATTHEW BARGE, VICE PRESIDENT & DEPUTY DIRECTOR, POLICE ASSESSMENT RESOURCE CENTER (PARC)**

Mr. BARGE. Mr. Chairman, Ranking Member Conyers, distinguished Members of the Committee, my name is Matthew Barge. I am the vice president and the deputy director of the Police Assessment Resource Center.

For 14 years, PARC has provided independent counsel to upward of 30 police agencies and communities, helping them solve problems and incorporate best practices on effective, safe, and constitutional policing.

I want to thank you for the opportunity to appear before you today.

In light of recent events, some have wondered whether local police agencies are capable of transforming or repairing trust with the communities they serve. I am here to tell you that police departments can change and, indeed, are changing. Real reform is difficult and messy work, but agencies can put in place the systems, the policies, and the culture necessary to self-manage the risk of unconstitutional policing and enhance community confidence.

Some agencies affirmatively seek reform. The voluntary implementation of PARC's recommendations in Portland, Oregon, for example, led to significant decreases in use of force and complaints about police, without increases in crime or officer injury.

However, local law enforcement is not always good as self-identifying problems. I work daily with police officers who represent public service at its most selfless and laudable. But the departments where they work often resemble what might happen if a stereotypical department of motor vehicles ran the U.S. military, an inefficient, inept bureaucracy overseeing a rigid command and control structure.

This produces a culture often resistant to new approaches, transparency, and real accountability. Where issues fester, the U.S. Department of Justice may exercise the authority granted by this body to conduct an investigation into alleged patterns of misconduct. Where allegations are substantiated, a Federal court overseeing a consent decree may result.

The process is akin to emergency open-heart surgery for police departments. It addresses serious systemic issues and is used selectively and at critical moments. Currently, DOJ is enforcing 10 consent decrees. PARC's executive director is the court-appointed independent monitor for one, addressing the Seattle Police Department, where I serve as his deputy.

Regardless of how reform is initiated, the bedrock of policing in the 21st century must be a strong, responsive relationship between the Nation's police departments and the communities that they serve.

To that end, a common playbook of specific, real-world reforms is emerging for promoting public and officer safety, efficiency, constitutional rights, and public trust.

First, officers need more specific guidelines on using force in the real world. The bare, often vague requirements of courts in this area may work for judges in the comforts of their courtrooms, but officers in communities need clearer and more pragmatic rules.

Second, departments need internal mechanisms for critical self-analysis. For instance, a standard DOJ consent decree reform is the creation of a dedicated board for critically evaluating all uses of force so that a department can continually update policy, procedure, and training in light of real-world lessons learned. Likewise, permanent civilian oversight mechanisms can give communities a real-time check and important say in how policing is conducted.

Third, too many agencies have no idea what their officers are doing. If data exists on use of force or stop activity, it is often inaccurate, inaccessible, or ignored. Policing in the 21st century needs to take full advantage of the information systems that we take for granted in so many other areas of public and private life.

Fourth, in the cities where we work, we continually hear from individuals that the weights and burdens of law enforcement are not equally shared, and there is some empirical evidence to support that proposition. The challenge for police departments is to find ways of addressing an issue that, at minimum, is deeply affecting the police-community relationship. Forward-thinking departments are providing officers with training on minimizing the effects of implicit bias and on person-based decision making.

Modern American policing faces an era of unparalleled challenges with too many communities viewing the police as “them” rather than “us.” The challenge law enforcement agencies must embrace is to implement the kinds of common-sense steps that might enhance accountability and enhance public trust.

With that, I thank you again for the opportunity to be here.

[The prepared statement of Mr. Barge follows:]

WRITTEN STATEMENT OF  
Matthew Barge  
Vice President & Deputy Director, Police Assessment Resource Center (PARC)

BEFORE THE  
COMMITTEE ON THE JUDICIARY  
UNITED STATES HOUSE OF REPRESENTATIVES

“Policing Strategies for the 21st Century”  
May 19, 2015

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Chairman Goodlatte, Ranking Member Conyers, and distinguished members of the Committee:

My name is Matthew Barge. I am the Vice President and Deputy Director of the Police Assessment Resource Center (PARC). I appreciate the opportunity to appear before you and provide an independent perspective on the substantial challenges and opportunities that our local police departments face.

In light of recent high-profile incidents involving local law enforcement agencies and related unrest in several communities across the country, attention has appropriately turned to figuring out what police strategies and approaches best promote effective, safe, and constitutional policing. However, these efforts to identify best practices go back decades.

Some have wondered whether police agencies in our local communities are capable of changing or of proactively reforming themselves. My organization, PARC, has a long history of providing independent, evidence-based counsel on effective, respectful, and publicly accountable policing. A nonprofit organization with offices in New York and Los Angeles, it was founded in 2001 by the Vera Institute of Justice, and with the generous support of the Ford Foundation. PARC is not an advocacy organization. Instead, it is committed to serving as an honest broker that helps law enforcement agencies solve problems by incorporating best practices, managing risks, using data-driven management, and providing services with greater efficiency and accountability. We do all of this with an eye toward increasing officer safety, public safety, and public confidence in the police. PARC has assisted upward of 30 agencies, local governments, or community organizations in these efforts in its 14 years in existence.

In our experience, police departments can change – and they are changing. Local governments and police agencies themselves regularly call on PARC to conduct comprehensive assessments of where their departments are, where they should be, and what they need to do in order to align with best practices with respect to accountability and effectiveness. In Portland, Oregon, for

example, PARC conducted a review of officer-involved shootings and made recommendations for changes in policy, training, and practice. The implementation of those recommendations led to an 88% drop in officer-involved shootings, a 59% decrease in use of force, and a 51% decrease in citizen's complaints – all without increases in officer injuries or crime.<sup>1</sup> Likewise, for some 21 years, Los Angeles County engaged PARC's Executive Director to serve as special counsel for monitoring the Los Angeles County Sheriff's Department, the fourth-largest law enforcement agency in the U.S. The effort produced results with respect to officer training, citizen's complaints, medical care in jails, recruitment and hiring, anti-gang strategies, and many other areas.<sup>2</sup>

In some instances, however, more sustained attention at the national level is necessary. One consequence of our democracy is that police authority is highly fragmented. The most recent data indicate that we have more than 12,000 local police departments that employ roughly 477,000 full-time police officers. Nearly half of these departments employ no more than 10 officers.<sup>3</sup> Some departments fail to identify problems in their relationship with the community, deficiencies in officer oversight, or problems in how its officers use force or detain subjects. Many departments either do not “have access to enough useful information about [law]suits” involving their officers or “intentionally ignore information from suits” relating to problematic incidents.<sup>4</sup> Patterns or practices of unlawful policing can take hold.

When problems fester in local police departments, the U.S. Department of Justice (“DOJ”) may exercise the authority granted by this body<sup>5</sup> to conduct an investigation into alleged patterns of misconduct within a police department with respect to excessive force, discriminatory policing, unlawful stops and searches, and other constitutional violations. Where the allegations are substantiated, those investigations can lead to agreements between the Department of Justice and the involved local jurisdiction, with input from community stakeholders, to implement a package of reforms and remedial measures.

Some of the DOJ settlements take the form of federal-court-overseen consent decrees. The consent decree process is akin to emergency open-heart surgery for police departments. It addresses serious, systemic issues that have built up over time. It is a major intervention that, historically, the Department of Justice has used selectively, at critical moments, and where rigorous and sustained intervention is needed. It is intended to last no longer, but end no sooner, than it takes for the identified problems to be effectively remedied while ensuring officer and public safety. In the past three years, DOJ successfully concluded implementation of two major consent decrees addressing the Los Angeles Police Department and District of Columbia Metropolitan Police Department.

Currently, the Department of Justice is enforcing ten federal-court-overseen consent decrees. PARC's Executive Director, Merrick Bobb, serves as the federal court-appointed, independent

monitor of one of those decrees, which relates to the Seattle Police Department (“SPD”). I serve as his deputy, overseeing a nationwide network of law enforcement experts. Mr. Bobb has nearly 25 years of experience with law enforcement issues, starting with the blue-ribbon commission chaired by Warren Christopher to reform the Los Angeles Police Department (LAPD) in the wake of the Rodney King incident in the early 1990s.

Whether reform is self-initiated, occurs to conform with national standards like those of the Commission on Accreditation for Law Enforcement Agencies (“CALEA”), or occurs pursuant to a federal investigation or DOJ settlement, the bedrock of policing in the 21st century must be a strong, responsive relationship between the nation’s police departments and the communities that they serve.

To that end, a common playbook of specific, real-world practices and reforms is emerging for ensuring the safety of the public and officers, advance efficient law enforcement, protect constitutional rights, and enhance public trust in the police across America’s diverse communities. The challenges are substantial, and the work is hard – but law enforcement agencies can today make reforms that we know work in order to enhance accountability and trust. The remainder of my testimony will summarize these areas.

## **I. USE OF FORCE**

### ***A. Policy & Training***

Officers need clearer, more specific, and more pragmatic guidelines on when they may use force in the field and what level of force is permissive in a given case. This is especially true when Court decisions directly situate the constitutionality of force in terms of “the facts and circumstances confronting” an officer in a given situation<sup>6</sup> – and expressly disclaim the existence “a magical on/off switch that triggers rigid preconditions” that make some force appropriate and some inappropriate.<sup>7</sup> Although general standards and balancing tests may be fair and workable for courts, officers in the real world and the communities that they serve need and deserve clear expectations and pragmatic rules for when force is justified.

Any use of force policy must balance concision with precision and broad applicability. It must guide officers across innumerable unforeseen circumstances yet be specific enough to permit a department to hold officers accountable for using inferior tactics or poor decision-making.

For example, the DOJ-, Monitor-, and Court-approved officer use of force policy in Seattle requires that all officer force be necessary, reasonable, proportional to the danger or threat posed by the subject, and used when no reasonable alternatives to de-escalate were available. However, absent limited exceptional circumstances, it prohibits officers from using force on

restrained or handcuffed subjects. That provision directly responds to the Department of Justice's finding in its 2011 investigation that SPD had previously "engage[d] in a pattern or practice of using excessive force against individuals who are already under control" and who, consequently, under most circumstances "does not pose an immediate threat to the safety of the officer or the public."<sup>8</sup>

Thus, SPD policy provides greater clarity on how to use force in particular circumstances based on the history of that particular Department and concerns of the community that it serves. PARC has similarly assisted a number of other agencies in crafting specific use of force policies tailored to the concerns and histories of their own communities.

Every police department in the United States has the same opportunity to set forth clear and specific policies on when force may be used that reflect the values of the community and organization and go further than the bare, often vague requirements of the courts in the area – and to doggedly insist on strict adherence to the policies as preconditions for continued employment with the department.

As the recent national dialogue has proceeded, a consensus has started to emerge that departments should emphasize the importance of de-escalation – or slowing down and defusing situations in a manner that might lessen or eliminate the possibility that an officer will need to contemplate force at all.<sup>9</sup> These tactics include strategic use of distance, cover, and concealment; verbal techniques aimed toward persuasion or the promotion of rational decision-making; and calling for more or more specialized officers to the scene. The goal is to maximize opportunities for incidents and interactions to conclude without officers needing to use force.

Seattle, under the Department of Justice consent decree, is also leading the way in de-escalation. There, officers are *required* by policy to use de-escalation tactics whenever safe under the circumstances and time and circumstances permit.<sup>10</sup> No longer are these tactics taught as an "extra" skill or course disconnected from the "real" tactical concerns of firearms or Taser training. Instead, they are being woven throughout more than 32 hours of training this year alone, with de-escalation presented as often the best strategic option and valuable both to officers and the communities that they serve.

Because it increases officer safety and mitigates the need to use force, de-escalation training is being adopted by law enforcement agencies nationwide. Training on defusing critical incidents has been recently embraced by the New York Police Department<sup>11</sup>, Pennsylvania<sup>12</sup>, and several other agencies. Departments in Oakland and Dallas are providing stress inoculation training geared toward providing officers with superior decision-making skills in high-stress incidents.

### ***B. Officer Training on Mental Health & Behavioral Issues***

At least half of officer-involved shootings involve a subject experiencing mental health issues – and the numbers are higher than that in some communities.<sup>13</sup> Meanwhile, officers increasingly feel as though the burdens of failures elsewhere in our social service networks fall ever more to them.

Departments from Las Vegas to Dallas, and Chicago to the United States Capitol Police Department, are responding by providing specialized training on identifying and interacting with subjects with behavioral and mental health issues.<sup>14</sup> These “crisis intervention programs” have produced real results. For instance, after providing expanded crisis training to officers and establishing a dedicated team to address individuals experiencing a behavioral crisis, the Oakland Police Department reduced its overall use of force by some 50 percent. Use of force and officer injuries both declined sharply in the years following implementation of a crisis intervention program in Memphis. In Seattle, the Consent Decree has resulted in a regional committee of health experts, clinicians, community advocates, academics, members of the judiciary, and the police to situate the Police Department’s efforts to respond to individuals experiencing behavioral crisis.

A number of national organizations, including the International Association of Chiefs of Police (“IACP”) and the National Alliance on Mental Illness (NAMI),<sup>15</sup> have endorsed the implementation of crisis intervention programs. Crisis intervention is an important part of most DOJ settlements in the policing area, and the number of good “off-the-shelf” training programs makes this a reform that is effective, is affordable, and increases officer and public safety.

## **II. ADMINISTRATIVE INEFFICIENCY & INTERNAL ACCOUNTABILITY**

Many police agencies resemble what might happen if the stereotypical Department of Motor Vehicles ran the U.S. military: an inefficient, inept bureaucracy overseeing a necessarily rigid command-and-control structure empowered to use force. This produces a law enforcement culture often resistant to new approaches and systems. Officers tend to be rewarded and promoted for “staying in their lanes,” not making difficult decisions or challenging the *status quo*. Pushing paper substitutes for real accountability and meaningful oversight of what officers are actually doing on the streets. In some jurisdictions, well-intentioned police chiefs have difficulty replacing problem employees because of civil service protections or state employment laws.

Accordingly, a major focus of any reform effort, whether initiated by the local community or the federal government, must be on basic organizational reform – making ossified bureaucracies and ineffective administrative processes more nimble, responsive, innovative, and transparent. In a

number of important areas, police departments simply need to become more comfortable with change and new ways of doing business. The day-to-day operational culture of many agencies must change.

For example, just as doctors present cases to peers and even winning teams review game footage, law enforcement agencies must commit to processes and procedures for comprehensively analyzing the performance of officers and holding them accountable. Some of the best departments have a dedicated Force Review Board that reviews, analyzes, and evaluates all uses of force so that the department can perpetually update its training, tactics, procedure, and policy in light of lessons learned about how officers are operating in the real world. It is a standard part of the Department of Justice's settlements in the police area and constitutes a best practice. The challenge is to make members of these, and other similar, mechanisms for critical self-analysis comfortable with the notion of evaluating the conduct of another officer. As uncomfortable as this exercise may be at first, it is necessary to enable departments to learn from the past and better prepare their officers to face problems in the field more safely and appropriately.

Citizens have a role in eliminating administrative inefficiency and promoting accountability, as well. Permanent civilian oversight mechanisms – whether taking the form of a civilian board that investigates or reviews complaints about the police, an institutional inspector general or monitor to conduct larger-scale assessments of departmental trends, or an auditor who reviews completed internal investigations<sup>16</sup> – can give communities a real-time “check” on police authority and a say in how policing is conducted.

Several jurisdictions, including Eugene, Oregon and Milwaukee, Wisconsin, have affirmatively sought PARC's counsel in helping it decide what form or structure of civilian oversight might best address their concerns. Likewise, the DOJ consent decree process often inspires this greater and more formal involvement in the nuts and bolts of police oversight and accountability. Just a few weeks ago, Newark, New Jersey created “one of the country's strongest civilian police-review boards” that will have subpoena power and make binding recommendations as it enters into a consent decree.<sup>17</sup> The Seattle decree created a Community Police Commission to provide input and policy recommendations during the reform process.

Too often, “community policing” means talking at communities or organizing isolated, small-scale initiatives. For trust to be restored between the community and police where it has frayed, the community needs to be an ongoing part of policing in significant, structural ways.

### **III. DATA-DRIVEN POLICING**

As memorialized in the book and movie *Moneyball*, the 2002 Oakland Athletics and then-general manager Billy Beane famously used sophisticated data analytics and an evidence-based

management approach to improve performance on the baseball field. Many departments are, however, a long way from playing Moneyball.

Currently, too many police agencies have no idea how often their officers use force, are involved in shootings, or make stops. If data exists, it is often inaccurate, inaccessible, or ignored. In one police department where PARC has recently worked, a supervisor wanting to know whether or when an officer had been trained to use the Taser – an important, less-lethal force instrument – would have to manually sift through stacks of unorganized 3 x 5 index cards. One of the reasons that “there is no reliable national data on how many people are shot by police officers each year”<sup>18</sup> is because many police departments themselves are unconcerned with tracking what their officers are doing in the field.

No one – not lawmakers, the Department of Justice, or organizations like ours – can know what to change without knowing how departments really are policing. Policing in the 21st century needs to take advantage of the information systems that we take for granted in so many other areas of public and private life.

Lacking solid information, officers in too many departments are managed and supervised based on gut instinct or intuition rather than objective evidence about an officer’s performance. Personal affinities or the amorphous sense that an officer is a “good guy” or “good gal” leads supervisors to cut corners and cut breaks when it comes to accountability.

In the same way that many jurisdictions have adopted technological systems modeled after COMPSTAT, the pioneering and influential data system originating in New York City in the early 1990s, to guide officer deployment and crime prevention efforts<sup>19</sup>, more need to adopt and proactively use data on how its officers are using force, making stops, and engaging with subjects in the field.

In most Department of Justice consent decrees and collaborative reform initiatives, a so-called Early Intervention System is a primary reform. The goal of these usually non-disciplinary systems is for departments to use objective data and information about what its officers are doing in the field in order to identify and respond proactively to performance trends that may suggest that an officer is at risk – so that bad habits or “bad apples” can be addressed early and affirmatively.

The concept of an Early Intervention System is not new, and organizations like IACP and CALEA have advocated their use. Nonetheless, too many departments still lack the systems or, when they have them, fail to use them effectively. Supervisors often lack training on how to identify potential problems and how to interact with officers requiring intervention. In addition, too many departments focus the early intervention systems that they do have exclusively at line

officers – failing to examine whether supervisors and managers are living up to their own responsibilities.

#### **IV. DISCRIMINATORY POLICING CONCERNS**

Within the communities where PARC works, we consistently hear from individuals that the weights and burdens of law enforcement are not equally shared. When they hear about the apparent choking death of a black man for peddling a few loose cigarettes, or the shooting of a black twelve-year-old two seconds after a police officer exited his patrol car, they wonder whether the outcomes might have been different if the subjects involved had looked different. Especially with respect to patterns of stops and detentions, empirical evidence supports the proposition that the practices of police in some areas are disproportionately affecting some of our communities more than others.<sup>20</sup>

The challenge for our police departments and our communities is to go beyond talking about the problem and looking for real-world solutions to addressing an issue that is clearly affecting the police-community relationship.

Abundant social science research has established that even individuals expressly committed to treating people equally may be affected by implicit biases or subconscious associations between Black, Latino, and some other historically minority populations and crime.<sup>21</sup> Individuals across professions and political ideologies have all been found prone to harbor subconscious associations between groups of individuals and crime.<sup>22</sup> Indeed, research indicates that non-white individuals also tend to exhibit implicit bias with respect to other non-white individuals.<sup>23</sup>

These implicit biases can particularly and unconsciously affect decisions in fast-moving situations – the type of circumstances that police officers regularly encounter. Police officers may have subconscious biases in the same way that many people across various stations in life do, but the difficult job of police officers – to make quick decisions based on limited information about previously unknown individuals – heightens the risk that unconscious associations may have effects in the real world that drive distance between the police and our communities. This February, FBI Director James Comey called upon law enforcement to recognize this important fact.<sup>24</sup>

Forward-thinking departments are providing officers with clear strategies and tactics for attempting to minimize the effects of implicit bias – by slowing situations down where feasible to ensure more time and space for identifying person-specific facts and by using intentional decision-making processes, again increasing officer and public safety.

Departments are also partnering with community organizations to provide training on procedural justice and fairness issues. Literature and life experience tells us that the *outcome* of an interaction matters less than an individual's sense of *how* he or she was treated.<sup>25</sup> Among individuals who get pulled over by a police officer, an individual's view of the incident correlates not with whether the officer gave them a ticket or not but, rather, with how fairly and equitably they believe that the officer treated them.

Just as ticket representatives for Southwest Airlines or customer service representatives at Federal Express receive training on problem-solving-oriented communication and are empowered to establish authentic, one-to-one relationships with the public,<sup>26</sup> patrol officers must feel empowered to find ways of making individuals across communities believe that the police are treating them not as a race, face, or place but as an individual.

## V. CONCLUSION

In my ten years doing work with law enforcement agencies, I have encountered countless men and women who represent public service at its most competent, selfless, and laudable. However, even in healthy accountable police agencies where the interests and perspectives of the community are fully represented, officers may perform poorly. Some will make mistakes or bad decisions. To all of us – and to the rank-and-file officers who execute their duties ably, fairly, and constitutionally – accounts of officers engaging in misconduct are troubling. It can be tempting to conclude that nothing has changed in American policing and that nothing ever will.

Real reform is hard work. It rarely proceeds in straight lines. The true test, however, of whether we use this unique moment in American history is whether police agencies put in place the systems, policies, structures, and culture to manage for themselves the risk of unconstitutional policing. Departments must hold officers rigorously accountable through fair and transparent processes, critically analyze officer and departmental performance based on objective data, and proactively identify and seriously address performance issues and trends.

