



## Respect and Legitimacy—A Two-Way Street

### Strengthening Trust Between Police and the Public in an Era of Increasing Transparency

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Events in recent months—including the fatal shooting of Michael Brown and subsequent protests in Ferguson, Missouri; the death of Eric Garner captured on cell phone video in New York City; the release of the Department of Justice (DOJ) assessment of the Cleveland, Ohio, police department; and the first report from the President’s Task Force on 21st Century Policing—have focused national attention on profound fractures in trust between some police departments and the communities they are charged with protecting. The potential for such fracture is almost inevitable, given the power that police officers wield as they perform their role, and because their exercise of that power can lead to incidents that are among the most serious for a democracy: a member of government taking the life of a citizen whom he or she is charged to protect. Maintaining trust is also complicated by history, which includes prominent examples of demonstrably inappropriate behavior by police, violence targeted at law enforcement officers because of the roles they play, and dynamics of crime and victimiza-

tion that mean that police attention will never be uniformly distributed across the population. In that history, the public can find good reasons to believe that police will not treat them fairly, and police officers can find reasons to not trust members of the public out of safety and other concerns.<sup>1</sup> This dichotomy has echoed through the rhetoric used by both law enforcement and its critics in recent months, with the apparent contradiction it creates further increasing the temperature of the debate and making it more difficult to move it forward. The path out of the country’s current situation is therefore partly about the public trusting police, but it is also about the police trusting the public. To trust and respect each other is a two-way street, and it is unlikely that the problems we face today can be solved without some distance traveled on both sides.

Changes in technology—particularly new information technology, the Internet, and social media—at once reemphasize the need for and complicate building this two-way trust between police and the communities they serve. Information technology

has affected the practice of policing in many ways,<sup>2</sup> but for the public, it has given residents new awareness of how police are doing their jobs. Videos taken both from bystander cell phones and from police body cameras now change the equation of transparency and accountability.<sup>3</sup> We have seen the consequences of actions taken by individual police officers amplified through both mainstream and social media and elevated to a national stage. We have seen the corrosive effect of damaged relationships among some police departments, city leaders, and residents in their jurisdictions—with individual citizens using these damaged relationships as justification to act out violently, with tragic consequences. We have seen—and likely will see in the future—public protests and demonstrations in cities across the country. These consequences can and have been fatal and socially destabilizing.

Yet this is a solvable problem, albeit a multifaceted and deep one that may take years to address in some places. We know what trust and legitimacy, good police-community relations, culture change among police forces, and good public safety outcomes should look like in democratic societies. We also know a fair amount about strat-

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egies to implement and support them, though there are areas where greater understanding and experimentation are needed.

The decades-deep literature on this topic provides a starting point to better understand (1) the relationship between law enforcement and the public in the United States, (2) the dynamics of organizational legitimacy in an information age where the actions of even a single officer might shape the views of the entire country about the department in which the officer serves, and (3) when legitimacy and trust have been damaged, the steps that can help repair them. In America's complex democracy, repairing such damaged relationships requires successfully channeling citizen involvement to shape police action and the response to it through political, policy, and protest processes. It requires navigating the interactions and often disparate goals of political leaders, department leaders, police labor organizations, community and civil rights groups, and individuals. And it must all happen in an environment of intense political polarization and damaged trust in government writ large, and in which the Internet and modern media can amplify particular voices or the effect of individual actions, often out of context, and sometimes in unexpected and distorting ways.

The questions of most salience today—the fairness of policing in communities of color and police use of deadly force—are further complicated by the role of police action within the complex history of race in the United States. The way that police power was applied during the eras of segregation and the civil rights movement placed police departments and their officers in direct opposition to communities advocating for social change. And in the years since, interactions with the police have been a part of the continued experience of minority groups and their relationship with government, and are therefore central in debates about race and

racism in the nation. As a result, while young people—whether in the ranks of police departments or living in the community—may be tempted to view much of this history as part of the past rather than the present, doing so neglects that it is a history that shapes America’s current challenges. The policy questions we face today are how to address these issues of fairness, legitimacy, and trust *now* and, for communities where that trust has been damaged, how to rebuild it given our national history and the contemporary cases that have further shaken public confidence in the actions taken by police organizations.

This paper focuses on what is known from research about trust-building and legitimacy of law enforcement agencies and the need for mutual trust between civic leaders and residents. The first section summarizes the essential ingredients of trust-building and legitimacy and why that legitimacy is important for both police and society. Taking on the challenge of building *and* maintaining mutual trust and police legitimacy, the second section argues for viewing this as a process that must answer three key questions—not just once but on an ongoing basis—as a way of putting the deep literature on this topic into action that addresses both the concerns of the public and the police. The discussion concludes with recommendations, discussing the role that the federal government can play as a catalyst and supporter of positive change in the decentralized American criminal justice system.

## **The Importance of Trust and Legitimacy for Police Departments**

The factors that shape whether an organization is viewed as legitimate and trusted are simultaneously easy to understand and difficult to precisely define, and they have been a focus of study

for many years. When there is a match between the values or ideas associated with the actions that an organization takes and the norms of acceptable behavior in the society around it, the organization is viewed as *legitimate*.<sup>4</sup> When that organization is also viewed by an individual as fair, honest, reliable, competent, responsive, and—particularly relevant to police—acting with the right intentions, the organization is *trusted*. Although legitimacy and trust are related, and will generally be discussed together in this paper, they are distinct. Legitimacy and trust are not all or nothing; an organization might be generally viewed as legitimate and trusted at the societal level, while not being fully viewed as such by large portions of that society. Questions of legitimacy are relevant for all organizations—public and private alike—and the norms that define legitimate behavior can vary in different parts of a complex and pluralistic society. Legitimacy and trust shape how the actions of an organization are judged, and whether it is given the benefit of the doubt in situations where the reasons for and results of those actions might be questioned.

From the perspective of an individual organization—particularly one going through a crisis—the value of trust and legitimacy becomes obvious very quickly, but how to build, maintain, or restore it can seem both slippery and elusive. Researchers in a variety of fields have studied this, examining how trust is built through the everyday activities of organizations (and police departments in particular<sup>5</sup>) and how their response to crisis can affect that trust.<sup>6</sup> In both, communication—how and what organizations communicate to the people or groups whose views are important to them—is clearly critical. In some cases, this leads to organizational legitimacy being viewed as mainly a communications issue.<sup>7</sup> But while saying the right things and saying them well obviously mat-

ters, the actions needed to build and maintain the credibility of the words matters as well. Legitimacy, trust, and the respect that comes with them are not something that an organization can expect just because it asks for them with the right words; they must be earned through both words and actions.

Although organizations can be more or less dependent on legitimacy and public trust for their effectiveness and survival, police departments would appear to be particularly sensitive, given the often very high visibility of their actions and their dependence on public support.<sup>8</sup> This is also the case because the role of police in democratic societies is by necessity a powerful one. Police are charged with enforcing laws and responding to situations where society's goals vary considerably. Police can challenge a citizen as he goes about his daily business, detain him, seize property, use force, and—both as individuals and organizations—exercise considerable discretion regarding when to escalate their actions. Outcomes from those actions can range from simply resolving a problem through discussion to using deadly force, each of which—particularly when viewed after the fact—might be judged very differently by members of the public and by the officers involved.

Legitimacy and trust are critical when questions are raised about incidents, and given the reality of policing, such incidents will inevitably occur in even the best-managed police departments. Particularly in cases where deadly force is used, questions about the proportionality and appropriateness of that action, and of the judgment of the officers involved, should be no surprise. These questions are difficult and tough to tackle. From the public's perspective, these are fundamental questions about the exercise of government power that affects citizens personally, whether that power is being applied in pursuit of legitimate goals, whether it is being done fairly,

and—reduced to the most basic level—*whether the public trusts its police department to make good decisions*. These are also difficult questions from the perspective of law enforcement, given the irreducible difficulty of understanding, always after the fact, the decisions of an officer when he or she might have felt personally at risk, how limits on police discretion might limit the ability to do the job, and, fundamentally, *whether the police trust the public to make fair judgments about their actions*. When the public does believe there are problems, legitimacy and trust will drive their view of the right way to respond—ranging from organizational changes, individual discipline, and, in some cases, indictment and trial—and whether they will have confidence in the actions that are taken.

Although the value of legitimacy and trust is frequently viewed from this after-the-fact perspective (particularly as affecting the likelihood that questions arise about police actions), it can have a role during incidents as well. Public perceptions can (1) shape individual responses to what police do in ways that can support or undermine officers' abilities to do their jobs safely and effectively and (2) affect the public's willingness to give departments broader power and discretion.<sup>9</sup> Citizens' willingness to follow police instructions or to proactively assist police in carrying out their roles enables law enforcement to be far more effective than if it must rely simply on coercion or the threat of force to gain compliance.

These everyday interactions between individual officers and citizens are also the times when legitimacy and trust of the department as a whole can be built up or torn down, even as police officers draw on these traits to do their jobs. More than 30 years ago, Michael Lipsky identified this dynamic in many public service professions, including police, social workers, public defenders, judges, and workers in public aid agencies.<sup>10</sup> All of these professions have

significant discretion in how they perform their roles, and they interact with large numbers of citizens on a daily basis.<sup>11</sup> Although they do not set the policy of their agencies, “taken in concert, their individual actions add up to agency behavior.”<sup>12</sup> This means that the strategies they adopt to deal with their often challenging workload and complex environment are the *actions* that either make real or call into question the *words* spoken by agency leadership or embodied in its policies and procedures.

### **Building and Maintaining Public Trust and Legitimacy in Policing: Three Core Questions to Answer**

Police officers play various roles in society, so it comes as no surprise that not every citizen is likely to view the police favorably at all times. Emotions would be expected to differ between a citizen who has just been assisted by police and one who has just received a traffic citation or been arrested for alleged wrongdoing. Nonetheless, substantial research has shown that the way police do their jobs has a significant effect on citizen trust and legitimacy, and can strengthen it even during interactions like traffic stops or arrests. Research on what has been called *procedural justice*<sup>13</sup> has shown that even though individuals may not always like a specific *outcome* (such as a traffic stop), if they view the *processes through which decisions were made as fair and appropriate*, they are more likely to accept the outcome.<sup>14</sup> Studies have identified the following as main drivers of procedural justice:

- Individuals are given the opportunity to participate in the process (e.g., by explaining their view of the situation).
- Individuals perceive that they are treated with dignity and respect and that the process is fair.

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- Individuals trust both the motives and the neutrality of the decisionmakers.<sup>15</sup>

Work has shown that views of procedural justice affect not only individuals’ views of the police during any one-on-one interactions with officers,<sup>16</sup> but also their perceptions of the department as a whole.<sup>17</sup> Research has suggested that improved legitimacy through procedural justice interventions can have crime control benefits as well. The actions of the community itself have been shown to have a significant effect on crime, separate from what the police do, via informal social control and other mechanisms, and beliefs about the police are a factor in building community willingness to contribute in this way.<sup>18</sup>

What the concepts of procedural justice mean at the organizational level is closely related to, but distinct from, their implications in an interaction between an officer and a citizen. The elements related to what citizens do are quite similar—e.g., stating their views about the circumstances of an incident is comparable to voicing their opinions on the department’s process of considering policy

changes. But for the police department, what it means to “implement” procedural justice at the macro level is more complex.

