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Policing in America: Lessons from the Past, Opportunities for the Future

The Honorable Edwin Meese III and John G. Malcolm

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Over the past several years, America's law enforcement community has been confronted with an array of challenges. Violent crime rates have increased in many major cities across the country, though in others, police departments are effectively maintaining crime rates at, or near, historic lows.[1] Immigration concerns have grown more complex. Throughout, agency budgets have tightened. At the same time, hostile narratives have emerged in mainstream and social media, which encourage antipathy toward police and paint American law enforcement as "systemically racist." These accusations attempt to characterize modern policing based on the undisputed fact that throughout much of this nation's history, police were often tasked with enforcing racist laws and sometimes enforced laws in a racially discriminatory manner, which has left an indelible impression in some communities. The high volume of consent decrees handed out by the Department of Justice under prior Administrations, alleging patterns or practices of excessive force and other violations of citizens' constitutional rights, has only exacerbated this misrepresentation of today's police. The predictable result has been friction between police departments and the communities they serve, which has

occasionally erupted in violent protests and targeted attacks on law enforcement officers.

Throughout, the police have had few allies. City officials have often been quick to give in to political pressure, blaming officers and calling for prosecutions before investigations are complete and the facts are known. Fearing for their careers and reputations, many police officers are hesitating or ceasing to engage in discretionary enforcement activities, although this is not common to all departments. Some are leaving the force altogether, while potential recruits are opting not to join, contributing to staffing shortfalls. Mischaracterizations of highly successful law enforcement techniques, such as stop-question-and-frisk ("Terry stops"), deny these tools to officers. In the final analysis, anti-police rhetoric has left Americans, particularly those living in low-income communities and minority communities, more at risk.

This prevailing narrative belies major successes and innovations in law enforcement across the country, as well as long-term declines in crime rates, which are now being threatened by some of the developments discussed in this *Special Report*. The Trump Administration is setting new federal law enforcement priorities, including establishing

a Task Force on Crime Reduction and Public Safety, to focus on reducing violent crime and supporting police. All of these factors make this a pivotal moment for American policing and the communities these officers serve.

With this in mind, The Heritage Foundation assembled a diverse group of professionals with extensive background in federal, state, and local law enforcement, as well as representatives from police unions and national law enforcement organizations, for a Policing Strategy Summit in March 2017. The meeting had three principal objectives:

1. Identify the most pressing problems that law enforcement agencies face today, including the breakdown in trust, adequacy of training, proper use of new technologies, media and community relations, and the gathering and sharing of data.

2. Identify the best practices and most innovative approaches that law enforcement authorities are employing to address these problems and combat crime.

3. Identify the most effective means of communicating with the public and political leaders, building trust and improving police–community relations, and bringing the needs and concerns of police agencies to the attention of federal officials.

The summit was attended by some of the nation's leading and most-experienced law enforcement professionals. The following is a list of summit participants. Some requested anonymity and are consequently not listed here.

The following represents the proceedings of the Policing Strategy Summit. It does not necessarily reflect the views of specific attendees or organizations, but seeks to capture the wide-ranging discussion that took place at the summit.

Allegations of "Systemic Racism" Are False and Harmful

- Some attendees agreed that the concept of broad "systemic racism" in law enforcement is a damaging, false narrative that undermines public support for policing. Others felt it important to

acknowledge and address past wrongs and prior grievances in order to improve race relations.

- Some attendees were critical of the position taken by the Justice Department under past Administrations that police are "systemically racist" for using data-driven policing. Most attendees noted this was an inaccurate portrayal of police tactics, for several reasons:

  □ Police are deployed based on data derived from citizen complaints and other calls for service, and where crimes are actually committed—much of which occurs in minority communities.

  □ Police stops can usually be correlated with descriptions that victims or other witnesses provided to the police.

  □ The Justice Department nevertheless used this data to suggest that these police enforcement practices are racist, which is not the case.

- Some attendees felt that law enforcement agencies need to explain to the news media and the public the truth about data-driven policing, which is based on objective information. What is too often painted as racially motivated policing is simply responding to fact-driven data.

- Some attendees felt that law enforcement agencies need to be more forthright and transparent about past injustices (real or perceived), and need to do a better job explaining to the public why they use the tactics they use.

- Some attendees felt that the number of consent decrees set in place by prior Administrations, and the fanfare surrounding them, feeds the narrative that police abuse civil rights and cannot be trusted, which in turn reduces citizen cooperation.

- Some attendees felt that the "War on Cops" and the Black Lives Matter movement (as well as other groups) have had a criminogenic effect. Adverse publicity about policing causes some officers to refrain from taking action when minor laws are broken, or when they are intimidated by the fear of negative publicity or a hostile reaction

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from bystanders. The so-called Ferguson effect discourages proactive policing and ultimately results in more crime.

Countering False Narratives

■ Attendees expressed concern that police departments were losing control of the narrative to those with anti-police agendas. To counter this trend, police departments should:

□ Develop strategies around marketing, branding, and media relations that promote community trust and transparency in their organizations.

□ Craft their own message so that they have better control of the narrative. The typical law enforcement officer faces danger just as the average soldier does, yet the military vastly outspends the police in campaigns designed to enhance its reputation among the public and recruit personnel.

□ Refrain from relying on the mainstream media to relay information to the public. Police are not equipped to compete against mainstream media groups that engage in anti-police advocacy, but political leaders—including mayors, governors, and the President—can help to counteract that narrative.

■ Most attendees believe that the concept of the "nonviolent drug offender" is one of the most damaging false narratives in policing today.

□ Violence often accompanies drug dealing, usually because of turf wars over "territory" and, of course, the ever-present risk of overdose. Violence is also used by major drug traffickers to intimidate or kill witnesses.

□ Numerous murders, particularly in major American cities, have been directly related to drug trafficking.

■ Police departments need to explain law enforcement policies and procedures to the public, and sell them on the benefits, such as the importance of getting illegal guns off the streets.

Stop-question-and-frisk is an illustrative example of this. Police lost control of the narrative and lost a powerful law enforcement tool in the process.

□ Anti-law enforcement advocates successfully removed the "question" portion of this term, which alters the public's understanding of what the police are actually doing. The public now believes that the police are simply stopping people and immediately frisking them, which is not the case. The reality is that when police stop people, they talk to them; the officer will frisk the individual only after developing an articulable suspicion that he or she may be armed.

□ The low numbers of guns discovered in stops in recent years are used to portray the practice as abusive,[2] but the low numbers are, in all likelihood, proof of the effectiveness of the stops—demonstrating the deterrent effect of this law enforcement technique on criminals who would otherwise carry guns.

The Police Need Political Support

■ Police desperately need political leaders who support law enforcement. The role of mayors and local governing boards are important to building and sustaining public support for the police.

□ Too often, police officers are blamed in questionable cases involving police encounters in which a civilian gets hurt, because of political or community pressure on prosecuting agencies. Political leaders are also quick to criticize law enforcement officials before all the facts are known, which makes displaying hostility and resisting the police seem more acceptable to some. Likewise, some cities are willing to settle civil cases with the alleged victims of a police–civilian encounter before all the facts are known. Political expediency comes at a price. Political leaders ought to tell citizens that it is a good thing to support and cooperate with the police.

□ Officers often feel isolated and are afraid that if they are ever "out on a limb," someone will cut it off. This results in low morale, causing

retention problems that must be addressed. Demoralized police are also less effective.

■ The importance of police to the vitality of cities needs to be understood. City governments expend significant resources on public infrastructure, such as parks, roads, and schools, but these go unused—and often become dangerous places—if not adequately protected. Police are necessary for any plans involving infrastructure.

■ Too much has been placed on the shoulders of law enforcement. Law enforcement officers are the only professionals who make house calls, confront people on the street, and are expected to address homelessness, joblessness, and mental illness in communities, all at the same time. The police were never intended to serve as an instrument to address every social ill. There is an opportunity to recalibrate the priorities of law enforcement, and to give them the tools and the training they need to address some of these issues.

Improving Police–Community Relations

■ Police are the face of the entire criminal justice system and represent more than just their individual department.

■ Attendees saw a need to address the cultural shift in attitudes towards police and the need to educate citizens on how to de-escalate the situation during a police stop. We as a society ought to teach people that it is unacceptable to run from the police. To accomplish this goal, attendees recommended developing public outreach and education programs that familiarize the public—particularly young people—with the police, and teach them about police procedures, as well as how to interact with officers when they are stopped or pulled over. Attendees suggested the following:

  □ Driver's education courses, expanded to cover appropriate interactions with officers during a traffic stop.

  □ Police visits to schools, such as the "Officer Friendly" program, and interactive programs designed for young people, such as the "Law & Your Community" program.[3]

  □ Sending police representatives to Parent Teacher Association (PTA) meetings to communicate with parents.

■ Building trust requires ongoing communication with community groups, leaders, and the general public.

  □ Effective communication can help police to develop allies as well as temper the community's expectations about what police are able to accomplish and how long it will take them to do their work. Departments should expand their use of social media as a means of providing accurate information about, and soliciting the public's assistance with respect to, specific incidents that occur.

  □ It is important to ensure that residents of a community know what is being done to address crime in their area, including publicizing arrests and convictions.

  □ The public needs to be made aware of the burdens associated with consent decrees, as well as with zero-tolerance policies that divert resources from investigating serious offenses in order to make arrests in low-level cases. When a member of a community sees an officer arrest someone for a relatively low-level offense and then leave the neighborhood for a long time while more serious crimes occur, it can seem as if the police are unconcerned about the quality of life in that neighborhood. People do not realize that it takes officers a long time to process an arrestee and to fill out all the attendant paperwork, including reporting requirements under consent decrees.

Effective Crime-Fighting and Prevention Strategies

■ Effective crime fighting and crime reduction require a holistic approach. Performance metrics should include not just crime reduction but also other measures that reflect how the efforts of the police contribute to the overall quality of life for citizens, whether in urban, suburban, or rural jurisdictions.

- This holistic approach should include measurements of income levels, property values, number of complaints received, use of public spaces, and other measures of economic vitality.

- Public information should also describe the "good things" that police do, not enforcement actions alone.

- Police leaders should promote results-oriented policing and crime reduction, using techniques and programs such as COMPSTAT (short for "Compare Statistics"), described by the Bureau of Justice Statistics as "a performance management system that is used to reduce crime and achieve other police department goals." COMPSTAT emphasizes improving information sharing, responsibility and accountability, and effectiveness. It includes four generally recognized core components:

  1. "Timely and accurate information or intelligence;

  2. "Rapid deployment of resources;

  3. "Effective tactics; and

  4. "Relentless follow-up."[4]

- Collecting data and establishing performance metrics are extremely important in order to provide accountability.

  □ Police departments should focus data collection and performance metrics on areas they wish to emphasize and areas in need of improvement.

  □ Thorough data collection will also better enable law enforcement agencies to explain their actions to the public.

- Community policing is a vital part of any effective crime-prevention program. Police departments need to get back to a structure that ties particular officers to particular neighborhoods, so they can develop a familiarity with, and relationships within, that neighborhood, thereby building trust. It is important for a patrol officer to get to know the community to which he is assigned, so that he can better distinguish between the kid who is returning home from the basketball court and the guy who is on the street selling drugs.

- Using intelligence-driven processes, police and prosecutors should focus on identifying and capturing the worst offenders who are responsible for a disproportionate number of violent crimes within a community. Too often, prosecutors will not push for pretrial detention, and judges will allow dangerous individuals to remain in the community, which enables them to continue committing crimes and intimidating witnesses. There is an over-reliance on GPS tracking to monitor the movements of someone accused of committing a serious crime. Faith in tracking is misplaced, since individuals have been known to disable or remove such devices. Too often, prosecutors will plea bargain with dangerous, repeat offenders, allowing them to plead to relatively minor charges, thereby enabling them to return to the streets quickly and commit more crimes.

- Some attendees felt that a key to policing, and especially enforcement, is procedural justice: The idea that how a police officer does something is just as important as what he does. Once someone is stopped and the tactical situation is over, officers have an opportunity to have a conversation with the person about what the officer is doing, and why. Treating people with respect through such explanations results in improved understanding by, and can even engender gratitude from, those being stopped.

- Best practices, whether developed among police departments or by the Justice Department, need to consider the costs of innovations, such as storage for photographs and videos resulting from increased body and stationary camera use.