No police department is consigned to be only what it has been in the past. Organizational cultures change. New leadership can energize. Frayed relationships can mend. Old and rigid approaches can give way to dynamic innovation.

Modern American policing faces an era of unparalleled challenges. Too many communities view the police as “them” rather than “us.” The challenge that law enforcement agencies must embrace is to implement the kinds of tested, promising, and common-sense steps that might enhance public trust and legitimacy.

- <sup>1</sup> See Portland Police Bureau, Police Assessment Resource Center (last visited May 15, 2015), <http://www.parc.info/portland/>.
- <sup>2</sup> See Thirty-Fourth Semiannual Report of Special Counsel, Los Angeles County Sheriff's Department (Aug. 2014), available at <http://static1.squarespace.com/static/5498b74ce4b01fe317ef2575/t/54fc75b3e4b03edc59f8fd9b/1425831347689/34th+Semiannual+Report.pdf>.
- <sup>3</sup> Bureau of Justice Statistics (BJS), *Local Police Departments, 2013: Personnel, Policies, and Practices* (May 2015), available at <http://www.bjs.gov/content/pub/pdf/lpd13ppp.pdf>.
- <sup>4</sup> Joanna C. Schwartz, "Myths and Mechanics of Deterrence: The Role of Lawsuits in Law Enforcement Decisionmaking," 57 U.C.L.A. L. Rev. 1023, 1027, 1023 (2010).
- <sup>5</sup> 42 U.S.C. § 14141.
- <sup>6</sup> *Graham v. Connor*, 490 U.S. 387 (1989).
- <sup>7</sup> *Scott v. Harris*, 127 S.Ct. 1769, 1777 (2007).
- <sup>8</sup> U.S. Dept. of Justice, Civil Rights Division and U.S. Atty's Office, W.D. Wash. Investigation of Seattle Police Department at 14 (Dec. 16, 2011).
- <sup>9</sup> See, e.g., President's Task Force on 21st Century Policing, *Interim Report of the President's Task Force on 21st Century Policing* 21 (Mar. 2015) (recommending emphasis on de-escalation in policy and training); "Utah Lawmakers Hold Study Session on Police Use of Force"; Matt Apuzzo, "Police Rethink Long Tradition on Using Force," *N.Y. Times* (May 4, 2015) (discussing recent re-examination of police training in multiple departments).
- <sup>10</sup> *United States v. City of Seattle*, 2:12-cv-01282-JL.R, Dkt. No. 204-1 at 2, 8.
- <sup>11</sup> Marc Santora, "Mayor de Blasio Announces Retraining of New York Police," *N.Y. Times* (Dec. 4, 2014).
- <sup>12</sup> Tony Larussa, "W.Pa. police chiefs discuss use of force, de-escalation tactics," *Pittsburgh Tribune* (Jan. 8, 2015).
- <sup>13</sup> Nat'l Sheriffs' Ass'n & Treatment Advocacy Ctr., "Justifiable Homicide by Law Enforcement Officers: What is the Role of Mental Illness?" at 6 (Sept. 2013).
- <sup>14</sup> See, e.g., Megan Pauly, "How Police Officers Are (or Aren't) Trained in Mental Health," *Atlantic* (Oct. 11, 2013).
- <sup>15</sup> International Association of Chiefs of Police, "Improving Officer Response to Persons with Mental Illness and Other Disabilities: A Guide for Law Enforcement Leaders," available at [http://www.theiacp.org/Portals/0/pdfs/IACP\\_Responding\\_to\\_MI.pdf](http://www.theiacp.org/Portals/0/pdfs/IACP_Responding_to_MI.pdf); National Alliance on Mental Illness, "CIT" (last visited May 15, 2015), available at <http://www2.nami.org/Template.cfm?Section=CIT&Template=/ContentManagement/ContentDisplay.cfm&ContentID=150503>.
- <sup>16</sup> Merrick Bobb, et al., Police Assessment Resource Center, "Review of National Police Oversight Models" (2005).
- <sup>17</sup> Heather Haddon, "Newark Unveils Civilian Police-Review Board," *Wall Street Journal* (Apr. 30, 2015).
- <sup>18</sup> Wesley Lowery, "How many police shootings a year? No one knows," *Washington Post* (Sept. 8, 2014).
- <sup>19</sup> See, e.g., Weisburd, et al., "Reforming to Preserve: Compstat and Strategic Problem Solving in American Policing," 2 *Criminology & Pub. Pol'y* 421, 422-23 (2003); Willis, et al., "Making Sense of COMPSTAT: A Theory-Based Analysis of Organizational Change in Three Police Departments," 41 *Law & Society Review* 147, 148-49 (2007).
- <sup>20</sup> *Floyd v. City of New York*, 1:08-cv-01034 at 21 (Aug. 12, 2013).
- <sup>21</sup> See Kirwan Institute for the Study of Race and Ethnicity, "State of the Science: Implicit Bias Review 2014 at 16, available at <http://kirwaninstitute.osu.edu/wp-content/uploads/2014/03/2014-implicit-bias.pdf>; see generally Thomas Gilovich, et al., *Heuristics and Biases: The Psychology of Intuitive Judgment* (2002); Daniel Kahneman, *Thinking, Fast and Slow* (2013).
- <sup>22</sup> See, e.g., Theodore Hiseberg & Sheri Lynn Johnson, "Implicit Racial Attitudes of Death Penalty Lawyers," 53 *DePaul L. Rev.* 1539 (2004); Alexander R. Green, et al., "Implicit Bias among Physicians and its Prediction of Thrombolysis Decisions for Black and White Patients," 22 *Journal of Gen. Internal Medicine* 1231 (2007); Tom Rudd, et al., Kirwan Inst., "Racial Disproportionality in School Discipline" (Feb. 2014), available at <http://kirwaninstitute.osu.edu/wp-content/uploads/2014/02/racial-disproportionality-schools-02.pdf>.
- <sup>23</sup> See, e.g., Theodore R. Johnson, "Black-on-Black Racism: The Hazards of Implicit Bias," *Atlantic* (Dec. 26, 2014) (noting that performance on implicit bias assessments reveal that black respondents "subconsciously hold a slight preference for whites over blacks" and harbor some subconscious biases with respect to blacks); Marcus Woo, "How Science is Helping America Tackle Police Racism," *Wired* (Jan. 21, 2015) ("Some studies found that even black people can have anti-black bias . . . suggesting that the root of the bias isn't in any particular race, but in the prejudice and stereotype that's embedded throughout culture and society.").

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<sup>24</sup> Remarks of James B. Comey at Georgetown Univ. (Feb. 12, 2015), *available at* <http://www.fbi.gov/news/speeches/hard-truths-law-enforcement-and-race>.

<sup>25</sup> Rod K. Brunson & Jacinta M. Gau, "Procedural justice and order maintenance policing: A study of inner-city young men's perceptions of police legitimacy," 27 *Justice Quarterly* 255 (2010).

<sup>26</sup> David E. Bowen & Edward E. Lawler III, "Empowering Service Employees," *MIT Sloan Management Review* (July 15, 1995).

Mr. GOODLATTE. Thank you, Mr. Barge.  
Ms. Ramirez, welcome.

**TESTIMONY OF DEBORAH A. RAMIREZ, PROFESSOR OF LAW,  
NORTHEASTERN UNIVERSITY SCHOOL OF LAW, BOSTON, MA**

Ms. RAMIREZ. Thank you, Chairman Goodlatte, Ranking Member Conyers, and the House Committee on the Judiciary.

The police killing of Michael Brown and Eric Garner in July and August of 2014 have triggered protests not only in the cities in which those killings occurred, but also throughout this country. Since those shootings, there have been others, Freddie Gray in Baltimore and Walter Lamar Scott in South Carolina.

It is plain to me, and I expect to all of you here today, that these protests are not just about the unwillingness to prosecute all but one of those officers for these shootings, but about a long, simmering resentment in the African-American and Latino communities that the criminal law applies differently to them than it does to White Americans; that the police too often stop and frisk Latino and African-American youths with impunity and without reasonable, articulatable suspicions; that automobiles driven by African-Americans, especially in White neighborhoods, are too often stopped by police for driving while Black; that the death of a Black man at the hands of police is seen as more forgivable than the death of a White man; that prosecutors are less willing to see Hispanic and African-American defendants as candidates for rehabilitation who deserve and need a break, and, therefore, they are more willing to press for mandatory sentences against them; and that more Black men age 18 to 21 are in prison or in jail than in college.

We can and should debate how accurate the statistical studies are and how accurate these perceptions are, and whether they are more accurate in some States and municipalities than in others. But I think we can agree that these perceptions are accurate more often and in too many places than we would want them to be, and that the perception itself is a reason for great concern because, beyond the statistical studies, we cannot be one Nation if a significant percentage of our community members believe they are receiving an inferior quality of justice or no justice at all.

The protests have provided an impetus for change, but they cannot produce change by themselves. We need to ensure that these protests are different from previous protests, and that they do not merely cry out for justice, but actually lead to more justice.

To accomplish that, we need a roadmap for change. And we need to press our leaders in Congress and elsewhere to follow that roadmap and travel to a place where justice is more and fairer.

To move past these tragedies, we need to do some concrete things. First, we need to strengthen police-community relations by creating community-policing models focused on the development of partnerships between police organizations and the communities they serve.

How? New infrastructure and architecture. Infrastructure and architecture that might provide the coherence we need and the coherence we need to bring to this enterprise. We need to create in every State federally funded community-policing institutes dedicated to creating the tools, templates, training, and best practices

for bringing the police and the community members to the table for discussions on how best to keep their communities safe and strong.

And we need to increase police transparency by letting the public know what the police are doing, and that can only occur when State and local police departments are required to keep data regarding police stops, searches, and shootings, and to record the race of persons stopped, searched, or shot. Why? Because you cannot possibly manage what you do not measure.

Transparency also means requiring police to install cruiser cameras, to wear body cameras, and to monitor police discretion to turn those cameras off.

My last point is about accountability, which means that allegations of police misconduct or situations in which a police officer shoots a civilian should be handled by an independent inspector general. The investigation and prosecutorial decision should not rest in the hands of a district attorney dependent on that police department for its criminal investigations, past and future.

So we need police-community partnerships, a State institute to support them, cameras, data collection, and an independent inspector general to investigate police misconduct.

The roadmap does not end here today at this table. The next part is the most difficult. How do we implement it? The system is broken. We need Democrats and Republicans to come together to craft a roadmap to justice and figure out how to fund and implement it. Only then will we be able to create stronger and safer communities.

[The prepared statement of Ms. Ramirez follows:]

TUESDAY, MAY 19th

TESTIMONY OF PROFESSOR DEBORAH A. RAMIREZ

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The police killing of Michael Brown and Eric Garner in July and August of 2014 have triggered protests, not only in the cities in which those killings occurred, but throughout the country. Since those shootings, there have been others including, most recently, Freddie Gray in Baltimore and Walter Lamer Scott in South Carolina. It is plain to me (and I expect, to you) that these protests are not just about the unwillingness to prosecute all but one of these officers for these shootings, but about a long-simmering resentment in the African-American and Latino communities that the criminal law applies differently to them than it does to white Americans. That the police too often stop and frisk Latino and African-American youths with impunity and without reasonable suspicion; that automobiles driven by African-Americans, especially in white neighborhoods, are too often stopped by police for "driving while black;" that the death of a black man at the hands of police is seen as more forgivable than the death of a white man; that prosecutors are less willing to see Latino and black defendants as candidates for rehabilitation who deserve a break, and therefore they are more willing to press for mandatory sentences against them; that more black men age 18-21 are in prison or jail than in college.

We can debate how accurate some of these perceptions are, and whether they are more accurate in some states and municipalities than in others. But I think we can agree that these perceptions are accurate more often and in too many places than we would want them to be, and that the perception itself is a reason for great concern, because we cannot be one nation if a significant

percentage of our community members believe they are receiving an inferior quality of justice or, worse still, getting no justice at all.

The protests provide the impetus for change, but they cannot produce change by themselves. We need to ensure that these protests are different from previous protests; that they do not merely cry out for justice, but actually lead to more justice. To accomplish that, we need a road map for change, and we need to press our leaders in Congress and elsewhere to follow that road map and travel to a place where justice is more fair and more equal.

To move past these tragedies, we need to **strengthen police-community relations**, by creating community- policing models focused on the development of partnerships between police organizations and the communities they serve.

HOW? New infrastructure and architecture. We need to create , in every state, federally funded community-policing Institutes which would be dedicated to creating the tools, templates, training and best practices for bringing police and community members to the table for discussions on how best to keep their communities safe and strong.

**We also need to increase police transparency** by letting the public know what the police are doing; That can only occur when state and local police departments are required to keep data regarding police stops, and to record the race of the persons stopped and searched : BECAUSE YOU CAN'T MANAGE WHAT YOU DON'T MEASURE.

**Transparency also means requiring police to install cruiser cameras;** to wear body cameras, and to monitor police discretion to turn these cameras off.

My last point is about accountability which means that allegations of police misconduct or situations in which a police officer shoots a civilian should be handled by an independent inspector general. The investigation and prosecutorial decision should not rest in the hands of a District Attorney who is dependent on that police department for criminal investigation

So, we need police –community partnerships; a State institute to support them; cameras; data collection; and an independent inspector general to investigate police misconduct.

The road map does not end here. The next part is the most difficult. How do we get these and other necessary changes implemented? The system is broken. We are going to need Democrats and Republicans to come together to craft a road map to justice and to figure out how to fund and implement it. Only then will we be able to create stronger and safer communities.

Mr. GOODLATTE. Thank you, Ms. Ramirez.

I will begin the questioning and start with you, Sheriff Clarke. When you talk with citizens, do they want more or less of a police presence? Do they complain more about the actions of the police or about the inactions of the police?

Sheriff CLARKE. They ask for more. They complain about both, and I think that is human nature. They want safer neighborhoods. They want safer communities. They know they are going to have to have assertive policing in some of these high-crime areas to get that done.

It is situational. They complain about slow calls for service responses, things like that, which can have an effect on a person's trust in their law-enforcement agency. In other words, we call but they do not come.

So it is fluid and, like I said, situational. We deal with it on a situational basis.

Mr. GOODLATTE. Do your officers generally feel—I don't know what the right word is—welcome, comfortable in these tougher communities to the police?

Sheriff CLARKE. Without a doubt. It is one of the hallmarks, I believe, of my administration to create a relationship. When we talk about trust, I believe, in the Milwaukee area anyway—that is what I can speak to, personally—there is a great relationship. We, meaning law enforcement officers, do not have a great relationship with the criminal element. There is no doubt about that. But I think sometimes, this—I believe it exists, this lack of trust within segments of the community, but not as a whole within the minority community. I bristle at that perception.

Mr. GOODLATTE. Good. I am glad to hear that.

Mr. Hartley, you wrote in your testimony that only 5 percent of the Nation's law enforcement agencies participate in accreditation. That really surprised me.

What is the biggest obstacle you face in terms of getting other agencies accredited? Is it leadership, cost, or something else?

Mr. HARTLEY. I will tell you, I think it is a combination of all those things. I think it really starts with the leadership prerogative about what those organizational leaders think is important to them and the delivery of leadership across their organizations.

We do hear concerns that the cost of accreditation is too much. We also hear that the in-kind cost associated with involvement in the process is difficult because our accreditation process requires them to do things that they otherwise may not do.

I can tell you that the process is really structured around key and fundamental, sound principles of police service delivery. So the process of accreditation does not increase the accountability that is already there. It measures accountability and serves as a yardstick and a framework to keep organizations focused on key and fundamental areas.

But again, it does relate to cost in some cases and in-kind services and management of the process, Mr. Chair.

Mr. GOODLATTE. Thank you.

Ms. Ramirez, is there a problem with current legal precedents as they relate to use of force? Does it result in second-guessing of officer decisions?

Ms. RAMIREZ. I am sorry, is the question whether or not—

Mr. GOODLATTE. I will repeat it.

Is there a problem with current legal precedents as they relate to use of a force? And does it result in second-guessing of officers decisions?

Ms. RAMIREZ. I do not think this is primarily a legal problem. I think it is a problem with the community not fully understanding all of the pressures, procedures, protocols that the police are engaged in, and the police not discussing and educating the community about the things that the police have to take into account as they go through a stop-and-search process.

But I do not believe this is a legal problem. I think it is a training problem. I think it is a problem that would be solved with better community policing.

Mr. GOODLATTE. Thank you.

Mr. BARGE, I will let you answer that same question, but I also want to add, you mentioned in your testimony that after your organization was called into Portland, there was a sharp drop in officer-involved shootings, use of force, and citizen complaints without any increase in officer injuries. What do you think most directly causes that?

Mr. BARGE. As a legal precedent question, I think that, as I said in my testimony, judges and courtrooms use a very different set of rules to guide fair and efficient decision making. Officers on the street, I think as all of us can attest to, you do not have the luxury of examining all of the facts as they turned out to be and have to make split-second judgment calls.

So I think one thing police agencies can do right now is to ask themselves, how do I want our police officers to react in these emerging use of force situations, and craft more specific, clearer guidance where appropriate, and hold their officers rigorously accountable to those policies. The policies can do what the courts cannot as a condition of an officer being employed in that department.

As to Portland, I think that what we did there was to institute a number of reforms that are very tested. They have been implemented in places where the DOJ has gone in the consent decree process. And in Portland, we had an opportunity to implement those reforms in a voluntary capacity. The city wanted us there, and the police department wanted us there.

It was about instilling mechanisms whereby the police asked themselves difficult questions, asked what we could learn from incidents that went wrong, asked what we could do differently in the future.

I think that kind of culture, just by the numbers the city auditor found there, really changed the department for the better.

Mr. GOODLATTE. Thank you very much.

The gentleman from Michigan, Mr. Conyers, is recognized for his question.

Mr. CONYERS. Thank you.

I appreciate the different contributions from each of the five panelists, and I think we are off to a good discussion.

I would like you to know that thanks to the Chairman and Mr. Scott and Mr. Sensenbrenner, we have been having hearings about overcriminalization. They started out for 6 months, and Chairman

Goodlatte added 6 more months to it, it was so effective. This moves us further along.

But the fact of the matter is, how do we change this culture? This goes back a long ways. This isn't a recent phenomenon at all.

So I am thinking about how we get into this infrastructure and architecture that we are trying to move to, and I would like to look at that for just a moment.

But before we do, I would like to raise the question of police prosecutions. We all know the conundrum. The prosecutor and the police work together much of the time, and then all of a sudden, the prosecutor has to decide whether to prosecute one that he has been working with a long time.

Professor Ramirez and any of the rest of you, please, let us look at that for a moment.

Ms. RAMIREZ. As a former Federal prosecutor, I have worked with law enforcement, and I know firsthand the difficult and dangerous work that they do. But I also believe that when there has been a civilian who has been shot or police misconduct, it is very hard for a prosecutor who works day in and day out with these law enforcement officers, and knowing that they worked with them in the past and the future, to make an independent decision, which is why I think we need a process different from the process that we have now. So I talk about having an independent inspector general make the decision.

Mr. CONYERS. Yes.

Ms. RAMIREZ. But also, we need more transparency in the decision-making process. So right now, we have a secret grand jury process. Maybe we need something more like an inquest process or some kind of new process in which, in these instances, we can develop a way to be more transparent about that pretrial investigation that takes place now by a prosecutor in the grand jury context.

And I wanted to say one more thing about reducing use of force. The studies have shown that in departments where they have used cameras, body cameras and cameras in the car, that there has been a significant decrease in use of force, and it gives us the opportunity to learn from the recorded instances about best practices for deescalation.

So when we have cameras and there is an incident, whether the officer succeeded or failed to deescalate, we can learn more about it.

Mr. CONYERS. All right. What has been your experience, sir, in terms of this problem? More or less, where do we go from here?

Mr. Hartley, what do you think?

Mr. HARTLEY. As it relates to prosecution of police officers?

Mr. CONYERS. No, we can go wider than that.

Mr. HARTLEY. I think to just kind of parlay that discussion into a little more broad sense, I think the most important thing for any organization to do is to prepare for that bad event.

We know that regardless of the best planning, you are still going to have people that are engaged in fundamental decisions around the enforcement of law that have impacts on communities. But the reality of it is that if the preparation takes place in the proper way with the proper folks around the table, it relieves those expecta-

tions of negativity, if you will, and it promotes organizational confidence in how the process will be managed.

I do not feel comfortable saying that one size fits all for each agency, because I think each jurisdiction brings on different attributes that has to be considered in the development of those types of things.

Mr. CONYERS. Of course.

Mr. HARTLEY. But for the public's consideration and for the officers' consideration, confidence in the process is important, and it has to do with planning for the event from start to finish and include community contacts, media engagement, and other processes related to the legal system.

Mr. CONYERS. Thank you very much.

Ms. Rahr, just in closing, do you see some hope in President Obama's recent statements on the subject, when he was in Camden yesterday?

Ms. RAHR. I do. I think that there are a number of recommendations that will be helpful to every police department in the Nation. For some departments, they will be able to follow many of those recommendations. I hope that, as time goes on, the distribution of Federal funding and resources will take into account the cooperation of agencies that are doing their best to follow those recommendations.

Mr. CONYERS. Thank you.

Mr. GOODLATTE. The Chair thanks the gentleman.

The Chair recognizes the gentleman from South Carolina, Mr. Gowdy, for 5 minutes.

Mr. GOWDY. Thank you, Mr. Chairman.

Professor Ramirez, you mentioned a couple of cases in your opening statement, and I know that time is short when you only have 5 minutes, and you were not able to address other cases. I wanted to ask you whether or not you were familiar with a few other cases.