Demonstrating to the public that its decisionmaking process is neutral and fair relies on the department’s ability to communicate this point—through both word and deed. Rather than being focused just on what happens in a single conversation between citizen and officer, that communication must take on both what may be a complex history between the department and the communities it serves and other factors that shape public views<sup>19</sup>—and it will almost certainly require modes of communication that go well beyond talking (e.g., addressing police workforce composition concerns or changing departmental policies and practices). Applying the concepts of procedural justice to build organizational-level legitimacy and trust therefore requires determining what needs to be communicated and how, with the public and community sitting in judgment regarding how much is enough. Given the complex modern information environment, doing so must lean heavily on transparency and accountability mechanisms that give the public the data it needs to make fair and informed judgments about its police departments and their actions.

So what needs to be done to communicate—and demonstrate—neutrality, fairness, and the motivations of the police department to the public? This section presents a proposal of what is necessary. It is built on the foundation of research in this field, but it slices that

research in a somewhat different way. The key concepts of procedural justice are built into three core questions focused on public understanding of their department and its activities, as well as the processes that address issues that arise during those activities. The questions are:

- What is the police department doing and why?
- What are the results of the department’s actions?
- What mechanisms are in place to discover and respond to problems from the officer to the department level?

From the public perspective, answers to these questions—answers that the public trusts—can be viewed as a framework for both building legitimacy and trust in the first place and maintaining them over time. From the police perspective, answers are equally relevant to shaping law enforcement efforts and ensuring that when problems arise, they are dealt with fairly and appropriately. Each question represents a different challenge in an era when advanced technology can make some information immediately and broadly available, while concerns about privacy and the integrity of the criminal justice process can make it difficult to release other data. The remainder of this section takes on each question, looking at the perspectives of both the public and police departments, the historical context of policing in the United States, and advances in policy and practice that lay the groundwork for addressing the challenges faced by the country going forward.

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## Goals and Missions of Police Departments: Public Understanding of What Police Are Doing and Why

Viewed through a lens of procedural justice, public trust in the police must start from a clear understanding of why the police take specific actions and what they seek to accomplish by doing so. This public understanding is also critical from the perspective of police, because it is the starting point for a fair public assessment and evaluation of the police force.

Asking what police departments seek to accomplish may seem trivial. It is easy to say that everyone already knows what police are doing and why: Police departments are charged to address crime in society and have been for years. In truth, however, there has been considerable change in the roles and missions of police departments over time,<sup>20</sup> and understanding those shifts and their effect on police strategies and tactics must be the starting point for understanding the process of strengthening the bond between police departments and the populations they protect.

In the recent policy debate, order maintenance—or *broken windows policing*,<sup>21</sup> which is intended to reduce crime through aggressive proactive policing of less serious offenses—has been central. Questions have been raised about the value and appropriateness of this police tactic, particularly given its disproportionate effect on minority populations. These questions demonstrate the importance of knowing what police are doing and why, as well as the direct link of that knowledge to judgments about legitimacy and trust.

But the broken windows approach is only one of many strategic and tactical shifts that have occurred in American policing, each with different implications for the relationship between police and the community. Drivers for change have arisen for varied reasons,

ranging from improved insights into crime to policy preferences (e.g., the “tough on crime” era, in which preference moved toward more-punitive responses to offending, and this persisted even during periods of falling crime rates).<sup>22</sup> Other changes have happened essentially by default, as changes in other government agencies or systems—such as the shift in how the United States has approached meeting the needs of the mentally ill—have resulted in police agencies being required to respond to problems they have never been directly tasked (or resourced) to address. And some changes have been specifically focused on strengthening police-public trust, such as the community policing movement, which focuses on solving problems and building ongoing relationships with community members.<sup>23</sup> But whatever the drivers, police strategies and tactics have changed considerably over time. Largely reactive policing—focusing on responding rapidly to calls for service—was supplemented with proactive strategies designed to reduce or deter crime. Initial police focus on crime control shifted to add problem-focused policing,<sup>24</sup> aimed at trying to solve community problems. In recent years, departments have also adopted what is called *intelligence-led policing*,<sup>25</sup> which is reliant more on data and frequently used to support intensive intervention in small geographic areas (“hot spots policing”) to address localized crime problems.<sup>26</sup>

Recognizing and understanding these changes is critical for trust and legitimacy because what police actually do, and whether it looks neutral and fair, differs a great deal among the strategies. Using an extreme—and admittedly hypothetical—set of contrasts among the strategies makes this clear: A department that only responds to calls for service essentially is “waiting for the phone to ring” and its officers go where they are called, so the racial and socioeconomic makeup of the communities that get the department’s attention is

determined by who is calling 911. In contrast, a department that engages solely in community or problem-focused policing is proactively reaching out to community leaders to identify problems and help solve them, and so who gets its attention is shaped by discretionary decisions within the department. Finally, an agency focused only on broken windows policing is going out to communities not to build relationships but to identify disorder, and then responding to that disorder through arrest or other direct means. What is fair and legitimate in responding to calls for service (e.g., that everyone's call gets similar priority and the police make a good faith effort to address each issue) is totally different from what is fair for community policing or broken windows policing. In the first case, the department can get neither credit nor blame for what communities get policed the most, but in the other two cases, it most certainly can. A fair judgment about police fairness requires knowing what the department is doing and what it is trying to achieve.

In the real world, a department always uses a mix of reactive and proactive approaches, which makes judgments about the appropriateness of its efforts more complex. But there are differences in the mix of approaches from department to department. For example, in the Bureau of Justice Statistics' most recent national Law Enforcement Management and Administrative Statistics survey of local law enforcement organizations, levels of commitment to community policing varied considerably.<sup>27</sup> Moreover, a recent Police Executive Research Forum (PERF) survey exploring responses of departments to the 2008 economic downturn showed a wide range of changes in policing tactics that departments pursued to save resources. For some departments, this included shifting back to reactive policing strategies to ensure that when people called police for help, those calls were answered.<sup>28</sup>

### *What Is Needed to Address Shortfalls in the Public's Understanding of Police Strategies and Tactics?*

The heterogeneity in individual departments' policing strategies means that it is critical for the public to know what *their* department is doing. This is critical not just for how citizens feel about their police agency but to ensure that they have the required knowledge to make appropriate and fair judgments about the agency's actions and those of its officers. Disseminating that information is the responsibility of the police, because if the public has no way to learn what they need to reach fair judgments, they cannot be blamed for making judgments based on the information available to them.<sup>29</sup>

But addressing concerns about police legitimacy and trust is not just about citizens making one judgment at one point in time; it is about maintaining the police-public relationship over the longer term. And in that effort, responsibility falls more on the public than on the police. What society has demanded of its police has changed considerably over time, with implications for legitimacy and trust. Since the 19th and early 20th centuries, when police departments were much more political in character, public mores have shifted as a result of concerns about corruption and national reflection regarding law enforcement actions during the civil rights and antiwar movements. How public expectations will change in the future is impossible to predict with certainty, but change is likely. Therefore, maintaining a strong and healthy relationship between law enforcement organizations and the public requires an ongoing conversation of what we—as a country or as individual municipalities—want our police departments to do and the acceptable ways for them to carry out those roles. This is the responsibility of society, not the police. Public involvement in this conversation is a core element of procedural justice, and it also builds the ground-

work for a fair assessment of the police. Indeed, defining the goal and the approach to achieving it also defines the “ruler” that measures whether the police are doing their job fairly and effectively.

### Quantifying “Good Policing”: Measuring What Matters for Policing Outcomes and Public Legitimacy

Even if the public understands what the police are *trying to do*, trust and legitimacy cannot be built and maintained without the public also knowing *what happens when they do it*. Information on police goals and activities can communicate the department’s intentions and motives, but it is not as powerful as how those intentions and motives are demonstrated in actions. It is also in the interest of the police to make sure the public has the information it needs to draw fair conclusions about its department’s efforts.<sup>30</sup>

The importance of being able to measure things is not news. In both management and policy analysis, it is conventional wisdom that what an organization chooses to measure—and how it measures it—will drive its actions. This is doubly true for the two-way street that is police-public trust. For the department, what is measured will guide the thinking of leaders and shape both the decisions they make and how they reward or correct members of the organization. For the public, what is measured and how that data are made available will provide the basis for judging the legitimacy of the department and the level of trust in it. As a result, being able to measure *good policing* well—that is, to have appropriate metrics that measure the right things—is critical. And when the legitimacy of the police agency and its relationship with the public is a concern, good policing means not just measures of *effective* policing based on outcomes like reduction in crime but also *the way those outcomes are achieved*.

While the importance of measurement is not news, what is news is the powerful instability that the lack of good measures can create in the relationship between the public and their police, particularly in an era when a cell phone video of a single police-citizen interaction can reach a national or international viewership. It is true that single interactions between police officers and the public can go so wrong that they *should* have major repercussions. But the power of video images in particular—and the way they can be used in the complex modern media—can also give an incident weight to tip the scale of public perceptions in ways that are not fair or productive, and that can threaten an otherwise healthy relationship between a department and the citizens it serves. This potential is frustrating to law enforcement leaders, particularly those from departments that are making active and successful attempts to build relationships with their communities.<sup>31</sup>

Law enforcement’s concern that single videos can become the basis for major backlash against departments is understandable, especially when the videos are divorced from the context of the situation in which they were taken.<sup>32</sup> However, it is also the case that

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if the public does not have access to better and more-representative information that they trust, a public willingness to extrapolate from the data that are available should not be surprising. If the public lacks—and has no expectation of receiving—more information on which to base a judgment, public concern or even anger at being expected to withhold judgment indefinitely on their police department’s actions is similarly understandable. This dynamic has the potential to poison police-public trust from both directions, and there are roles and responsibilities for both parties in resolving it. Resolution requires better ways to measure good policing in a way that speaks to both public and police concerns. This is harder than it might seem.