- Body-worn cameras are sweeping into policing, and the objective video footage they capture helps both police and communities understand the professional actions of law enforcement personnel. The evidence collected by body-worn cameras can help exonerate police officers who are wrongly accused, and can also help weed out the few "bad apples" in police departments.

Improving Police–Federal Relations

- Many attendees expressed dissatisfaction with their treatment by the Justice Department under past Administrations, and a strong belief that the Department needs to be de-politicized.

- Significant reforms to the Justice Department were proposed (but not agreed to by all attendees), including:

  - Remove police oversight responsibility from the Civil Rights Division and place it within the Office of the Deputy Attorney General.

  - Restrain police oversight activities by the Justice Department. Attendees were divided about what role, if any, the department should play in officer-involved shootings, although there was unanimity that any role should be limited and predefined. At the very least, there should be clearer parameters and a clear federal interest before Justice Department authorities intervene when an incident occurs. The federal government can set the tone, but for the most part, local investigations should be allowed to run their course.

  - Consent decrees have lost credibility and need to be revisited and re-evaluated. The roughly 25 consent decrees presently in effect nationwide collectively impose millions of dollars in annual compliance costs on municipalities.

  - Allow police departments to develop their own forms of peer-to-peer review and best practices, with Justice Department involvement only in instances where individual departments with clear problems prove obstinate, rather than being subjected to consent decrees.

- It was recommended that the Justice Department consider implementing the following:

  - A federally funded officer exchange program in which officers are loaned out to different police forces for a period of time.

  - A national commission on criminal justice to develop best practices in law enforcement with balanced—but not anti-police—perspectives. State and local officials involved in the criminal justice system, including law enforcement officers, should be included in this and any future commissions, task forces, or grant programs.

  - Conduct a survey targeting the police chiefs of the 50 largest cities in America, as well as a representative sample of rank-and-file officers from across the country, to determine what they need from local, state, and federal governments.

  - Support federal research that meets the needs of local police.

- Some attendees suggested that a national training curriculum could be helpful.

- Some attendees also proposed programs to incentivize police service, perhaps through a "Police for America" program modeled after "Teach for America" or the ROTC model.

- Police departments need funding for education, training, and technology, as well as best-practices guidance from each other and the Justice Department.

- Thought leaders should develop a strategy to bring police and political leadership together to promote community safety.

- Federal, state, and local authorities have unique roles to play. The federal government should concentrate on education and training, research and trends, and setting a publicly supportive tone toward law enforcement, all while respecting the legitimate prerogatives of state and local authorities.

Training and Officer Retention

- Some attendees suggested that law enforcement agencies need to implement incident-based training (training based on actual case studies and realistic simulations) and improved in-service training (continuous mentor-based training and field-training exercises) and provide sufficient funding to sustain these programs.

☐ New recruits ought to go into training for four to five months to learn the essentials, then go out for a period with a field training officer, and return to a seminar environment to talk about "lessons learned" after being on the street for a year. This is an ideal way to incorporate incident-based training discussions and learn from mistakes of others.

☐ Training should focus on how to de-escalate difficult, potentially violent situations, thereby decreasing the need to use force. Courteous conduct can often de-escalate a potentially hostile situation. Some attendees stated that they believed that law enforcement officers in other countries, such as the United Kingdom, do a particularly good job of this.[5]

☐ Police should focus more of their time and attention, and should place greater emphasis on, their role as guardians of the community—about 85 percent of their work—and less emphasis on their role as warriors who respond to crime scenes and arrest people—about 15 percent of their time. The pendulum often swings too far in the direction of being warriors.

☐ In general, there appeared to be a consensus that more intelligent, well-educated officers will exercise better judgment and be more effective police officers. Professionalism is a value that needs to be instilled in every officer. Police officers should be given opportunities to continue their formal education, beyond learning law enforcement techniques, once they join the force.

■ Many agencies are already shorthanded, and the constant maligning of law enforcement officials hurts efforts to recruit high-quality police officers.

■ Retention problems are putting pressure on police chiefs to lower their recruiting standards to fill their staffing needs. This, combined with the current and expected retirement of a large number of experienced officers and the consequent loss of institutional knowledge, makes effective training regimens especially important.

■ Officials should guard against cuts to police training, which is often the first thing sacrificed as budgets shrink. Police officers in a number of other countries receive more training than most officers in the U.S.[6] Additionally, it is important to recognize that specialized equipment, such as SWAT gear, requires special training to ensure that officers know how to use this equipment in an appropriate manner.

■ Some of the attendees believe that the arbitration process is in need of reform and that the current process reduces the ability of supervisors to remove poor performers or "bad apples" from their force. These participants felt that arbitrators too often force the re-hiring of police officers who were fired for violating department rules. Others thought it was unfair to criticize arbitrators for following the rules and stressed the need for promulgating fair and equitable policies that are well known and fairly administered. Supervisors ought to be trained in how to conduct fair and thorough investigations, which in the long run will enable police forces to remove bad actors.

■ Law enforcement agencies need more opportunities to collaborate and learn from each other through peer-to-peer discussions, including sharing innovative ideas and successful risk-management strategies.

■ Teamwork should be improved within police departments by including union leaders, who are respected by the rank-and-file, in discussions of police practices.

■ Police need to maintain a commitment to innovation, including:

☐ Continuing the trend toward putting technology and real-time data in the hands of patrol officers.

☐ Requesting help from former police officers who are now security officers in the private sector and might be willing to help with training needs. Some private-sector companies might consider providing funding for training or equipment. Some of the attendees have

been very successful in reaching out to the private sector for assistance in brainstorming innovative ideas, and helping them with their training needs.

—The Honorable Edwin Meese III was the 75th Attorney General of the United States and currently is the Ronald Reagan Distinguished Fellow Emeritus at The Heritage Foundation. **John G. Malcolm** *is the Vice President for the Institute for Constitutional Government at The Heritage Foundation.*

Endnotes

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4. Bureau of Justice Assistance and Police Executive Research Forum, *COMPSTAT: Its Origins, Evolution, and Future In Law Enforcement Agencies*, 2013, http://www.policeforum.org/assets/docs/Free_Online_Documents/Compstat/compstat%20-%20its%20origins%20evolution%20 and%20future%20in%20law%20enforcement%20agencies%202013.pdf (accessed May 3, 2017).

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6. Compare Milan Pagon et al., "European Systems of Police Education and Training," in Milan Pagon, ed., *Policing in Central and Eastern Europe: Comparing Firsthand Knowledge with Experience from the West 551* (Ljubljana, Slovenia: College of Police and Security Studies, 1996) ("Basic training for police officers in the [17 European] surveyed countries takes between four months and four years, followed over years by various forms of specialized training and management training.") with Brian A. Reaves, "State and Local Law Enforcement Training Academies, 2013," Bureau of Justice Statistics *Bulletin*, July, 2016, p. 4, https://www.bjs.gov/content/pub/pdf/slleta13.pdf (accessed May 3, 2017) ("Excluding field training, the average length of a [U.S.] basic law enforcement training program in a training academy [in 2013] was about 840 hours, or 21 weeks.").

First, Do No Harm: Two Sensible Approaches to Achieving Lasting Reform in Police Departments

Colonel Rick Fuentes, Superintendent, New Jersey State Police

There is a maxim popular in the healthcare industry, *primum non nocere* (first, do no harm), cautioning medical practitioners that, given an existing problem, it may be better not to do something, or even to do nothing, than to risk doing more harm than good.

A simile of sorts can be drawn to the law enforcement profession, as all police officers swear a similarly principled oath when they accept the badge. There are contrasts, as well, in that policing is a profession that often lacks the luxury of time for deliberation afforded practitioners in the medical field. Many actions over the course of an officer's career are driven largely by a sudden turn of events, and any hesitation in doing one's duty can invite public criticism, if not personal injury.

The galvanizing events in Ferguson, Missouri; Staten Island, New York; Baltimore, Maryland; and North Charleston, South Carolina, have seemingly evoked a lack of public confidence in law enforcement. There is a national temperament for immediate and widespread police reform. A whole panoply of police practices, training, motor vehicle stops, individual and vehicle searches, use of force applications, community relations, and even the tactical use of de-commissioned military surplus equipment are simultaneously under scrutiny. Law enforcement executives are scrambling to rethink approaches to dangerous encounters with citizens, even raising the option of retreating and disengagement from those critical incidents under which police officers are procedurally trained and authorized to stand their ground and use deadly force, if necessary, and as a last resort.

Make no mistake, all professions need to be brought back to the garage every once in a while for a tune-up. Policing is no different. There have been several distinctive eras to American policing, some signaling the advent of technology and others retooling the way we fight crime. Many of these eras were anchored to a thoughtful concept. Broken windows enforcement, COMPSTAT,[1] and community policing were all the result of innovative collaboration between police executives and criminal justice scholars and became effective tools to improve public safety in communities.

The retooling of the police profession has already proceeded in earnest. The President's Task Force on 21st Century Policing, established by executive order in December 2014, heard testimony from some of this country's most eminent and respected police executives, academics, and civil rights leaders. The culmination of their work, gathered from more than seven listening sessions in January and February, was submitted to the White House as an interim report in early March 2015 and publicly released two months later.

The final report of the task force is a bellwether for American law enforcement, sorting 59 recommendations into six thematic pillars covering many of the thorny issues affecting community relations, technology, training, and crime reduction. The task force operated under an aggressive three-month deadline. Despite the encumbrance of a timetable, their efforts whet the appetite for a lengthier dialogue to resolve the dilemma of implementing good policy and reform within the existing capacity and capability of a police department. As is often seen in many police departments, the willingness to implement technology and other reforms conflicts with the antagonism among politics, policing, and money. Police chiefs who want to do better cannot avoid the frustration of stiff resistance from competing bureaucracies in local governments.

The federal government's disbursement of a $23 million grant in September 2015 to kick-start a national effort for police departments to purchase body-worn cameras is a good example of how seeking to reduce harm and allay community concerns can rush ahead of the logistical consequences of reform. Body-worn cameras extend the same advantages afforded police by in-car recording systems—the protection of the public and the police during both routine and high-risk police–citizen encounters. On-body cameras are designed to replicate the human eye and capture the visual angles often missed or hidden from the landscape view of a police vehicle's dashboard camera. Drivers, passengers, and pedestrians can now be clearly identified. Furtive or threatening movements that prompt officers to take more serious actions are clearly seen.

Guns, drugs, and other contraband in plain view of the officer are clearly articulated for prosecutions. Allegations by citizens or improper police behaviors are substantiated or refuted, and can be quickly adjudicated to allay community concerns or avoid obstruction of the careers of officers falsely accused of misbehavior.

While it is easy to tout the need for body-worn cameras, such cameras are a costly proposition for police departments, starting with the initial purchase of equipment and thereafter in annual expenses to upload and store massive amounts of data. Body cameras also raise concerns and sensitivities about the privacy of certain encounters that involve entering a private residence, addressing domestic violence, and responses to incidents of sexual assault or rape.

Body cameras are just one aspect of the effort to resolve negative public perceptions of the police and to instill public trust and confidence. Other vexing issues include reducing urban violence while building sound community relations, privacy concerns from gathering license plate data and the use of drones, police shootings, dealing with the mentally ill, de-escalation strategies, vehicle pursuits, monitoring use of force, and furthering transparency and legitimacy through the collection and analysis of data on citizen encounters and post-stop actions.

These matters and others of equal import are deserving of extended deliberation and the creation of new perspectives grounded upon the most current research and best practices. Convening the necessary authority that could competently articulate these issues requires political backing and generous support from the highest levels of the federal government.

In a recent article in *Politico*,[2] a nationally recognized and respected police union leader, James Pasco, advanced two very good arguments that are helpful in this narrative: (1) Support the need for reform with a congressional commission to study the issues and create policy guidance; and (2) rethink the dependence on federal pattern-and-practice investigations—undertaken by the DOJ Civil Rights Division against police departments in response to a pattern of misconduct, such as unreasonable use of force or inadequate internal investigations—as the sole approach to curing the ills of police departments who have lost their way.