Sandy Rogers and Scotty Richardson from Aiken, South Carolina, are you familiar with that case?

Ms. RAMIREZ. No, sir.

Mr. GOWDY. How about Roger Dale Rice from Laurens, South Carolina, are you familiar with that case?

Ms. RAMIREZ. No, sir.

Mr. GOWDY. Eric Nicholson or Marcus Whitfield from Greenville, South Carolina? Are you familiar with that case?

Ms. RAMIREZ. No, sir.

Mr. GOWDY. Russ Sorrow from Greenville, South Carolina?

Ms. RAMIREZ. No, sir.

Mr. GOWDY. Or Kevin Carper from Spartanburg, South Carolina?

Ms. RAMIREZ. No, sir.

Mr. GOWDY. Professor, those are just a handful of the more than 340 police officers who were killed in the line of duty in South Carolina. And Kevin Carper's case is most instructive because his partner did CPR on the suspect that killed Kevin, trying to save his life.

Let me ask it another way. Are you familiar with the case of Ricky Samuel?

Ms. RAMIREZ. No, sir.

Mr. GOWDY. How about Tamika Huston?

Ms. RAMIREZ. No, sir.

Mr. GOWDY. How about Nell Lindsey?

Ms. RAMIREZ. No, sir.

Mr. GOWDY. Miranda Auell?

Ms. RAMIREZ. No, sir.

Mr. GOWDY. Santiago Rios?

Ms. RAMIREZ. No, sir.

Mr. GOWDY. Those are all folks that were the victim of intraracial homicides in South Carolina. And I hasten to add, there were not protests either with those police officer killings or any of the intraracial killings.

And I suspect you agree with me, Professor, that all lives matter. Whether you are killed by a police officer or your next-door neighbor, you are every bit as dead, aren't you?

Ms. RAMIREZ. Yes, sir. I, actually, as a former prosecutor and someone who has worked with police officers, have the deepest respect for them.

Mr. GOWDY. So do I. And despite that deep respect, Professor, I still maintain the objectivity of prosecuting police officers who engaged in misconduct. We have a process in place, if you don't think you can be fair. It is called recusal, which is what some of us did in every single one of our officer-involved shootings. We recused it to another prosecutor, so he or she could make that decision.

So there is a process in place. You called for a process. There is one. It is called recusal.

Do you know, as a former prosecutor, or can you deign, what may have been the biggest impediment to our being able to successfully prosecute homicide cases, particularly homicide cases involving victims of color? In my criminal justice jurisdiction, do you know what the biggest impediment was?

Ms. RAMIREZ. In Massachusetts, one of the biggest impediments is trying to get witnesses to come forward.

Mr. GOWDY. You are exactly right. You are exactly right. You have a victim of color and we had trouble getting witnesses to cooperate with law enforcement and prosecutors, which then, as you know, diminishes the quality of that case and your ability to prosecute it, which may result in a lesser plea bargain because you do not have the facts, which may then result in what you said in your opening statement, which is people have a tendency to treat Black lives differently than White, when the reality is the case wasn't quite as good. Isn't that a possibility, too?

Ms. RAMIREZ. For every prosecutor who is out there, this is a serious problem, and you are correct in pointing that out, sir.

Mr. GOWDY. Right. And it wasn't just me pointing it out, Professor. I happened to have a fantastic chief of police when I was the D.A., fantastic man by the name of Tony Fisher, who happened to be an African-American chief of police. And he lamented the exact same thing you and I are talking about.

It is the loss of life in his community and the refusal of people to cooperate, even in a drive-by shooting of an 8-year-old at a birthday party, a drive-by shooting outdoors where the whole world saw the car drive by, and nobody would cooperate with the prosecution in the murder of an 8-year-old.

So I hope that part of this 21st century police strategy conversation that we are having includes getting people to cooperate with law enforcement, so you can hold people to the exact same standard regardless of the race of the victim.

And I want to say this, too. I want to thank my friends Cedric Richmond and Hakeem Jeffries and others who are working on this issue, because they want a justice system that is colorblind. After all, it is represented by a woman wearing a blindfold, so let us go ahead and make it colorblind. And both of those guys have worked really, really hard and will continue to do so, because let me tell what you my goal is. My goal is for witnesses to feel comfortable cooperating.

But here is my other goal, and I am out of time but I am going to share it with you. I want to get to the point where we lament the death, the murder of a Black female like Nell Lindsey just as much if it is at the hands of an abusive husband, which it was, as we would if it would have been at the hands of a White cop. I want to get to the point where we are equally outraged at the loss of life, and I hope we can get there.

With that, I would yield back.

Mr. GOODLATTE. The Chair thanks the gentleman and recognizes the gentlewoman from Texas, Ms. Jackson Lee, for 5 minutes.

Ms. JACKSON LEE. Mr. Chairman, thank you so very much. And let me thank both you and the Ranking Member, my Ranking Member, for listening and engaging and leading. And I was delighted to participate in the process.

And I would like to say to my colleagues that this effort of criminal justice reform is going to be a Committee effort. Every Member's input and assessment and analysis and legislative initiatives will stand equal, I believe, in the eyes of the Ranking Member and the Chairman and, certainly, those of us who serve as the Chairperson and Ranking Member of the Crime Subcommittee, as I do.

America will not be responded to unless this Committee works together, and that our efforts are in unison and collective, responding, of course, to the many witnesses that will come before us.

So this is the first hearing, and I think America should recognize the very large step that we are making.

Sheriff Clarke, let me thank you for your service. We may agree to disagree, but there is no disagreement with your service and the sacrifice that you represent. As you indicated, we met a couple of weeks ago.

Just May 15, I was on the west side of the campus of this great Congress, dealing with the many families who had lost loved ones in law enforcement. So my tone today will be that we do ill when we take each other's pain lightly. The pain of "Black lives matter," the pain of "hands up, don't shoot," the pain of "I can't breathe." That is pain.

And it is equally the pain of Mr. Geer who was on the steps of his house August 2013 and was shot in Virginia. He happened to be an Anglo or Caucasian male.

What we have to do to make a legislative step of monumental change that gives our officers the confidence of their work, further enhance their training, is to be able to work together. My line of questioning will be how do we fix these problems and how do we

get the 5 percent number, that is a lot of officers, to be 25 percent, 50 percent accreditation. That is what the American people, I think, are looking at.

I do not want anyone's pain to be diminished, and I sit here today recognizing that pain.

So let me just quickly say this regarding statistics. James Comey, the director of FBI, said the following about the Uniform Crime Report, the now 3-year-old source that was cited in the sheriff's testimony. He said the following, the demographic data regarding officer-involved shootings is not consistently reported to us through our Uniform Crime Reporting program. Because reporting is voluntary, our data is incomplete and, therefore, in the aggregate, unreliable.

Mr. Hartley, I have thought that data is important, introduced a bill called the CADET bill to gather statistics of shootings by police and by individuals against police, because I believe in fairness.

So if this was required, would that be an asset to CALEA, as you do your scientific work, of providing insight for training?

Mr. HARTLEY. Ms. Jackson Lee, let me first start by saying that I think data helps drive decision making, and it helped drive it in an important way because you do not know what you do not know sometimes. And what we find is organizations that engage with CALEA in accreditation discovered data in the process that really helps them make fundamental decisions that drive the organization in a responsible way toward community service.

Ms. JACKSON LEE. Do you have enough money to accredit all of the police departments across America? Would you need some incentivizing, some funding to help you do that?

Mr. HARTLEY. Well, we do not need the incentivizing or funding to help that occur, but those organizations sometimes do. Organizations that participate with us range in size from 10,000 to 10.

Ms. JACKSON LEE. So funding to them would be a helpful component of police accountability?

Mr. HARTLEY. I think that would support agencies in this mission.

Ms. JACKSON LEE. I have a series of questions. On the CALEA standards for body cameras, police arrests and transport, and independent review of lethal force by law enforcement, are there standards—that is the question—on body cameras, police arrests, and transport?

One of the issues I am concerned about, because when the issue came out in Baltimore, it wasn't sort of put aside, police departments were saying all over, you know what, those are some of the things we do.

But do you have standards on that and use of lethal force?

Mr. HARTLEY. We do have standards on all of those subjects. The one related to transport didn't particularly address the issue faced in Baltimore. However, there is a standard that encourages the safe transport of individuals, regardless of the type—

Ms. JACKSON LEE. But we need to help to enhance that and make that a noticeable part of policing across America.

Mr. HARTLEY. Well, I think that standards themselves are a dynamic, living tool. I think as we encounter new issues, and we cer-

tainly will, we have to be prepared to make adjustments in those standards to address those issues.

Ms. JACKSON LEE. May I quickly ask you, Ms. Rahr, you have written about the obstacles of implementing changes in training programs, particularly opposition from those wedded to the status quo. Can you explain that? And can you also add to your conversation?

I do not want any police officer to not go home to their family. That is a mantra that we all stand by, you know, everyone says, we have great relationships. I am a big believer in community-oriented policing. The father of community-oriented policing lives in Houston, Lee Brown.

But could you comment on that, and the idea of deescalation in training and how that impacts on police interaction?

Mr. GOODLATTE. The time of the gentlewoman has expired, but the witness will be allowed to answer the question.

Ms. JACKSON LEE. Thank you, Mr. Chairman. It is a very exciting hearing. It generates a lot of questions. Thank you.

Ms. RAHR. Thank you, sir.

I have described the philosophical shift that I have been promoting for a couple of years as moving our culture closer to a guardian mentality rather than a warrior mentality. I believe the warrior mentality was a result of a political movement that started in the 1960's when we declared war on crime, war on drugs, war on all sorts of things. The police agencies across this Nation responded, as they do to their political leadership in their communities.

What I am trying to do is help our new police officers find the right balance, because officers absolutely must have keen warrior skills and they must be able to use them without hesitation or policy. But I want them to consider their role within our democracy, and that role needs to be the role of a protector with the goal of protecting people rather than conquering them.

When you try to initiate this type of a mindset shift, there is naturally going to be resistance. The greatest resistance I have encountered is just the misunderstanding of what I am talking about. When I have the opportunity to explain it in more depth, most officers will say to me that is how good cops have always done it.

I want our recruits on their first day on the street to have the wisdom of a good cop with 20 years' experience.

Mr. GOODLATTE. The time of the gentlewoman has expired.

Ms. JACKSON LEE. Thank you. I yield back.

Mr. GOODLATTE. The Chair recognizes the gentleman from Michigan, Mr. Bishop, for 5 minutes.

Mr. BISHOP. Thank you, Mr. Chairman.

I would like to thank the panel for your testimony today. Grateful for the time you have taken to be with us today.

Sheriff, I had an opportunity to speak with the law enforcement community in my community, and I did a roundtable discussion. I had an open dialogue about the events of the day and some of the concerns that have been raised in this very discussion.

They were concerned, as well, about some of the bad actors in their own rank and file that we have been seeing around this country and very concerned about it, but also were adamant about the

fact that they express that the vast majority of the officers they work with, the emergency response personnel, are hardworking, good professional people who are there for a common purpose, and that is to serve the public.

They are concerned that that does not resonate, that we see more now about the bad acting, some of the negative that has gone on out there. And it is important we identify and we deal with that and we not tolerate it in any way, shape, or form. But it is also important that we do whatever we can do to really rally behind those who have given so much in the law enforcement community.

I think I would really like to know from you, what is going on with the morale of the law enforcement community? Are you having problems with recruitment and retention of officers as a result of all that has gone on around the country?

Sheriff CLARKE. Mr. Chair, Congressman, we are at a tipping point, and it is something that I expressed not too long after what happened in Ferguson, Missouri, about the psyche of the American police officer who watches these things go on, just like anybody else does. And the constant bashing and maligning of the profession is starting to take its toll.

I just spent this week in the D.C. area for the National Law Enforcement Officers Memorial week, police week, if you will. And I talked to law enforcement officers from across this country, and the one common theme I heard from them, first of all, their mindset is they are beleaguered right now. But the common theme that I heard is, you know, Sheriff, I do not know if I want to continue to take that extra step anymore, because I do not want to be the next Darren Wilson. I do not want to be the next, you know, officers in Baltimore or New York or anywhere, because they, in a good faith effort—we are talking about the good faith action of law enforcement officers. We operate in an environment of chaos and uncertainty when we get sent to these calls.

Sometimes in this imperfect world, things can go horribly wrong, which they did in Ferguson, Missouri. I am not going to get into whose fault that was, but something went horribly wrong.

But some of the best law enforcement work that goes on all across the country is called self-initiated. It is not the call for service. When an officer gets sent to a call for service, something already happened. It is reactive. The crime already occurred. But the self-initiated policing is when that officer, that man or woman, uses their experience, their sixth sense, if you will, their street sense, that criminal activity may be afoot. And they establish the reasonable suspicion so they can make that stop consistent with our Constitution, and they go and investigate. They pull that car over, or they go and what we call, you know, stick up a group of individuals hanging on a corner or casing an area, so to speak, and we start to investigate.

In self-initiated policing, you are going to find the guns that are being used to transport to and from drive-by shootings. You are going to find prohibited persons with firearms. You are going to find drugs. You are going to find people wanted on serious felony warrants, through self-initiated policing.

When that starts to fall off, and there will be a lag time. This won't happen overnight. The cops in this country aren't going to

quit. But over time, when they start to worry, they look and they see that suspicious vehicle or they see that suspicious individual and say, maybe not today, I do not want this thing to go haywire on me and, next thing you know, I am one of those officers who becomes a household name in America.

That is going to be a lag time, okay. I do not like to create hysteria. But over time, I think it is going to have an effect on crime rates in those communities that need assertive policing the most, and that is our minority communities.

Mr. BISHOP. Thank you, Sheriff.

I guess my time is up, Mr. Chairman, so I would yield back the balance.

Mr. GOODLATTE. The Chair thanks the gentleman and recognizes the gentleman from New York, Mr. Nadler, for 5 minutes.

Mr. NADLER. Thank you.

Before I ask the question, let me just make an observation. Sheriff Clarke talked about the sixth sense, about taking that extra step. Sometimes taking that extra step is very necessary, but sometimes we maybe want the officer not to take that extra step. Maybe that is sometimes the problem and that leads into the question of changing police culture, which Ms. Rahr talked about.

Ms. Rahr, what is the greatest challenge in changing police culture?

Ms. RAHR. I think the greatest challenge is recognizing that we have a real variety of cultures already existing across the country. When officers come to begin their career of service, most of them come to the table with the goal of doing something good, doing something to benefit the community. And then they are confronted with the realities of trying to do those good things.

As a result, sometimes they take on a tougher persona, and they may lose sight of their original reasons for coming in the door.

I think we need to work harder within the agencies, the leadership within the agencies, to support our police officers, make sure that they are healthy both mentally and physically, and that they feel supported by the agency. If an officer does not feel support inside their agency, they are not going to be willing to take a risk and try something different. They are not going to be willing to take as much of a risk to go out on a limb to protect someone.

I think the internal culture of policing is absolutely critical. And when that is strong and healthy and confident, officers will be willing to try something different.

Mr. NADLER. And what, if anything, can we in Congress do to help this change?

Ms. RAHR. I would love to see Congress provide funding for improved training. I will just cut right to the chase.

There are a number of excellent programs already in existence that could literally transform the profession of policing in this country.

I have been involved for the last couple of years with a program called Blue Courage, and that program seeks to support police officers, build their pride, build their sense of high morale, and especially assist them in seeing their appropriate role as the guardian in democracy. That program costs money, and agencies that want

to acquire that training have to pay for an officer on overtime to fill the districts.

Mr. NADLER. Appropriating money for training. Anything else?

Ms. RAHR. Besides training?

Mr. NADLER. Besides money?

Ms. RAHR. Oh, besides money, I am sorry. I think just the recognition that individual police agencies need to be supported. There is not going to be a one-size-fits-all Federal solution to this.

Mr. NADLER. Thank you very much.

Professor Ramirez, all over the country, we have had a number of problems, obviously, with violence against citizens who turned out not to have weapons or be guilty of anything. And sometimes the police officer gets prosecuted. Sometimes the police officer does not. Sometimes people are happy with it. Sometimes they are not. We have seen these controversies.

And, of course, it has been suggested that the D.A.s are too close, they have to work day-to-day with the police officers. They are too close to make that decision without being thought partisan, whether they are or not.

Should we have a law or regulation that mandates a special prosecutor or special master for investigations of police officers on the grounds that the D.A.s are, in fact, too close to do this fairly? Would that be a good idea?

Ms. RAMIREZ. I think it would be a good idea.

Mr. NADLER. Would that enhance community confidence and impartiality? And what are the negatives on it?

Ms. RAMIREZ. Yes. While we do have a recusal system, that recusal system is now in the hands of the district attorney, so the district attorney in Ferguson did not recuse himself. And I think having laws and a process would create more legitimacy and more transparency to the public.

Mr. NADLER. Thank you. Also, Professor, what is the greatest impediment to prosecuting police officers who violate constitutional rights of individuals in their official capacity? Obviously, we do not do—what is it? 18?—deprivation of civil rights under the color of law very often by law Federal Government.

So what is the greatest impediment to prosecuting police officers who ought to be prosecuted, and there are some, obviously?

Ms. RAMIREZ. I am someone who has prosecuted police officers. I would say that the first impediment is that, in a prosecutorial office when you work with police, when you work with law enforcement, it is very hard to decide to prosecute—

Mr. NADLER. What we talked about in our previous question?

Ms. RAMIREZ. Right.

Mr. NADLER. Okay, because my time is running out, obviously, there have been a lot of controversial encounters, in some of which police officers were prosecuted and others in which they weren't, sometimes the D.A. was excoriated for prosecuting, sometimes for not prosecuting. Would it be better for the sense of justice on the part of relatives of victims, would it be better for the police officers who could be exonerated by this, if police officers used body cameras all the time whenever they had such an encounter?

Ms. RAMIREZ. I think cameras are critical at this juncture, and we know that four things happen when you put cameras in place,

because we have done research on this in both Great Britain and in this country when cameras were used.

First, the use of force diminishes, and that is important, because police officers know they are being recorded during an incident.

Second, complaints against police officers diminished significantly, which reduces the cost and process of adjudicating these incidents after the fact and trying to find facts.

Surprisingly, the third thing is that there has been an increase in successful prosecution of domestic violence, because the police can record on the scene at the time what happened.

The fourth thing that would be very helpful in moving the police culture from a warrior culture to a guardianship culture is that you could begin to have guardianship metrics. The current metrics are warrior metrics. How many people did you arrest, search, seize? How many guns did you seize? How many drugs did you seize?

If you had cameras, you could begin to do two things. You could begin to evaluate officers on guardianship values. You could look at every 100th tape and say, was this officer respectful? Were they courteous? Did they follow procedures? Did they try to deescalate?

Finally, it serves as an early warning system to the police, because if you are watching on a regular basis randomly some of these cameras, you will discern who are the bad apples who have anger management issues and other issues.

Mr. NADLER. Thank you. I yield back.

Mr. GOODLATTE. The Chair recognizes the gentleman from Arizona, Mr. Franks, for 5 minutes.

Mr. FRANKS. Well, thank you, Mr. Chairman. You know, Mr. Chairman, to paraphrase the poet, we sleep safe in our beds at night because rough men stand ready to visit violence on those who would do us harm. And, certainly, I believe that the people that wear the uniform, the many women that wear the uniform, fit in that paradigm very well, because unless there are those that are willing to stand between the innocent and the malevolent, then the malevolent will prevail. I think that those who wear the uniform and place themselves in those dangerous positions are among the most noble figures in our society.

And, Sheriff Clarke, I heard you on one of the television interviews and was so struck by your clarity and your eagle-eyed approach, and I thought this gentleman personifies that nobility that we talk about. And I really think that my children and the children of this country have a safer, more hopeful future because of people like you.

So I would suggest to you that others have come to the same conclusion. That might be why you are here in this hearing this morning.

My question is first for you, have the recent events and the press response to those events had any kind of impact on your officers or made them more likely to employ strategies and tactics that might actually compromise their safety or the safety of the community?

Sheriff CLARKE. Mr. Chair, Congressman, without a doubt, it is part of the tipping point that I talked about. You know, we need balance in this, obviously. And even if we find balance, maintaining it is going to be even more difficult. An officer delaying that thing

that is telling him or her to do a certain thing that does not happen may cost them their lives.

But let me say this about the use of body cameras. I am for this, the use of this technology. I think it is a force multiplier. It can only help.

But what I have been advising, I think we are rushing into this, because we are going to end up with the law of unintended consequences. There are some privacy issues involved. It potentially could lead to fewer people wanting to come forward and cooperate with the police, especially in our minority communities where cooperating with police can lead you to a very bad conclusion. You do not want to be seen doing that. You do not want to be videotaped cooperating with the police. So we need to think about what impact it will have on witnesses wanting to come forward or even calling to report crime.

And I just want to close by saying that the use of body cameras and the early evidence that it is leading to fewer complaints and fewer instances of force, there is evidence to suggest this, not to show it, that that isn't just the result of the officer knowing that someone is watching. It is also letting the person who the officer is dealing with know, if I make a false complaint against this officer, it is going to be on video. And that could lead to a decrease in complaints as well. So I do not want everybody to presume that it is because the officers are being watched, that they are changing their behavior.

And the same with suspects. They know they are being videotaped. Maybe they are less likely to fight the police and engage in some of that behavior as well.

So that is why I say I support that, the use of those body cameras. But there are some things associated with it that have not been flushed out yet. I just say, let us not rush into this because it is not a panacea.

Thank you.

Mr. FRANKS. Thank you, sir.