The challenge of measuring performance in police departments has a long history, and has been—and still is—the focus of research and analysis intended to improve it.<sup>33</sup> Much of the effort over the years has been focused on crime.<sup>34</sup> Although crime rates and measures of police departments’ actions in response would seem a reasonable “bottom line” for a police department,<sup>35</sup> many problems resulted from relying solely on them as a measure of law enforcement performance.<sup>36</sup> Over the years, this led to attempts to measure

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citizen satisfaction with and confidence in police. This broadened consideration of what to measure meshed well with changes in focus and goals of the community policing movement, given the centrality of community relationships in that approach to policing. It also reflected that a great deal of what police agencies do is not directly related to crime. More-recent efforts have developed suites of measures of policing that try to capture its multidimensional nature, but they have not been broadly adopted.<sup>37</sup> For example, Compstat, introduced in the New York Police Department in the 1990s by Commissioner Bratton, focuses predominantly on crime.<sup>38</sup>

Measures that focus on crime are also only partial measures of good policing, because they do not capture the broader effects of how policing is done. Making an analogy to medicine,<sup>39</sup> this is like looking at the effectiveness of a new drug or surgery without considering its side effects. And this is critical, because the side effects of policing can vary significantly for different strategies and tactics—and their scope and magnitude may be as important to the community that experiences them as the crime control benefits produced by police intervention. Furthermore, the magnitude of the side effects could drive the decision of whether a particular policing strategy should be pursued at all. There are cases in medicine where even promising treatments are not used because the side effects from the intervention itself are so significant, and medical judgment must take these risks into account when deciding what to do and not do. In a similar way, the different police strategies and tactics can result in external costs, damage to community confidence and trust, and other side effects that should be managed.<sup>40</sup> Viewed from this perspective, even if policing approaches such as aggressive stop, question, and frisk are viewed to be effective for reducing crime,<sup>41</sup> the magnitude of their side effects on com-

munity support for police should have weight as well.<sup>42</sup> Other side effects can be directly related to police action; in perhaps the most serious examples, when deadly force is used, there can be injuries to bystanders or injuries arising from cases of mistaken identity. In policing, as in medicine, side effects will be worth bearing in some cases, while in others they will not.<sup>43</sup> As much as doctors comparing treatment options for a patient, police leaders need information on policing side effects to inform their decisionmaking.<sup>44</sup>

#### *What Data Are Needed for This Fuller Picture of Policing?*

Some of the data needed are easy to identify. After Ferguson, one small part of the public debate centered on the lack of comprehensive data on police-involved shootings across the country.<sup>45</sup> Having a fair and impartial picture of when police action results in injury or death is important, and some momentum has begun to build for its collection.<sup>46</sup> The findings and recommendations that have come out of federal consent decree and reform processes—the process of federal legal intervention in departments viewed as having serious problems<sup>47</sup>—provide a menu of other measures, many of which focus directly on the side effects of policing strategies.<sup>48</sup> They include data on the following:

- police use of force (including but beyond shootings), its distribution across the population, the proportionality of force to the incidents where it occurred, and, for serious events in particular, the chain of events that escalated to the use of force<sup>49</sup>
- police contacts with the population, consensual and not (e.g., stop, question, and frisk stops) and as victims or suspects,<sup>50</sup> including their context, police behavior, results (e.g., contraband found during nonconsensual searches), and citizen views of the interaction

- officer views and measures of departmental culture, with respect to both the community (which shape how policing is done at the officer level)<sup>51</sup> and the department itself (as both an indicator of morale and perceptions of procedural justice and fairness of agency procedures)
- amount of police activity in communities, which allows the public to understand performance both in nondiscretionary (e.g., responding to calls for service) and discretionary police activities
- the full range of outcomes of policing, from crime levels to a community's views of crime in its neighborhoods and its police department's fairness and effectiveness
- tracking of cases from complaint or initial report through to their resolution in the court system.<sup>52</sup>

If such data were made publicly available, it would provide ways to describe police outcomes that speak both to potential public concerns (e.g., whether particular types of crimes are being dealt with effectively, whether there is bias in police outcomes) and to those of law enforcement (e.g., that most police interactions with the public, even those ending in arrest, do not involve use of force<sup>53</sup>). However, because consent decrees address situations where there have been problems, they are generally focused on the “downside” data relevant to police-community relations. But there is also what might be labeled “upside” data available. For example, in RAND work with police departments, it is clear that in some areas, there are streams of positive data, including officer commendations and citizen compliments or letters of appreciation that are relevant to this fuller picture.

Although some of these data are resident within police departments, in other cases, there is the need for innovation both in

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measures for good policing and in ways of collecting and analyzing data—particularly to make it possible to collect the data on timelines that are useful for improving police management and effectively informing the public. Measures of trust and the health of the relationship between a department and community need to go beyond citizen views of specific police interactions. In its recent report, the International Association of Chiefs of Police advocated for developing better measures that will appropriately reflect “success, from the shared perspective of both the police and the community, in building strong relationships.”<sup>54</sup> Also needed are ways to collect this information that are better than standard surveys, which take time and resources,<sup>55</sup> and therefore are not readily amenable to providing a “dashboard” measure for public trust. New methods could take advantage of the pulse of public information and discussion in social media or use the sensors put in place for crime control reasons (e.g., gunshot detection systems) to measure whether citizens actually call police when one would expect them to—and a lack of calls might suggest a lack of trust and support.<sup>56</sup>

Because the relationship will not be an informed one if data are collected and sit unexamined, better ways to share data with the public are needed as well.<sup>57</sup> Many departments make crime

data available to the public, but such data are only part of what is needed for an informed community. Social media also could be a venue for disseminating data. The power of social media to spread information about individual incidents—whether the Eric Garner video or the image of a police officer and a protester embracing in Portland<sup>58</sup>—has been clearly demonstrated. Learning how to harness the power of social media to deliver more information, beyond just about individual events or incidents, could provide opportunities for both a better-informed public and a more-robust debate about police-community relations.

## **No System Is Perfect: Confidence in the Discoverability and Resolution of Policing Problems**

While better informing the public can help support a more productive debate around policing strategies and tactics, more data transparency will not be enough to build and maintain the relationship between the police and community, particularly for communities where that relationship is severely damaged. Looking at the history of policing and criminal justice in the United States—even the recent history—it is clear that miscarriages of justice can occur, arising for reasons ranging from honest mistakes to intentional and criminal malpractice.<sup>59</sup> Exonerations of criminal defendants, particularly those on death row, are proof that the system can incorrectly sentence individuals to even the most serious of punishments.<sup>60</sup> And DOJ investigations of individual law enforcement and corrections agencies have documented patterns of unconstitutional and even criminal behavior by individuals sworn to protect the public and uphold the law. As human organizations, it is unsurprising that problems can arise in criminal justice agencies. How those problems are addressed and dealt with is therefore an important

fulcrum with the potential to shift—for good or ill—legitimacy and trust for both the public and members of law enforcement.

The ability to detect and respond to problems—whether those problems are at the officer or departmental level—is clearly an important ingredient for maintaining police-public trust.<sup>61</sup> But because police organizations themselves are the agency charged with discovering and revealing wrongdoing elsewhere, it has been an ongoing concern whether problems within law enforcement agencies can be readily discovered. This issue is embedded in concerns about how to measure corruption within police organizations,<sup>62</sup> because if problems are not discovered—or there are organizational or other reasons that issues are not publicly disclosed<sup>63</sup>—then there is little basis for making judgments about their true rates. Public perceptions that individual officers or departments have incentives to remain silent about wrongdoing (the so-called “blue wall of silence”) are sufficiently widespread to merit an article in *The Police Chief* magazine about responding to these perceptions.<sup>64</sup> Surveys of members of the public have also reflected skepticism that the responses to officers who engage in misconduct are appropriate. Two surveys about ten years apart were very similar: In a 1992 Harris poll, 60 percent of the respondents indicated that discipline for misconduct would be too lenient when judged by other police officers.<sup>65</sup> In a 2002 survey, between 70 and 80 percent of respondents were calling for “stronger punishment” for misconduct.<sup>66</sup>

While this issue of identifying and responding to problems might be viewed largely as a requirement for police oversight (and therefore driven by the public half of the police-community relationship), such a distinction is artificial. It is similarly important for ensuring that disciplinary processes within departments are equitable and procedurally just and for limiting the ability of one

officer’s behavior to bring the legitimacy of a whole department into question.<sup>67</sup> Recent survey data substantiate officer concern about this issue: Data collected by National Police Research Platform indicated only middling belief by surveyed officers that their colleagues would report wrongdoing by a fellow officer.<sup>68</sup> Part of communicating the fairness and equity of the department to the public is appropriately responding when officers are shown to have engaged in misconduct or not executed their responsibilities effectively and appropriately. Doing so can also be part of maintaining the legitimacy of the department in the eyes of its members, by investigating and making those determinations fairly and equitably.

These concerns feed back into the potential contribution that data on policing can make in building and maintaining police-public trust (discussed earlier), because damaged trust could lead to a community’s skepticism of data released by its police department. There is support for this concern in recent federal investigations of police departments—for example, the lack of reporting of use-of-force incidents in the Cleveland Division of Police,<sup>69</sup> as well as misclassification of sexual assault cases in the New Orleans Police Department.<sup>70</sup> Indeed, appointing independent monitors of police departments that have been found in violation by DOJ generally involves publishing data on police performance to address such concerns directly. As a result, for maintaining police-public trust, mechanisms need to be in place to discover problems—to make it possible to “trust but verify”—and to then respond when they surface.

#### *What Is Needed to Maintain Trust in Spite of Policing Problems?*

The question of what is sufficient to ensure both public and police confidence in mechanisms to respond to problems in policing is a

difficult one. The broad parameters are easy to frame: Approaches are needed that mean that an officer—or, in cases of broader problems, a precinct, unit, or department—who is acting improperly will be identified and responded to, through processes that are fair to the officer or officers involved. Given legitimate sensitivities around such processes, the needs of police and the needs of the public inherently pull against one another in some respects. For example, while transparency of process may be key for public trust, appropriate confidentiality—particularly for officers who are flagged by such processes and are exonerated—may be key for police trust. As a result, moving from broad parameters to specifics is difficult and is further hampered by limits in research on these topics.<sup>71</sup> Drawing together what is known, key components can be identified.

*First, internal departmental processes matter, but there is not a clear answer for what it takes for those processes to be credible to both the public and officers.* Because processes to detect problems fall into the category of common-sense management methods, they are obviously important for police departments. But internal review processes suffer from the paradoxical challenge that they can best serve to *maintain* public trust, rather than *build* it in the first place—because believing that a review carried out by an organization of its own members or behavior will be objective and fair requires that a level of trust already exists.