There are two prominent examples of commissions that significantly affected American policing:

(1) In 1965, President Lyndon Johnson established the Commission on Law Enforcement and Administration of Justice. The members of the commission challenged the formidable public safety issues of the day, vastly improving and professionalizing the field of law enforcement, ushering in the lifesaving 911 emergency phone system, and improving the general lot of police officers by encouraging higher education through tuition reimbursement. The commission's report, *The Challenge of Crime in a Free Society*, is a worthy read.[3] (2) The Kennedy School of Criminal Justice at Harvard recently concluded the second of two seminal executive sessions on policing, mixing national and international police leaders with their academic counterparts. The two sessions each lasted five years and were separated by nearly a quarter century. The first executive session held from 1985 to 1990 was distinguished by its push to adopt community policing, a best practice that broke the crime wave of the 1970s and 1980s and led to the relative calm of the 1990s. A series of provocative papers gathered from participants of the second executive session, which convened from 2008 to 2014, appears in an online anthology called *New Perspectives in Policing*.[4] *New Perspectives* offers contemporary guidance to police on many themes critical to the continued welfare of the law enforcement profession.

The many town halls and symposia hosted by the Police Executive Research Forum (PERF), and significant and ongoing efforts, such as the Policing Strategy Summit sponsored by The Heritage Foundation, are underscoring the need for a top-to-bottom assessment of the profession of policing and the criminal justice system. It is also encouraging that bipartisan legislation is now working its way through the 115th Congress to establish an 18-month, federally funded National Criminal Justice Commission.[5] This commission would enjoy a great advantage over its forerunner, as much of the ground game has already been set in place by the work of the 21st Century Policing task force.

It would be disingenuous to say that this call for a presidential commission on policing is solely influenced by the recent series of highly publicized and often-deadly police–citizen encounters. Similar congressional attempts at establishing a commission go back several years. Advocating the need for national governance on these issues is also a tired chorus within the police community. For the past

two decades, the International Association of Chiefs of Police (IACP) and other police think tanks have sought political support for a presidential commission whose careful and more relaxed deliberations might lead to new strategies to address community relations, use of technology, and urban gun violence.[6]

Also of great interest to the law enforcement community is whether the current Department of Justice will alter the aggressive posture of its predecessor on police reform, a policy embodied in the imposition of pattern-and-practice lawsuits and federal consent decrees upon police departments. According to a 2017 report released by the Justice Department's Civil Rights Division (CRD), since 1994 there have been 69 investigations resulting in 40 legal agreements for binding reform of police departments.[7] Almost two dozen of these investigations occurred during the eight years of the Obama Administration, with negotiated reform agreements issued at a rate nearly four times that of his predecessor.[8]

The public hue and cry for immediate reform has stepped up demands that the federal government, specifically the CRD, intensify its efforts to impose remedies on police departments with wayward patterns and practices. Many departments, particularly those at odds with their constituents over the conduct of these practices, risk finding themselves in the cross-hairs of a federal "pattern and practice" investigation.

Pattern and practice investigations are not new to local and state policing in this country, reaching back to the first term of the Clinton Administration and tied to specific authority granted to the CRD through the Violent Crime Control and Law Enforcement Act of 1994. Section 14141 of the act empowered the CRD to investigate a law enforcement agency when there is reasonable evidence to believe that a police malpractice has occurred. Urban police departments in Cincinnati, Pittsburgh, and Los Angeles, and the New Jersey State Police (NJSP) are just a few of the early recipients of these investigations, resulting in civil actions, court-ordered decrees, and other memoranda mandating reform to agency practices and protocols. New Orleans, Louisiana (2013); Baltimore (2015); Chicago (2016); and Newark, New Jersey (2016) are more recent examples of major city police departments upon which federal consent decrees have been imposed.

Consent decrees, where they have been handed down, are typically accompanied by one or more federal monitors who, operating under claims of independence, act as proxies for the CRD. They come from all walks of the American intelligentsia, private security companies, law firms, or academic institutions, all auditioning for the role.

The monitoring of police departments has, in and of itself, become a lucrative cottage industry. The core mission of the monitor is to ensure that the elements of the decree and associated timeline for reform are strictly enforced. Semi-annual reports released to the public reveal the monitor's assessment of the agency's progress. These reforms are unfunded federal mandates that most often require the establishment of early warning or accountability systems to root out misbehaviors in police routines. The demands of the monitoring process are such that a department must dedicate significant financial and personnel resources to their fulfillment. All in all, the technology and personnel allocation necessary to effectively manage a consent decree over the course of its duration can run into the millions of dollars on the low end for a mid-size police department and up to tens of millions for larger agencies.[9]

CRD monitors have achieved mixed success. They are embraced by some departments and openly resisted by others. Personality, familiarity, and politics often mix in the selection of a monitor, and the turnover of police chiefs and mayors can see reforms and technology slide backward against the pressure of a new Administration's priorities and fiscal restraints.[10]

Certainly, the need to compel reforms exists in some cases. Without question, police departments that have lost their way, fouled their community relations, lost legitimacy and public confidence, or have drifted off the righteous path of protecting life and property need to immediately overhaul their practices and protocols. A greater concern centers on the capability and capacity of distressed municipalities to comply with a high-priced federal template and the lack of any viable alternative. Perhaps a partnership among federal watchdog and state and local law enforcement agencies of recognized competence can offer a more reasonable and economical solution.

In 2010, Assistant Attorney General Thomas Perez hosted a meeting in Washington, DC, of law enforcement executives, police think tanks, criminal justice scholars, and CRD investigators for a one-day discussion focused on improving federal responses to beleaguered police departments. The discussion

took an unexpected turn when police leaders began to question why more had not been done to intervene in out-of-step police departments at a place and time that may have avoided the public and political imbroglio of a pattern-and-practice investigation and the drawn-out and costly entanglement of a consent decree.[11] Considering that a civil rights investigation is a choreographed punch that generally comes at the end of a long road crowded with community complaints and lawsuits, are there no interventions that could be undertaken at an earlier stage?

The Police Institute at Rutgers University saw these interventions in police departments and their remediation in a different light. Its perspective was grounded in an understanding that law enforcement as a profession has not lost its bearings. The focus on the few troubled departments had cast a broad and indiscriminate shadow on many others who do their jobs with proficiency and professionalism, ensuring public safety through healthy police–community relations. In the rush to achieve much-needed reform, strong federal influence of a police department's operations can sometimes do harm through unintended side effects—such as loss of public faith and legitimacy, (intentionally slowing down work activities), and low morale. The Police Institute foresaw these calamities in advocating for an earlier nonfederal intervention paradigm using a process of shared experiences and peer counsel.

Supported by a federal grant from the Bureau of Justice Assistance, in June 2010, the Police Institute assembled a group of criminal justice scholars, Justice Department officials, American Civil Liberties Union representatives, and prominent current and former law enforcement executives, several of whom had successfully shepherded federal consent decrees through their own departments.[12] Promoting excellence in policing, this gathering set about crafting a syllabus for a three-day workshop bringing together the leaders of several municipal police departments willing to open their departments to critical review and recommendations.

The workshop took place in March 2013 at MetLife Stadium in East Rutherford, New Jersey. Participating police departments in the project came from New Jersey, California, Florida, and Louisiana. None of the invited departments were prospective or ongoing targets of a CRD investigation. All were led by progressive chiefs with open minds and a desire to improve upon their department's practices

and community relationships. They volunteered to further participate in a subsequent one-year pilot program that assigned a police chief mentor to provide technical assistance and recommendations to improve existing rules of conduct. There was a focus on the seminal actions of police often found to generate the most controversy within the community—motor vehicle and pedestrian post-stop actions, data collection, use of force, internal investigations, and training.

The lessons learned from the workshop and follow-up mentoring of the participating departments has been detailed by the Police Institute in the scholarly monograph, *Excellence in Policing: Preventing Police Misconduct Initiative.*[13]

As a result of the Excellence in Policing (EIP) initiative, some departments implemented early warning systems to root out misbehaviors, tweaked protocols related to internal affairs investigations, and revised their training. Other departments began recording their stops and other routines and backed those actions up with use-of-force policies. Most important, changes adopted in all departments increased public trust and transparency. Along the way, there were no court appearances, no depositions, no finger-pointing interactions with federal overseers, and expenses were confined to the specific technological and infrastructural needs of each department.

Using the EIP methodology, the federal government can play an important role in facilitating the discussions between highly functional and dysfunctional police departments. If a dysfunctional department stubbornly stands in opposition to technical assistance, federal court actions and consent decrees should follow.

There is no better time than the present for American policing to evaluate its practices, policies, and protocols, re-engineer those that have floundered, and set the stage for a new round of innovation and improved quality of services to their communities. That goes as well for those in federal policy positions who need to unstick 20th-century solutions from 21st-century controversies and concerns. A national commission will drive the momentum in a new direction. That momentum should not be driven in haste by any single, high-profile police–citizen encounter; rather, it should bring about policy guidance that fits any department and ensures sustainability for the good order of the profession. As Shakespeare

recognized: "Wisely and slow; they stumble that run fast."

*—**Rick Fuentes** has been Superintendent of the NJSP since 2003. He first enlisted in 1978 and has served as a road duty Trooper, an instructor at the Sea Girt Academy, and a supervisor with the FBI/NJSP Joint Terrorism Task Force, Narcotics Units, and the Street Gang Unit. Recipient of numerous awards, Colonel Fuentes has been recognized by the U.S. Justice Department, the Drug Enforcement Administration, and the NJSP.*

Endnotes

1. COMPSTAT, which stands for "comparative statistics," is a precinct-level management-accountability technique created by the New York City Police Department in the 1990s and used with great effectiveness to reduce crime.

2. Ben Schreckinger, "The Secret Weapon for America's Beleaguered Police," *Politico*, May 9, 2015, http://www.politico.com/story/2015/05/the-secret-weapon-for-police-117779 (accessed May 13, 2015).

3. President's Commission on Law Enforcement and the Administration of Justice, *The Challenge of Crime in a Free Society* (Washington, DC: U.S. Government Printing Office, 1967).

4. For a description of the Second Executive Session on Policing and Public Safety and *New Perspectives on Policing*, see Malcolm K. Sparrow, "Performance Measurement in a Modern Police Organization," *New Perspectives in Policing*, Harvard Kennedy School, 2014, https://www.hks.harvard.edu/publications/new-perspectives-policing# (accessed August 8, 2017).

5. National Criminal Justice Commission Act of 2017, S. S573, 115th Cong. (2017).

6. International Association of Chiefs of Police, "A Roadmap for the Future: The Need for a National Commission on Criminal Justice," 2012, http://www.theiacp.org/Portals/0/pdfs/DOTH-A-Roadmap-for-the-Future.pdf(accessed March 20, 2017).

7. U.S. Department of Justice, *The Civil Rights Division's Pattern and Practice Police Reform Work: 1994–Present* (Washington, DC: Government Printing Office, 2017).

8. Perry Chiaramonte, "Activist Use of 'Consent Decrees' to Police Law Enforcement Likely to End Under Trump, Sessions," FoxNews, December 22, 2016, http://www.foxnews.com/us/2016/12/22/activistuseconsentdecreestopolice lawenforcementlikelytoendundertrumpsessions. html(accessed March 17, 2017).

9. Kimbriell Kelly, Sarah Childress, and Steven Rich, "Forced Reforms, Mixed Results," *The Washington Post*, November 13, 2015, http://www.washingtonpost.com/sf/investigative/2015/11/13/forced-reforms-mixed-results/?utm_term=.992dacefe3a7 (accessed March 20,2017). Thirteen police departments with federal consent decrees had collectively spent more than $600 million in taxpayer money in implementing federally mandated reform agendas between 1995 and 2015.

10. Kelly, Childress, and Rich, "Forced Reforms, Mixed Results." The authors state that the 16 departments reviewed between 1995 and 2015 experienced the turnover of 52 police chiefs over the various durations of their consent decrees.

11. U.S. Department of Justice, "Taking Stock: Report from the 2010 Roundtable on the State and Local Law Enforcement Police Pattern or Practice Program (42 USC § 14141),"September 2011, https://www.ncjrs.gov/pdffiles1/nij/234458.pdf (accessed August 7, 2017).

12. Attendees of this initial planning session included the chiefs of the NJSP and Los Angeles, Pittsburgh, and Cincinnati police departments, all of whom had supervised federal consent decrees. Invited departments that graciously agreed to participate in the pilot initiative were from Fresno, California; Shreveport, Louisiana; Hollywood, Florida; and the New Jersey locales of Atlantic City, Orange, and Vineland.