Ms. Rahr, in your testimony you discuss the absence of a national coherence in policing. I wonder how you would propose to implement national policing standards while still ensuring that local police departments maintain the autonomy necessary to be relevant and effective in their own jurisdictions?

Ms. RAHR. Sir, I haven't suggested national standards. What the task force worked on were recommendations to provide guidance and to provide more support for police departments. I do not think we will ever come to a place where we have national standards for police policies and procedures. There are just too many different variables in each community.

Mr. FRANKS. Well, Mr. Chairman, I would just suggest, sir, that while I think everyone sees our police force, in general, as guardians, I am thankful that there are enough warrior mentality among them to hold back those that would desecrate the innocents. And I would yield back with that.

Mr. GOODLATTE. The Chair thanks the gentleman and recognizes the gentleman from Tennessee, Mr. Cohen, for 5 minutes.

Mr. COHEN. Thank you, Mr. Chair. And I want to thank you for holding this hearing. It is most important.

And I want to say on the front end, I started my legal career, I was a lawyer, as the attorney for the Memphis police. I spent 3 1/2 years working for the police, and I understand policing and appreciate policing, and know it is essential for an ordered liberty and a society that has on the frontlines men and women willing to risk their lives.

And I have great respect for Mr. Gowdy and I am happy he is back here. He mentioned that he looks for the day that we rue the death of the lady, I forget her name, who was apparently killed by her husband in a domestic violence situation, the same as we rue the problems when a White policeman kills a Black citizen.

And I would have to say, with great respect for Mr. Gowdy, there is a big difference. One is a private tragedy; the other is a public tragedy, because it is under color of law. And while we would like to see no crime whatsoever—and that would be wonderful—we can only mostly be concerned about color of law killings. And that is something we should be concerned about. It is a big difference.

A question for Professor Ramirez, you mentioned an investigation, prosecutorial decisions rest in the hands of D.A.s, and Mr. Gowdy mentioned recusal. Recusal is up to the D.A.

And in the recommendations of the President's task force, there were recommendations that we have an independent prosecutor. Congressman Clay and I have introduced a bill that requires States to adopt independent prosecutor laws or face a cut in Byrne JAG funding. This would present a solution.

Is part of the reason that the problem exists is perception? Is that part of the reason why you think it is important to have an independent prosecutor, because the perception the public has that there is not independent analysis of the cases and independent determination of who should be prosecuted?

Ms. RAMIREZ. Yes, sir. It is primarily a matter of perception, because I believe that prosecutors across the country try to do the best that they can and exercise the best judgment. But because of this inherent conflict, there may be the perception in the eye of the public that this was not a fair and full hearing.

Mr. COHEN. The D.A.'s main witnesses are always police.

Ms. RAMIREZ. Correct.

Mr. COHEN. In my community, the D.A. hires, which makes sense, former sheriff's people or police people to be their investigators.

Ms. RAMIREZ. Yes, sir.

Mr. COHEN. Yes, so there is an inherent conflict. That is the reason we have our bill, Lacy Clay and I, because we think not only would it eliminate the perception, but also there are certain cases where there are politics are involved. And a base for the D.A. who is elected is law enforcement, and that is a political problem. So that is number one.

Ms. Rahr, you were a member of the President's task force, and thank you for your work and your colleagues' work. The task force recommended the use of independent prosecutors as well, where police use force and it results in death or injury.

Was the recommendation based on instances where D.A.s did not pursue cases against police as aggressively as they should have, or,

again, was it based on the mere perception of the conflict of interest and the damage that perception can have on public trust?

Ms. RAHR. In our debates and conversations, the primary focus was on the perception. It is in recognition that we have to maintain public trust.

There are many prosecutors across this Nation that are perfectly capable, I believe, of doing an objective investigation and prosecution of police shootings. Unfortunately, we have to maintain public trust. And when you try to balance those two issues, it was the consensus of the task force that public trust had to have more weight than just the pragmatism of having that particular prosecutor.

Mr. COHEN. We are down to my last minute, but you mentioned training. Part of the bill I have with Representative Clay requires some kind sensitivity training for police to recognize ethnic differences, gender differences, et cetera, et cetera, and maybe sexual orientation differences.

Do you think this would be helpful for police to have training in terms of the diverse societies that we have today?

Ms. RAHR. I do believe it would be helpful to have training. I wouldn't title it "sensitivity training" because I think the police would shut down immediately.

Mr. COHEN. I agree with that.

In my last minute, Sheriff Clarke, let me ask you this. You mentioned in your testimony that much of the population in State and Federal prisons was for violent crime. Probably, that is true. But in the Federal system, it is mostly for drug crime. There is not so much violent crime there. That is where the drug situation really fills up the Federal prisons.

You said that illegal drug use is the scourge of the Black community. And it is a problem and leads to a great deal of violent crime. Would you agree that marijuana possession is not the scourge of the Black community and does not lead to violent crime the same way that meth, crack, cocaine, and heroin do?

Sheriff CLARKE. No, I wouldn't agree with that at all.

Mr. COHEN. Well, that is interesting. I wish I had more time to talk with you.

Thank you for allowing me this opportunity. A defense attorney is not supposed to ask a question they don't know the answer to, but it was such an obvious answer, I never thought I would get that answer. [Laughter.]

Mr. GOODLATTE. The time of the gentleman has expired.

The Chair recognizes the gentleman from Iowa, Mr. King, for 5 minutes.

Mr. KING. Resisting the temptation to yield the balance of my time to Mr. Cohen.

Mr. COHEN. Thank you, Mr. King.

Mr. KING. I would point out that I have in my hand an article from Investor Business Daily, and it is dated, by the way, the 6th of May, but is titled, "Obama praised Baltimore police he is now investigating." It points out the study that the gentleman from Tennessee referenced, the President's Task Force on 21st Century Policing, which I have in my hand.

And it also quotes from the police chief of Baltimore, who said he changed outdated procedures that put officers at odds with the community. This goes back to March of 2015. The date of this article is the first week or so in May.

It is interesting to me, as I listen to the testimony of Ms. Rahr, and I give you credit for contributing to that report as well, that you would like to see a shift from the warrior mentality to that of a guardian. And I think of the night I came here and I watched live on television the encounters with Baltimore police and rock-throwing mobs. And I saw the Baltimore police retreat from rock-throwing mobs.

So I would ask you, is there a time they need to convert back to the warrior mentality and was that the time?

Ms. RAHR. I want to clarify when I talk about a guardian mentality, that absolutely does not imply retreat. It does not imply weakness. It implies being able to do two things at once.

Mr. KING. You can do that by just answering my question, also.

Ms. RAHR. I am sorry?

Mr. KING. You can also clarify by just answering my question. Was Baltimore a time there should have been more of a warrior mentality when they were facing rock-throwing mobs and retreating in the face of rock-throwing mobs? Was that a time that there needed to be an engagement of the police rather than a retreat?

Ms. RAHR. They needed to use warrior tactics while having the mindset of a guardian.

Mr. KING. Okay, thank you.

I would turn to Mr. Ramirez, and your testimony was very interesting to me. And I began thinking about our Constitution and where it says in the First Amendment, I will paraphrase, but also accurately, Congress shall make no law respecting the right of the people peaceably to assemble and to petition the government for redresses of grievances. Do you agree with that statement?

Ms. RAMIREZ. Yes, sir.

Mr. KING. And there is no prohibition in that statement that I read, and would you agree, that prohibits Congress from making a law or enforcing a law that would prohibit the people from violently assembling to petition the government for redress of grievances?

Ms. RAMIREZ. Congress does have the right to restrain violence in any form.

Mr. KING. Yes. And so we agree that freedom of speech isn't the right to yell fire in a crowded theater?

Ms. RAMIREZ. Correct.

Mr. KING. Then we could also agree—no, I will ask you. Is it then lawful or unlawful for one to pay protesters and encourage them to become violent?

Ms. RAMIREZ. I think that is a crime.

Mr. KING. Yes. And I would agree with that also.

I would point out that my—and “encourage violence,” I want to pull that part out as a separate clause in my statement here for this purpose. I have in my hand a stack of tweets and stories and messages about protesters in Ferguson, Missouri, who now are protesting that they didn't get paid for the work that they did. And I put that word “work” in quotes.

Have you reviewed any of that? Are you knowledgeable about any of that information, Ms. Ramirez?

Ms. RAMIREZ. No, but, I would say this, that at this juncture, the most helpful thing that we could do is to try to bring the community and the police together in dialogues at the local level.

Mr. KING. I do understand that. That was in your testimony, and I think the panel understands it.

But if you were presented with information that indicated that there was a funder or funders who had hired protesters that may well have been to bused into places like Ferguson, Missouri, or sent to places like Baltimore, and we ended up watching buildings and businesses be burned and property damage being created, and in some cases assault, would that be worthy of an investigation, would you think, by the local police force?

Ms. RAMIREZ. Yes.

Mr. KING. And what about the U.S. Attorney General?

Ms. RAMIREZ. I think that if there is evidence that someone was being paid to engage in violent protests and engage in violence, then that is a serious problem.

Mr. KING. But you wouldn't think that if they didn't say violence, if they just said protest, and it turned into violence, that wouldn't be a crime?

Ms. RAMIREZ. That is a different situation.

Mr. KING. Thank you.

I would like to turn and ask Sheriff Clarke if he could respond with his reflections upon this exchange that he heard?

Sheriff CLARKE. Sure. I was a little disappointed there weren't more aggressive prosecutions and attempts to investigate some of the behavior of some of the rioters who were captured on videotape. One of the ones that stands out to me is a group of young individuals standing and dancing on top of a police cruiser that had been destroyed, so to speak, as if they had captured some sort of ground. That is government property.

In Wisconsin, we have a statute of inciting a riot. I think those things should be used on both sides. There just seems to be too much focus on what the police may have done, you know, prior to the riots breaking out.

As you indicated, there is a more socially acceptable way under our First Amendment to display your frustrations, your anger, and it is not rioting. It is not destroying property of other people.

We saw that night what Baltimore would look like without the police, with police stepping back as they did. Some say retreating. It was an ugly situation for a great American city.

Mr. KING. Thank you, Sheriff.

I thank the Chairman and the witnesses and yield back the balance of my time.

Mr. GOODLATTE. The Chair thanks the gentleman and recognizes the gentleman from Georgia, Mr. Johnson, for 5 minutes.

Mr. JOHNSON. Thank you, Mr. Chairman. I want to thank you and the Ranking Member for agreeing to hold this hearing.

Sheriff Clarke, I heard about and read about your astigmatic testimony—that is the word I am trying to use—astigmatic testimony. Please note my strong respect and support for police and law enforcement, and also note my strong insistence that the rule of law

apply to all, regardless of whether a person is a civilian or law enforcement.

The failure to prosecute police officers, militarize police responses to peaceful protests, and video footage of people dying by the hands of law enforcement have led us to where we are today.

While discussing police accountability is an essential way to improve the relationship between the community and law enforcement, I hope that this Committee will hold additional hearings that will allow us to specifically focus upon grand jury reform, use of body cameras, and the DOJ's data collection and transparency practices.

Before we witnessed the militarization of police in Missouri, I had been working on the Stop Militarizing Law Enforcement Act, which prevents local police forces from receiving MRAPs, tanks, and other weapons left over from the war. And I am very grateful and humbled that President Obama yesterday issued an executive order that virtually ends the 1033 program.

I have also introduced the Grand Jury Reform Act, which calls for the use of special prosecutors and independent law enforcement agencies when there has been a police killing.

And also, I have introduced the Police Accountability Act, which would expand the DOJ's authority to bring charges against law enforcement officers.

Sir, have you ever heard the name Ariston Waiters before? I am sure that you haven't. He was just a 19-year-old unarmed Black male, just a typical unarmed Black male down in Union City, Georgia, who was shot while lying on his stomach. Shot twice in the back by a law enforcement officer, a police officer from Union City. Shot twice in the back at close range.

The officer who killed Mr. Waiters allegedly exhibited signs of posttraumatic stress disorder. He was an Afghanistan war veteran. According to the Anxiety Disorders Association of America, there are 40 million adults in the United States over the age of 18 who suffer from anxiety disorders, and 7.7 million of those Americans suffer from posttraumatic stress disorder.

I am concerned about the role mental health issues play in officers using excessive force against civilians. We have talked about police officers receiving training on how to apprehend people suffering from mental illnesses, but what is your department doing to make sure that officers themselves aren't suffering from mental illnesses?

Sheriff CLARKE. Mr. Chair, Congressman, that is one of the most difficult situations that law enforcement officers today are dealing with, the mentally ill.

Mr. JOHNSON. Would you agree that there must be some out there among the 7.7 million Americans suffering from posttraumatic stress disorder who are law enforcement officers? You would not deny that, would you?

Sheriff CLARKE. I do not have any data to refute it.

Mr. JOHNSON. But would you think that there may be some cases where there are officers who are suffering from posttraumatic stress disorder and who are serving currently in law enforcement?

Sheriff CLARKE. If I had to guess, yes. I had such a situation with one of my patrol sergeants who served in the first Gulf War, I believe, and he slapped around a handcuffed prisoner.

I not only had him charged with a felony, he went to prison for 18 months.

Mr. JOHNSON. You are to be commended for that.

Sheriff CLARKE. It was a hard thing to do.

Mr. JOHNSON. Does your department have a system of monitoring police officers or your officers periodically, just to determine whether or not they have any mental health issues that could impede their ability to protect and serve the people?

Sheriff CLARKE. No, not a systematic one. We have our standard early warning system.

Mr. JOHNSON. Do you think it would be wise for the Federal Government—I noticed that in your statement, you say that, I am quoting you, “Police use of force should be scrutinized—locally, that is.” Does that mean you do not think that the Federal Government should concern itself with these issues at all?

Sheriff CLARKE. It is not that I do not think the Federal Government should concern itself. I think the Federal Government should observe what is going on across the Nation with all these issues, but I think it is a slippery slope.

Mr. JOHNSON. You say it should be scrutinized locally, though. Does that mean to the exclusion of the Federal Government?

Sheriff CLARKE. Well, if I could finish the sentence——

Mr. GOODLATTE. The time of the gentleman has expired, but the witness is allowed to answer the question.

Mr. JOHNSON. Thank you.

Sheriff CLARKE. Sure, it should be scrutinized, without a doubt.

Mr. JOHNSON. Thank you.

Mr. GOODLATTE. The Chair recognizes the gentleman from Pennsylvania, Mr. Marino, for 5 minutes.

Mr. MARINO. Thank you, Chairman.

It is a pleasure to have you here today. Sheriff, if you could zero in on an issue for me concerning resources, if you had the money, would you hire more sheriffs, deputy sheriffs? And where would you put them, what would you do with them?

Sheriff CLARKE. Yes, I would hire them. I am in a court battle now with the county. I have had to sue the county to be able to hire some more law enforcement officers. I would put them in the field based on what the data is showing where the crimes are occurring, and not just the crime but to provide a consistent visible presence as a deterrent to crime, not just making arrests and writing citations, but to deter and prevent.

Mr. MARINO. I agree with you. If you need help in that case with your superiors who fund money for your sheriff's office, let me know. I will be glad to join in and help.

Sheriff CLARKE. I will do that.

Mr. MARINO. Ms. Ramirez, I come from a long line of law enforcement people. We take it very seriously. I was an assistant district attorney. I was a district attorney. I was a United States attorney. My colleague here was one of the best assistant U.S. attorneys in the country. And I prosecuted cases myself.

And I did not base my decision to prosecute cases involving African-Americans or police on color or on the police. I based it on the rule of law. It had nothing to do with who committed the crime and who didn't and what police were involved.

And you stated that you had a difficult time choosing over law enforcement and police. I never did. If you have a difficult time like that, you shouldn't be a prosecutor.

Why would you prosecute if you made that statement that I have a difficult time prosecuting police if they broke the law?

Ms. RAMIREZ. In my particular situation, as an assistant U.S. attorney, we had not prosecuted police officers in the past. And the U.S. attorney at the time said to me, do you plan to practice law as a defense attorney here in Boston afterward?

Mr. MARINO. Okay. Let me reclaim my time. You are going to get into the U.S. attorney or that individual.

You know you have a step to go to if you have a complaint about prosecuting a case in the U.S. attorney's office. You can go from one person to another and you can actually go to the Justice Department. Now, you also raised the issue—

Ms. RAMIREZ. Which we did, sir. And may I say—

Mr. MARINO. No. I am asking the questions here.

Ms. RAMIREZ. Okay.

Mr. MARINO. You also raised the issue of recusal, that it is up to the district attorney. It is up to the U.S. attorney. In the State courts and even in Federal courts, if there was a recusal, we looked at it very seriously. I have recused myself from cases and my staff.

But, you know, it is not totally up to you. You can take that step to the judge. You can petition the court for recusal and petition as to why. You didn't mention that.

And here is another thing I ran into as a prosecutor, as my colleague said. It was very difficult to get young African-American males to testify against others, even in cases where a family member was killed.

Can you address that for a little bit, please?

Ms. RAMIREZ. That is one of the most important problems that needs to be addressed, and I want to talk about how we addressed it in Boston.

Mr. MARINO. Would you please do it quickly? I only have a minute and a half.

Ms. RAMIREZ. We went to the community organizations. We went to the faith-based community. And we talked to the community and asked them why people were unwilling to come forward as witnesses. There were a myriad of causes. We set up a process and hearings.

As a result, we had I do not know how many cold cases that were solved through a process in which the faith-based community went out, did outreach to the community. The community organizations did that, and we have improved on that.

Mr. MARINO. Okay, reclaiming my time, I agree, and that is a good way to handle it. But you do agree it is a problem.

Ms. RAMIREZ. It is definitely a problem, sir.

Mr. MARINO. It is a big problem. You had an extensive, exemplary career, but have you ever ridden in a car with a police officer when they are faced with a quick reaction situation? I know you

couldn't do it as an assistant U.S. attorney. But as a D.A., have you been on the street when a police officer had to make a split-second decision that has taken the United States Supreme Court 2 years to determine what is right and wrong in a 5-4 decision?

Ms. RAMIREZ. Yes, I have been in cars where police had to make split-second decisions. I will tell you, I found it very frightening. And they do a job I could not do.

Mr. MARINO. There is a difference between a split-second decision and the fact that someone has to determine over a period of time what is right and wrong.

You cherry-picked a lot of cases, but you didn't bring up the issue that the number keeps coming up, that 93 percent of the young Black males, those ones that are murdered, 93 percent are killed by young Black males. Why is this happening, and what can we do to change that?

Ms. RAMIREZ. That is a serious problem, sir, but I do agree with others who have said that what happens under color of law is different from what happens privately between private individuals.

They are both problems, but they are different problems. And when someone kills under color of law, that merits a different process.

Mr. MARINO. I think any prosecutor worth his or her salt understands that very, very much.

I yield back the time.

Mr. GOODLATTE. The time of the gentleman has expired.

The gentlewoman from California, Ms. Chu, is recognized for 5 minutes.

Ms. CHU. Thank you, Mr. Chairman.

Ms. Rahr, you have used a new approach of policing called LEED, Listen and Explain with Equity and Dignity, which puts a premium on conversation and listening during a police encounter.

Could you walk us through a hypothetical situation where LEED has worked to deescalate a situation and tell us why it works?

Ms. RAHR. The purpose of developing the LEED model is to simplify the principles behind procedural justice and give officers very specific tangible, behavioral direction.

In situations where there is conflict, taking the time, if there is not a threat present—I want to be very clear about that. If someone is pointing a gun at you, you do not listen and explain. You do what you have to do.

But in most police interactions in the community, there is time. And if officers are reminded of the benefit of listening, that will help set that interaction going down the correct track.

Most police officers, like myself, we like to step in and control things, and we have to be reminded to stop and listen. When people say police should treat people with respect, the most effective way to convey respect is to listen, so we really want to emphasize that for our officers.

The other area where many officers forget is that we know the system inside out. We know how the process is going to work. We know what is going to happen next. People we are interacting with do not know that. It is that lack of knowledge that creates another level of conflict.

And again, if the officer is reminded, tell the person what they can expect, they will be more likely to cooperate.

When we talk about equity, that is simply to underscore to make sure you are recognizing, whatever biases you bring to the table, make sure you are making your decision on the outcome in an equitable way.

And always leave the person you are interacting with with their dignity intact, and act with dignity yourself.

A lot of officers will mock whenever we use an acronym, and I get that. But it is also a very effective way to teach very specific behavior.

Ms. CHU. In fact, talking about dignity, studies have shown that people in a community care more about how they are treated by police rather than the actual outcome of a police encounter. Police that may pull people over for a driving offense may find that people care more whether they were treated fairly by the police officer than whether they actually got the ticket.

But as you have acknowledged in the past, empathy and patience do not necessarily come naturally for some police recruits. Something as simple as officers having friendly nonenforcement-related conversations with community members have shown to have huge benefits in building community trust.

How do we change things so that the system values these characteristics in our police?

Ms. RAHR. I think we start in the training academy by modeling that type of behavior and being very clear about that as an expectation.

We also need to clarify that empathy is not the same as sympathy. Empathy means you understand what the person on the other side of the interaction is experiencing. I think it starts with training.

I think it was mentioned by another witness that we have to come up with appropriate measures. People will rise to those things that are measured. When we find ways to measure officers behaving in ways that convey respect and dignity, that behavior will increase.

Ms. CHU. Mr. Barge, thank you for acknowledging the role that implicit bias might play in making the type of quick decisions that police encounter every day. Social science research has shown that even individuals who believe that everybody should be treated equally may be affected by implicit biases or subconscious association between people of color and a perception of aggression and crime.

Can you give us an example of a situation in which an officer's perception about an individual might be influenced by the way they react to that individual? And how can police departments work to preemptively dismantle this implicit bias?