Implementing an early intervention system—a system designed to detect problems within the department—has been a component of several recent consent decrees. These systems are designed to monitor behavior to identify officers whose conduct suggests future problems (e.g., numbers of use-of-force incidents compared with peer officers), so that such interventions as counseling or retraining can be done to correct it. In a national survey, large percentages of

the population supported adopting early warning systems.<sup>72</sup> However, research—including ongoing RAND work—has shown that the design of such systems is still an inexact science that requires trade-offs between how effective the systems are in flagging officers with problematic behaviors (“true positives”) as opposed to other officers who are also flagged (“false positives”) and how early they can identify officers with performance problems.<sup>73</sup>

Departments have other indicators that feed internal processes to detect problems. Prominent among these are citizen complaints and referrals of officers to internal affairs divisions for investigation. Based on available research, it is clear that there are important challenges in the credibility of internal disciplinary processes from the perspectives of both the public and officers.<sup>74</sup> One measure that is often focused on by audiences critical of the police is that internal review processes often sustain only a small percentage of complaints or allegations that are filed against officers, implying a bias in favor of police. Findings from recent consent decrees have reinforced this view,<sup>75</sup> though recent research efforts have also shown that the reasons behind low rates can be complex and are not necessarily indicative of bias.<sup>76</sup> Surveys of officers have identified concerns about internal review processes from the police point of view. Data from the National Police Research Platform identified a perceived lack of fairness in discipline processes in large departments in particular, but there were shortfalls across the board.<sup>77</sup> It is worth noting that the issue of officer trust in their internal investigation processes and internal affairs investigators is itself directly parallel to the question of public trust of the police more generally, because the same concerns of fairness in treatment, objectivity, and procedural justice apply in both cases.

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*In examinations of department discipline, inconsistency and a lack of clear linkage between problems and corrective actions undermine officer confidence and the perceived fairness of the process. Transparency to show citizens that issues are identified and dealt with consistently would also support public trust.*

These problems indicate a need for innovation in the design of internal review and discipline processes—and strategies to maintain their credibility for both officers and the public. The limits in the research available in this area mean that departments experimenting with new processes is valuable, particularly exploring new ways to address the needs of both parties while maintaining trust. Consistency and transparency of process is clearly relevant to both audiences.<sup>78</sup> In examinations of department discipline, inconsistency and a lack of clear linkage between problems and corrective actions undermine officer confidence and the perceived fairness of the process.<sup>79</sup> Transparency to show citizens that issues are identified and dealt with consistently would also support public trust. This could include making data available on citizen complaints and misconduct investigations, and their resolution or outcomes. Such transparency is clearly a challenge, given legitimate concerns of officers, and it parallels the sensitivity about what information is made public about citizens when they are under investigation but have not yet been convicted of a crime. Experiments in transparency are already under way, including an effort in Seattle to make it easier to post officer body camera footage,<sup>80</sup> and an effort in Baltimore to publish the outcomes of police misconduct investigations.<sup>81</sup> Such police-initiated efforts may be needed to preempt public efforts to collect and make such information available.<sup>82</sup>

*Second, making trusted data available can help, but how the data are analyzed matters.* A prominent strategy for identifying whether a department's activities are racially biased has been to analyze data on traffic stops, vehicle searches, pedestrian stop and searches, and other events.<sup>83</sup> As argued earlier, making such data available provides a window on police outcomes and side effects, but being both informative and fair to the police requires paying attention to how the data are analyzed. And in doing so, there are still important questions about what patterns in such data are indicative of problems, and what comparisons should be made to determine that inappropriate behavior is going on. This includes how to compare officers with one another (e.g., it would not make sense to compare the makeup of stops of two officers who policed areas with vastly different populations) and what benchmarks departments should be assessed against to identify more-general problems. These assessments must link back to clear understandings about departments' goals and strategies because they can have major effects on the distribution of police efforts and their outcomes.

There is no consensus on the appropriate benchmark for analyzing such data. Comparing against the makeup of the general population is attractive, but it does not take into account the nonuniform distribution of police attention and presence (e.g., calls for service are not uniformly distributed across a city). Comparing against the makeup of criminal suspects or arrestees would

seem a potential alternative, but it does not take into account the effect that bias might have on suspect identification and differential arrest rates for different populations.<sup>84</sup> Other approaches exist, but they are not always available or practical.<sup>85</sup> Choosing the right benchmark is no academic exercise; for example, key elements of the court opinion that found the New York Police Department's stop and frisk tactics unconstitutional focused on what benchmark should be used to assess the tactic.<sup>86</sup> Maintaining public confidence that issues of bias in policing are discoverable requires a greater effort at building a consensus on the appropriate measures and benchmarks for analyzing this information; that way, debate can focus on addressing public and police concerns rather than disagreeing on the interpretation of the data.

*Third, technology can help, but it is not an easy or complete answer.* Technologies like officer-worn cameras have been a major focus of discussion after the events in Ferguson, and video from such devices can provide a more objective view of individual events. National survey data also show broad public support for use of cameras by police.<sup>87</sup> Wide use of cameras would also change the nature of policing from a practice where most interactions between

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officers and citizens occur in relative private—if they are not truly private, the interactions are not often witnessed by many people who are not directly involved—to all being potentially public through post-hoc review or even release of footage.<sup>88</sup>

But as a mode to support *discoverability* of problems, cameras' value is limited by basic logistical concerns. To be a reasonable way of discovering problems within a department, the cameras must be rolling for the majority of the time that officers are interacting with the public. But this will result in the desired outcome only if mechanisms are in place to review the massive amount of footage the cameras would then produce.<sup>89</sup> The more targeted their use, and the more that officers control when recording takes place, the less footage there is to store and analyze but the less the cameras then address issues of discoverability—and the greater the risk that the absence of footage, for whatever reason, will be assumed to indicate wrongdoing when that may or may not be the case.

When video is available, however, the technology can contribute to reaching better judgments regarding police behavior. Cameras can also provide a way to address conflicting accounts of an incident, as large bodies of research have established that eyewitness testimony is plagued by human tendencies that shape what is and is not seen or, if seen, recalled accurately.<sup>90</sup> Indeed, studies have shown that cameras can provide information that helps to resolve disagreements over events—in favor of police in the case of spurious complaints, and for citizens when other evidence is not available to support their claims of mistreatment.<sup>91</sup>

*Finally, involvement from outside the department may be necessary for supporting public trust.* Because of concerns about the fairness and effectiveness of internal review and corrective mechanisms, the involvement of outside entities is often a part of

restoring public trust.<sup>92</sup> Such involvement can range from institutionalized processes, such as citizen review boards, to the use of the courts through either criminal prosecution or civil litigation.<sup>93</sup> And though issues surrounding investigations of police behavior and alleged wrongdoing are sensitive—for obvious reasons—to departments, officers, and the organizations that represent them, what the public finds acceptable will always be a judgment made by the public, not the police department, the chief, or local political leadership. Indeed, a key driver of public anger with respect to the recent incidents in Ferguson and New York City was the view that the response to those events was not appropriate. But at the same time, the needs of the public must be reconciled with the needs of officers, who also must view such processes as legitimate and fair.

It could be argued that the most extreme model of such outside involvement is the exploratory surgery of DOJ investigation or collaborative reform of a department. In recent years, a number of departments, ranging from those in major cities to smaller jurisdictions, have gone through one of these processes to address issues affecting the relationship between the police and the public. Departments in which DOJ has intervened span the country, including Albuquerque, New Mexico; Cleveland, Ohio; East Haven, Connecticut; Missoula, Montana; New Orleans, Louisiana; Portland, Oregon; and Seattle, Washington.<sup>94</sup> From the public's perspective, the credibility of such interventions is high because they come from outside both the department and the locality, and they can provide a powerful impetus for change. Survey data collected during such interventions and outside monitoring have shown improvement in public views of the departments, though in some cases, progress in measurements of public trust and views of the police is slow.<sup>95</sup> DOJ interventions are expensive and disruptive,

and in an era of constrained resources, such costs take away from other priorities. They are also only warranted for cases where serious problems have resulted in a fracture of trust between police and the community—though the lessons from the interventions can provide insights for police agencies whose problems have not risen to that level to proactively assess their own activities.<sup>96</sup>

Other models of such involvement have been part of the agreements arising from federal interventions, including independent auditing<sup>97</sup> and community oversight boards for police activities.<sup>98</sup> External involvement after critical incidents (such as deaths in use-of-force incidents) has been prominent in policy debate, including the interim recommendations of the President's Task Force on 21st Century Policing.<sup>99</sup> Although this suggests a demand for more citizen and outside oversight as a way to build and maintain legitimacy, there is less clarity about the best approaches for doing so. Data from surveys in which citizens were asked about whether they wanted a civilian review board in their city (if they did not have one) and whether they believed it reduced police misconduct (if they did) showed both strong demand and high confidence in its effectiveness.<sup>100</sup> The Task Force also called for citizen involvement in oversight in an "appropriate form and structure . . . to meet the needs of [the] community."<sup>101</sup> Although external processes speak to public concerns about whether departments can deal objectively with their own problems, relatively little research has been done to objectively assess different approaches' effectiveness—both to address problems and to build officer and public trust.<sup>102</sup> More recently, there have been a few examinations of different oversight models, reaching both positive and negative conclusions.<sup>103</sup> As a result, this is an area where innovation and additional research is needed to identify approaches that best address both public and police concerns.

External involvement may also be key for implementing and sustaining changes in departments where police leaders or external intervention (such as DOJ reform processes) identify that change is needed. While changes can be made in policies and procedures, truly shifting the behavior of an entire organization often requires cultural change.<sup>104</sup> But such change can be difficult and lengthy. Chanin examined three police departments that went through DOJ-mandated reform processes and saw very different outcomes for whether the changes could be sustained after the end of the consent decree.<sup>105</sup> In discussions, reform-focused police chiefs raised concerns about the power of established culture in departments, which can cause behaviors and approaches to revert to the way things were done before reform once the leadership driving it leaves. The recent International Association of Chiefs of Police report on police-community relations emphasized this need to instill a culture of respect in departments, and to do so in ways that “transcend programmatic lifespan and departmental leadership.”<sup>106</sup> The literature is thin on the question of how best to create and sustain organizational change in departments, but the strategies that have been studied return to community trust and involvement. Moore and Braga link the ability of police leaders to drive cultural change to their ability to connect with external constituencies to help drive it:

The only way for police managers to acquire a strong current of accountability through their organizations is to build behind them a powerful, persistent constituency that demands from their organization the same things that they are demanding, and to attach a measurement system to these particular values. . . . In these cases where the values to be advanced do not align with internal cultural com-

mitments, managers have to help external constituencies who want these things to become articulate and powerful, to embrace accountability to these constituencies, and to construct measurement systems that measure the extent to which they are meeting these new demands. . . . Their success in doing this will determine the pace and extent of the changes they can make in police operations. The more external pressure, the more rapid the pace of change.<sup>107</sup>

In such cases, the power of the department is strengthened by the transparency needed to inform external audiences to advocate, not for their own agendas but in support of agendas coming from the law enforcement organization’s leadership.

## Looking Forward

In thinking about the future, the ideal endpoint for policing in the United States could in a sense be defined by a time when the concerns discussed in this paper are no longer even relevant—where trust between the public and police is sufficient that, when inevitable problems or concerning incidents arise, the public would trust the department to review and deal with them appropriately and, conversely, the department would trust the public it protects sufficiently that having citizens involved in the review and oversight would be uncontroversial.