13. Rutgers University Police Institute and New Jersey State Police, *Excellence in Policing: Preventing Police Misconduct Initiative.* At the time of publication of this *Special Report*, the website for the Rutgers University Police Institute was under reconstruction.

The Department of Justice's Claim of "Systemic Racism" in Policing Today

Garry F. McCarthy, former Superintendent, Chicago Police Department

The greatest issue vexing the policing profession today is not how to reduce crime, nor is it community relations, training, supervision, hiring, recruitment, or equipment. Police departments have made great strides in all of these areas, and best practices exist across the field. The most vexing issue is a political one that nobody wants to talk about. Its genesis involves a philosophical union between the American Civil Liberties Union and the Department of Justice, and it is affecting policing in an alarming fashion, rendering it ineffective. Simply stated, the most effective method known to reduce crime has been identified as causing systemic racism.

One of the cornerstones of effective policing is using crime data to tailor enforcement strategies to who commits a crime, and to where and when crime occurs. This approach was championed in New York City in the early 1990s and has been replicated across the profession for decades. What started as COMPSTAT ("comparative statistics") has grown into "data-driven policing": The police employ more resources where crime occurs and take more enforcement and proactive police actions to prevent crime. These methods have proven extremely effective in reducing crime as well as the number of arrests, since the police are more often able to arrest the right person at the right place and time, rather than using blanket enforcement strategies.

It is no secret that the neighborhoods most affected by crime are also beset by other social and economic issues, such as poverty, joblessness, lack of opportunity, poor health care (including mental health care), breakup of the family unit, poor education, mass incarceration, and rampant narcotics and alcohol abuse. Across the country's urban centers, these neighborhoods consist of, almost without exception, predominately minority populations. These issues represent a great social and economic divide in this country and lead to hopelessness, anger, and a societal outlook called "legal cynicism."

Legal cynicism is defined as a "cultural orientation in which the law and the agents of its enforcement are viewed as illegitimate, unresponsive, and ill-equipped to ensure public safety."[1] This theory represents an indictment of the entire criminal justice system. Common sense tells us, however, that the conditions in the disenfranchised communities across the country described above represent an indictment of the entirety of the government, which has failed these communities for centuries. The most forward and visible component of that failed government system is the police. Thus, the anger that has welled up in those communities has become focused on the police and explodes when questionable police incidents occur. Whether justified or not, incidents in Ferguson, Staten Island, Chicago, Charlotte, North Charleston, and Baltimore have become symbols of overaggressive policing, and every police use of force is now viewed through that prism.

The result has been severe political blowback on policing. Due to misdiagnosed socio-economic problems in these distressed communities, the political reaction to the public outrage has caused solutions to be applied that are not appropriate. This, in turn, exacerbates those community problems across the country. Simply stated, "fixing the police" will not change the conditions causing the outrage in those communities, and the methods being applied are emboldening criminals while rendering the police ineffective, leading to more lawlessness. The country is taking the wrong medicine for what ails it.

For example, police-related shootings in Chicago represent less than half of 1 percent of all shootings in the city. Put another way, had there been no police-related shootings in Chicago last year, 4,300 people still would have been shot in that city. Yet, the political reaction to the police shooting of Laquan McDonald, and the steps taken—such as the firing of the Police Superintendent, minor discipline cases resulting in the forced retirement of experienced officers in an apparent "get tough on the police" environment, state laws being enacted that result in any civilian contact requiring a four-page report, and DOJ involvement—have resulted in a huge increase in the murder and crime rates in Chicago. A movement founded with the goal of saving black lives is resulting in more black lives being lost. The police are not the violence problem in society.

While there is plenty of blame to go around for this current scenario, the worst offender is the

Department of Justice (DOJ). Under the previous Administration, the politicization of the DOJ resulted in more crime and violence in those communities. Under the guise of civil rights investigations, the DOJ changed long-established legal standards, and what police accurately call data-driven policing, the DOJ has labeled "systemic racism." This issue must be rectified in order for the policing profession to move forward; equally important, the public-perception damage that has been done to policing by that process must be reversed.

The DOJ proudly proclaimed that it conducted more civil rights investigations (25) into police departments over the past eight years than at any other time in history. That begs the question whether police have begun to violate civil rights more often during those eight years. This is clearly not the case: As a 35-year veteran of the profession, I can say this with conviction, as can anyone else who has studied the recent evolution of policing.

Ironically, each of the reports from those investigations reads the same and draws the same conclusions. The investigations appear to solicit testimonials to support a predetermined fate. It is a flawed investigative methodology, drawing predetermined political conclusions.

Almost without exception, the seminal finding in each of the reports is "systemic racism," based on uneven patterns of enforcement and police actions compared to population demographics. This conclusion is generally referenced as "disproportionally stopping African Americans." Similarly, the DOJ report on the Police Department of Puerto Rico found that its officers used excessive force against Dominicans.

"Terry stops" are a critical tool for policing. Police officers must stop people in order to recover illegal guns and make arrests. In the 1968 case of *Terry v. Ohio*, the Supreme Court held that the police can stop people based on articulable reasonable suspicion (ARS). By law, ARS is the standard for conducting Terry stops. ARS is developed through an officer's training, experience, observation, and crime data. In conducting civil rights investigations, the DOJ changed that ARS standard to include population demographics—which is in direct conflict with the Supreme Court ruling.

As stated, police departments deploy more officers where and when crime most occurs. Police also take more action there in comportment with crime patterns. These are generally minority neighborhoods. The most violent neighborhood in Chicago is Englewood. The population there is 97 percent African American. It would not only be impossible to make 32 percent of Terry stops consist of Caucasian suspects there (see citywide population demographics in Table 1), it is a preposterous concept for effective crime reduction if Caucasians are not identified as crime suspects in the first place.

The Chicago Police Department conducted a two-year analysis of crime in the city for 2013 and 2014. The data show that who was stopped, where, and when was remarkably within a few percentage points of arrests and suspect descriptions across the entire city, yet varied widely from population demographics. This trend held true in each community of the city, despite each community's ethnic demographic, and was a major factor in achieving record-low crime rates during those two years (50-year lows). In 2017, the murder rate in Chicago has increased about 100 percent since 2014.

Table 1 reflects a percentage comparison of crime complaints (as defined by victims) and arrest data to the Terry stops conducted for the two-year period. The top box is a citywide analysis. It shows that the population demographic for African Americans is 32.36 percent, while 70.60 percent of stops were of African Americans. This is the basis for the DOJ determination that police disproportionally stop African Americans. However, police do not stop people based on population demographics; police stop people based on crime complaints. The suspect descriptions (for all crimes) were of African Americans 72.76 percent of the time for the two-year period. "African American" or "black" was the suspect description for murders, shootings, and robberies between 77 percent and 85 percent of the time. This clearly points to the socio-economic divide referred to earlier, which—not the police—is at the heart of the crime problem. The rest of the citywide data reflects members of other demographics as being stopped at about a 1 percent differential, showing that all the stop data is in comportment with crime data. The population demographics are irrelevant.

The middle box reflects the same data sets in the Englewood community, traditionally Chicago's most violent area. African Americans account for 96.79 percent of the population, 97.83 percent of suspect descriptions for all crimes, and 100 percent of

TABLE 1

Demographic Breakdown of Crime and Contact Cards in Chicago

FIGURES ARE FOR 2013–2014

CITYWIDE	African-American	Latino	Caucasian	Other
Demographic	32.36%	28.99%	31.71%	7.04%
Contact	70.60	17.99	10.31	1.08
Suspect (All Crimes)	72.76	17.09	9.21	0.94
Murder	77.24	18.48	3.72	0.55
Shooting	79.95	16.98	1.02	0.05
Robbery	85.06	12.12	2.62	0.21

7th DISTRICT (ENGLEWOOD)	African-American	Latino	Caucasian	Other
Demographic	96.79	1.64	0.37	1.20
Contact	96.69	1.88	1.26	0.18
Suspect (All Crimes)	97.83	1.12	0.82	0.24
Murder	100.00	0.00	0.00	0.00
Shooting	99.55	0.45	0.00	0.00
Robbery	99.37	0.37	0.15	0.11

19th DISTRICT (LINCOLN PARK)	African-American	Latino	Caucasian	Other
Demographic	6.63	9.97	74.98	8.42
Contact	48.66	16.40	31.74	3.20
Suspect (All Crimes)	52.83	16.73	28.12	2.32
Murder	50.00	16.67	16.67	16.67
Shooting	66.67	22.92	10.42	0.00
Robbery	81.18	11.62	6.88	0.32

SOURCE: Chicago Police Department.

SR194 ☎ heritage.org

murder-suspect descriptions. As stated, stopping 32 percent Caucasians would not be possible and would certainly not impact the crime rate there. It should be noted that victimization data reflect the same trend: Crime victims in Englewood are almost exclusively African American, a fact that is most often overlooked in this discussion.

The last box reflects the Lincoln Park community, one of Chicago's more affluent neighborhoods. While this area reflects a 6.63 percent African American demographic, 48.66 percent of the stops conducted were of black suspects. Just like the citywide data, the suspect data for all crimes runs about four points higher (52.83 percent) for African Americans than for other demographics.

The conclusion drawn from this data is that crime complaints closely mirror the stop data. In fact, Caucasians are the only demographic stopped at a higher rate for all categories when compared to crime data.
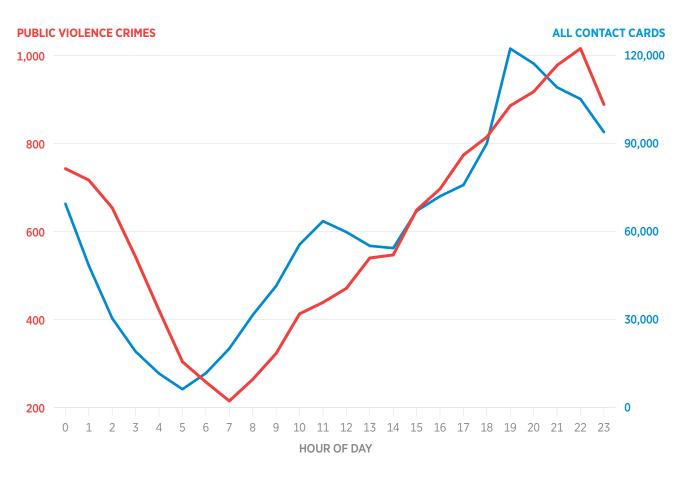
The analysis also details firearms violence by police district in comparison to stop data. By and large, violent districts have the most contact cards (contact cards record police stops of civilians, which may or may not result in a frisk) issued per district, with the differences probably attributable to the districts' size differences. In short, police obviously stop the most people at the locations of the most violent crimes.

Chart 1 reflects stop data by time of day, compared to violent crime on a line graph. The blue line reflects stops, while the red line reflects violent

CHART 1

Chicago Violent Crimes and Contact Cards Track Similarly Over 24–Hour Period

FIGURES ARE FOR 2013–2014

PUBLIC VIOLENCE CRIMES   **ALL CONTACT CARDS**

HOUR OF DAY

SOURCE: Chicago Police Department.   SR194 ☎ heritage.org

crimes. It would be hard to imagine that two years of data can reflect such remarkably similar results.

As stated, police stop people based on where and when crime is committed, and by whom (based on eyewitness descriptions). The enforcement patterns reflected in these charts led to the lowest murder rates in Chicago since 1965, and are the result of data-driven policing.

How do Americans put this genie back in the bottle? It starts with truth telling and having some difficult conversations about our history as a nation. We can only chart out a course to where we are going if we acknowledge where we have been. It is ironic that people talk about "re-establishing trust" in the

African American community. One cannot re-establish something that never existed in the first place. The history of African Americans in this country started with slavery, then moved to "black codes," Jim Crow, and segregation—all of which were systemically racist laws that were enforced by white police. The narrative of distrust that exists in those communities is well earned and goes back nearly 250 years in this country. That narrative influences the views of current events. The identification of that history and its devastating impact on the community needs to be acknowledged before progress can be made, because it is from that history that the socio-economic divide in this country has flowed.