Mr. BARGE. I think that one of the prototypical examples is one that Sheriff Clarke mentioned earlier, sort of the self-initiated stop, maybe a broken taillight, that kind of thing, not even necessarily the initiation of the stop but how that interaction proceeds in that critical first few seconds. It may be informed much more about, I think with any of us, sort of broad categories that we are placing a new person who we have never met with or interacted with be-

fore into generalized buckets. And if officers do not do as training in several jurisdictions is starting to offer them instruction on, to slow down the situation where possible and sort of try to use very intentional decision-making strategies, I think they risk, especially because they often have to make these split-second decisions, being in some instances overly swayed by the subconscious sort of factors that they may not even be aware of, and if they were aware of, they would want to make sure were not going into their decision making.

Ms. CHU. Thank you. I yield back.

Mr. GOWDY [presiding]. I thank the gentlelady from California.

The Chair would now recognize the gentleman from Texas, the former U.S. attorney, Mr. Ratcliffe.

Mr. RATCLIFFE. Thank you, Mr. Chairman.

Although far less successful or accomplished than you, Mr. Chairman, or my other colleague, Mr. Marino, I was also a Federal prosecutor and, as such, certainly believe in enforcing the law.

Unfortunately, our national dialog currently on this issue reveals a mistrust on all sides of the issue that we are here to talk about today. But I very much appreciate all of you being here today to talk about how we as a society can address this in a sensitive, careful, and effective manner. And I wish that I had the opportunity to make inquiry to each one of you, but there are time restrictions and I do not.

So I am going to focus at least initially on the witness in the field, if you will, you, Sheriff Clarke. I would like to first ask you, does your police department have clear policies on the use of force?

Sheriff CLARKE. Mr. Chair, Congressman, yes, sir.

Mr. RATCLIFFE. Do you have an opinion, and I am sure that you do, as to whether or not there is a problem with the law as it currently stands related to the use of force in this country?

Sheriff CLARKE. No, I do not.

Mr. RATCLIFFE. Okay. So it is your opinion that, as a Member of Congress with my colleagues here, there isn't anything that we need to do at this point to make it clearer to officers, so that officers are not second-guessed, if you will, as much as they are currently?

Sheriff CLARKE. I think that is a proper role for Congress, advisory oversight a little bit. But when the mandates start coming down as to how we should do our job at the local level, I am going to push back a little on that.

Mr. RATCLIFFE. So community policing certainly is intended to take the edge off of interactions, if you will, between the police and the communities that they serve. But would you agree with me that police work by its very definition is one that must involve conflict?

Sheriff CLARKE. It has great potential for conflict because of human interaction.

Mr. RATCLIFFE. Certainly, with respect to the end of the day, regardless of how the officer goes about his or her job, he or she has the responsibility to enforce the law, whether they are doing it with a smile on their face or not?

Sheriff CLARKE. Huge responsibility.

Mr. RATCLIFFE. Yesterday, the President's task force on policing issued findings that focused squarely on this issue of community policing. I know it is a very hefty document, but I was wondering if you had a chance to review it? And if so, what are your thoughts with respect to the findings?

Sheriff CLARKE. On the 21st century project?

Mr. RATCLIFFE. Yes, sir.

Sheriff CLARKE. Yes, I did read it. I didn't like a lot of it from the beginning. When the task force was put together, there were no elected sheriffs. I know my colleague is a former sheriff, but no elected sheriffs on the panel. I found that interesting. I also didn't see a lot of representation for a two-way exchange of what life was like for an officer on the street. They had some police administrators there. They had one organization that represents some fraternal organization of police, but that does not give the day-to-day example of what life is like on the street and why we have to do some of the things that we do. So I thought it fell a little short.

Recommendations were heavy on Federal involvement, Federal control. Those are technical fixes that, okay, we can do that. But it is not going to change the behavior of many law enforcement agencies or the behavior of many of the individuals of color that we come in contact with on the street that end up in deadly confrontations. It does not reach far enough to do that.

Mr. RATCLIFFE. So, Sheriff, this is your opportunity to talk to Members of Congress. What would you like our takeaway to be with respect to that report or those findings, or corrections that you think are not reflected in there that you would like to make to that?

Sheriff CLARKE. One of the things that is not addressed that we keep glossing over, and I said "we." We keep glossing over conditions that have led to the rise of the underclass of the American ghetto, where people can't find meaningful work. They have to send their kids to poor schools. Kids don't have a chance to reach their God-given potential to break out of that cycle of poverty, entrenched poverty.

We have to look at some of the urban policies that have been enacted at the State and the Federal level that continue to feed into this growth of the underclass. What we are experiencing recently, it is not poor generally or Black people generally. It is the underclass behaviors.

Kids growing up without fathers. School failure. Failure to stay in the workforce consistently. Failure to raise your kids. Father-absent homes. Those have nothing to do with the police.

You can try to transform the police all you want, but as long as those behaviors, those lifestyle choices, are going to continue to grow in these urban centers, where the most assertive policing is needed, you are still going to have these confrontations.

And when you try fight the police and disarm the police, so on and so forth, things are not going to end up well for you. I do not care how much more we pour into training. It approaches it as if it is linear. The world we live in is very asymmetrical.

Mr. RATCLIFFE. Sheriff, thank you for your insights and for your thoughtful comments.

Again, I thank all the witnesses for being here today on this important subject.

I see my time is expired. I yield back.

Mr. GOWDY. Thank the gentleman from Texas.

The Chair would now recognize my friend from Illinois, Mr. Gutierrez.

Mr. GUTIERREZ. Thank you so much, Chairman Gowdy.

First of all, I would like to thank all the witnesses for making their presentations here this morning. And I would like to talk just a little bit.

I met with a group of young people from the Phoenix Military Academy in the City of Chicago, White youth, Hispanic youth, Black youth. Military academy, these are the best of the best.

Have a conversation, everybody. We should have some of those people. I mean, I think, with all due respect to everybody here, we are a little too old to be having this conversation among ourselves about the problems that the police are encountering with young people. I would simply suggest next time we invite some those young people, those bright, dynamic young people.

You know what they are going to tell you, Sheriff Clarke? I listened to a young Black man, Lieutenant Colonel in the Phoenix Military Academy, tell me that he has learned how to deescalate when he is confronted and comes into an exchange with a police officer. That almost brought tears to my eyes, that this wonderful, brilliant young man dedicated to this country, graduated from his class, has to talk about deescalating. He does not see the police as a source of protection. He sees it as somebody that he has to learn—the police have to be the adults. The children have to learn how to be adults many times, in how it is they exchange with police officers.

We are having a conversation here where people are saying, well, Black people do not care about Black people. Nobody has made that claim here. I don't know why certain of my colleagues here say, well, they are not outraged when a Black person kills a Black person. That is not the issue here. It is really not the issue here.

That is, certainly, an issue we might want to talk about. But it is not the issue. Nobody made the claim that that is a good thing.

You know, that rioters are out there getting paid. Nobody said here it is a good thing that rioters should be paid. I could understand when you are making an argument against something that somebody is like sustaining. But it seems as though we are talking past each other as adults in this room instead of having young people.

So I would just like, for the record, because I know there won't be enough time, I would like for the record, Mr. Chairman, these are the questions that the Phoenix Military Academy students, if I could just add this, Mr. Chairman, for the record?

Mr. GOWDY. Without objection.

[The information referred to follows:]

Gutierrez submission

1. African Americans may represent violence to some citizens or even to law enforcement. However, the protection the African Americans and Caucasians have in their neighborhoods differs immensely, which significantly contributes to teens and others turning to violence to protect themselves. What can be done to offer safer neighborhoods in minority communities so that crime does not have to be the answer for those feeling hopeless? Lesley Alvarez
2. How can law enforcement and minority communities work together in order to form a more stable relationship so that these communities can feel safe with the police instead of being afraid of them? Police should get involved in high school events and meetings in order to get to know teens more closely and ease hostilities between both parties. Samuel Ferguson
3. Minorities want to express their thoughts and feelings toward the discrimination they experience. What can be done to organize town hall type forums where legislators can meet with constituents about their concerns and give them a voice? Sofia Valencia
4. How can minorities feel less of a double standard during interactions with law enforcement? For example, why does it feel like whites are treated with more respect than minorities when being questioned by the police? Jasmin Escojido
5. The media uses yellow journalism to overemphasize the violence between law enforcement and citizens. The media focuses on situations, where minorities are targets of Caucasian police officers, that will get viewer attention without concern for the consequences. However, they do not display instances with with citizens, such as when Keith Vidal, a white teenager, was killed by the police. The protests and riots are exacerbated by the exaggeration from the media. Is there anything Congress can do to build a relationship with the media that could decrease this problem? Lesley Alvarez

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Mr. GUTIERREZ. Thank you so much.

Look, there is a young Latina, Jasmin Esquivel. She said, how can minorities feel less of a double standard during interactions with the law? Why does it feel like Whites are treated with more respect than minorities when questioned by police?

These are students. To everybody here, understand something, I have talked to different groups of high school students, and they all tell you the same thing in the inner city.

In Chicago last week, there were 45. So, Sheriff Clarke, you are right, too. There were 45 shootings in 1 weekend in the City of Chicago.

Did I lock my grandson, Luisito, up? No. Did I tell my daughter do not go out on the streets? No.

In my neighborhood, none of those shootings happened, in the neighborhood that Luis Gutierrez the congressman lives in. It is a tale of two cities. The shootings happen in geographical areas.

In my city, when I grew up, the majority of the population in the City of Chicago was White, so you would expect a majority of the police officers to be White. Yet today, when Whites no longer constitute a majority, the majority of police officers in the City of Chicago are White.

Is it that we are selling everybody that only White folks want to be police officers and care about this? I think that is a fundamental problem.

So we go to Ferguson where there might be two Black police officers in a population that is almost 70 percent African-American. That kind of disconnect is going to cause problems—I would think we would want to talk about some fundamental changes about how is it that we recruit people.

I do not know, Sheriff, maybe you can answer this question, maybe you can help me. In Chicago, what I feel is, when I go talk to the cops in my district, and I go into some of the areas where there is more gang violence, I find it to be younger cops and I find that the older cops, like my dad, if he worked somewhere, by the time he had any seniority, he took the good shift, right? Are the young police officers getting the brunt of the work? What do you think?

If the police officers, like when you joined the police force, the older veteran police officers who might have the training and the experience, are they the ones in the neighborhood where there is a lot of trouble, where you might need more veteran police officers? Or does seniority give you a better shift?

Sheriff CLARKE. Some of that is a collective bargaining agreement. You get shift assignment. I agree with your assessment there. The older, wiser, more experienced are earning better assignments because of collective bargaining rules. That is an issue.

Mr. GUTIERREZ. I know we have gone over time. I just want to say, Mr. Chairman, I hope we can have another hearing. I had a conversation with Mayor Rahm Emanuel. I don't know how many of you got to hear his inaugural speech yesterday, where he dedicated it to the youth, and how it was that in the City of Chicago that no police force, that no government, was going to take the place of a good mom and a good dad, but that we have to be there to make sure that those parents have the resources, and that we stop living, even in the City of Chicago, in a tale of two cities where people feel safe in part of the city and where the police and the community are in sync with one another and another part where they are not.

The last thing is, let us bring the young people. With all due respect, I am 61, so in some places I am a senior citizen already. Let us bring some young people.

There are not enough young people around here or out there. They are 100 percent, as you all know, of our future and you are not going to settle this issue, I believe, in great measure, until we get young people and listen to their voices.

Mr. GOWDY. The gentleman from Illinois is certainly very young at heart, and he yields back.

The Chair will now recognize the gentlelady from California, Ms. Bass.

Ms. BASS. Thank you, Mr. Chair.

I realize that our subject matter today is talking about policing, but I do want to make reference because it has come up several times about why there is not outrage when African-Americans are killing African-Americans. I just have to tell you that it is always very frustrating to hear this raised, because it is as though people

are not working on a daily basis day in and day out to address these issues in neighborhoods.

I started an organization 25 years ago. I spent 14 years every day working in South Central Los Angeles in the height of the crack cocaine and Blood and Crips and all of that was going on, to address the crime, to address homicide. There are people working in communities all over this country.

But the frustration we have always felt is that it is never covered in the news. What is covered in the news is when there is an incident between the police and, frankly, it is new that that is even covered in news, because the only thing that is new here are cell phone cameras, frankly.

What has been going on in communities that is getting a lot of coverage now has been going on for years. So to say that communities are not concerned, to say there is not the outrage over the homicide rate, is just not accurate.

I spent one summer in one area where homicides were concentrated. We did a whole effort, and we were able to go 3 solid months without homicides. Then the resources ended.

So we have to look at the root causes as to why the problems exist. It is not just a matter of behavior. I frankly do not believe that it is the policeman's job, and I agree with you Sheriff Clarke, it is not up to the police completely to address these problems. But what has to change in communities is the police working with the community.

Unfortunately, people are fearful of the police in some of the communities. It was also asked what do people in tough neighborhoods want to see happen? People in tough neighborhoods want the same thing that anybody wants. They want to be safe in their homes and they want to be safe in their neighborhoods.

Frankly, these issues are not just happening in "ghettos." And I think it is shameful, frankly, for the communities to be referred to that way.

I have a brother who lives in Beverley Hills, okay? He gets pulled over by the police, stretched out on the ground, and asked why he is there. I think it is well known throughout the country that African-Americans, folks of color, can be outside of their "ghettos" and still have to deal with issues related to the police.

A question was raised as to why folks do not cooperate with the police. Well, I will give you a couple of examples that I experienced on a daily basis working in South Central L.A. I cannot tell you how many people told me, well, I called the police, and I called about this crack house, and police went to the crack house and they said Ms. Jones down the street called and said you were selling crack here.

People do not feel the police will keep them safe. And, frankly, there are not enough resources in the community to relocate people.

So you want people to go and testify and put their lives at risk? If there were more resources, then people would be much more cooperative.

We had a lot of problems in L.A. We were actually able to turn the situation around with the new chief, with community-based policing. We are having some of the same problems emerge again.

But we had a past police chief who said, when there was a spate of people who were dying because of chokeholds, he said at a press conference the reason that African-Americans were dying of chokeholds was because our veins were different, they collapsed quicker. We, fortunately, were able to get rid of that police chief.

But these situations can be turned around. I listened to the testimony of Ms. Ramirez and Ms. Rahr, and there are other ways to go about policing. And we have seen some changes in our communities.

Like I said, some of our problems are reemerging in Los Angeles again. But I just wanted to ask, in the last seconds, if, Ms. Ramirez, if you can give examples of a couple of communities that have turned the situation around where the police department works in cooperation with community organizations, where the police department has changed their perspective from the warrior mentality over to a mentality that works in partnership with communities, and where crime has been reduced, and where trust has been increased with the police department.

Ms. RAMIREZ. The one I know best is Boston. We have decreased homicide rates. We have decreased the number of people we have incarcerated. And crime has gone down.

The Boston Police Department has been working with the faith-based community and community groups on both issues. On issues of homicide, so if we have all these cold cases, as I said earlier, how are we going to get witnesses to come forward? One example of that is some witnesses said I would be happy to tell my account to someone who is not a police officer. Then some of that could be used for corroboration to get search warrants.

There are many other examples in this country of excellent community-policing models where homicides have gone down. There are now 14 States that have decided to decarcerate. In each of those States, where they have taken the money from the criminal justice system that they were using to incarcerate people—in Massachusetts at \$51,000 a year per inmate—taken the money and said, the system we have is too expensive, ineffective, and racially disparate. We are going to use that money to invest in education, to invest in treatment. Those communities have saved money and crime has gone down.

Ms. BASS. Thank you. I yield back.

Mr. GOWDY. The gentlelady from California yields back.

The Chair now recognizes the gentleman from Louisiana. While I realize a lot of people have worked on criminal justice reform, Mr. Richmond has been talking about it since the very first day he got to Washington.

Mr. Richmond?

Mr. RICHMOND. Mr. Chairman, thank you for yielding.

First, I would like to ask unanimous consent to enter into the record a Washington Post article that gives two Pinocchios to fact-checking Giuliani's claim that 93 percent of Black murder victims are killed by other Blacks, because of the relevance of the statistic.

Mr. GOWDY. Without objection.

[The information referred to follows:]

## The Washington Post

Fact Checker

### Giuliani's claim that 93 percent of black murder victims are killed by other blacks

By Michelle Ye Hee Lee November 25, 2014

*"Ninety-three percent of blacks in America are killed by other blacks. We're talking about the exception here."*

— **Former New York City mayor Rudy Giuliani, interview on NBC's "Meet the Press," Nov. 23, 2014**

Giuliani faced major backlash by critics for his comments during a "Meet the Press" segment on the anticipated grand jury decision on whether to indict officer Darren Wilson in the fatal shooting of Michael Brown in Ferguson, Mo. Giuliani's comment sparked a heated exchange with Georgetown Professor and MSNBC contributor Michael Eric Dyson over policing and crime in black communities.

Referencing a Washington Post [analysis](#), host Chuck Todd asked Giuliani about ways to address discrepancies between the racial makeup of cities' police forces and the communities they serve. Giuliani pivoted to discuss intraracial homicide in the black community.

After noting how he diversified the New York City police force, Giuliani said it was very disappointing that "we are not discussing the fact that 93 percent of blacks are killed by other blacks." The implication was that the so-called black-on-black crime was far more common than white-on-black crime, so the attention should be paid on the former.

It quickly became personal. Giuliani and Dyson talked over each other for most of the 2-minute banter. Eventually, Giuliani uttered the line that went viral almost immediately ("White police officers wouldn't be there if you weren't killing each other.") and Dyson fired back at the "defensive mechanism of white supremacy at work in your mind, sir." (That comment also was picked up widely by Dyson's critics.)

Is it correct that 93 percent of black homicides are committed by black offenders? And is homicide by police, like in Ferguson, truly in the minority among black victims?

## The Facts

The "Meet the Press" segment immediately gained attention against the backdrop of a grand jury contemplating

whether to charge the white police officer in the Aug. 9, 2014, shooting of a black teenager. The shooting prompted angry residents to demand justice for Brown and alleging racism. Local police responded to the outraged demonstrations with military equipment — raising more questions over police brutality.

Showing a map of cities with the greatest discrepancy between the police racial makeup and the community they serve, Todd asked: “All of those could be future Fergusons. How do you make a police force that looks like the community they serve?”

Giuliani responded by citing a statistic from a 2010 Bureau of Justice Statistics report which did, indeed, conclude that 93 percent of black homicide victims from 1980 through 2008 were killed by black offenders. The statement implied that intraracial violence in black communities is uniquely bad. Giuliani later repeated this statistic in a FOX News interview.

The statement lacks significant context.

As our colleague Philip Bump at The Fix noted, Giuliani omitted the comparable statistic in the report for white homicide victims: 84 percent of white victims were killed by white offenders.

The report found most murders were intraracial, committed by friends or acquaintances of the victim. Stranger homicides were more likely to be interracial, with a lower rate of white-on-black murders than black-on-white murders.

The 2013 FBI Uniform Crime Report, a compilation of annual crime statistics, also shows similar data: 83 percent of white victims were killed by white offenders; 90 percent of black victims were killed by black offenders; 14 percent of white victims were killed by black offenders; and 7.6 percent of black victims were killed by white offenders.

The rate of intraracial homicide in the black community is the reason for the heavy police presence, Giuliani said, and it should be the subject of discussion because it’s so much more prevalent than the shooting of a black victim by a white police officer.

Dyson fired back, calling Giuliani’s explanation “false equivalency” and that police should be held to a higher standard, as they are acting as agents of the state.

In an interview with The Fact Checker, Giuliani agreed that most murders, black or white, are intraracial. Asked why he didn’t note the other half of the statistic in his interview, Giuliani said there “are very few” white intraracial murders compared to black intraracial murders.

It is true that the rate of black homicide victims and offenders were disproportionately represented compared to the

general population, the 2011 BJS report found. The black victimization rate (27.8 per 100,000) was six times higher than the white victimization rate (4.5 per 100,000). Black offending rate (34.4 per 100,000) was almost eight times higher than whites (4.5 per 100,000), according to the report.

“The danger to a black child in America is not a white police officer. That’s going to happen less than 1 percent of the time. The danger to a black child ... is another black,” Giuliani said. “If my child was shot by a police officer, I would be very, very frustrated. I’d also be frustrated if my son was shot by a gangster in the street. But if the chances were — that my son would be shot by the gangster in the street — nine times out of 10, I’d spend an awful lot of time on the nine times out of 10.”

Where did he get the “less than 1 percent” figure? Giuliani said it was his estimation of the percentage of deadly force by white police officers on black victims, which he described would be a small portion of the percentage of white-on-black murders.

It’s impossible to accurately measure the rate of homicides by police in the United States. The FBI maintains a limited database of self-reported and conservative estimates. But a ProPublica analysis of federal data from 2010 to 2012 found young black males were 21 times more likely to be killed by police than their white counterparts.

Dyson told The Fact Checker that less than 1 percent is still too high.

“When you’re dealing with an unjust situation, the percentages don’t give solace. It’s only 0.5 percent, but if it’s your relative, your kin, that percentage is too high,” Dyson said.

Statements like Giuliani’s perpetuate stereotypes that criminalize black people, he said. And to Giuliani’s point about focusing on violence in the black community, Dyson said there are countless marches and rallies against violence within the black community. But most don’t get the attention that events like Ferguson do.

Advertisement

## The Pinocchio Test

Giuliani’s statistic is rooted in Department of Justice studies. But it lacks significant context — especially because race relations and police treatment of minorities are complex and emotionally-charged topics. We also found it difficult to support Giuliani’s personal estimation of the rarity of deadly force by white police officers on black victims, but were limited by the unreliable data on homicides by police.