Given the variety in police departments and locales across America, there are likely cases where the state of affairs resembles this ideal (and collection of best practices from such departments could be a part of informing reform in more-challenged departments). For areas where it does not resemble this ideal, or when it does not exist for some populations within a jurisdiction, then the challenge is to move toward it with the tools that we have

available—and answering the three questions discussed in this paper from both the public and police perspectives is a large part of what those tools need to accomplish.

Among those tools, there are some that we know are effective and that we know how to use—such as better communication with the public about what police departments are doing and why, and provision of data to inform communities of the outcomes of their police departments' efforts. There are also tools that, while promising, merit additional study. But the fact that we do not know everything that we would like about different models for identifying and responding to problems in police departments is not an argument for inaction. It is an argument for evaluation and study, for looking at the experiments that the different approaches in the many departments around the country represent, for assessing the trials that are being carried out as the requirements of consent decrees and other settlements are implemented, and for learning as much as we can that can be transferred more broadly to address this issue nationwide.

At numerous points in this paper, the argument has been for transparency over secrecy and for seeking ways where transparency can help to address the concerns of both the public and the police. Lack of information drives some of the dysfunctions in current debate over policing, and the obvious antidote for that is more information. Some of that transparency touches on sensitive issues and concerns, particularly from the perspective of law enforcement. But with contemporary shifts in technology that are only accelerating, the ability to maintain control over many types of information will only get more difficult—and so the argument for transparency is more an argument for police, and government writ larger, to get in front of a trend whose endpoint may be the public making trans-

parency for itself. And only *systematic transparency* is suitable to build and maintain police-public trust and to provide an antidote to the *anecdotal transparency* generated by broadly disseminated videos of individual incidents and the ripple effects they produce.

Because of the variety in departments across the country, issues of building trust and legitimacy are fundamentally local; after all, what local communities want to see from their police, what information they want from them, and what measures they view as sufficient to identify and respond to problems will differ from place to place. But thinking about American policing as a whole, there are issues that are national in scope and actions that can help to shape and drive change where needed.

- *Build consensus on standards for using technologies and other tools to monitor and respond to policing problems.* In response to the increased focus on officer-worn cameras, research has discussed the lack of clear standards for when cameras should be recording—and the problems for police if such standards are not defined. The literature also makes clear that there are not standards for other key ingredients for building and maintain-

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ing public trust—from what to monitor in officer performance management systems to processes for investigating citizen complaints.<sup>108</sup>

Building a consensus on suitable approaches would provide benefits to departments for explaining to citizens in their jurisdictions what they are doing. At the same time, it would provide a reasonable basis for concerned members of the public to push for greater accountability if their police did not meet the standard. Determining a consensus on police transparency is also necessary in a world where every individual can make a video and upload it to the Internet in near-real time.

- *Increase data collection and data-sharing, to both inform the public and contribute to understanding the most-effective ways of building and maintaining police legitimacy.* The role of data—to identify problems where they exist, debunk allegations of problems where they do not, track national trends, and inform assessments of the effectiveness of different innovation and change efforts—is critical. At numerous points, the research literature on building and maintaining legitimacy, of identifying racially motivated policing or the use of excessive force, and other key issues falls short due to limits in data available for study. Part of the solution is a mechanism for uniform data

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*Police organizations need the capacity to collect, process, and analyze data and then apply the results constructively. The nation needs the information and other infrastructure to hold police accountable and to maintain public trust.*

collection—likely driven federally—on such issues as police use of force. But other data issues, including the development of measures that can help police chiefs track their relationship to the community rapidly and cheaply enough to be useful for management, require new thinking and innovation. Police organizations need the capacity to collect, process, and analyze these data and then apply the results constructively. The nation needs the information and other infrastructure to hold police accountable and to maintain public trust, but in an era of constrained resources, these solutions must be cost-effective as well.

- *Enlist outside entities, notably the federal government, to play a continuing and strong role in driving organizational change.* Federal pattern or practice investigations and consent decrees are controversial, and the results produce significant and costly burdens on the departments and localities involved. Constraints on federal resources also mean that only a small number of departments each year can be examined. However, the ability to drive change in a department—particularly given the potential for existing culture and norms to get in the way of needed change—means that such major interventions will have a role going forward. And for communities where trust is so battered that local or internal efforts to address problems are simply not credible, it is difficult to see a substitute for outside intervention.

These national steps will not eliminate the variety that exists in American policing, but they can provide a common starting point to better tackle common issues of trust and legitimacy that affect citizens, from rural areas to large cities. In addition, these steps are core to improving the relationship between citizens and the police charged with protecting them in a democracy.

## Notes

<sup>1</sup> For a summary of these two perspectives, see International Association of Chiefs of Police, “IACP National Policy Summit on Community-Police Relations: Advancing a Culture of Cohesion and Community Trust,” January 2015, pp. 5–8.

<sup>2</sup> Brian A. Jackson, Victoria A. Greenfield, Andrew R. Morral, and John S. Hollywood, *Police Department Investments in Information Technology Systems: Challenges Assessing Their Payoff*, Santa Monica, Calif.: RAND Corporation, RR-569-NIJ, 2014. As of April 15, 2015: [http://www.rand.org/pubs/research\\_reports/RR569.html](http://www.rand.org/pubs/research_reports/RR569.html)

<sup>3</sup> For example,

- Civil liberties groups have produced cell phone applications (apps) that enable recording video and storing it on other networks and devices. See Elinor Mills, “ACLU App Lets Android Users Secretly Tape the Police,” *CNET*, July 5, 2012. As of April 15, 2015: <http://www.cnet.com/news/aclu-app-lets-android-users-secretly-tape-the-police/>
- Although police use of unmanned aerial vehicles is still controversial in some areas, some private citizens are using them to monitor police activity. See Joseph Serna, “LAPD Seeks to Limit Civilian Drone Flights over Police Stations,” *Los Angeles Times*, August 1, 2014; and Douglas Ernst, “Man Flips Drone Fear on Its Head, Uses Technology to Monitor L.A. Cops,” *Washington Times*, June 27, 2014. As of April 15, 2015: <http://www.washingtontimes.com/news/2014/jun/27/man-flips-drone-fear-its-head-uses-technology-moni/#ixzz35xoB3tO5>
- After the incidents in Ferguson, three teenagers developed a mobile app that allows citizens to rate their interactions with individual police officers. See Rebecca Borison, “Three Teenagers Created an App to Document Police Abuse,” *Business Insider*, August 15, 2014. As of April 15, 2015: <http://www.businessinsider.com/fiveo-app-built-by-teenagers-to-document-police-abuse-2014-8>
- The Legal Aid Society, a New York public defender organization, is building a database that collects information on allegations of police misconduct from a variety of sources. See Leon Neyfakh, “The Bad Cop Database,” *Slate*, February 13, 2015. As of April 15, 2015: [http://www.slate.com/articles/news\\_and\\_politics/crime/2015/02/bad\\_cops\\_a\\_new\\_database\\_collects\\_information\\_about\\_cop\\_misconduct\\_and\\_provides.html?wpsrc=sh\\_all\\_tab\\_em\\_bot](http://www.slate.com/articles/news_and_politics/crime/2015/02/bad_cops_a_new_database_collects_information_about_cop_misconduct_and_provides.html?wpsrc=sh_all_tab_em_bot)

<sup>4</sup> See John Dowling and Jeffrey Pfeffer, “Organizational Legitimacy: Social Values and Organizational Behavior,” *Pacific Sociological Review*, Vol. 18, No. 1, January 1975, pp. 122–136.

<sup>5</sup> See, for example, Jeffery Fagan, “Legitimacy and Criminal Justice,” *Ohio State Journal of Criminal Law*, Vol. 6, 2008–2009, pp. 123–140.

<sup>6</sup> See, for example, Joseph Eric Massey, “Managing Organizational Legitimacy: Communication Strategies for Organizations in Crisis,” *Journal of Business Communication*, Vol. 38, No. 2, 2001, pp. 153–183.

<sup>7</sup> Steven Chermak and Alexander Weiss, “Maintaining Legitimacy Using External Communication Strategies: An Analysis of Police-Media Relations,” *Journal of Criminal Justice*, Vol. 33, 2005, pp. 501–512.

<sup>8</sup> Dowling and Pfeffer, 1975, p. 133.

It should be noted that questions of legitimacy and fairness are not unique to police within the criminal justice system. See, for example, Kevin S. Burke, “A Vision for Enhancing Public Confidence in the Judiciary,” *Judicature*, Vol. 95, No. 6, May/June 2012, pp. 251–254. Questions of legitimacy and trust can also go beyond criminal justice to community organizations more generally. Police departments are situated within a community, in a system of other government and nongovernmental organizations. While legitimacy and trust issues might become highly visible for police—after a use of deadly force, for example—concerns about the police may reflect broader concerns about community and governmental systems writ large.

<sup>9</sup> See Albert J. Reiss, Jr., *Police and the Public*, New Haven, Conn.: Yale University Press, 1971, as cited in National Research Council, *Fairness and Effectiveness in Policing: The Evidence*, Washington, D.C.: National Academies Press, 2004, p. 298; Kristina Murphy, Lyn Hinds, and Jenny Fleming, “Encouraging Public Cooperation and Support for Police,” *Policing & Society*, Vol. 18, No. 2, June 2008, pp. 136–155; Jason Sunshine and Tom R. Tyler, “The Role of Procedural Justice and Legitimacy in Shaping Public Support for Policing,” *Law & Society Review*, Vol. 37, No. 3, September 2003, pp. 513–547; and Tom R. Tyler, “Procedural Justice, Legitimacy, and the Effective Rule of Law,” *Crime and Justice*, Vol. 30, 2003, pp. 283–357.

<sup>10</sup> Michael Lipsky, *Street-Level Bureaucracy: Dilemmas of the Individual in Public Services*, 30th anniversary expanded edition, New York: Russell Sage Foundation, 2010. Lipsky’s book was originally published in 1980.

<sup>11</sup> Analogies have also been drawn to the practice of medicine—another field where individual practitioners are charged to protect individuals, where they have significant discretion while acting under pressure, and where catastrophic outcomes can arise from actions that simply do not work, from honest errors, and from malpractice. Similar concerns exist on the part of doctors who question the fairness of reviewing their actions after the fact, with the benefit of hindsight, and there is a similar public safety need to fairly identify practitioners who have

caused harm through negligence, malfeasance, or incompetence. Trust is similarly tied in to the effectiveness of medical intervention, because whether people trust their doctors can affect their willingness to follow their directions, take prescribed medicine, or even return for additional care.

<sup>12</sup> Lipsky, 2010, p. 13.

<sup>13</sup> For a review, see Lorraine Mazerolle, Sarah Bennett, Jacqueline Davis, Elise Sargeant, and Matthew Manning, "Procedural Justice and Police Legitimacy: A Systematic Review of the Research Evidence," *Journal of Experimental Criminology*, Vol. 9, 2013, pp. 245–274.