Next, Americans need to recognize that divide as the source of the anger that has welled up in those disenfranchised communities. While the police need to do better, they are not the source of the problems inherent in those communities. The political backlash against policing is resulting in lawlessness. "Fixing" the police is misdiagnosing these problems, and in five years, this country will be having the same conversations, with no progress gained. The solutions lie in creating conditions in these communities for societal change. The police can play a role, but a broad range of solutions needs to be applied to the overwhelming dysfunctional problems causing those conditions.

Finally, the constitutionality of data-driven policing and the issue of disproportionate enforcement against crime patterns, not ethnicities, must be established publicly. The police cannot do their job without that understanding and clarification. Police do *not* engage in systemic racism by addressing crime patterns; what they are doing is intelligent policing. This mischaracterization represents the greatest danger to modern policing, and without addressing this misinterpretation of fact, police cannot establish the trust they have never had. Present-day Chicago is the most glaring example of this farce.
—*Garry F. McCarthy was Superintendent of the Chicago Police Department from 2011 to 2015 and Police Director of the Newark Police Department from 2006 to 2011. After joining the New York Police Department (NYPD) in 1981 at age 22, he was Deputy Commissioner of Operations of the NYPD from 2000 to 2006, worked hand in hand with Mayor Rudy Giuliani after 9/11, and was in charge of the NYPD's COMPSTAT program.*

Endnotes

1. David S. Kirk and Mauri Matsuda, "Legal Cynicism, Collective Efficacy, and the Ecology of Arrest," *Criminology* Vol. 49, No. 2 (May 2011), p. 443, http://onlinelibrary.wiley.com/doi/10.1111/crim.2011.49.issue-2/issuetoc (accessed August 7, 2017).

National Organization of Black Law Enforcement Executives (NOBLE): Recommendations & Potential Solutions

The National Organization of Black Law Enforcement Executives

NOBLE's mission is to ensure equity in the administration of justice in the provision of public service to all communities and to serve as the conscience of law enforcement by being committed to justice by action. The seventh of Sir Robert Peel's nine principals of policing is "at all times, [to] maintain a relationship with the public that gives reality to the historic tradition that the police are the public and that the public are the police; the police being only members of the public who are paid to give full-time attention to duties which are incumbent on every citizen in the interests of community welfare and existence."

The following recommendations and potential solutions combine NOBLE's mission with Sir Peel's keen insight that, to maintain real law and order one must not create an environment, whether perceived or real, where the police are not part of the public (the community). In the same vein, the community must feel it is a part of the police. It is NOBLE's opinion that President Trump's Administration can achieve the goals and priorities that have been stated by Attorney General Jeff Sessions by making the welfare of *all* communities equally important, with support for law enforcement in current and future policies of the Department of Justice.

Trust and Transparency

It is NOBLE's recommendation that law enforcement truly adopt community policing as the philosophy of policing in the U.S. and recommends it as a critical tool in restoring trust. Second, NOBLE proposes that the Department of Justice account for the lack of trust in some communities of color in its evaluation of its commitment to current and future consent decrees and pattern-or-practice investigations.

Key components of community-policing implementation are:

- Community policing should allow officers to demonstrate their support for the community they have sworn to protect and serve. Residents and officers are allies.

- The police agency should mirror the demographic composition of the community it serves. It is

NOBLE's recommendation that law enforcement enhance its recruitment methods. If a department's recruiting methods are not resulting in a diverse force, it should form relationships with local and national private-sector organizations that are doing it well. There are numerous best practices for diverse hiring.

- Law enforcement agencies across the country should adopt the National Consensus Policy on Use of Force.[1]

- Training in cultural sensitivity and critical thinking are crucial to an officer's performance. An officer cannot be effective or ethical if he cannot think critically—that is, being able to gather and process information to guide decision making that directly affects behavior. Community policing demands that officers interact with people who live or work in neighborhoods that they patrol. Officers should be trained to communicate with people, solve community problems, and develop an appreciation of cultural and ethnic differences. Superiors should continually evaluate their officers' command of these skills, much as they would the use of firearms, defensive tactics, and knowledge of relevant laws and regulations, and refresher training should be provided when needed. If an officer consistently shows himself to be lacking in these areas, commanders should seriously consider terminating that officer.

- A trusting, collaborative relationship with the community requires police department transparency. Communities want to know that their concerns are being heard and addressed, and many communities are creating neighborhood advisory committees that provide direct feedback to police officials on the effect of police policies, programming, and messaging. Developing trust also means increasing the amount of time the police department and community—both in the form of groups and individuals on the street—spend together. The more time together, the better each understands the other. Some options are:

regular community-based forums, department–community advisory committees, activities for families in the local police department during the year, and a requirement that officers reside in the communities they serve. These activities need to be supported by the top brass, as the only way for this to work is through a top-down commitment.

- NOBLE recommends that post-incident updates occur shortly after the occurrences. These updates should be made in the mainstream media and social media. Dissemination should also include locations in communities that may not be "mainstream," such as barbershops, beauty shops, local stores, and other gathering points.

Violent Crime

NOBLE views violent crime as a public health issue with social and environmental contributors that give rise to violence in urban communities. On the community side, NOBLE has learned that best practices in law enforcement must embrace a balance of police strategies and tactics that include community engagement, economic development, public awareness campaigns, community-based interventions, youth-diversion programs, vocational training, recreational resources, and patrol-related enforcement to manage urban violence. Accordingly, NOBLE also endorses best-practice templates on the side of law enforcement that encompass recruiting and selecting the right police candidates, training and promoting a multicultural department, ensuring equity in policy and practice, maintaining transparency during times of conflict, responding to civilian complaints, and purging any officer who violates the oath of office.

Primarily, NOBLE supports racial equity and procedural justice through constitutional policing under the 14th Amendment. We understand that equal protection and civil rights are fundamental necessities that are inherent in ethical policing, and above all, promote positive relationships between the police and the communities they serve. It is NOBLE's professional assessment that issues impacting urban violence and policing are best dealt with through a multifaceted approach; this means working collaboratively with community-based organizations, faith-based leaders, nonprofits, social services partners, local government, police agencies, and public and private institutions to transform communities plagued by violence and lawlessness.

Promotion of Public Respect for Law Enforcement

NOBLE feels strongly that the law enforcement profession and the Department of Justice must proactively embrace the media in its various forms as a vehicle for promoting, educating, and informing the public (community). It is NOBLE's position that a marketing and branding campaign be developed to accomplish these tasks. We agree with Attorney General Jeff Sessions's statement that the "misdeeds of individual bad actors should not impugn or undermine the legitimate and honorable work of law enforcement." However, when these misdeeds are combined with a real or perceived lack of acknowledgement from law enforcement leaders, the result is a negative impact on the public's trust. The profession must own and control the narrative where possible and be an empowering resource for all communities.

—*NOBLE was founded in 1976. Its mission is "to ensure equity in the administration of justice in the provision of public service to all communities, and to serve as the conscience of law enforcement by being committed to justice by action." See Noblenational.org.*

Endnotes

1. National Consensus Policy on Use of Force, January 2017, https://www.dropbox.com/s/e8qvhhivx0f6207/National_Consensus_Policy_On_Use_Of_Force.pdf?dl=0 (accessed August 8, 2017).

Making Policing Great(er) Again

Jim Bueermann, President, the Police Foundation, and Jim Burch, Vice President for Strategic Initiatives, at the Police Foundation

After experiencing many years of declining crime, in 2017, American law enforcement finds itself at an important crossroads. While various organizations, academics, and others in 2016 and early 2017 consistently messaged that there is no increasing crime trend,[1] the data suggest a turning point and this is worthy of concern and focus.

As the Police Foundation and Major City Chiefs Association recently pointed out in a joint report offering recommendations to the Trump Administration and Congress, violent crime in many major cities is no longer declining across the board. Many cities have seen significant increases in homicides, non-fatal shootings, robberies, and assaults, as demonstrated by the Major Cities Chiefs year-end data for 2016. While many have posited ideas for why this may be occurring, law enforcement must be more focused on how to stop it. At the same time, 2016 will also be known for another alarming development: The number of law enforcement officers killed in the line of duty rose to the highest level in five years—to 135—including 21 ambush attacks, according to the National Law Enforcement Officers Memorial Fund.

A 2016 survey of major metropolitan area police chiefs found that nearly 70 percent of these executives felt that, although policing and criminal justice is primarily a local responsibility in the United States, the federal government should "definitely" play a role in addressing local violent crime problems. The remaining 30 percent of executives surveyed also agreed that the federal government should "probably" play a role. Dozens of local law enforcement executives prioritized the federal roles as follows:

- Providing additional or supplemental enforcement resources to address local violent crime problems;

- Providing more advanced technologies, tactics, and analysis to address local violent crime problems;

- Conducting enforcement operations focused on local crime problems;

- Providing enhanced investigative strategies; and

- Conducting enforcement operations focused on interstate crime problems.

Within these roles, there are clearly appropriate and necessary roles for the Department of Justice's (DOJ's) enforcement and litigating components to bring their capabilities, resources, and expertise, as well as their unique tools, to bear. At the same time, however, there are other ways for the Administration to have an impact in those local communities that may not require millions in new federal resources and investments. By re-engaging in several key areas, refocusing several ongoing efforts, and applying leadership to emerging areas, the Administration can have an important impact on policing and can reduce violent crime in an important, measurable, and high-profile manner.

Supporting Science

When examining strategies, such as those used in Richmond, Virginia's Project Exile,[2] the DOJ's Project Safe Neighborhoods,[3] and elsewhere, it is often not possible to tell law enforcement what, specifically, makes a difference in these approaches. How much prosecution is necessary? Who should be the focus of enforcement efforts first? Does sentence length matter? Should drug crime be the priority focus? Gun crime? All crime? This is not just a matter of curiosity for local law enforcement, and as federal resources become more constrained, it should not be a matter of curiosity for federal law enforcement.

Instead, better research and better use of science in law enforcement are essential for crime reduction efforts to be not only effective, but also efficient and affordable. Research and data should not be considered only when law enforcement decides on an approach or problem to address, but should be essential in monitoring *how* law enforcement is doing—in real time. Law enforcement leaders and commanders want and need better analytics and better data about what is happening in communities and how communities are reacting to the enforcement strategies in play.

Just as any private entity accountable for its bottom line would do, law enforcement should have a constant stream of data by which to measure the bottom line of public safety. Programs such as the National Police Research Platform, funded by the National Institute of Justice and now operated by the Police Foundation, are designed to provide exactly this type of assistance and must continue to be supported. Programs like the DOJ's Smart Suite,[4] Project Safe Neighborhoods, and others that bring researchers together with police practitioners are also an essential part of leveraging science.

Embracing Local Best Practices

The violent crime data provided by the major cities for 2016 demonstrate that violent crime is not increasing in every community. In fact, some communities and their law enforcement agencies have developed creative and effective strategies locally that could be replicated in many other places after being adapted for local conditions. This is exactly how Project Safe Neighborhoods was created as a national program, following the apparent success of Project Exile in Richmond. The Trump Administration and DOJ can replicate these important efforts by supporting research and assistance programs that allow the identification of successful local efforts and can assist other agencies with replicating those efforts. The DOJ's and the Police Foundation's National Resource and Technical Assistance Center for Improving Law Enforcement Investigations,[5] which focuses on replicating local best practices in reducing violent crime by improving investigative strategies, and the DOJ's Technology Innovation for Public Safety[6] are both designed around this idea of facilitating an important peer-to-peer exchange, not a "Washington knows best" strategy.

Leveraging Technology

Law enforcement agencies struggle to keep up with emerging technologies and frequently complain that criminals and their organizations often adopt new technologies and approaches before law enforcement agencies can. Today, emerging technologies such as virtual reality and augmented reality are growing rapidly and could play a major role in improving law enforcement training, as could selection and hiring, community relations, and other aspects of policing. Robotics and artificial-intelligence capabilities are not far behind, with driverless cars and robotic assistance presenting both opportunities and challenges for policing. Agencies are adopting new technologies, such as unmanned aerial systems (UASs), as well as information technologies to predict crime locations and identify high-risk offenders. The law enforcement communications networks, expectations, and requirements are rapidly evolving.

There is an important role for the Administration and the Justice Department to play in these efforts by providing leadership as well as support to assist agencies in leveraging this technology most effectively, while avoiding obvious privacy and civil liberty pitfalls or vendor control. With DOJ support, the Police Foundation recently completed a guidebook for agencies considering UAS adoption and is currently exploring the other technologies mentioned here. Support for these types of efforts is essential to give law enforcement the advantage that many law enforcement agencies have long struggled to gain.