Ultimately, it is misleading for Giuliani to simplify this topic to the 93 percent statistic and then omit the

corresponding statistic for intraracial white murders.

## Two Pinocchios

(About our rating scale)

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Mr. RICHMOND. Let me just start with answering the question that my colleague posed. The real question, in his mind, is Black-on-Black crime and what do we do to solve that. Well, the first thing we do not do is cut Pell Grants and cut Head Start, which gives you a 9-to-1 return on your investment, and Pell Grants help you get to college. We all know that education is the best path out of poverty, and the circumstances in these neighborhoods.

So we could start there, which we have done every year since I have been in Congress, with the budgets that we have passed. I think that is a very good start.

Another start is to just have the conversation. I talk about it all the time. If anybody is concerned, I am here and willing to address it.

I think that as a young African-American male who grew up in the inner city, I can have a lot to offer.

Mr. Chairman, I prefer not to focus where we have differences. I think we have many. But I think we have some very similar goals, which is to keep our police officers safe and keep our constituents safe and to provide honest services. Whether it is police or whether it elected officials, people deserve honest service.

Let me just ask a question from your policing. Do you believe that the makeup of the police department is important, in terms of looking similar to the community that it polices?

Sheriff CLARKE. I believe that.

Mr. RICHMOND. I was asking you that because I wanted to share some of my real-life experiences as a young African-American male, and why I think it is so important.

The first time I was pulled over, when I got home from college and I was in St. Charles Avenue, the fancy part of town, in my mother's car. I did not have my license. A Black officer stopped me.

He went through the process to get my information, ran it, came back to the car and said, "I see a Morehouse sticker on the back of your car. You go to Morehouse?" I said yes. He said, "Well, Martin Luther King, who went to Morehouse, said the man can't ride your back if your back isn't bent." He said, "You need to go home." And he let me go, and I went home. I never forgot that.

While I was in the legislature, I saw a White officer stop a car full of White kids on the State Capitol grounds who were all smoking marijuana. He gave them a lecture and then called their parents to come get them.

In all of my experience, if that White officer had stopped a car full of Black kids with marijuana, I do not think his answer would have been to lecture and call the parents.

And it may just be cultural, but I think we have to look at the entire system. When we talk about diversion programs, whether they are being applied evenly, because we know once a kid gets a conviction, especially an African-American male, his life goes in a completely different direction, whether it is marijuana or whether it something more serious. He has a harder time getting financial aid to go to college. He has a harder time getting a job, all of those things.

Without a job or without being engaged in society, it is hard to be a good parent. We have to make sure our law enforcement

scheme, law enforcement practice, is not adding to the hurdles that many people are going to face anyway.

So the question becomes, how do we ensure that those officers who have a lot of discretion when they make a stop, how young African-American and minority men and women feel that officer would give them the same lecture, the same break as an African-American officer or a officer who is looking their vested interests?

I hope you can answer that.

Sheriff CLARKE. The use of discretion is always going to be scrutinized. I reject the notion that every time a White officer stops a car full of Black kids that they are necessarily going to go to jail.

Mr. RICHMOND. I don't think it is every time, but it is going to be the majority of the time.

Sheriff CLARKE. Okay, well, let us just move beyond that.

What I talk to young people about, young people of color, Milwaukee has a significant Black population, when I am in these schools, in these neighborhoods, I talk about lifestyle choices. When you engage in behavior and make flawed lifestyle choices, there has to be some accountability. It does not mean your life should be ruined. Maybe there could be a learning experience. I do not think an arrest for a small amount of marijuana early in your life is going to be a life-ruining experience. It is not. Will you recover?

The greatest virtue that my parents instilled in me, the product of a two-parent family, the ability to overcome obstacles. You make mistakes. My dad said, you are going to make mistakes, you are going to fall down, you are going to fail, you are going to make questionable decisions. Learn from it and move on.

I think that is a better message for even the individuals who have gotten into these situations. I had a young man once stop me on the street and said, "Sheriff, I am a convicted felon and can't find work. Nobody will hire me because of my felony conviction." I said, "Do you have kids?" He said, "Yes." I said, "How many?" He said, "Three." I said, "There is your job right there, to make sure your kids do not end up in the predicament that you are. Go home and be a good dad."

You know, he thanked me for it. I do not know whether he actually did it. But sometimes that message is a little more helpful to an individual than for me to commiserate in his misery, saying it is unfair, and the man, and this and that, and the discriminatory criminal justice system, and the racist police. That is not going to help the guy.

That is what I try to do. I do not control all law enforcement officers, but I am not going to let people indict them with this broad brush like we have the tendency to do sometimes.

Mr. RICHMOND. In closing, and I see my time has expired, I would just say two things. I think we should remove the barriers that keep people from moving on and learning and getting past that mistake, which may have been a marijuana conviction or something else.

Another thing I would just say is I think it is great advice to tell him to be a father, but at the same time, he still has to get a job and put food on those kids' plates, because you cannot learn in school if you are hungry.

Thank you, and I yield back.

Mr. GOWDY. The Chair thanks the gentleman from Louisiana and recognizes the gentlelady from Washington, Ms. DelBene.

Ms. DELBENE. Thank you, Mr. Chair.

I want to thank all the witnesses for being with us today, in particular, our former Kent County Sheriff from Washington State, Ms. Rahr, for being here with us.

Actually, I had a question for you. I know that you have made many changes since you have been at the Criminal Justice Training Commission, and you talked a lot about transitioning away from a boot camp or military style approach to training officers toward a process that emphasizes the role as police as part of the communities, as guardians and protectors rather than military warriors.

After a long career as an officer yourself, when you got to the CJTC, you replaced the trophy case with the U.S. Constitution and put in place training procedures that included recruits being sprayed with pepper spray so they know what it feels like, instituting psychology classes so trainees can better understand the people they will eventually be working with and protecting and interacting with.

I know your methods have not been without skeptics. I wondered if you could share with us why you think a new approach to training our young men and women to serve as police officers is needed, especially today, and how these training methods translate to different outcomes or interactions in practice.

Ms. RAHR. Thank you for the question. I want to clarify that I do not condemn the training practices in the past. I think we have learned a lot through research and science about how to prepare officers to be more effective. That has been one of the biggest areas of resistance, people being offended that somehow by improving our training that we are criticizing what used to be. That is not the case. We have learned more.

In terms of pepper spraying the recruits, many people have misinterpreted that as an attempt to get them to feel empathy. Actually, the reason we do that is we want to put them in a fight-for-their-life stress situation, so they can learn for themselves that they can overcome extreme pain, extreme fear, and still carry on.

When I talk about a guardian mindset, I have to continually re-emphasize this is not a kinder, gentler way of doing the job. It is just the opposite. We have actually increased our firearms training. We have increased our defensive tactics training, because we want to create strong, effective police officers who have the confidence that they do not have to behave in an intimidating manner.

When someone has confidence, that actually tends to deescalate as well.

I think that when we were too focused on the boot camp method of training, it detracted away from our ability to train officers to be critical thinkers. When they were so worried about simply getting the right answer and memorizing a checklist, it took away from those critical-thinking skills.

So what we have tried to shift toward is more of an officer training, a military officer's type of training, where you really focus on critical thinking and confidence.

Ms. DELBENE. Yesterday, President Obama signed an order restricting certain military equipment from going to police. Do you think that is also part of this transition? How do you feel about that?

Ms. RAHR. I want to be clear that many of those pieces of equipment that police departments obtain through the 1033 program are very much needed in the field. When I was sheriff, I cannot tell you how many times I needed that armored personnel carrier to either rescue an officer pinned down behind gunfire or a citizen pinned down behind gunfire. An armored personnel carrier allows police officers and hostage negotiators to get closer to the scene to actually find ways to resolve the conflict without gunfire.

Unfortunately, when the program started, there was not a lot of accountability and training that went with it. I believe that is what the changes in the law focus on.

Police departments will still be able to get armored personnel carriers, because they are absolutely necessary to have in the field. The weapons, the rifles, that type of equipment, those are also necessary, and they are less expensive when we get them through the military.

So I hope there is an opportunity down the road for people to understand more clearly the benefits of that program, but also the necessity of the accountability that comes with it.

Ms. DELBENE. Thank you.

Thank you, Mr. Chairman. I yield back.

Mr. GOWDY. Thank the gentlelady from Washington.

The Chair would now recognize his friend from New York, Mr. Jeffries.

Mr. JEFFRIES. Thank you, Mr. Chairman. Thank you for your work on criminal justice reform, as well, as we try to work toward a productive resolution of the challenges we face here in America.

I think most would agree that, in a democracy, we just need a balance between effective law enforcement on the one hand and a healthy respect for the Constitution, for civil rights, and for civil liberties on the other.

What people want in inner city communities like those I represent, or as Sheriff Clarke would refer to as the ghetto, what people want is to make sure that the constitutional principle of equal protection under the law applies to everyone. There is concern that, in certain instances, that is not the case.

The overwhelmingly majority of police officers are hardworking individuals who are there to protect and serve the community. That is my position. I believe that is the position of everyone who is genuinely interested in police reform.

But we cannot ignore the fact that we have a problem in some instances with excessive use of police force, and the fact that often it is the case that when a police officer crosses the line, they are not held accountable by the criminal justice system. That creates consequences in terms of a distrust in many communities, perhaps leading to the absence of cooperation.

Let me start with Sheriff Clarke. You mentioned in your testimony that Black-on-Black crime is the elephant in the room that few want to talk about. Is that correct?

Sheriff CLARKE. Yes, sir.

Mr. JEFFRIES. We have had a very robust discussion about it today. Have you been satisfied? It has come up several times.

Sheriff CLARKE. Not at all.

Mr. JEFFRIES. Okay, you are not satisfied. Now, I agree it is a problem.

Eighty percent of Whites kill Whites, correct?

Sheriff CLARKE. I won't dispute that figure.

Mr. JEFFRIES. Okay. Actually, it is 83 percent.

Now, is White-on-White violence a problem in America that we should also have a robust discussion about?

Sheriff CLARKE. Mr. Chair, Congressman, violence in America, in general, is problematic. But if you look at the rates, that is where it starts coming a little more into balance in terms of the data I have seen, and I have looked at a lot of it. The White-on-White crime does happen at the 80 percent figure you put out there, but when you look at the rates of it, these two are not even close.

Mr. JEFFRIES. The rates are roughly equivalent in terms of the context of people who live next to each other, and because of housing, segregation patterns, or just where people tend to live in America, ethnic violence, racial violence, tends to occur within the same group.

So elevating it beyond that fact I think is irresponsible. We all want to deal with the Black-on-Black violence problem.

It was mentioned that there is a cooperation issue in the Black-on-Black violence context. I do not think I have heard the phrase "blue wall of silence" mentioned here. So if we are going to have a conversation about cooperation, when someone crosses the line, it seems to me to make sense that we also have to deal with what may be another elephant in the room, to use your term, Sheriff Clarke, the blue wall of silence.

The overwhelmingly majority of officers are good officers, but what often occurs is that when an officer crosses the line, the ethic is not to cooperate or participate or speak on what a bad apple officer has done.

Professor Ramirez, would you agree that that is perhaps something we should also be focused on?

Ms. RAMIREZ. I think it is a serious problem both at the Federal and State level.

As I said earlier, in my own experience, in trying to prosecute police officers, here is just one problem. The FBI and DEA said we will not even serve subpoenas on a case in which a police officer is a defendant.

Here is a second problem: They tried to testify in the case in favor of the police officers, saying that they had made their own independent evaluation of the case.

This is the case, by the way, that was adjudicated guilty against all officers, and they were incarcerated for between 10 and 20 years after the trial.

As you know in Boston, we had a problem with the FBI, that there were FBI agents who were engaged in a series of misconduct with Whitey Bulger. That went on for many years and was not prosecuted.

Mr. JEFFRIES. Thank you, Professor Ramirez. My time is getting ready to expire.

But, Sheriff Clarke, you also mentioned the use of force should be examined in terms of factual data and not an emotional foundation of false narratives. Is that correct? Did I get your testimony correct in that regard?

Sheriff CLARKE. Mr. Chair, Congressman, yes.

Mr. JEFFRIES. Okay. Now, was the reaction to the Eric Garner case, who was choked to death using a procedure that had been banned by the NYPD for more than 20 years, wasn't resisting arrest, said, "I can't breathe" 11 times, 11 different occasions, there was no response by all of the police officers there, was that a false narrative that people in the City of New York and the country are reacting to, sir?

Sheriff CLARKE. Mr. Chair, Congressman, first of all, he was not choked to death, not from the report I had seen out of the grand jury testimony and even from the medical examiner's report. He wasn't choked to death.

Mr. JEFFRIES. The medical examiner ruled the death a homicide by asphyxiation. In the ghetto, that is called being called choked to death, sir.

Sheriff CLARKE. Well, we can have this discussion later on about the facts, because we could be here for a while. My understanding is he died of a heart attack, okay?

But anyway, you said he was not resisting arrest. He was resisting arrest. He was told that he was under arrest and put his hands behind his back, and he would not do so.

That is why I put in my remarks here, the reference from Thomas Sowell about when law enforcement officers tell someone they are under arrest and they cannot use force to execute that arrest, we do not have the rule of law when it is merely a suggestion for them that they are going to jail or to put their hands behind their back.

Those are behaviors, like in the instance of Mike Brown in Ferguson, Missouri, where some different choices by the individual could have helped the situation. In other words, Mike Brown was just simply told to get out of the street.

Mr. JEFFRIES. Sir, my time has expired. But for you to come here and testify essentially that Eric Garner is responsible for his own death when he was targeted by police officers for allegedly selling loose cigarettes, which is an administrative violation for which he got the death penalty is outrageous.

If we are going to have a responsible conversation, we have to at least agree on a common set of reasonable facts that all Americans interpret, particularly in this instance, because they caught the whole thing on videotape.

I yield back.

Mr. GOWDY. The Chair thanks his friend from New York.

The Chair will now recognize the gentleman from Texas, Judge Gohmert.

Mr. GOHMERT. Thank you, Mr. Chairman.

I thank all the witnesses for being here, for your thoughtfulness. Obviously, you have spent a lot of time on these issues through your career, rather than just the time here today.

It is a difficult issue. I saw a report, though, this morning from the task force. I understand we have a member here. It quotes the

task force as saying, "The U.S. Department of Homeland Security should terminate the use of the State and local criminal justice system, including through detention, notification, transfer requests, to enforce civil immigration laws against civil or nonserious criminal offenders."

I am wondering, to fix the problem that we saw explode there in Ferguson and in Baltimore, is there anybody, any one of our witnesses, that thinks preventing State and local law enforcement officers from notifying the Feds about people illegally in the country, that that would do anything to solve the problems in Ferguson or Baltimore? Anybody?

I mean, I am also perplexed, having been a prosecutor, rode along with law enforcement back in those days, a district judge handling felonies, a court of appeals chief justice, we had a real problem with the Federal Government not picking up criminals. They would tell our local law enforcement this person is illegally in the country so we have jurisdiction. This task force makes a comment about nonserious criminal offenders.

I think it was nine DWIs a fellow had who was in my court. He finally came to felony court after he hurt and nearly killed some folks. But I sentenced him to prison because he was not being deported. And about 6 months later, he is back in my courtroom because, he said, through the interpreter, well, the Federal people took me to the border and told me to walk across the bridge. Then when they left, I came back across. He got back, got drunk again, in another accident.

I am really having trouble with the task force thinking this is going to solve any problems with regard to racial difficulties in our cities.

Perhaps you can help me out here. I know, Ms. Rahr, you had a really great career. You have served your community, your country now.

Do you see just having State and local law enforcement to avoid any discussion about immigration, is that really going to help problems in our cities?

Ms. RAHR. As I recall, the recommendation does not say there should be no cooperation. The discussion that we had in the task force involved the balance of public safety. There are many communities where there are large groups of undocumented people living in neighborhoods that commit crimes and are victimized by crimes. Because there is such a fear of being deported, a lot of victims do not call the police because they are afraid of deportation.

This is particularly a problem in domestic violence situations.

Mr. GOHMERT. I know, I saw that same concern by the big group of people illegally here in the gallery that were trying to disrupt. I have seen people illegally here in this gallery disrupting. I did not note a lot of concern about law enforcement deporting them, because you have to be pretty ignorant about what is going on in this country to think you are at risk for deportation.

Anyway, I am more concerned about the victims who are victims of crime needlessly, if we would enforce at least the immigration laws on those who commit crimes. We are not doing it.

What I see is a disregard for law enforcement, because they are not even going to help because this person is illegally in the coun-

try. So nothing is going to happen to them, and I end up being the one victimized. I hear that as much as anything.

But I appreciate your sensitivity to these issues. I know the first couple of murder cases I worked on as a prosecutor, it was an African-American who shot an African-American in both cases. They were both in bars. We had people in the community, including the African-American community, saying, well, they should not have been there. It is not that big a deal. I found it offensive then that anybody would care about the race, and when somebody kills somebody else, it is not big deal.

I am still concerned after all these years. We prosecuted those. We had concern. We did not care what the race was of the victim or the defendant. A killing is a killing.

And I am glad that you all care about law enforcement in America. Thanks for your input.

Mr. GOWDY. The gentleman from Texas yields back.

The Chair will now recognize the gentleman from Rhode Island, and then the gentleman from Texas after that.

The gentleman from Rhode Island, Mr. Cicilline?

Mr. CICILLINE. Thank you, Mr. Chairman.

Thank you to our witnesses for being here.

I think everybody on this Committee brings their own life experiences and perspectives here. Before I came to Congress, a long time ago, I was a criminal defense and civil rights lawyer. Most of my civil right cases involved claims of police brutality. I went from that to being Mayor of Providence, where I was acting public safety commissioner for 8 years overseeing, obviously, the Providence Police Department, and proud to report that in those 8 years, we brought the crime rate to its lowest rate in 40 years.

So I bring my own set of experiences and have deep, deep respect for law enforcement and for the hard work of dedicated, good police officers.

And nothing will be seared in my mind more directly than April 17, 2005, when a police officer was murdered in the Providence police headquarters. So I understand the hard work of our police, and I understand the importance of what they do.

I think we do have to focus on systems, which build good review and detection of police misconduct, good oversight and civilian reviews, prosecutions, all of that.

But what I want to focus on because the fact is those are important to do and we have to do them to rebuild trust between the police and the community. But in many ways, it is too late when those problems have already occurred.

So what I really want to focus on is what do we do to help ensure that those kinds of situations do not occur? How do we build this mutually respectful relationship between police and community?

I had a police chief who always used to say you should have a family doctor, a family lawyer, and a family police officer. We built a community-policing model in which there were lieutenants that were in charge of a neighborhood. They knew the residents in that neighborhood. Everyone in that neighborhood had their cell phone numbers. They were on housing boards. There were in nonprofits. They became part of the community. That is what helped result in the lowest crime rate in 40 years.

So that is good not only for the community but for the police officers, the good police officers who deserve to have the respect and trust of their community.

But at the core of this, as my chief used to say, the most powerful weapon I have, the most powerful piece of equipment, is the trust of the community. That is the single best tool I have to reduce crime in the city. We saw the results of that kind of attitude.

So what I would like to hear from the witnesses, I think there are two ways to help achieve that kind of paradigm. Accreditation is one, and community-policing implementation is the other, not a unit within your department, but the entire department embracing this attitude of service and guardianship.

So what are the impediments, Mr. Hartley? Providence went from a department when I took office that was under investigation by the Department of Justice for patterns and practice violations and other investigations to an accredited police department. But that is a hard process.

So is it resources? How can we help more departments go through this accreditation process, so that we know they have standards and practices in place that respect this important balance that was mentioned between keeping communities safe and respecting the civil rights of individuals? What are the impediments? What can Congress do to assist many more police departments to go through that accreditation process?

Mr. HARTLEY. Thank you. I will tell you, it is a complicated picture, because, as you know, it costs to be involved in this programming, so we talked a little bit about funding to help support organizations that want to pursue that.

I also think it is critically important there is a broader awareness that there are other resources throughout the law enforcement and public safety community that exist to help agencies go through that. If you have been involved in it yourself, you know there are police accreditation coalitions out there that bring tremendous resources, because some organizations simply do not have the capacity to develop policy to support accreditation itself. So those organizations exist to help shepherd organizations in that particular direction.

Mr. CICILLINE. Should we consider requiring departments over a certain period of time to at least develop a plan to reach accreditation? I mean, it is sort of the gold standard of policing that I think police departments universally aspire to. But rather than just encourage it, should we be considering some system where we require departments at least to articulate a plan to get that place?

Mr. HARTLEY. I think the requirement to consider how you might implement it is important, but I also will tell you the way we are structured to review agencies and assess their credibility, if you will, does not have investigatory authority, nor are we seeking that. In some ways, if you require it, it becomes a regulatory body, which in some ways I think prevents the integrity of the process from moving forward effectively, so I want to be cautious about that. But I think incentives to support organizations moving in that direction is critically important.

Mr. CICILLINE. I have just a few seconds left. I just wonder if any of the witnesses have any suggestions on how we might encourage

or incentivize departments to really transform themselves into this community-policing model.

I know, Ms. Ramirez, you talked about a community-policing institute. But I think the other part of that which no one has mentioned today is we have to figure out ways to encourage or require our police departments to ensure they reflect the diversity of the communities they serve. We have too many departments across this country that do not look like the people that they serve. And the value of people coming from the neighborhood who understand the cultural traditions and social mores, the different parts of the neighborhood, who are parts of the community and return back to that neighborhood after work at night, is incredibly valuable.