<sup>14</sup> Lorraine Mazerolle, Emma Antrobus, Sarah Bennett, and Tom R. Tyler, "Shaping Citizen Perceptions of Police Legitimacy: A Randomized Field Trial of Procedural Justice," *Criminology*, Vol. 51, No. 1, 2013, pp. 33–63.

<sup>15</sup> For a broader review, see National Research Council, 2004, pp. 301–304.

<sup>16</sup> Views of legitimacy in the community are also—unsurprisingly—related to the motives that members of the public ascribe to police behavior, such as whether actions are driven by racial profiling (Tom R. Tyler and Cheryl J. Wakslak, "Profiling and Police Legitimacy: Procedural Justice, Attributions of Motive, and Acceptance of Police Authority," *Criminology*, Vol. 42, No. 2, May 2004, pp. 253–281).

<sup>17</sup> Tom R. Tyler, "Public Trust and Confidence in Legal Authorities: What Do Majority and Minority Group Members Want from the Law and Legal Institutions?" *Behavioral Sciences and the Law*, Vol. 19, 2001, pp. 215–235; Sunshine and Tyler, 2003.

<sup>18</sup> For a review, see Angela Higginson and Lorraine Mazerolle, "Legitimacy Policing of Places: The Impact on Crime and Disorder," *Journal of Experimental Criminology*, Vol. 10, 2014, pp. 429–457 and references therein.

<sup>19</sup> Weitzer and Tuch showed through a national-level survey that a variety of factors shaped citizens' views of the police, including their perceptions of crime in their neighborhoods, personal and vicarious (through family members') experience of negative interactions with officers, exposure to media reports about police misconduct, and concentrated disadvantage in their neighborhoods. The different factors varied in their influence on citizen perceptions for members of different racial and ethnic groups. See Ronald Weitzer and Steven A. Tuch, *Race and Policing in America: Conflict and Reform*, Cambridge, UK: Cambridge University Press, 2006.

<sup>20</sup> Kelling and Moore divided policing history to that point into three eras: the political, reform, and community problem-solving eras. Since their writing, homeland security policing has been added as a fourth era, reflecting the post-2001

focus on terrorism prevention. For a review, see George L. Kelling and Mark H. Moore, "The Evolving Strategy of Policing," Perspectives on Policing, National Institute of Justice and John F. Kennedy School of Government, Harvard University, November 1988; and Willard M. Oliver, "The Fourth Era of Policing: Homeland Security," *International Review of Law, Computers & Technology*, Vol. 20, Nos. 1–2, 2006, pp. 49–62.

<sup>21</sup> James Q. Wilson and George L. Kelling, "Broken Windows: The Police and Neighborhood Safety," *The Atlantic*, March 1982. As of April 15, 2015: <http://www.theatlantic.com/past/docs/politics/crime/windows.htm>

<sup>22</sup> Marc Mauer, "Why Are Tough on Crime Policies So Popular?" *Stanford Law and Policy Review*, Vol. 11, No. 1, 1999, pp. 9–21; William Lyons and Stuart Scheingold, "The Politics of Crime and Punishment," in Janet Reno, Daniel Marcus, Mary Lou Leary, and Julie E. Samuels, eds., *Criminal Justice 2000*, Vol. 1, *The Nature of Crime: Continuity and Change*, Washington, D.C.: U.S. Department of Justice, 2000, pp. 103–149; James Forman, Jr., "Racial Critiques of Mass Incarceration: Beyond the New Jim Crow," *N.Y.U. Law Review*, Vol. 87, No. 1, April 2012, pp. 21–69.

Today, those demands are shifting as a result of concerns about incarceration costs and evidence suggesting that newer, less punitive approaches based on modest but swift and certain sanctions are effective (e.g., Project HOPE or 24/7 programs aimed at alcohol-related violations). See Beau Kilmer, Nancy Nicosia, Paul Heaton, and Greg Midgette, "Efficacy of Frequent Monitoring with Swift, Certain, and Modest Sanctions for Violations: Insights from South Dakota's 24/7 Sobriety Project," *American Journal of Public Health*, Vol. 103, No. 1, January 2013, pp. e37–e43.

<sup>23</sup> Systematic reviews of community policing implementation have not found major effects of these efforts on crime, but they have shown effects on other relevant outcomes, including citizen satisfaction and trust. See Charlotte Gill, David Weisburd, Cody W. Telep, Zoe Vitter, and Trevor Bennett, "Community-Oriented Policing to Reduce Crime, Disorder and Fear and Increase Satisfaction and Legitimacy Among Citizens: A Systematic Review," *Journal of Experimental Criminology*, Vol. 10, 2014, pp. 399–428 and references therein.

<sup>24</sup> David Weisburd, Cody W. Telep, Joshua C. Hinkle, and John E. Eck, "Is Problem-Oriented Policing Effective in Reducing Crime and Disorder? Findings from a Campbell Systematic Review," *Criminology & Public Policy*, Vol. 9, No. 1, February 2010, pp. 139–172.

<sup>25</sup> Jerry H. Ratcliffe, "Intelligence-Led Policing," *Trends and Issues in Crime and Criminal Justice*, No. 248, Australian Institute of Criminology, April 2003.

<sup>26</sup> Anthony A. Braga, “Hot Spots Policing and Crime Prevention: A Systematic Review of Randomized Controlled Trials,” *Journal of Experimental Criminology*, Vol. 1, No. 3, September 2005, pp. 317–342.

<sup>27</sup> Brian A. Reaves, “Local Police Departments, 2007,” Bureau of Justice Statistics, NCJ 231174, December 2010.

<sup>28</sup> Police Executive Research Forum, “Critical Issues in Policing Series: Is the Economic Downturn Fundamentally Changing How We Police?” December 2010.

<sup>29</sup> In its recent report, the International Association of Chiefs of Police recommends that departments “educate the public about police practices,” though that recommendation appears more narrowly focused than what is being argued for here. See International Association of Chiefs of Police, 2015, p. 19.

<sup>30</sup> See, for example, recommendations in International Association of Chiefs of Police, 2015, p. 19.

<sup>31</sup> Personal discussions the author and RAND colleagues had with chiefs of police at national law enforcement meetings and research interviews.

<sup>32</sup> International Association of Chiefs of Police, 2015, p. 13.

<sup>33</sup> For a review of this history going back to the development of the uniform crime reports, see Edward R. Maguire, “Measuring the Performance of Law Enforcement Agencies,” *CALEA Update*, Issue 83, September 2003. As of April 15, 2015: <http://www.calea.org/calea-update-magazine/issue-83/measuring-performance-law-enforcement-agencies-part-1of-2-oart-articl>

<sup>34</sup> Crime rates as a measure were eventually broadened to include such measures as clearance rates, arrests and citations, and response times for calls for service.

<sup>35</sup> Maguire (2003) quoting William Bratton, commissioner of the New York Police Department and former chief of the Los Angeles Police Department.

<sup>36</sup> Concerns included variation in the amount that police action can affect different crime types, which complicated interpretation of the measures; shortfalls in reporting of crimes to the police, which remains a concern to this day; the ability of police departments to manipulate the measures; and, particularly relevant to today’s debate, how a focus on crime reduction can create incentives for using policing tactics that can have major effects on certain communities.

<sup>37</sup> See, for example, Maguire (2003) for a review of efforts to date, as well as Stacy Osnick Milligan, Lorie Fridell, and Bruce Taylor, “Implementing an Agency-Level Performance Measurement System: A Guide for Law Enforcement Executives,” Washington, D.C.: Police Executive Research Forum, June 2006; Mark H. Moore and Anthony A. Braga, “Measuring and Improving Police Performance: The Lessons of Compstat and Its Progeny,” *Policing: An International Journal*

*of Police Strategies & Management*, Vol. 26, No. 3, 2003, pp. 439–453; James J. Willis, “Enhancing Police Legitimacy by Integrating Compstat and Community Policing,” *Policing: An International Journal of Police Strategies & Management*, Vol. 34, No. 4, 2011, pp. 654–673; and Robert C. Davis, *Selected International Best Practices in Police Performance Measurement*, Santa Monica, Calif.: RAND Corporation, TR-1153-MOI, 2012. As of April 15, 2015: [http://www.rand.org/pubs/technical\\_reports/TR1153.html](http://www.rand.org/pubs/technical_reports/TR1153.html)

<sup>38</sup> Though including suggestions from academics of other factors that could be included in Compstat, a recent review did not indicate that indicators beyond crime are generally included (Bureau of Justice Assistance and Police Executive Research Forum, “Compstat: Its Origins, Evolution, and Future in Law Enforcement Agencies,” 2013).

<sup>39</sup> In thinking through the use of measures in management processes like Compstat, the analogy to medicine is useful for highlighting remaining issues in developing measures for criminal justice. Questions about diffusion effects of police treatment are taken on in some evaluation studies (e.g., looking for either crime displacement or displacement of benefit from an intervention), but further understanding is needed. So too is understanding of “dose-response” dynamics for policing tactics—that is, whether it is possible to get similar crime reduction benefits from smaller-scale (and potentially less expensive) applications of police resources. Whether offenders or criminal organizations also develop “tolerance to treatment” (i.e., previously effective interventions become less so) is also an important question, particularly for currently promising interventions, such as focused deterrence.

<sup>40</sup> This framing parallels that made in International Association of Chiefs of Police, 2015, pp. 7–8: “Police success is measured in metrics such as arrests made, decreases in crime rates, and cases solved. Often times, political and departmental leaders judge police performance on the same. Alienation of segments of a community may be the *collateral consequences* of well-intentioned police practices intended to reach one view of ‘success’ in policing (such as reducing the crime rate)” (emphasis added).

<sup>41</sup> It should be noted that the effectiveness of stop, question, and frisk tactics are disputed. See, for example, David Weisburd, Cody W. Telep, and Brian A. Lawton, “Could Innovations in Policing Have Contributed to the New York City Crime Drop Even in a Period of Declining Police Strength? The Case of Stop, Question and Frisk as a Hot Spots Policing Strategy,” *Justice Quarterly*, Vol. 31, No. 1, 2014, pp. 129–153; and Richard Rosenfeld and Robert Fornango, “The Impact of Police Stops on Precinct Robbery and Burglary Rates in New York City, 2003–2010,” *Justice Quarterly*, Vol. 31, No. 1, 2014, pp. 96–122.

<sup>42</sup> See, for example, Jacinta M. Gau and Rod K. Brunson, “Procedural Justice and Order Maintenance Policing: A Study of Inner-City Young Men’s Perceptions of Police Legitimacy,” *Justice Quarterly*, Vol. 27, No. 2, 2010, pp. 255–279.

<sup>43</sup> Such thinking is not new in policing; creating measures that captured the risks and costs of police vehicle pursuits, which involve not just risk to suspects and bystanders but to the officers involved as well, resulted in changes in departmental policies that frequently curtailed such pursuits (Cynthia Lum and George Fachner, “Police Pursuits in an Age of Innovation and Reform: The IACP Police Pursuit Database,” International Association of Chiefs of Police, September 2008). Database efforts like those described by Lum and Fachner directly collect measures on side effects to inform decisionmaking.