Law Enforcement as Heroes and Guardians

Most Americans have confidence in law enforcement officers and understand the perils of their duty.[7] However, this is not the case in all communities, as many have rallied against police misconduct and decision-making failures. Programs like the Police Foundation's "critical incident reviews"[8] and the Police Data Initiative,[9] both of which have been supported, in part, with DOJ funding, can be easily and appropriately focused to help reform the ways in which law enforcement and their communities work together to confront crime, to create improved understanding of the realities of law enforcement, and to improve understanding of police decision-making by providing context and transparency around these issues.

Officer Safety

As noted, 2016 will be marked as the year in which more officers were killed than during the previous five years, and 21 officers were killed in ambush attacks. This unacceptable development must be addressed rigorously and fully. DOJ programs and initiatives, such as the VALOR Initiative,[10] are essential to prepare law enforcement officers, provide them with techniques that will save lives, and create awareness of the threats that officers face. The Law Enforcement Officer (LEO) Near Miss reporting

system,[11] initiated by the Police Foundation with DOJ support and modeled after the FAA's successful near-miss reporting program, is essential to identifying the ways in which officers could have been killed or injured but were not, for the purpose of identifying the training, policy, and human factors that must be addressed in order to save officers' lives and reduce injury and risk.

Efficient, Effective, and Tough Enforcement and Prosecution

The Trump Administration and Department of Justice have not inherited a resource-rich federal law enforcement or justice system. As both conservative and liberal groups have consistently espoused, our society cannot return to a mass-incarceration, or even a broad-incarceration, approach, which is clearly unsustainable from a federal budget standpoint. Therefore, law enforcement must not only be tough in its approach to violent crime, but also efficient, without sacrificing effectiveness. In Project Exile and Project Safe Neighborhoods, both of which have been found to produce positive impacts, it is not known if the number or volume of prosecutions was the most important factor in those approaches, or if it was simply a matter of prosecuting those most responsible for violence, or the publicity around key prosecutions, that drove the deterrence.

What is known from science is that violent crime can be reduced through a more focused deterrence approach, in many cases dramatically. Law enforcement agencies need assistance in implementing this approach, and must know more about what makes these efforts successful, while supporting their replication through grants and assistance from the DOJ.

Confronting the Opioid and Heroin Epidemic

The challenges society faces due to the abuse of opioids is undeniable and tragic on every level. While policing is not capable of dealing with all aspects of this national epidemic (prevention, intervention, and suppression), it does have a role that can be supported by the DOJ. Access to officer-administered naloxone, for instance, is an essential part of saving the lives of people caught up in opioid addiction. And, federal and local participation in regional drug task forces is crucial to defeating transnational drug cartels.

When government uses taxpayer resources, it should be a good steward of those funds. It is important that there is an effort to gauge the effectiveness of those efforts. It is unconscionable to spend taxpayer revenue on programs that are proven to be ineffective. Accordingly, the Police Foundation strongly advocates scientific evaluations of federal efforts to confront the national opioid epidemic with policing strategies. Using evidence-based approaches aimed at reducing this type of harm is crucial to America's success in this regard. Strategies that identify the risk factors involved in opioid abuse and match them to proven policing strategies leverages the taxpayer investment in evidence-based policing and will lead to a more effective national strategy to reduce opioid abuse.

New Strategies for Dealing with Mental Health

A significant number of deadly police use-of-force cases involve individuals suffering from mental illness. Policing strategies, such as Crisis Intervention Training,[12] are promising approaches to successfully resolving these types of police–citizen interactions. Clearly, de-escalation tactics also hold great promise for reducing fatal officer-involved shootings. Dramatic advances in the use of virtual reality hold similar hope for effectively reducing these situations.

The DOJ should invest in evaluating existing "mental health and policing" programs. In addition, the department should invest heavily in the rapidly advancing technologies of virtual reality and augmented reality as a promising approach to effectively training police officers faster and less expensively. This training can, and should, extend to literally every aspect of policing. From de-escalation techniques to protest management to tactical training for active shooters and evolving terrorism, virtual or augmented reality holds the promise of fundamentally altering the cost and manner in which police training is delivered. This will make advanced police training available to even the smallest of agencies.

Conclusion

It is important for the DOJ to evaluate the strategies it promotes to policing agencies. The current DOJ portfolio of police reform, violence reduction, use-of-force reduction, implicit bias, and officer safety and wellness training programs may be well-intended and seems to be intuitively effective. However, the lack of scientific evidence indicating that

they actually work means that not only could the government be wasting scarce taxpayer resources, it could also be promoting programs that are, at best, ineffective, and, at worst, harmful, creating more problems than they solve. This does not mean that the programs should necessarily be halted until an evaluation is complete; it does dictate that there should be an effort undertaken to determine the effectiveness of these programs while they are being implemented. This is fundamental to the practical perspective espoused by "action science."

The Police Foundation is clear about the need to conduct scientific evaluations on taxpayer-funded programs such as these. Science about policing and crime control needs to be timely and must be explained and translated from research findings to understandable and actionable recommendations that are useful to practitioners. And practitioners need to use the best available science to drive their strategies. In this way, they will truly be good stewards of the taxpayer investment in public safety, and, with the help of a supportive Department of Justice, will make policing great(er) again.

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Strategic Goal: Moving Policing from Good to Great with 21st-Century Science and Best Practices

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Crime Without Consequences

Citizens look to their local police to preserve life, protect property, and maintain the peace. These noble objectives have become more and more elusive—for the second year in a row, violent crime rates, especially homicide rates, have risen in many major cities. At the end of 2016, 13 U.S. cities, including Houston, Los Angeles, Philadelphia, and San Antonio, reported increases in violent crime, and the nation's 30 largest cities reported a 14 percent increase in homicides.[1] Some cities, including Chicago, report that homicides are spiking.[2] Charlotte, North Carolina, is experiencing spikes in drug-related murders, as well as a 13 percent rise in violent crimes.

More troubling is that police are solving far fewer homicides. *The Philadelphia Inquirer* concluded in 2017 that "people are getting away with murder":[3] "The city's homicide clearance rate in 2016 dropped below 50 percent—the lowest the city has seen in at least 15 years, and the third consecutive year that the rate has decreased."[4] The homicide clearance rate average for large cities has been in steep decline for the past 50 years, from around 90 percent in 1965 to 60 percent in 2013.[5] The impact of falling clearance rates is seen by a quick calculation revealing that more than 211,000 homicides committed since 1980 remain unsolved. Some cities, such as Detroit and New Orleans, solve fewer than 30 percent.[6] In Chicago, the decline has been steeper—from 80 percent in 1991 down to a mere 25 percent in 2015. In some Chicago neighborhoods, according to public statements by the Police Superintendent, clearance rates for homicides are in the single digits and the suspects may never be arrested. As murder and violent crime generate growing attention in cities across the country, shortfalls in the criminal justice system's ability to hold offenders accountable and provide protection to citizens—a prime obligation of government—demand greater priority and focus.

Situational Dynamics

Police in many large cities are struggling not only with higher volumes of serious and violent crime, but also with communities that have low levels of trust in, and cooperativeness with, the police. But getting better results "doesn't have to cost that much money," says David Carter, criminologist at Michigan State University.[7] A Department of Justice study of cities with the highest clearance rates reports that "the most essential characteristics [of successful clearance rates] were trusting relationships with locals and good interagency teamwork." Chicago, according to Police Superintendent Eddie Johnson, is among many American cities where violence is surging, including shootings of police officers (now up 56 percent since 2015—its highest rate in five years, says the National Police Memorial Fund). Dallas Police Chief David Brown says that "[community] anger at the police has left criminals 'emboldened' to commit violent crimes" and resist or attack the police. The police and their communities are at risk and need help in reversing these disturbing trends. With these low clearance rates, in these select neighborhoods, individuals who commit murder and other violent crimes have an overwhelming probability of never being held accountable—in some communities, witnesses are afraid to help the police because they believe nothing will happen to the perpetrators, and they will be targeted for reprisals as "snitches." On the police side, surveys report that some police officers are reluctant to take action when they observe criminal actions for fear of becoming the subject of a civil rights investigation or of the next viral video to circulate over social media.

The police mission is to prevent crime, and when serious crimes are reported, police document reports, collect evidence, investigate, and identify and arrest suspects. For a combination of reasons, this mission is more difficult to accomplish today, even with sophisticated new technologies like forensic DNA, digital cameras, facial recognition technology, gunshot detection, integrated data systems, and in-car computers. Often missing are updated investigatory techniques, effective use of street intelligence, and a cooperative community providing information, including serving as witnesses in criminal court when required. The police need real assistance to address these challenges with practices that

are evidence-based and practical for the officer in the field.

Body-worn cameras (BWCs) are one example of practical, evidence-based solutions that are improving policing practices. Using BWC digital records, alleged complaints against the police can be adjudicated in days with a definite finding, compared with months of investigative time burned up for an indefinite finding of "not sustained." Community stakeholders believe that BWCs can be an independent witness to police–citizen interaction, and use-of-force and deadly force controversies may be rapidly addressed in a transparent manner, increasing trust on both sides in the fairness of the process. New research conducted by the CNA Corporation,[8] a public-safety-oriented nonprofit research organization with extensive experience providing technical assistance to local, state, tribal, and federal law enforcement organizations, reveals that BWCs are a critical new tool to help with officer safety and combating false complaints. Importantly, this research also reveals that police officers wearing BWCs are more likely to be proactive in their self-initiated police activities. BWCs can therefore help both with enhancing proactive policing and with building community trust and cooperation.

Many police departments today also struggle to recruit high-quality officers. For example, Philadelphia reports 350 vacancies, Dallas had to cancel two academy classes for lack of applicants, and the Los Angeles Police Department (LAPD) reports that it is short more than 100 officers. In 2012, the national ratio of police officers to population hit its lowest level since 1997, according to the Uniform Crime Reporting data published by the FBI. The dynamics underlying shortages can vary from department to department, but there are common national trends: (1) a stronger economy, which makes more dangerous jobs less appealing; (2) perception of increased danger (10 percent rise in officers killed in 2016, some specifically targeted); and (3) negative perceptions of police, triggered in part by the backlash of police use of force in high-profile incidents.

Law enforcement is funded by local resources, which are constrained. At a minimum, law enforcement agencies need required manpower levels, sufficient evidence-based training for their personnel, and the application of efficient and effective enforcement tactics and strategies to succeed in their mission of public safety. Community engagement is necessary,

but not sufficient without these policing capacities. Police who want to make positive changes look to the Department of Justice for assistance, including evidence-based solutions to reduce violent crime, and other high-performing agencies as operational guides. Many high-crime communities, according to stakeholders, believe that the police cannot protect them, especially when a witness or victim identifies a violent offender who is arrested and then sees the released suspect back in the neighborhood awaiting trial.

Proposed Priorities for the Trump Administration's Criminal-Justice Agenda

1. **Reducing Violent and other Serious Crime**
   The Department of Justice should:

- **Expand its existing technical-assistance programs that provide analytic and technical support to local police agencies to combat violent and other serious crimes,** such as the Office of Justice Programs–funded Violence Reduction Network (VRN) and Smart Policing Initiative (SPI). VRN has 15 jurisdictions participating in multi-agency coordination (including U.S. attorneys, local prosecutors, members of the FBI, the Drug Enforcement Agency (DEA), the U.S. Marshals Service (USMS), the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF), and the Office of Justice Programs (OJP), as well as state and local law enforcement, to drive down persistent violent crime; preliminary reports are promising, and agencies themselves speak highly of this approach to jointly focus on priority violent crimes. SPI has worked with over 45 jurisdictions and demonstrated crime reductions and important lessons learned through innovative approaches and quasi-experimental designs. All SMART Policing SPI initiatives are independently evaluated, providing a strong evidence base for successful practices. These programs match up agencies in need with leading practitioners and research analysts to assess specific needs and help agencies implement evidence-based responses and deliver significant impacts. For example:

  □ The LAPD uses SPI to pilot new strategies and tactics informed by sophisticated crime analysis to curtail commercial robberies and other serious crimes; "SMART Policing" in the

Newton District reduced street and commercial robberies by 20 percent. The SPI model is the core of a department-wide rollout of a new LAPD crime-prevention strategy.