I do not know that we have heard enough about how we ensure police departments reflect the diversity of the communities they serve.

Ms. RAHR. In my experience, the most important thing to lead somebody to go into a career of law enforcement is to have a personal connection to someone who is already a cop. The way you get that is by building community trust and those connections.

I know it is very popular to say officers should live in the communities where they police. In my county, most of our officers cannot afford to live there, so it is not realistic. But when you assign a deputy or officer to the same neighborhood for a long period of time, those connections grow. When that officer or deputy is rewarded for participating in the community, not just enforcing the law but also participating, that connection grows.

It is the anonymity that really is the enemy here.

Mr. CICILLINE. Ms. Ramirez, it looks like you wanted to say something?

Ms. RAMIREZ. This is on diversifying police departments. I just wanted to add a fact. In Massachusetts, we have a civil-service system, and every police department chief who has been chief while I was there has tried to diversify the police department. The top scorer in Massachusetts, the person who got the highest grade on the exam they have to take to be a police officer, was 328th on the list. The reason for that is a whole series of preferences, mostly veteran preferences.

I think a lot of the police chiefs are trying to figure out how they can reform the civil service system such that they can diversify the police department.

They are stuck. They need some help. Do they need an inspector general? Do they need a State community justice institute? Or do they need some fact-finding process that can look at to what extent there are legal and civil-service challenges for police chiefs who are trying to diversify their police departments.

Mr. GOWDY. The Chair thanks the gentleman from Rhode Island and would now recognize the gentleman from Texas, Judge Poe.

Mr. POE. I thank the Chairman. I am over here on this end. I thank all of you for being here.

I am a former prosecutor in Houston, a former judge. I spent 30 years at the courthouse. I tried people who assaulted and killed police officers, both as a prosecutor and a judge. And I have tried cases as a prosecutor of police officers who have killed individuals

and charged with violation of the law. So I have seen both sides of this perspective for a long time, having only tried criminal cases.

Sheriff, I will start with you. Do you have any idea how many arrests, felony arrests, are made a year by police agencies in the country?

Sheriff CLARKE. No, I do not.

Mr. POE. Would you care to guess?

Sheriff CLARKE. No.

Mr. POE. I do not have any idea either. Does anyone know how many arrests are made by police officers?

Sheriff CLARKE. Mr. Chair and Congressman, it is available through the Bureau of Justice Statistics, and I believe the FBI would probably have some data on that as well.

Mr. POE. Okay, we will find that out then.

Would you say or not the vast majority of those encounters with the police and a citizen are done according to the rule of law on the part of the peace officer?

Sheriff CLARKE. Without a doubt.

Mr. POE. How many would you say are not, there is some violation of the law, some violation of the rights of the accused in those felony cases?

Sheriff CLARKE. Averages is what I am basing that on.

Mr. POE. So what would it be?

Sheriff CLARKE. I wouldn't care to assign a number to it, because I do not know.

Mr. POE. Is it the majority or minority?

Sheriff CLARKE. It is very low.

Mr. POE. It seems to me that any police agency needs to have a plan for all circumstances. Would you agree with that or not? Some type of response, community policing, a protocol, whether it is a 101 arrest.

I will give you an example. I am sure you are familiar with the event that took place in Waco, the town of the Chairman's alma mater, Baylor, this weekend, where you have five gangs, motorcycle gangs, three of which, the Cossacks, the Bandidos, and the Mongols, all assembled together in a place.

Trouble ensued. Shots are fired. And a dozen police officers are there. Nine people are killed. Others are wounded. But the shooting stopped.

The police, 11, 12 police officers, maybe a few more, arrested 170 individuals.

Do you think that having a plan to respond to that type of situation is important for a local police agency to have?

Apparently they did, they had some plan involved.

Sheriff CLARKE. Without a doubt, but I also think that in the moments leading up to that, the question I had was what kind of intelligence they had or information that this thing was going to go down, just in terms of these rival groups coming together.

Mr. POE. I am sure they had lots of intelligence. It appears they had intelligence. To me, that is part of a plan, is it not, to respond based on the intel you get that something may take place?

Sheriff CLARKE. Right, and part of that response really needs to be the preplanning, pre-staging, pre-marshaling of resources. When you have that many individuals coming together, you cannot just

have a handful of officers. You do not have time to wait for calling in reinforcements. The planning is huge.

Mr. POE. No matter what the situation is, whether it is going to be a big event or small event, police planning and response so that the rule of law is followed, no matter the circumstances, is a good idea for policing, is it not?

Sheriff CLARKE. It is critical, yes.

Mr. POE. Okay. How many peace officers were killed in the line of duty last year?

Sheriff CLARKE. Last year? I know they added 238 names to the wall here at the national. Some of those were previous years, though. I do know that it is up nearly 90 percent so far in the first quarter of this year, around 54 officers killed in the line of duty. So the exact total out of that 238 for last year, I do not have.

Mr. POE. I have more questions. I will submit them in writing, Mr. Chairman. Thank you.

Mr. GOWDY. Thank you, Your Honor.

The gentleman from Texas yields back.

The Chair will now recognize the gentlelady from Texas, who has a unanimous consent motion.

Ms. JACKSON LEE. May I, in unanimous consent, just say one or two points, Mr. Chairman?

First of all, let me ask the Chairman to have unanimous consent to enter into the record the following documents: a statement and testimony from the American Civil Liberties Union; a statement from the National Urban League; Executive Order 13688, which provides Federal standards for acquisition of military equipment; a letter from myself, Mr. Scott, Mr. Cohen, and Mr. Conyers, requesting a hearing in 2014; and then an article entitled, "Law Enforcement's 'Warrior' Problem," to be added into the record.\*

Mr. GOWDY. Without objection.

Ms. JACKSON LEE. And then, Mr. Chairman, if I might, just in thanking the witnesses, just make one simple comment. That is, I want to express to all of you the significance of your testimony, and that the Judiciary Committee, through our Chairman and Ranking Member, and those of us who work on these issues, are very serious about coming forward in the spirit of recognizing the pain of an officer's death, and the pain of a civilian's confusion and apprehension about police, and maybe even their death.

Frankly, I believe we can find that common ground. I hope you will allow us to inquire of you. We did not get to question everyone. I hope you will make yourself resources as we go forward to address a mother's pain, and as well as find that even place.

And I end my remarks by quoting a philosopher, Johann Wolfgang von Goethe. "Treat people as if they were what they should be, and you help them become what they are capable of becoming." Justice Hand said, "If we are to keep our democracy, there must be one commandment." And, Sheriff Clarke, I think this is what you are speaking of. "Thou shall not ration justice."

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\*Note: The submitted material is not printed in this hearing record but is on file with the Committee. Also, see Submissions for the Record by Rep. Jackson Lee at:

<http://docs.house.gov/Committee/Calendar/ByEvent.aspx?EventID=103474>.

Everyone deserves justice. We do not deny your officers justice, and we have to let the civilian population, no matter who they are, know that they will get justice.

That is what this Committee's purpose is. I hope that we will have more provocative hearings, maybe those who have lost loved ones, maybe young people who are raising the signs because of their passion of "Black lives matter," "all lives matter," "hands up, don't shoot," and as well, "I can't breathe." Let us give all of those people dignity.

This hearing has been one to give all of us, including, Sheriff, all the men and women you represent.

I yield back to the Chairman.

Mr. GOWDY. The gentlelady yields back.

On behalf of Mr. Conyers and the entire Committee, I want to thank our panel of witnesses for your expertise, for your experience, your life experience, your perspective, your collegiality, not only with one another but also with the Members of the Committee.

I could not help but think while Judge Poe was talking, and Tommy Marino and Mr. Richmond and Mr. Jeffries, that we are all in part beneficiary but also part prisoner of our own background, our own experience. Prosecutors may not have the benefit of a judicial view like Judge Poe has. Or what Cedric described growing up is something that I would not have experienced growing up.

So I think it is a good idea for us, to the extent we can, to rely upon the experiences of other people, well-intentioned people.

There were a lot of issues raised, all of which are important. The issue I hope we can have another Committee hearing on, at some point—I think, Hakeem, Mr. Jeffries from New York, touched upon it—the failure to cooperate on that end impacts the prosecution of police officers who have done wrong.

I saw the failure to cooperate in the faces of moms and dads who are trying to get justice for their murdered young people, because other witnesses would not cooperate.

I think we all want a justice system that is respected. In fact, we have to have a justice system that is respected or we will not make it.

So I hope this is the first of many hearings.

Again, on behalf of Mr. Conyers, and all the other Members who participated, we want to thank you for your participation.

This concludes today's hearing. Without objection, all Members will 5 legislative days to submit additional written questions for the witnesses or additional materials for the record.

With that, thank you very much. We are adjourned.


[Whereupon, at 1:07 p.m., the Committee was adjourned.]

## A P P E N D I X

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MATERIAL SUBMITTED FOR THE HEARING RECORD

**Letter from Rabbi Meyer H. May, Executive Director,  
Simon Wiesenthal Center**



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May 15, 2015

The Honorable Robert Goodlatte  
Chairman  
Committee on the Judiciary  
U.S. House of Representatives  
Washington, DC 20510

The Honorable John Conyers  
Ranking Member  
Committee on the Judiciary  
U.S. House of Representatives  
Washington, DC 20510

Dear Chairman Goodlatte and Congressman Conyers:

Following the tension in various cities across the country between citizens and the police, the Administration and the Congress has worked to find ways to reduce conflict and promote trust and cooperation between communities and law enforcement. We strongly support those efforts and welcome opportunities to promote these important goals.

We encourage the Committee to promote and support programs that build trust and facilitate community policing. These programs are low-cost ways to foster safer communities. The goals of these programs are well supported by community and civil rights leaders, police chiefs and their officers.

For many years, the Simon Wiesenthal Center and the Museum of Tolerance have facilitated hundreds of training sessions aimed at improving community policing and creating partnerships between police officers and the citizens that they protect. Since its inception, over 100,000 law enforcement and criminal justice professionals have participated in these programs. The training we have done has been developed and refined over many years and we have the benefit of feedback from police officers who have experienced the training and seen the results on the streets where they work.

Our program, known as the Tool for Tolerance for Law Enforcement, has had remarkable success. I have attached a recent Washington Post article that features graduates of the Tools for Tolerance program in Fresno, California.

INTERNATIONAL HEADQUARTERS 1389 South Roxbury Drive LA, CA 90035-4709 tel. 310.553.9836 fax. 310.553.4521 www.wiesenthal.com

NEW YORK CHICAGO MIAMI TORONTO JERUSALEM PARIS BUENOS AIRES



As you know, law enforcement agencies across the country are facing severe financial strain. The cost to hire and equip a new officer has increased dramatically over the years. Intensive training programs have suffered in this environment, at a time where the need may be greatest. We encourage the Congress to support creative grant programs to assist in training members of our law enforcement in learning how to be effective in their community without bias.

The events over the past year have shown the devastating consequences of miscommunication, mistrust, and misunderstanding. We hope that the Committee will take steps to encourage training that can short circuit these tragedies before they occur. Without the tools of community policing we fear the concerns raised by this hearing will continue to worsen.

Sincerely,

A handwritten signature in cursive script that reads "Meyer H. May".

Rabbi Meyer H. May  
Executive Director

## ATTACHMENT

In Fresno, a community-policing ethos builds ties between officers and residents - The Washington Post

5/15/15, 2:18 PM

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## In Fresno, a community-policing ethos builds ties between officers and residents

By Wesley Lowery May 7

FRESNO, Calif. — The toddler had just finished having his face painted bright red and white when he barreled toward Jerry Dyer, Fresno's broad-shouldered chief of police. Dyer, his bald head reddening after several hours in the sun, bent to catch the boy.

"You having a good time?" Dyer asked with a smile, as the child's mother whipped out a phone to take a photo. "When you get a little bigger, I want you to grow up to be a police officer."

Not long ago, the Hispanic residents of this gang-ridden neighborhood in Southwest Fresno would not have voluntarily spoken to a police officer, much less attended a police-sponsored block party and taken photos with the chief. But over the past decade, a sustained policing initiative marked by community meetings, Christmas gifts and dozens of neighborhood events has fundamentally altered police-resident relations.

At a time when other cities were aggressively arresting people for minor crimes, a strategy known as "zero tolerance," officials in Fresno chose a different path. They embraced the softer community-policing ethos popularized under President Bill Clinton, which emphasizes partnerships and problem-solving instead of mass arrests.

Fresno officials say the result has been a significant drop in gang-related violence — and inoculation against the kind of angry protests over police brutality that have rocked Baltimore, New York, Ferguson, Mo., and other American cities over the past year.

[http://www.washingtonpost.com/national/in-fresno-police-focus-on-relationships/2015/05/06/3a396f04-8ab8-11e4-9a5a-c1ab95a0600b\\_story.html](http://www.washingtonpost.com/national/in-fresno-police-focus-on-relationships/2015/05/06/3a396f04-8ab8-11e4-9a5a-c1ab95a0600b_story.html)

Page 1 of 5

"Our community has been completely transformed," said resident Carlotta Curti, 66, who moved to Fresno for college and never left. "The fact that these officers are out here, with these kids, every week, makes the difference."

Nationally, the effectiveness of community policing has long been in dispute. A broad study published last year in the *Journal of Experimental Criminology* found that the programs may do more to increase citizen satisfaction with police than to reduce crime.

But the study also found that, in many cities, community policing has been more buzzword than implemented policy. And other experts note that after the Sept. 11, 2001, terrorist attacks, federal funds for community policing dried up and the focus of domestic law enforcement shifted to homeland security.

"Most of these programs just faded away," said Samuel Walker, a professor in the School of Criminology and Criminal Justice at the University of Nebraska at Omaha.

In Fresno, police say they are fully committed. And city officials insist community policing has made the streets safer while improving perceptions of police legitimacy.

"We didn't have protests in Fresno last August, and September and October. And that's not by accident," said Mayor Ashley Swearengin. "It's because there has been such consistent and constant work between law enforcement and the community."

A sprawling city set in the almond groves of California's Central Valley, Fresno still has its challenges. The recession has lingered longer here than in many places, and the city is plagued by a major methamphetamine problem as well as one of the highest per capita homeless rates in the country.

In Southwest, an economically depressed stretch not far from downtown, police say street gangs remain a major cause of violence, including a spike in homicides last year. But armed assaults and robberies have plummeted since the community policing program began, dropping from 202 in 2003 to 134 last year — a 33 percent decrease.

These days, Southwest boasts a new school building, a new mixed-income housing development and a Family Dollar store that ranks near the top nationally for selling fresh produce.

### Slowly building trust

It was the gangs that first drew Dyer's attention to the neighborhood. In 2002, Dyer summoned Greg Garner, one of his most respected officers, and asked him to take on a challenging assignment: captain of the Southwest District.

A Fresno police officer since the early 1980s, Garner had a reputation for developing deep, trusting relationships both inside and outside of the department. Now, Dyer hoped he could do the same in one of the city's most troubled communities.

"This area was leading the city in violent crime," Garner said. "We knew we had to figure out a way to figure out the real causes of crime, the quality-of-life issues, and be seen as a source of help — not just the people who show up to make arrests."

Garner began by assembling a new unit, funded in part with a federal policing grant. He handpicked five officers, including Oliver Baines, a young black officer who had grown up in Los Angeles and expressed interest in community policing.

As a teen in L.A., Baines had been pulled over time and again as he drove to and from work after school. That experience convinced him that the best way to fix Southwest was by rebuilding the community's trust in law enforcement.

"We drank the Kool-Aid on this community policing stuff," Baines said.

They reached out to local clergy, then hit upon the idea of a block party to build relationships with the young kids then being drafted into ranks of the city's street gangs.

The first party was an awkward event; residents were skeptical. But the officers kept at it. And as they strengthened their church relationships, the parties drew more people. Before long, police said, they began seeing renewed cooperation even in the toughest neighborhoods.

Baines recalled a fatal shooting in 2006, when a woman was caught in the crossfire in an area then under control of the Dog Pound, a notoriously violent gang.

"Everyone in the community knew who did it," Baines said. "But most of the time, no one will say anything."

So Baines was shocked when police got a call from a tipster — someone who now trusted them enough to take a risk. A Dog Pound member was quickly arrested for the killing.

"That would never have happened a few years before," Baines said. "And a few weeks later, we had a block party there and we began disbanding that gang."

### Keeping it up

Success bred success, and officials found ways to maintain the program — now known as the "Bringing Broken Neighborhoods Back to Life" initiative — even after the federal grant money ran out in 2005. Since then, police have partnered with local and national community groups, such as YouthBuild USA, a national organization that puts young people to work building affordable housing.

"When you respect and empower the young people, they want to build a bridge," said YouthBuild USA founder Dorothy Stoneman. "It makes them want to improve the community, and that always includes police-community relations."

Advertisement

Under the partnership, the parties have multiplied, from just one or two annually to more than 20 a year. Today, there's a police block party almost every Saturday throughout the spring and summer. And the parties are now planned by teen volunteers who gather at police district headquarters for regular Tuesday morning meetings.

Volunteer Ismael Barajas, 24, who used to hang out with gang members, said the program has changed his view of police.

"Each time, when I used to see a cop, I'd feel nervousness," he said. "Now I want to become a police officer."

With the teens taking charge, police are free to man the grills. At a recent block party in the parking lot of a nonprofit community center, small children munch on popcorn and tossed bean bags while teens hung out in groups, gossiping and horsing around. Dyer, the police chief, was one of half a dozen officers wading through the crowd — and the only one in uniform.

In Fresno, a community-policing ethos builds ties between officers and residents - The Washington Post

5/15/15, 2:18 PM

The others, clad in jeans and T-shirts, dished out hot dogs and showed off a police cruiser, lifting smaller children into the driver's seat. Nearby, a detective danced with a young girl as Cherelle's "Saturday Love" poured from amplifiers.

In 2013, Garner moved on. He is now chief of his own department in nearby Selma, where he has begun hosting similar community events.

As for Baines, his faded blue police jacket now hangs in the corner of his City Hall office. After 11 years on the force, Baines was elected to the City Council in 2011 and now serves as council president.

"The narrative around the city is how dangerous and violent Southwest is," Baines said. "But there's a lot of promise here, and I'm proud of what we're doing."

Wesley Lowery is a national reporter covering law enforcement and justice for the Washington Post. He previously covered Congress and national politics.

**Response to Questions for the Record from David A. Clarke, Jr., Sheriff,  
Milwaukee County Sheriff's Office, Milwaukee, WI**



**David A. Clarke Jr.  
Sheriff**

*County of Milwaukee*  
**Office of the Sheriff**



**Sheriff of the Year  
2013**  
Constitutional Sheriffs and Peace Officers Association

August 12, 2015

United States House of Representatives  
Committee on the Judiciary  
C/O The Honorable Bob Goodlatte, Virginia, Chairman

Chairman Goodlatte, and esteemed members of the Committee,

Thank you, sincerely, for your referred questions, entitled *Questions for the record from Representative Doug Collins (GA-09)* related to the full committee hearing on "Policing Strategies for the 21st Century" held on May 19, 2015.

Please accept my answers as provided below.

1. *If we were to institute the mandatory use of police body cameras, would there need to be updates to FOIA laws in order to appropriately protect FOIA laws and protected information?*

I believe, quite strongly, that the use of body worn cameras in police operations has some merit. It is not a panacea. Our law enforcement officers are entrusted with tremendous powers. One is the power to use force, including deadly force, without initial due process...under stringent rules of law, and with much review and oversight. For this reason, I do not believe that a tool, any tool, and in this case a body worn camera, that might shed light and capture the events that led to a use of such force have no basis in our profession. In many ways, they are the logical next iteration of the squad cameras that we successfully implemented and deployed during the 1990s. But it is the specific realm of this question, the need to alter the manner in which we handle the release the information captured by these cameras, that I think many might err in a rush to deploy cameras without adequate concern for the unintended consequences of such an action. I do not, as a state and local agency head, deal with FOIA requests. My actions are governed by the Wisconsin Open Records statute (Wis. Stat. §§ 19.31-19.39. But in principal, I am concerned about the disclosure of body camera records in which the actions and statements of victims and witnesses are disclosed; which

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 August 12, 2015  
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contain information involved in any open criminal investigation; which are released prior to full vetting and redaction; in which no enforcement action was taken; and most critically, in which an officer is present in a citizen's home.

2. *If we were to institute the mandatory use of police body cameras, who would bear the cost? Would federal, state, or local government bear the initial cost? Who would bear the cost for replacements, technology upgrades, and training?*

If the federal government mandated the use of this technology, I believe that they would need to bear the cost, through federal grants to state and local agencies. While an agency my size may be able to handle the initial startup costs and thus be reimbursed, I am keenly aware that the smaller town and village law enforcement agencies cannot...and they are the majority (and backbone) of American policing. Much like the communications (9-1-1) and interoperability buildouts in the 2000s, I believe that replacements and upgrades would need to be reimbursed at the federal level as well.

3. *In your opinion, when would law enforcement officers ideally be required to turn the cameras on, and when could they turn them off? How would we ensure that there are common-sense protections and exceptions for law enforcement officers if they are required to wear body cameras? How would privacy considerations for law enforcement, suspects, and the general public be taken into account in instituting the use of body cameras?*

The most reasonable implementation for camera use is the ability of the officer to activate the system in an incident-based mode. That is, while most system "run" constantly and overwrites, the officer would activate the recording and storage function upon being dispatched to an event, or starting the process of an enforcement action or investigation. The recording would end upon the end of the enforcement action, or the turnover to a place of detention. Otherwise, as the question supposes, one would be constantly recording every moment, and the myriad interactions (many of which concern truly serious privacy issues) that are part of the day of any law enforcement officer. I do not support the deployment of camera that capture each and every interaction with each and every citizen. However, as I previously noted, this very question concerns the reason why body worn cameras are not a panacea: Any system that can be defeated (and all systems, in one way or another, can) still allow room for abuse by those so inclined.