<sup>44</sup> The President’s Task Force frames this point as considering the “potential damage to public trust” when selecting strategies (President’s Task Force on 21st Century Policing, *Interim Report of the President’s Task Force on 21st Century Policing*, Washington, D.C.: Office of Community Oriented Policing Services, 2015, Recommendation 1.6).

<sup>45</sup> The recognition of the need for such data is not new. In its 2004 review of policing research, the National Academies recommended creating a database of “the number of persons shot at, wounded, or killed by police officers in the line of duty” (National Research Council, 2004, p. 7). In the absence of data, some individuals started attempting to build databases themselves. See, for example, Kyle Wagner, “We’re Compiling Every Police-Involved Shooting in America. Help Us,” *Regressing*, blog post, August 20, 2014. As of April 15, 2015: <http://regressing.deadspin.com/were-compiling-every-police-involved-shooting-in-america-1624180387>

<sup>46</sup> U.S. Department of Justice, “Attorney General Holder Urges Improved Data Reporting on Both Shootings of Police Officers and Use of Force by the Police,” Office of Public Affairs, January 15, 2015.

<sup>47</sup> While these processes are both labor-intensive and expensive, police leaders have characterized them as useful and valuable in facilitating reform. As a result, drawing lessons from those departments that have gone through them is a potential source of useful information for agencies that have not. See the discussion in Police Executive Research Forum, *Civil Rights Investigations of Local Police: Lessons Learned*, Washington D.C., 2013.

<sup>48</sup> U.S. Department of Justice, “Civil Rights Division Special Litigation Section Cases,” web page, undated. As of April 15, 2015: <http://www.justice.gov/crt/about/spl/findsettle.php>

<sup>49</sup> This was raised in the findings in U.S. Department of Justice, Civil Rights Division, “Investigation of the Cleveland Division of Police,” December 4, 2014.

<sup>50</sup> The President’s Task Force interim recommendations focused on collecting demographic data of individuals who had contact with the police for assessing fairness and equity concerns (President’s Task Force on 21st Century Policing, 2015, Recommendation 2.6). This is an intervention that 2002 survey data collected by Weitzer and Tuch (2006) showed had broad public support across racial groups, with 66 percent of whites, 54 percent of African Americans, and 58 percent of Hispanics answering that they believed doing so would help prevent racial profiling.

<sup>51</sup> Various officer surveys have been done to assess internal culture. For example, see Jack McDevitt, Chad Posick, Ruth Zschoche, Dennis P. Rosenbaum, Marc Buslik, and Lorie Fridell, “Police Integrity, Responsibility, and Discipline,” National Police Research Platform, February 2011. As of April 15, 2015: <http://uicclj.squarespace.com/storage/updated-papers/Police%20Integrity%20Responsibility%20and%20Discipline.pdf>

Attempts have also been made to develop measures of community policing; see Rob Chapman, Rebecca Mulvaney, Bruce Taylor, and Beth Heinen, “CP-SAT: A New Measure for Community Policing,” *Community Policing Dispatch*, Vol. 3, No. 5, May 2010. As of April 15, 2015: [http://cops.usdoj.gov/html/dispatch/May\\_2010/cp\\_sat.htm](http://cops.usdoj.gov/html/dispatch/May_2010/cp_sat.htm)

<sup>52</sup> This issue was raised in the memorandum of understanding regarding sexual assault between DOJ and the City of Missoula as a step to build community confidence in the justice system’s treatment of those cases, but it is relevant more broadly and would be enabled by ongoing efforts aimed at information-sharing across the criminal justice enterprise. See U.S. Department of Justice, *Memorandum of Understanding Between the United States Department of Justice and the City of Missoula Regarding the Missoula Police Department’s Response to Sexual Assault*, May 15, 2013.

<sup>53</sup> Joel H. Garner and Christopher D. Maxwell, “Measuring the Amount of Force Used by and Against the Police in Six Jurisdictions,” in *Use of Force by Police: Overview of National and Local Data*, Washington, D.C.: Bureau of Justice Statistics and National Institute of Justice, 1999, pp. 22–44.

<sup>54</sup> International Association of Chiefs of Police, 2015, p. 22.

<sup>55</sup> For example, the National Academies recommended “a regular national survey to gauge the extent and nature of police-citizen contacts, including items that address public assessments of the quality of police service in their community” (National Research Council, 2004, p. 8). This recommendation is echoed—while aimed at individual departments—in the President’s Task Force interim report (President’s Task Force on 21st Century Policing, 2015, Recommendation 1.7).

<sup>56</sup> Evaluations of such systems have indicated that a high rate of shootings are not reported to police, particularly in high-crime areas. See Lorraine Greene Mazerolle, “Using Gunshot Detection Technology in High-Crime Areas,” National Institute of Justice Research Preview, June 1998.

<sup>57</sup> The President’s Task Force had one recommendation on “technology-based community engagement” that spoke to this need (President’s Task Force on 21st Century Policing, 2015, Recommendation 3.5).

<sup>58</sup> Lindsay Deutsch, “Photo: Police Officer and Protester Share Tearful Hug,” *USA Today*, December 1, 2014. As of April 15, 2015:  
<http://www.usatoday.com/story/news/nation-now/2014/11/29/police-protester-hug-portland-photo/19656029/>

<sup>59</sup> For example, several cases of fraud in forensic laboratories were reviewed in Mark Hansen, “Crime Labs Under the Microscope After a String of Shoddy, Suspect, and Fraudulent Results,” *ABA Journal*, September 1, 2013. As of April 15, 2015:  
[http://www.abajournal.com/magazine/article/crime\\_labs\\_under\\_the\\_microscope\\_after\\_a\\_string\\_of\\_shoddy\\_suspect\\_and\\_fraudu/](http://www.abajournal.com/magazine/article/crime_labs_under_the_microscope_after_a_string_of_shoddy_suspect_and_fraudu/)

See also Matt Zapotosky and Peter Hermann, “Probe of FBI Agent Has Devastating Effect on D.C. Drug Cases,” *Washington Post*, November 7, 2014. As of April 15, 2015:  
[http://www.washingtonpost.com/local/crime/2014/11/07/2fcb8ce8-65df-11e4-bb14-4cfea1e742d5\\_story.html](http://www.washingtonpost.com/local/crime/2014/11/07/2fcb8ce8-65df-11e4-bb14-4cfea1e742d5_story.html)

<sup>60</sup> While there is no consensus on the rate of errors made by the criminal justice system—arising from both honest causes and unethical or criminal behavior by members of criminal justice agencies—there is certainly consensus that errors do occur. Risinger estimated that for capital rape-murder cases in the 1980s, the factual error rate (resulting in wrongful conviction) was between 3.3 and 5 percent (D. Michael Risinger, “Innocents Convicted: An Empirically Justified Factual Wrongful Conviction Rate,” *Journal of Criminal Law and Criminology*, Vol. 97, No. 3, 2007, pp. 761–806).

<sup>61</sup> The need to identify and respond to problems within law enforcement has been a contentious and difficult issue for many years. For more information, see the historical discussion included in National Research Council, 2004, Chapter 7.

<sup>62</sup> See Sanja Kutnjak Ivković, “To Serve and Collect: Measuring Police Corruption,” *Journal of Criminal Law and Criminology*, Vol. 93, No. 2/3, Winter-Spring, 2003, pp. 593–650. See also the discussion in National Research Council, 2004, pp. 268–271.

<sup>63</sup> Individuals with this view can find support in the observation by the National Academies—admittedly based on studies completed in the 1980s—that findings regarding racial bias in policing activities are quite different when departments that open their records voluntarily are compared with those compelled to provide data through either public record requests or outside intervention (National Research Council, 2004, p. 260).

<sup>64</sup> Craig E. Ferrell, Jr., “Code of Silence: Fact or Fiction?” *The Police Chief*, November 2003.

<sup>65</sup> Humphrey Taylor, “The Public Gives Police High Ratings but Does Not Trust Them to Judge Themselves,” *The Harris Poll*, #70, November 1, 2002.

<sup>66</sup> Weitzer and Tuch, 2006.

<sup>67</sup> This issue was among the recommendations included in the interim report of the President’s Task Force (President’s Task Force on 21st Century Policing, 2015).

<sup>68</sup> McDevitt et al., 2011.

<sup>69</sup> U.S. Department of Justice, Civil Rights Division, 2014, p. 29.

<sup>70</sup> U.S. Department of Justice, Civil Rights Division, “Investigation of the New Orleans Police Department,” March 16, 2011, p. xi.

<sup>71</sup> In a review of police accountability mechanisms—of which these are an important component—Walker showed that there is remarkably little scientific study of these processes to base strong conclusions about their effectiveness. See Samuel Walker, “Police Accountability: Current Issues and Research Needs,” paper presented at the National Institute of Justice Policing Research Workshop: Planning for the Future, Washington, D.C., November 28–29, 2006.

<sup>72</sup> Weitzer and Tuch, 2006.

<sup>73</sup> For a review, see Samuel Walker, *Early Intervention Systems for Law Enforcement Agencies: A Planning and Management Guide*, Washington, D.C.: U.S. Department of Justice, 2003. It should be noted that there is not a current consensus on what should be monitored in such systems, and there have been high-profile incidents involving perceived failures of such systems to detect problem officers.

<sup>74</sup> In its review, the National Academies characterized this issue as follows: “There is a sizeable anecdotal literature on the failure of these [Internal Affairs] units to maintain accountability and integrity, but none of these reports or investigations rises to the level of a scientific study” (National Research Council, 2004, p. 286).

<sup>75</sup> For example, U.S. Department of Justice, Civil Rights Division, 2014.

<sup>76</sup> Liederbach et al., in a study of one police agency’s internal affairs files, assessed that investigation of citizen complaints indeed showed a very low sustainment

rate. In doing so, however, the researchers demonstrated that there is a range of reasons why such processes throw out complaints—including unwillingness by the original filers to continue to participate in the investigation—and that in many cases, evidence is simply not available to establish the validity of the complaint. Greater use of officer-worn cameras may help address that issue, but there will almost certainly remain cases that boil down to the word of an officer against that of a complainant. See John Liederbach, Lorenzo M. Boyd, Robert W. Taylor, and Soraya K. Kawucha, “Is It an Inside Job? An Examination of Internal Affairs Complaint Investigation Files and the Production of Nonsustained Findings,” *Criminal Justice Policy Review*, Vol. 18, No. 4, 2007, pp. 353–377.

<sup>77</sup> McDevitt et al., 2011, p. 8. See also Joseph De Angelis and Aaron Kupchik, “Citizen Oversight, Procedural Justice, and Officer Perceptions of the Complaint Investigation Process,” *Policing: An International Journal of Police Strategies & Management*, Vol. 30, No. 4, 2007, pp. 651–671.