- The Boston Police Department, leveraging grants from SPI, implemented a new homicide investigative model, raising clearance rates by 15 percent in the pilot project.

- VRN jurisdictions with persistently high violent-crime rates show significant performance improvements when local, state, and federal resources work in concert and strategically. For example, between 2014 and 2016, Richmond, California, improved homicide clearances from 38 percent to 66 percent, and Oakland, California, improved homicide clearances from 57 percent to 74 percent.

- **Provide best practices for Real Time Crime Centers (RTCC).** RTCCs are centralized data and logistics hubs that connect police officers with analysts and investigators to proactively identify criminal suspects, solve crimes, disrupt emerging crime trends, and integrate multiple databases to provide responding officers with warrants and previous police incidents at the addresses according to 911-call data and access security-camera footage and facial identification before the officers arrive. Agencies from New York to Houston to Seattle have technology and analysts capable of producing real-time actionable crime information for proactive crime prevention and officer safety. But to date, there is limited information on RTCC best practices that can be shared with RTCCs operating nationwide.

- **Develop a new set of initiatives that focus on holding offenders accountable.** Additional measures start with helping agencies raise their clearance rates using constitutionally appropriate methods, resulting in more violent and serious offenders being arrested, and then working with other local, state, and federal justice components to detain and prosecute to the fullest extent of the law those committing violent crimes. Such initiatives should include:

- Improved guidance and technical assistance for constitutional stops by police (Terry stops);

- Better criminal intelligence and analysis to identify high-rate serious offenders;[9]

- U.S. Attorneys to cooperate in assisting the DOJ in providing technical assistance to agencies with emerging patterns and practices that indicate unconstitutional policies, procedures, or behaviors; and

- Improved guidance and research on the impact of releasing criminal suspect(s) for violations of the "exclusionary rule" (which states that evidence obtained in violation of the defendant's constitutional rights is inadmissible in a court of law).

- **Work more closely with U.S. Attorney offices to enhance the coordination of federal law enforcement Task Forces (for example, FBI, ATF, USMS, DEA).** These task forces bring additional personnel and other assets to high-crime locations and may facilitate federal prosecutions for high-rate serious repeat offenders who can receive federal prison options.

- Revitalize task forces, such as the Organized Crime Drug Enforcement Task Force, and programs, such as High Intensity Drug Trafficking Areas (HIDTA), as well as jointly operated Fusion Centers. As an example of high functioning local, state, and federal task forces, I recommend the New York/New Jersey joint task forces headed by the Executive District Attorney for Manhattan.

- **Increase cooperation with corrections and police officers on risk-assessment instruments.** Police can benefit from corrections re-entry programs, providing they use risk-assessment tools that have been improved and validated. These tools can inform police and social services regarding an individual's risk of re-offending, and may result in improved crime prevention.

2. **Officer Safety and Wellness**
The Department of Justice should:

- **Accelerate and expand its officer safety and wellness programs that promote research on topics, such as avoiding ambushes, improved body armor, and better defensive tactics, including use of non-lethal technologies.** The Bureau of Justice Assistance's Body-Worn Camera Pilot Implementation Program and Preventing Violence Against Law Enforcement Officers and Ensuring Officer Resilience and Survivability (VALOR) initiative are examples of programs that should be significantly expanded to provide broader benefits to a greater number of police agencies. Other potential actions include:

  □ Validated employee-assistance programs to help officers stay well both mentally and physically;

  □ Improved body-armor and ballistic-shield protection and innovation (through the National Institute of Justice and the Bureau of Justice Assistance), including capacity to thoroughly investigate reports of armor failures;

  □ New training techniques that are developed from analysis of real-world incidents and which provide scenario-based instruction; and

  □ Further research into technologies that can enhance officer safety.

- **Invest in the development and implementation of programs that strengthen police officer resilience to trauma and stress, and employee-assistance programs that promote mental health for law enforcement personnel.** Develop best practices to create a supportive culture that includes both the police and the communities they protect and serve. There is a significant need for Crisis Intervention Training (CIT) to equip police with the skills necessary for dealing with mentally ill persons acting dangerously in order to reduce risks to the officers, the subject, and surrounding family and bystanders. Additionally, DOJ-sponsored after-action reviews of police critical incidents[10] can be an effective tool for identifying what happened and lessons that can be learned to save lives in the future. If police officers feel at risk of being blamed or held personally liable in such reviews, however, they

will be defensive and not cooperative; a "no-fault" review similar to aircraft accident investigations can serve as a model for more complete insight into what happened and how decisions were made, and provide a basis for new policies and training programs to apply lessons learned.

- **Launch a national effort to "rebrand" policing (possibly White House–led) and promote more positive images of the benefits to communities, especially in communities experiencing low levels of trust.** Examples: New Jersey's Camden County Police Department recovering parks from gangs; Texas' Arlington Police Department community engagement to build more effective public safety, sense of trust on both sides, and to provide better information to the police for solving crimes. Develop model guidance to share with agencies on using social media in effective ways to get the official story out directly to the communities.

- **Provide more technical assistance in "what works" to agencies in effective recruitment, screening, and retention strategies for law enforcement personnel.** Research suggests that new skills may be required of police officers in the 21st century, including enhanced ability to address populations with mental health issues, the homeless, and increasingly diverse populations, and to foster community engagement to prevent and reduce criminal activities.

3. **Police–Community Partnerships**

- **Reconstitute programs with a good track record that have languished for the past eight years, such as Project Safe Neighborhoods and Weed and Seed, to support the development of neighborhood-based police–community partnerships, especially in the highest-crime areas.** These programs, which were very popular with neighborhoods, U.S. Attorneys, and local police, focused on police and community stakeholders working together to develop and implement community safety strategies; there are a range of resources within even the most crime-ridden communities that, when engaged effectively with police, can contribute significantly to crime prevention.

- **Use police–community partnerships to leverage resources and coordinate law enforcement activities** with other government agencies and community service providers.

- **Use police–community partnerships to promote trust between police and the communities they protect and serve,** and provide a safer environment for police officers to operate within.

4. **Develop a New National Strategy to Reduce Opioid Abuse**

- **Team up law enforcement with treatment services to shrink the drug market and prevent criminals from generating funds for illegal drug use.**

- **Use the new parity legislation, which provides the same access to treatment for addicts as for non-addicts suffering from chronic diseases.** Leverage the Asset Sharing Program to help support additional services to treat people with overdoses and to help support them in both recovery and as potential witnesses in court testimony against sellers of drugs.

- **Establish an interagency task force led by the DOJ or the White House, with representation from other federal departments,** including the Department of Health and Human Services, the Substance Abuse and Mental Health Services Administration, the Department of Housing and Urban Development, and others, to present the President with a national strategy for reducing opioid abuse.

- **Direct the National Institute of Justice to lead an initiative in validating the underlying scientific reliability of forensic science testing.** The Director of NIJ can bring objective and scientifically credible analysis to provide increased confidence in forensic evidence presented in courts. Leading scientific organizations such as the National Academy of Sciences may be tasked to convene leading scientists, national law enforcement experts, and legal scholars to review the reliability of forensic evidence and establish appropriate protocols to assure accuracy in the processing, analysis, and presentation of court testimony and scientific evidence.

Implementing Agenda

To help energize the Trump Administration's working criminal justice agenda, Attorney General Jeff Sessions should continue his consultations with police and other justice leaders, including those representing national policing and justice organizations, and "rank-and-file" leadership to discuss these agenda items and others raised by these groups. Additionally, the Attorney General should meet with other policing and criminal justice thought leaders to ascertain information about best practices, the recent science driving effective law enforcement practices, and where gaps remain. (This author would be more than happy to help identify participants and convene a briefing.) The Attorney General can direct the Office of Justice Programs components to consider new directions for improving their relevance to state and local law enforcement and other elements of the criminal justice system. The Office of Justice Programs and all the components providing grant funds to improve the state of local justice should focus on programs that work, rather than on less-relevant issues to law enforcement, prosecutions, and corrections.

Conclusion

This is an opportunity for the Trump Administration to redesign federal assistance and support programs for law enforcement to actively partner with local leaders and officers and their communities in a way that can prevent and reduce crime. Existing DOJ resources can be redirected and expanded to further implement Administration priorities and place a greater emphasis on more smartly using evidence-based solutions that are working, and targeting technical assistance to high-risk communities. The police, in advancing public safety, can also be one of the essential features of longer-term community safety by helping to foster economic development. As the economist Adam Smith noted in the 18th century, police are necessary for a stable environment in which to conduct commerce and produce wealth.

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8. CNA, https://www.cna.org/ (accessed August 9, 2017).

9. These are persons whose criminal activity is both serious and three to four times higher than average. About 10 percent of the population are responsible for more than 50 percent of violent crimes. Not all violent criminals are the same.

10. Critical incidents are unexpected incidents with catastrophic results, such as an officer ambushed, a high-speed-chase, multi-car accident with fatalities, civil disturbance, or police involved in a controversial shooting. After-action reviews are independent reviews that are non-criminal and may involve so-called Garrity protections. The goal is to learn what can be done in the future to prevent a catastrophic incident.

SMART Policing: Making a Difference in Combating Crime

James K. "Chips" Stewart, Director of Public Safety, CNA Corporation

Experts estimate that the United States spends "well over $100 billion annually for public safety."[1] This investment is yielding positive results: Over the past three decades, serious and violent crime rates have fallen by 50 percent. In his "Efforts to Combat Violent Crime and Restore Public Safety" remarks delivered in Richmond, Virginia, on March 15, 2017, Attorney General Jeff Sessions credited these remarkable declines "to the work of prosecutors and good policing using data-driven methods and professional training. Hundreds of thousands of Americans are alive today as a result [of this work]." But, as Attorney General Sessions emphasized, this remarkable progress may now be threatened by new spikes in violent crime. Since 2014, homicide rates in Baltimore, Chicago, Memphis, and Milwaukee have been approaching levels not seen in more than two decades. This is "not a one-year blip but...almost two years of relentless increases."

The spike in violent crime in affected communities challenges local police leaders to generate necessary resources to better protect their communities and hold violent criminals to account for their crimes. Since municipal budgets are already constrained, local jurisdictions may not be able to fund significant increases in their personnel. The additional resources have to come from somewhere. Where do police look for additional resources when overtime accounts are depleted and it is increasingly difficult to fill academy classes with qualified candidates?

Projecting More Resources

The question facing many chiefs, city managers, and mayors is: How do we project sufficient resources to effectively address surging violent crime rates? Private-sector organizations have a long history of employing experts to help them enhance organizational efficiency through business process re-engineering and integrating technologies to boost human performance. Law enforcement's response to diminishing resources has traditionally been to hire more people. However, some police agencies are thinking innovatively about this challenge through SMART Policing. Some—including Boston, Kansas City, and Los Angeles—are reporting impressive results using the SMART Policing model to drive down homicides; increase homicide clearance rates; and reduce gun-related violent crime, aggressive assaults, and street robberies. These results have been achieved through efficient use of existing resources and redesigned processes informed by rigorous analysis, rather than through significant infusion of new police.

What Is SMART Policing?

SMART Policing is a strategic management approach that brings more science into police operations by leveraging innovative applications of research, analysis, technology, and evidence-based best practices. The primary goal of the Bureau of Justice Assistance (BJA)–sponsored Smart Policing Initiative (SPI) is to improve overall police performance (as measured by clearance rates, community engagement, crimes reported, and crime rates) through more analytical and efficient uses of police resources. Since its conception in 2009, the SMART Policing model has been operationally tested in 48 SPI sites, and independent assessments have reviewed 59 separate SPI projects.[2]

The SMART Policing model has three primary components:

1. **Strategic management.** This approach to driving violent crime down needs a strategic vision using all agency resources to help accomplish the mission. Managing organizational change requires leadership and long-term commitment. In the SMART Policing approach, analysts map crime patterns against current police skills to identify gaps in organizational capabilities. This gap analysis informs the decisions of leadership to improve organizational productivity (by, for example, establishing new roles and expectations) and to develop a strategic vision to reduce and prevent violent crime.