4. *How would a body camera requirement actually be implemented nationwide? Who would provide the training and what would be a realistic timeline to implement the use of body cameras?*

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August 12, 2015  
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The MCSO has secured the International Association of Chiefs of Police Model Body Camera Policy, the to-date industry "best practice" that seeks to provide officers with instructions on when and how to use body-worn cameras so that officers may reliably record their contacts with the public in accordance with the law. In addition, the Police Executive Research Forum has authored a publication implementing a Body-Worn Camera Program: Recommendations and Lessons Learned. I recommend both to the members of the Committee. Here in Wisconsin, the Law Enforcement Standards Board of the State's Department of Justice would establish training standards, and curriculum, and the timetable to accomplish the training, which would then be passed to the individual agency to accomplish; or, in the alternative, could be taught through the state's credentialed Academy network. But this training would have a cost...in the officer's time to attend the training, and in the time of another officer to perform the policing workload at the agency. While individual agencies may be able to accomplish a rollout of body worn camera in a matter of month, I believe that a national standard must be debated and considered in a manner that considers costs, privacy concern, record-retention concerns, and unintended consequences. Such process must be properly deliberative, rely on the advice of agency heads within our profession, allow for public input, and would take 1 or more years. We are, in a very real way, considering a wholesale change to American policing. Undue haste is unwarranted.

In closing, testifying before the committee this past Spring was a highlight of my governmental life, now stretching into its 38<sup>th</sup> year. I am certain it would be for any American law enforcement officer, and I am honored that I was selected to represent a profession that has been my proudest life's work.

Sincerely,



David A. Clarke, Jr.  
Sheriff, Milwaukee County, Wisconsin

**Response to Questions for the Record from W. Craig Hartley, Jr., Executive  
Director, Commission on Accreditation of Law Enforcement Agencies**



Commission on Accreditation of  
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July 15, 2015

Honorable Bob Goodlatte  
Chairperson  
Committee on the Judiciary  
United States House of Representatives  
2138 Rayburn House Office Building  
Washington, DC 20515-6216

Chairperson Goodlatte:

Thank you again for allowing me to present ideas and solutions regarding "Policing in the 21<sup>st</sup> Century". As a member of the panel that testified before the Committee on the Judiciary, I was honored to be able to discuss this important topic and its broader public policy implications.

In a follow-up letter dated July 9, 2015, your office provided questions from Representative Doug Collins (GA-09) for me to address. Please find below the questions and my responses.

1. If we were to institute the mandatory use of police body cameras, would there need to be updates to FOIA laws in order to appropriately protect FOIA laws and protected information?

Although FOIA laws may, by default, address media collected through a body-worn camera application, it seems prudent to review these laws to ensure the rights of others are protected and they do not compromise investigative integrity of criminal matters or the rights of victims. CALEA is in the process of developing a standard specific to the implementation of body-worn cameras and it includes the following coverage confirmation areas:

- a) policy statement on purpose and organization philosophy regarding use;
- b) requirements and restrictions for activation and deactivation of the device;
- c) criminal and administrative use of camera captured data;
- d) data storage and retention requirements;
- e) equipment maintenance and inspection procedures;
- f) training requirements for users and supervisors; and
- g) requirements for documented review of camera captured data including frequency and quantity.

2. If we were to institute the mandatory use of police body cameras, who would bear the cost? Would federal, state, or local government bear the initial cost? Who would bear the cost for replacements, technology upgrades, and training?

The assumption of costs for governmentally-mandated programs is always a concern for local entities. And, it is safe to assume that absent any federal funds, or other grant-related resources, such a requirement would ultimately be the responsibility of the local authority. It is important to note that although the hardware can be expensive, most often the most costly component of a broader body-worn camera program is the storage of media data. Additionally, it is a responsible approach for agencies to develop media data review policies and other provisions that can be labor intensive and expensive in implementation. Therefore, it is important for agencies to enter any such program with a comprehensive understanding of the application and the associated responsibilities. Furthermore, lawmakers should also remain aware of these implications to ensure complete understanding of any respective mandate.

3. In your opinion, when would law enforcement officers ideally be required to turn the cameras on, and when could they turn them off? How would we ensure that there are common-sense protections and exceptions for law enforcement officers if they are required to wear body cameras? How would privacy considerations for law enforcement, suspects, and the general public be taken into account in instituting the use of body cameras?

There has been a great deal of research on this matter, from the perspective of protecting the rights of those encountered and recorded during police contact, as well as suggested policies to address concerns of police personnel. To this end, literature has been distributed by organizations like the Police Executive Research Forum and others, which helps to define sound implementation strategies. The CALEA Standard, as presented in context above, will require agencies to develop complementary policy.

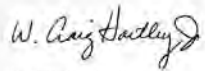
4. How would a body camera requirement actually be implemented nationwide? Who would provide the training and what would be a realistic timeline to implement the use of body cameras?

With the introduction of any new technology or equipment in the public safety environment, it is important for there to exist complementary training, research resources, and legally anchored sample policy. Too often this can be assumed by vendors of products, when the work needs to be completed by public safety industry professionals and their associations. Currently, the Police Foundation and the International Association of Chiefs of Police are seeking funding to address the issue of body-worn cameras. These associations have proven records as public safety resources. CALEA has partnered with these organizations with regard to this subject and collectively are developing a formidable resource for consumption by the field of public safety.

Timelines associated with implementation of such programs need to consider procurement, training, media storage resources, reviews and policy development, and broader public education on the

subject. Therefore, timelines would vary greatly by organizational readiness and capacity at the local levels. Clearly this is a project that would require years and not months for effective implementation.

As always, if you discover you need additional information on this subject, please feel free to contact our offices.



W. Craig Hartley, Jr.  
Executive Director

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**Response to Questions for the Record from Susan Rahr, Executive Director, Washington State Criminal Justice Training Commission and Member of President Obama's Task Force on 21st Century Policing**



WASHINGTON STATE  
CRIMINAL JUSTICE TRAINING COMMISSION

Susan L. Rahr, Executive Director

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August 1, 2015

Mr. Bob Goodlatte  
Chairman, Committee on the Judiciary  
2138 Rayburn House Office Building  
Washington, DC 20515-6216

Dear Chairman Goodlatte,

Thank you for the opportunity to testify before the Committee on the Judiciary May 19, 2015. Below are answers to the follow-up questions submitted by Representative Doug Collins.

1. *If we were to institute the mandatory use of police body cameras, would there need to be updates to FOIA laws in order to appropriately protect FOIA laws and protected information?*

Answer – Based on my knowledge of Washington State law it would be necessary in Washington State to update/amend state FOIA laws. I do not have the legal expertise to answer for other states.

2. *If we were to institute the mandatory use of police body cameras, who would bear the cost? Would federal, state or local government bear the initial cost? Who would bear the cost for replacements, technology, upgrades, and training?*

Answer – I can't answer this question because I don't know under what authority the federal government would mandate the use of equipment by state and local jurisdictions. In my experience at the state and local level, the jurisdiction making the mandate bears the cost.

3. *In your opinion, when would law enforcement officers ideally be required to turn the cameras on, and when could they turn them off? How would we ensure that there are common-sense protections and exceptions for law enforcement officers if they are required to wear body cameras? How would privacy considerations for law enforcement, suspects, and the general public be taken into account in instituting the use of body cameras?*

Answer – I do not have the expertise to answer any of the questions included in questions #3. However, I would refer you to an excellent, well-researched, and very current publication by the Department of Justice, COPS Office, and the Police Executive Research Forum titled, "Implementing a Body-Worn Camera Program." The 92 page report is comprehensive and contains the thinking of the most respected enforcement leaders in the nation. <http://ncj-zai-inc.com/Publications/cops-p296-pub.pdf>

4. *How would a body camera requirement actually be implemented nationwide? Who would provide the training, and what would be a realistic timeline to implement the use of body cameras?*

Answer – As stated before, I don't know under what authority the use of body cameras could be required or implemented by the federal government as law enforcement is a local prerogative. In my experience, when the federal government promotes the use of a particular practice, or the use of a particular type of equipment, it is usually done through incentives or the withholding of federal benefits to local governments. Because there are nearly 18,000 local police agencies in the United States that receive training from over 650 police academies and a variety of private organizations, I can only speculate that it would take many years to ensure that all officers receive the necessary equipment and training. Again, I refer you to the publication referenced above to address the complexity of using this equipment.

Sincerely,

Susan L. Rahr,  
Executive Director,  
Washington State Criminal Justice Training Commission



**Response to Questions for the Record from Matthew Barge, Vice President  
& Deputy Director, Police Assessment Resource Center (PARC)**

RESPONSE TO QUESTIONS FOR THE RECORD BY

Matthew Barge

Vice President & Deputy Director, Police Assessment Resource Center (PARC)

BEFORE THE

COMMITTEE ON THE JUDICIARY

UNITED STATES HOUSE OF REPRESENTATIVES

RELATING TO

“Policing Strategies for the 21st Century”

May 19, 2015

1. If we were to institute the mandatory use of police body cameras, would there need to be updates to FOIA laws in order to appropriately protect FOIA laws and protected information?

Instituting mandatory use of body cameras would likely not necessitate revisions or updates to the federal Freedom of Information Act (“FOIA”). It is highly unlikely that federal FOIA requirements apply to records, such as videos, that states or local jurisdictions generate – even if the states or local jurisdictions are compelled to make them to comply with federal law or meet requirements for federal funding. Generally, FOIA has been construed as relating to federal executive agencies, not local municipal agencies.<sup>1</sup>

However, every state have public records laws or state FOIA statutes that generally “allow members of the public (including non-residents) to obtain documents and other public records from state and local government bodies.”<sup>2</sup> State and local jurisdictions may well need to determine whether body camera footage should be subject to exemptions from the usual public disclosure regime – and, if so, what exemptions can appropriately preserve privacy interests while not providing the community with the transparency and accountability that come with making body camera footage available.

The privacy concerns implicated by body cameras are real. Indeed, in some communities around the country, concerns continue to be raised about the privacy implications of body camera technology. Unlike other types of surveillance cameras or dashboard-mounted, in-car video systems, body-worn cameras potentially can film sensitive conversations, such as with the victims of crimes, in sensitive environments, such as individual homes or residences. Some worry that

<sup>1</sup> See, e.g., Congressional Research Service, “Government Transparency: An Examination of Its Use in the Executive Branch” at 4 (2012), available at <https://www.fas.org/spp/crs/secrcv/R42817.pdf>.

<sup>2</sup> FOIAAdvocates, “State Public Records Laws,” <http://www.foiadvocates.com/records.html> (last visited Aug. 5, 2015).

various state FOIA and related public disclosure laws will compel release of any and video that officers film on a day-to-day basis – including these more sensitive or private interactions.

Nonetheless, the price for not figuring out how to balance the privacy and accountability interests is high. We know that, where body cameras are actively used by officers, use of force goes down. Likewise, citizen complaints about police go down. In Oakland, California, the number of use of force incidents decreased by nearly 75% in the 6 years since the police there began implementing body cameras.<sup>3</sup> In San Diego, body cameras were associated with a reduction in complaints of 40.5% and a decreased in “hands-on” officer force of some 46.5%.<sup>4</sup> Other cities, from Rialto to Mesa, have seen similar improvements once their officers started using body cameras.

In some cities, like Seattle, police departments are looking to technologies that allow for automatic redaction of witness or civilian faces – permitting the disclosure and release of body camera while preserving the privacy rights of uninvolved subjects.<sup>5</sup> Any changes to state public disclosure and FOIA laws needs to account for technological advancements that can preserve a strong presumption in favor of disclosure and transparency while preserving privacy and the departmental resources necessary to respond to FOIA requests.

2. If we were to institute the mandatory use of police body cameras, who would bear the cost? Would federal, state, or local government bear the initial cost? Who would bear the cost for replacements, technology upgrades, and training?

The initial costs of the on-officer body camera units themselves are not disproportionately expensive – ranging from \$349 to \$899 depending on manufacturer and model.<sup>6</sup> However, there can be “steep costs for managing the volumes of footage [police departments] must keep” to satisfy government and public records regulations. For example, San Diego’s contract with one body camera manufacturer involved a cost of \$267,000 for 1,000 of the devices themselves “but another \$3.6 million for storage contracts, software licenses, maintenance, warranties, and related

<sup>3</sup> “Oakland Mayor Says Police Body Cameras Have Cut Use-Of-Force Incidents Significantly in 5 Years,” KPIX (Dec. 17, 2014), available at <http://sanfrancisco.cbslocal.com/2014/12/17/oakland-mayor-says-police-body-cameras-have-cut-use-of-force-incidents-by-60-in-4-years-jean-quan-oakland-police-department-opd-officer-involved-shooting/>.

<sup>4</sup> Tony Perry, “San Diego police body camera report: Fewer complaints, less use of force,” *L.A. Times* (Mar. 18, 2015), <http://www.latimes.com/local/lanow/la-me-ln-body-cameras-20150318-story.html> (quoting Deputy Chief as saying that “[b]odyworn camera technology is a win-win for both the officer and the community”).

<sup>5</sup> See Seattle Police Monitor, *Fifth Semiannual Report* 19-21 (2015), available at <http://static1.squarespace.com/static/5425b9f0e4b0d66352331e0e/t/557f3f8fe4b0e62e4460ff9b/1434402703419/Tift+Semianual+Report.pdf>.

<sup>6</sup> See Mike Wehner, “Here’s what it would cost to put a camera on every cop in Ferguson,” *Daily Dot* (Nov. 26, 2014), <http://www.dailydot.com/technology/police-body-cam-ferguson/>.

equipment.”<sup>7</sup> The camera units themselves must also be replaced periodically due to normal wear and tear and technology upgrades.

Accordingly, although the federal government’s provision of money for body camera acquisition or pilot programs is incredibly useful in incentivizing use and supporting adoption of the technology, state and local governments may also need to share the expense of ongoing retention, storage, and unit maintenance with the federal government.

3. In your opinion, when would law enforcement officers ideally be required to turn the cameras on, and when could they turn them off? How would we ensure that there are common-sense protections and exceptions for law enforcement officers if they are required to wear body cameras? How would privacy considerations for law enforcement, suspects, and the general public be taken into account in instituting the use of body cameras?

The default rule should be that body cameras record all interactions with members of the public. They should be turned on whenever officers are responding to a call for service or other dispatch activity, self-initiated or observational activity such as traffic and pedestrian stops, and other enforcement-related activities such as searches, pursuits, and arrests.

Some argue that officers should be afforded some discretion to turn off the cameras in some circumstances. For instance, some departments give officers discretion about whether to record interactions with crime victims or witnesses.<sup>8</sup> If department policy allows officers to decide whether to record some interactions, it must ensure that guidelines are crystal clear and the reasons why an officer did not record the encounter are clearly documented and reviewed so that officers do not have the kind of ‘limitless discretion’ that would eliminate the ‘cameras’ role in providing a check and balance against police power.”<sup>9</sup> Because it is more straightforward for officers and police departments for the default rule to be that officers almost always turn on their body camera when it is reasonably foreseeable that they will interact with the public,

4. How would a body camera requirement actually be implemented nationwide? Who would provide the training and what would be a realistic timeline to implement the use of body cameras?

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<sup>7</sup> Brian Bakst & Ryan J. Foley, “For police body cameras, big costs loom in storage,” *AP* (Feb. 6, 2015), available at <http://www.policeone.com/police-products/body-cameras/articles/8243271-For-police-body-cameras-big-costs-loom-in-storage/>.

<sup>8</sup> See Lindsay Miller & Jessica Toliver, Community Oriented Policing Services (COPS) Office, U.S. Department of Justice, “Implementing a Body-Worn Camera Program: Recommendations and Lessons Learned,” 7 Community Policing Dispatch 10 (Oct. 2014), available at [http://cops.usdoj.gov/html/dispatch/10-2014/body\\_worn\\_camera\\_program.asp](http://cops.usdoj.gov/html/dispatch/10-2014/body_worn_camera_program.asp).

<sup>9</sup> Jay Stanley, American Civil Liberties Union, “Police Body-Mounted Cameras: With Right Policies in Place, a Win for All” at 2 (Oct. 2013), available at [https://www.aclu.org/files/assets/police\\_body-mounted\\_cameras.pdf](https://www.aclu.org/files/assets/police_body-mounted_cameras.pdf).

The most straightforward mechanism for the implementation of body cameras nationwide would be clear congressional action predicated on the receipt of any federal funds on active use of body cameras. Although the types of cameras to be utilized, mechanisms for storing captured video, and accommodations to state and local public disclosure laws must be left to the discretion of local departments and jurisdictions, Congress should provide funding – through the Department of Justice’s Community Oriented Policing Services (COPS) or Bureau of Justice Assistance (BJA) – for the creation of minimum, uniform guidelines for the use of body cameras that departments from across the country can quickly and easily adopt.

The training associated with using current body camera technology is minimal. A relatively short technical demonstration of what is required to use the equipment, activate the system, and ensure preservation of video is generally necessary. Likewise, individual departments need to orient officers as to expectations for body camera use under their policies. Nonetheless, once the equipment is in place and a working consensus has emerged on the policies governing body cameras, implementing the use of body cameras only takes as long as orienting officers to the technology and the policy – which can, depending on the size of the department, be just a matter of days.

**Response to Questions for the Record from Deborah A. Ramirez,  
Professor of Law, Northeastern University School of Law, Boston, MA**

TO: Committee on the Judiciary, United States House of Representatives  
Bob Goodlatte, Chairman

FROM: Deborah Ramirez, Professor of Law

DATE: August 14, 2015

RE: Policing Strategies for the 21<sup>st</sup> Century

Response to questions for the Record from Representative Doug Collins

- 1. If we were to institute the mandatory use of police body cameras, would there need to be updates to FOIA laws in order to appropriately protect FOIA laws and protected information?**

A Blue Ribbon Commission should be appointed by the Department of Justice to determine the impact of the FOIA on the use of body worn cameras and the impact of body worn cameras on the FOIA. The appointment of a commission would ensure the inclusion of diverse perspectives on findings and recommendations. The Department of Justice has already supported projects to explore these issues, which have resulted in model policies and practices on the use of police body worn cameras. An important next step is for the Department of Justice to commission a study of agencies that use body worn cameras and, from their policies and practices, identify legal (i.e., FOIA), social, and safety issues. The Department of Justice through the commission should then have the duty to report on best policies and practices regarding the use of police body worn cameras.

- 2. If we were to institute the mandatory use of police body cameras, who would bear the cost? Would federal, state, or local government bear the initial cost? Who would bear the cost for replacements, technology upgrades, and training?**

The initial cost of body worn cameras should fall upon the police agency. While cameras and the associated technology are an expense, an agency cannot view the device as only a cost. Body worn cameras add value to the agency through accountability of police conduct in a changing era of policing, where these issues are front-and-center. Another benefit is they accurately document interactions between police and the public preventing discrepancy involved in memory recollection of an incident, while also providing documentation useful for police investigative purposes.

The specific benefits to an agency will vary greatly. The role of police in the community is evolving. Body worn cameras provide an avenue to enhance an agency's perception within its community, which is an integral component and priceless in the future of policing strategy.

As with many of the questions raised surrounding the implementation of police body worn cameras, there is much to be gained from a Department of Justice commission and additional pilot studies. Is there a cost savings to be considered from a reduction in citizen complaints, from fewer incidences of use of force, from less adjudication (civil litigation against the agency and in agency initiated criminal cases), from more effective law enforcement conduct?

3. **In your opinion, when would law enforcement officers ideally be required to turn the cameras on, and when could they turn them off? How would we ensure that there are common-sense protections and exceptions for law enforcement officers if they are required to wear body cameras? How would privacy considerations for law enforcement, suspects, and the general public be taken into account in instituting the use of body cameras?**

Generally, police would activate the cameras for all contact with all citizens that is related to the performance of their duties as a law enforcement/peace officer, except where a reasonable expectation of privacy exists. However, even in locations where a reasonable expectation of privacy exists, when probable cause exists, e.g., the search of an individual or a home, or an arrest, the camera would remain on. If the officer does not activate the body worn camera during a required contact, they should be required to document such and articulate the reason.

Police should not record private conversations outside the scope of the performance of their duties so far as it relates to an interaction with the community, e.g., police to police communications, communication with confidential informants and with undercover officers, personal conversations, or in locations where there is a reasonable expectation of privacy (with legal exceptions).

4. **How would a body camera requirement actually be implemented nationwide? Who would provide the training and what would be a realistic timeline to implement the use of body cameras?**

First, it is essential to support additional funding to the Department of Justice intended for additional pilot studies on police body worn cameras. These Department of Justice controlled studies will serve to identify issues from initial implementation and development of policy and procedure, to

law enforcement safety concerns and the integrity of the recorded data. Implementation will vary by jurisdiction, so these pilot studies should be conducted among a range of agency sizes and geographic locations in order to learn the most from the research and provide the best recommendations to law enforcement at the local, state, and national levels as the implementation scales nationwide.

The issue of training would be best answered through additional pilot-site study research, especially when considering the scope of scaling the training nationally. However, it is realistic to envision training/certifications to function as they do with other federal programs.

Regarding implementation of police body worn cameras, it is premature to assign a target implementation date, because of unforeseen challenges to such a wide-scale project. However, additional pilot studies and research would uncover these unforeseen challenges from funding to implementation before experiencing them on a national scale. Such lessons would benefit the efficiency of a nationwide implementation.