<sup>78</sup> Several of the recommendations in the President’s Task Force on 21st Century Policing (2015) emphasize this point.

<sup>79</sup> For example, in the examination of the Newark Police Department (NPD), DOJ cited such inconsistencies as a significant indicator of problems: “For example, the NPD has not disciplined an officer for engaging in excessive force in more than five years. Yet an NPD officer who assisted a disabled tractor-trailer was suspended for 30 days for failing to strictly abide by the Department’s towing policy and other minor rule violations, despite the officer’s almost otherwise flawless disciplinary record.” (U.S. Department of Justice, Civil Rights Division, and U.S. Attorney’s Office District of New Jersey, “Investigation of the Newark Police Department,” July 22, 2014, pp. 41–42.)

<sup>80</sup> Jon Fingas, “Seattle Police Get Help Publishing Body Camera Videos Online,” Engadget.com, November 24, 2014. As of April 15, 2015: <http://www.engadget.com/2014/11/24/seattle-police-get-help-posting-body-camera-videos/>

<sup>81</sup> Luke Broadwater and Mark Puente, “City Police Cases Will Go Online; Baltimore to Publish Outcomes of Misconduct Suits Involving Officers,” *Baltimore Sun*, November 14, 2014.

<sup>82</sup> Mills, 2012; Ernst, 2014; Serna, 2014; and Borison, 2014.

<sup>83</sup> See, for example, Rob Tillyer, Charles F. Klahm IV, and Robin S. Engel, “The Discretion to Search: A Multilevel Examination of Driver Demographics and Officer Characteristics,” *Journal of Contemporary Criminal Justice*, Vol. 28, No. 2, 2012, pp. 184–205.

<sup>84</sup> Academic studies have come to different conclusions regarding the effect of race on the probability of arrest. For example, Donohue and Levitt identified effects of match and mismatch between officer and offender race on probability of arrest (with increases in arrest probability where the officer and offender were different races); see John J. Donohue III and Steven D. Levitt, “The Impact of Race on Policing and Arrests,” *Journal of Law and Economics*, Vol. 44, No. 2, October 2001, pp. 367–394. D’Alessio and Stolzenberg found higher odds of arrest for white offenders in several crime types based on analyses of data from the National Incident-Based Reporting System; see Stewart J. D’Alessio and Lisa Stolzenberg, “Race and the Probability of Arrest,” *Social Forces*, Vol. 81, No. 4, June 2003, pp. 1381–1397. Others have shown that there are differences in probability of arrest likely caused by the ways in which different groups engage in the same criminal activity (e.g., purchasing drugs in private settings versus riskier public drug markets) rather than differences in individual police interactions; see Rajeev Ramchand, Rosalie Liccardo Pacula, and Martin Y. Iguchi, “Racial Differences in Marijuana-Users’ Risk of Arrest in the United States,” *Drug and Alcohol Dependence*, Vol. 84, No. 3, October 2006, pp. 264–272. In addition, after the events of Ferguson, discussion of differential arrest probabilities spilled onto social media, and white individuals shared stories of police interactions where they could have been arrested but were not (under the hashtag #crimingwhilewhite).

<sup>85</sup> These issues are reviewed in Jessica Saunders, *Limiting the Potential for Racial Profiling in State and Local Police Enforcement of Immigration Laws*, Santa Monica, Calif.: RAND Corporation, PE-104, 2013. As of April 15, 2015: <http://www.rand.org/pubs/perspectives/PE104.html>

<sup>86</sup> Shira A. Scheindlin, “Opinion and Order, David Floyd et al. v City of New York,” 08 Civ. 1034, 2013.

<sup>87</sup> In their survey, Weitzer and Tuch (2006) asked about video cameras in police vehicles, and between approximately 65 percent (for whites) up to approximately 85 percent (for African Americans) supported their use.

<sup>88</sup> This essentially private nature of most police-citizen interactions was highlighted by Lipsky (2010) as one point of tension for maintaining legitimacy and trust. He noted that the lack of auditability made supervision of officers (and a number of other public service professionals, ranging from teachers to social workers) difficult, therefore giving them great autonomy by default. Body cameras on officers and broader citizen use of cameras in their interactions with police could change that dynamic considerably.

<sup>89</sup> From one viewpoint, radically increased transparency could solve this sort of data review problem. If footage were made readily available to the public, interested individuals could review it—essentially crowdsourcing the task. This would create very significant privacy concerns, however, because police have access to

private residences and, in the course of law enforcement activities, would capture images of many people who have not been convicted—or even accused—of any crime. As noted previously, some departments are exploring ways to readily redact some information from videos to make them more available (for example, see Fingas, 2014).

<sup>90</sup> See, for example, Gary L. Wells and Elizabeth A. Olsen, “Eyewitness Testimony,” *Annual Review of Psychology*, Vol. 54, 2003, pp. 277–295.

<sup>91</sup> Michael D. White, *Police Officer Body-Worn Cameras: Assessing the Evidence*, Washington, D.C.: Office of Community Oriented Policing Services, 2014.

<sup>92</sup> In a review of police governance with a scope that reaches beyond the borders of the United States, Walsh and Conway characterize the range of options as a “bewildering mixture” that includes: “administrative mechanisms for handling citizen complaints; civil actions and criminal prosecutions in the courts; the exclusion of improperly obtained evidence in criminal trials; internal disciplinary procedures; whistle-blowing mechanisms; judicial inquiries; inspectorates overseeing professional standards; local police-community consultation fora; and democratic oversight from local/regional assemblies and national parliaments” (Dermot P. J. Walsh and Vicky Conway, “Police Governance and Accountability: Overview of Current Issues,” *Crime, Law, and Social Change*, Vol. 55, 2011, pp. 61–86 [quote on p. 62]).

<sup>93</sup> It should be noted that “involvement of the courts” can mean many things short of criminal charges or litigation, including the members of the judicial branch taking a more active role in examining what law enforcement brings to them for prosecution. See Steven Zeidman, “Policing the Police: The Role of the Courts and the Prosecution,” *Fordham Urban Law Journal*, Vol. 32, No. 2, 2004, pp. 101–131.

<sup>94</sup> U.S. Department of Justice, undated.

<sup>95</sup> RAND’s analysis of public survey data during the monitoring of the Cincinnati Police Department showed gradual improvement in respondents’ assessment of the department, finding that perceptions of police professionalism increased and racial profiling decreased; see Greg Ridgeway, Terry L. Schell, Brian Gifford, Jessica Saunders, Susan Turner, K. Jack Riley, and Travis L. Dixon, *Police-Community Relations in Cincinnati*, Santa Monica, Calif.: RAND Corporation, MG-853-CC, 2009. As of April 15, 2015: <http://www.rand.org/pubs/monographs/MG853.html>

An examination of the Los Angeles Police Department during its consent decree showed a larger increase in residents’ views of the department’s performance over the period, as well as major improvements in their assessment of the likelihood the department would execute its role while both respecting citizen rights and obeying

the law; see Christopher Stone, Todd Foglesong, and Christine M. Cole, “Policing Los Angeles Under a Consent Decree: The Dynamics of Change at the LAPD,” Harvard Kennedy School, Program in Criminal Justice Policy and Management, May 2009.

<sup>96</sup> An example of such an effort is found in Police Executive Research Forum (2013), which drew on the experience of chiefs from multiple jurisdictions that had gone through the process.

<sup>97</sup> U.S. Department of Justice, 2013.

<sup>98</sup> *United States of America v City of Portland*, Settlement Agreement Pursuant to Fed. R. Civ. P. 41(a)(2), Case No. 3:12-cv-02265-SI; and International Association of Chiefs of Police, 2015, p. 21.

<sup>99</sup> President’s Task Force on 21st Century Policing, 2015, Recommendation 2.2.

<sup>100</sup> Across ethnic groups, the percentage of respondents that wanted civilian review ranged from above 60 percent to a high of 80 percent, and agreement that civilian review reduced misconduct ranged from above 55 percent to a high of above 80 percent (Weitzer and Tuch, 2006).

<sup>101</sup> President’s Task Force on 21st Century Policing, 2015, p. 93.

<sup>102</sup> Walker, 2006.

<sup>103</sup> For example, see Stephen Clarke, “Arrested Oversight: A Comparative Analysis and Case Study of How Civilian Oversight of the Police Should Function and How It Fails,” *Columbia Journal of Law and Social Problems*, Vol. 43, No. 1, 2009, pp. 1–49; and De Angelis and Kupchik, 2007.

<sup>104</sup> National Research Council, 2004, p. 184; U.S. Department of Justice, Community Relations Service, “Principles of Good Policing: Avoiding Violence Between Police and Citizens,” revised September 2003, p. 2.

<sup>105</sup> Joshua M. Chanin, “Examining the Sustainability of Pattern or Practice Police Misconduct Reform,” *Police Quarterly*, published online before print, November 26, 2014.

<sup>106</sup> International Association of Chiefs of Police, 2015, p. 21.

<sup>107</sup> Moore and Braga, 2003, p. 441.

<sup>108</sup> Liederbach et al., 2007.

## About This Perspective

Recent events in the United States, from Ferguson, Missouri, to New York City, have brought profound tensions between law enforcement organizations and the public into the national conversation. These tensions have been particularly acute with respect to fair and constitutional policing of minority communities. During these events, the role of information technology—the Internet and social media in particular—in shaping public views of police and creating transparency around police actions has been prominent. This document contributes to the national policy debate on these issues, drawing on the published literature to frame key questions that must be answered for both police and the public, to build the foundation for mutual trust that can be fostered and maintained over time.

Preparation and publication of this document was made possible in part by the generous support of Margaret and Terry Lenzner, as part of the Lenzner Challenge Fund to advance criminal justice research at RAND.

The research reported here was conducted in the RAND Safety and Justice Program, which addresses all aspects of public safety and the criminal justice system, including violence, policing, corrections, courts and criminal law, substance abuse, occupational safety, and public integrity. Program research is supported by government agencies, foundations, and the private sector.

This program is part of RAND Justice, Infrastructure, and Environment, a division of the RAND Corporation dedicated to improving policy and decisionmaking in a wide range of policy domains, including civil and criminal justice, infrastructure protection and homeland security, transportation and energy policy, and environmental and natural resource policy.

Questions or comments about this report should be sent to the project leader, Brian Jackson (Brian\_Jackson@rand.org). For more information about the Safety and Justice Program, see <http://www.rand.org/safety-justice> or contact the director at [sj@rand.org](mailto:sj@rand.org).

The author gratefully acknowledges the contributions of RAND colleagues Debra Knopman, Andrew Morral, Jessica Saunders, and Anita Chandra, who provided valuable comments on an early draft of the manuscript. He would also like to gratefully acknowledge the valuable input of the external peer reviewers, Professor Ron Weitzer of George Washington University and Chief Sean Whent of the Oakland (California) Police Department. All shortcomings remain the responsibility of the author.

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