2. **Analysis and research.** SMART Policing requires adept, rapid, and efficient use of data, intelligence, and information resources. Data on calls for service, reported crimes, arrests, complaints, and social network analyses are used

to map crime hot spots. SMART Policing relies on evidence-based practices (such as high-risk offender and location-based studies), data from external systems (such as hospitals, schools, and social service databases), and data from external justice agencies (such as probation and parole). The new data have to be carefully analyzed and translated into actionable and timely tactics that police can operationalize. Independent studies on place-based tactics, deterrence dosage,[3] and high-risk offenders also provide new insights on what works in policing. Many of these studies are accessible at www.crimesolutions.gov.

3. **Technology.** Police agencies are discovering that technology can be an effective force multiplier, permitting police to better focus their resources. For example, forensic DNA can now be employed to identify suspects in murders, sexual assaults, burglaries, auto thefts, and carjacking. The Camden Police Department uses GPS to ensure optimal police coverage of hot spots. The Pullman Police Department uses closed-circuit TV in hot spots to provide direct evidence of criminal activity, which prosecutors used to convict in a high-profile case involving a violent assault against a university professor. The East Palo Alto Police Department has deployed gunshot detectors to reduce murders with guns, the Kansas City Police use social network algorithms to reduce violent gun crimes, and the Los Angeles Police Department (LAPD) uses high-speed computing to search huge databases. LAPD detectives and analysts have reduced violent crimes by sustained double digits through the Los Angeles Strategic Extraction and Restoration Program (Operation LASER), which incorporates predictive analytic tools, such as Palantir. Body-worn cameras are being widely adopted, and drones are being tested to bring law enforcement eyes on a developing crime scene and serve as virtual patrols for high-crime locations. The challenge is to improve human performance and decision-making and use resources efficiently; independent advisors are needed to ensure successful technology investment.

Requirements for SMART Policing

The SMART Policing model must be adapted to resources, community expectations, and circumstances of local policing. Several core elements need to be in place to support SMART Policing:

- **Data-informed decisions/record management systems.** Police can make better decisions when equipped with data that provide actionable and timely information about local crime characteristics and high-probability suspects. Such data access requires modern record management systems capable of electronic data mining.

- **Crime analysts/analysis support systems.** Agencies need their own dedicated crime analysts to process information and transmit it to officers in time to make a difference in crime prevention, detection, and apprehension. The analysts need access to modern computing systems that can predict violent crime incidents and provide actionable information.

- **Sustainability plans.** The resources to support this analytic capability can come from various sources. SPI sites have leveraged federal grants, block grants, asset forfeiture sharing, and salary saving from hiring restrictions. The BJA has sponsored SPIs and selected CNA to provide training and technical assistance and analyst support to 48 sites. However, when the grant term ends, each agency must sustain its strategy and analysts with their own resources. Most of the test sites have been able to fully support SMART Policing and, in some cases (such as the LAPD), have systematically rolled out the new models jurisdiction-wide. As a result, police officers are more productive and superior performance has been documented.

- **Internal and external buy-in; outreach and collaboration.** Buy-in among both personnel and the community is essential for ensuring police effectiveness. The community must be informed about new technologies and tactics (especially those that target offenders or neighborhoods) to reduce misunderstandings and active resistance and to improve crime responses. Community support also reduces injuries and hostility directed at the police, who may not be viewed as community guardians. In addition to community and stakeholder buy-in, collaboration with other law

enforcement entities with jurisdiction in the community is important. For example, Camden, New Jersey, collaborates with many local, state, and federal agencies through a co-located task force that brings police, law enforcement agents, and prosecutors from every level together on daily planning and implementation. These high-functioning collaborative units are informed by comprehensive analyses and augmented by the insights of detectives, intelligence, and seasoned police officers. This collaboration has resulted in the identification, arrest, prosecution, and long-term incarceration of many of the most active criminals.

SMART Policing Impacts

SMART Policing has been demonstrated to benefit an entire community not only through cost savings, higher clearance rates, and crime prevention, but also through the promotion of collaboration, a sense of community, and economic development. Stable communities with low crime and high community-police teamwork attract economic investment and employment opportunities.

Since 2009, more than 45 police agencies have used the SMART Policing model to target violent crime, gun-related crimes, drug crimes, gang-related crime, and serious juvenile crime.[4] Most early projects were funded through BJA grants, but other agencies have been adopting the model independently after reading reports and visiting mature SPI sites. Most SPI sites have achieved significant reductions in violent crime and public disorder and have increased the scientific rigor of police field research.

SMART Policing can effect substantial, sustainable organizational change that produces measurable improvements. Key factors to success are measuring the dosage that police officers apply to crime hot spots; operationalizing research into actionable policies, strategies, and tactics; and collaborating internally and with communities and other law enforcement agencies.

SMART Policing works, as the following sample findings from SPI sites demonstrate:

- **Los Angeles Police Department.** By combining place-based and offender-based strategies with the use of criminal intelligence data, Operation LASER reduced homicides by more than 22 percent in the pilot location (Newton), and gun crime by 5 percent in each of the reporting districts of the pilot division.

- **Kansas City Police Department.** Using social network analysis and focused-deterrence lever-pulling strategies,[5] Kansas City No Violence Alliance reduced homicides by 40 percent and gun-aggravated assaults by more than 19 percent.

- **Boston Police Department.** Challenged by persistent street robberies, the Boston Police Department used a problem-oriented SMART Policing strategy focusing on micro-level hot spots. The strategy reduced aggravated assaults by more than 15 percent, overall violent crime by more than 17 percent, and street robberies by more than 19 percent.

- **Philadelphia Police Department.** SMART Policing is changing the structure and guidance for foot patrol which is now informed by analysis. The new foot patrol and problem-solving strategies deployed in 10 test police districts is outperforming the traditional style using offender-focused policing. The results yielded a 22 percent reduction in violent crimes and a 31 percent reduction in violent street felonies.

- **New Haven Police Department.** Facing rising violent crime rates and local shooting incidents, the New Haven Police Department increased the use of data-driven decision-making (modified problem-oriented policing) using enhanced patrols (four-hour overtime shifts in hot spots). During the 13-week intervention period, the target area (Newhallville) reported a 19 percent reduction in violent crime and a 36 percent reduction in gun crimes. In the 13 weeks following the intervention, analysts reported a 41 percent reduction in violent crime at the neighborhood level and a 56 percent reduction in the high-risk designated areas.

- **Shawnee Police Department.** By identifying locations where violent crime and traffic problems disproportionately occur and directing increased police presence to those locations, Data-Driven Approaches to Crime and Traffic Safety reduced robberies by 88 percent, commercial burglaries by 84 percent, and vehicle crashes by 24 percent.

- **Rochester Police Department (NY).** A Rochester Police Department evaluation validated a risk-assessment tool as a predictive device in retaliatory gun violent disputes.[6] For every one-point increase in the assessment-tool score that a dispute received, the odds of violence occurring in that dispute increased by 29 percent.

- **Boston Police Department.** A multipronged homicide-clearance intervention[7] increased homicide clearance rates by 18 percent, an improvement not observed elsewhere in Massachusetts or nationally during the study period.

Conclusion

Teaming up operational commanders with seasoned analysts, SMART Policing leverages evidence-based solutions to improve police performance. This improvement does not require increasing personnel, but rather yields operational impact by using existing resources in a smarter way.

SMART Policing has proven successful in multiple, varied communities and contexts, and is well positioned to address the crime problems facing American cities today. The SMART Policing approach can be leveraged and expanded as an instrument for focusing federal assistance on facilitating better policing outcomes in American cities.

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Endnotes

1. Barry Friedman, "Is Our $ 100B For Public Safety Every Year Well Spent?" *The Crime Report*, March 17, 2017.

2. SPI is supported by a competitive grant awarded by BJA, which is a component of the Department of Justice's Office of Justice Programs. Some agencies have been competitively awarded additional grants. The CNA Corporation is a public safety-oriented nonprofit research organization that provides technical assistance.

3. Dosage is the level of treatment directly related to deterring future crime—for instance, police must be on post (at a precise location) 15 minutes three times during each shift; or bringing a person on bail in for urine screening twice per week vs. once every other week.

4. BJA reports in "Smart Policing Initiative: At a Glance" that 48 agencies and researchers (42 local police departments, five sheriff's offices, and one state police department) were funded for 59 SPI projects (DOJ 2016).

5. This is well known in policing literature. Lever-pulling refers to the various incentives and penalties that can be imposed on the subject. Basically, calling in high-probability subjects for an interview, letting them know they are being watched, and any crime committed will be prosecuted with prison time, locally and federally, whichever produces the most effect. Social workers who come to these call-in meetings for high-rate offenders can offer social services and education from the local government to help move beyond gang life.

6. This is well known to police. Many homicides, especially in major cities, involved gangs and long-standing territorial disputes and grievances. Drive-by shootings are a form of retaliation. It is differentiated from random shootings or robberies, or domestic violence.

7. "Multipronged homicide-clearance intervention" is a term of art used by Boston police. Rather than using two investigators, the police department employs teams of five, which include analysts and forensic experts—hence the term "multipronged."

Criminal Justice: Building Moral Credibility

Paul H. Robinson, Colin S. Diver Professor of Law, University of Pennsylvania Law School

Police have a challenging and important task in trying to prevent crime, responding to ongoing emergencies, and in investigating offenses to bring offenders to justice. Modern American policing has made great strides in meeting these challenges by taking advantage of lessons learned from past practices, from the possibilities created by advancing technology, and by making the personal sacrifices required by such difficult work.

However, the advance of social science research, together with hard-learned lessons of past difficulties, make it clear that there is another dimension to effective policing that has not yet been adequately appreciated and promoted: The effectiveness of the criminal justice system depends in large measure on its earning a reputation for moral credibility with the community.

Criminal justice systems with low moral credibility inspire resistance, subversion, and disobedience. Systems that earn a reputation for high moral credibility will produce cooperation, support, acquiescence, deference, and compliance.

When the community perceives the criminal justice system as being a reliable moral authority—as committed to doing justice, nothing more and nothing less—that system can harness the powerful forces of social influence. It can stigmatize offenders among their friends and acquaintances in the community. Perhaps most important, it can induce citizens to internalize the societal norms embodied in the criminal law. In contrast, a system seen as arbitrary, unfair, unjust, or indifferent lacks the moral authority to engage these important sources of social order.

How can a criminal justice system build its moral credibility with the community?

For police, perhaps, the most important point is to appreciate that every instance of contact between an officer and a citizen is an opportunity—to build moral credibility or to damage it. Professional, respectful interactions, even in the context of a "Terry stop," can be turned into a positive interaction—if, perhaps police also take the time to explain what they are doing and why, or even take the opportunity to have a conversation with the stopped person about his situation and his neighborhood. This

is just one minor example, but many aspects of policing in many police strategy decisions provide opportunities to enhance the system's reputation, or to degrade it.

The responsibility for building the moral credibility of the criminal justice system goes far beyond policing decisions. Every part of the criminal justice system must bend to the task. Do the criminal law rules assure that blameworthy offenders will be punished? Does the criminal code offense-grading scheme accurately set the statutory penalties for offenses according to their relative seriousness as judged by the community? Do sentencing guidelines and the exercise of discretion by sentencing judges take into account the full range of factors that can increase or decrease an offender's blameworthiness as judged by the community? (The social science research makes it clear that even uneducated people have very nuanced judgments about justice and that many liability and punishment principles are widely shared across all demographics.)

Unfortunately, current American criminal justice does poorly on many of these central issues. It sets offense grades grossly out of proportion to the seriousness of offenses as the community perceives them. Sentencing guidelines fail to take account of many highly relevant factors that the community thinks important and give great weight to factors that are not part of the community judgment of justice. Mandatory minimum statutes essentially guarantee a stream of injustices by forcing cookie-cutter punishments on a wide range of cases that are significantly different.

Legislators as well as judges have too often been enticed into punishment schemes that, they are told (often by academics), will be more effective at fighting crime, perhaps through general deterrence or incapacitation—without appreciating that, by abandoning justice as the system's touchstone, they undermine its moral credibility, and that that in itself will undermine the system's crime-control goal.

I believe the criminal justice system ought to focus laser-like on one factor: building a reputation with the community for being absolutely committed to doing justice and avoiding injustice. That commitment will in the end earn the greatest amount of

support, assistance, deference, and compliance that the system can obtain.

The most effective way of fighting crime is to do justice, and avoid injustice, in the most professional way possible.

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