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**THESIS**

**POLICE REFORMS: IDENTIFYING THE POTENTIAL  
ADVERSE IMPACTS AND CHALLENGES TO LAW  
ENFORCEMENT AGENCIES**

by

Mark L. Timpf

December 2017

Thesis Co-Advisors:

Erik Dahl  
Patrick Miller

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**POLICE REFORMS: IDENTIFYING THE POTENTIAL ADVERSE IMPACTS  
AND CHALLENGES TO LAW ENFORCEMENT AGENCIES**

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Submitted in partial fulfillment of the  
requirements for the degree of

**MASTER OF ARTS IN SECURITY STUDIES  
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## ABSTRACT

This thesis examines the issue of police reform and considers whether a causal connection exists between the reforms being implemented by law enforcement agencies and the issue of police disengagement or de-policing. The two most salient reforms, the *Final Report of the President's Task Force on 21st Century Policing* and the *Police Executive Research Forum's Guiding Principles on the Use of Force*, are currently in the process of being adopted and implemented in many law enforcement agencies, which is a process that will take many months if not years to complete. To provide some insight into how these reforms will affect these agencies, three case studies examined police departments currently under federal supervision from either the Department of Justice or the federal court to determine how they impacted officer activity. These studies considered the reform process along with the individual reforms adopted in each agency and examined the levels of officer activity to determine how they were impacted by these reforms. These results were then examined in the context of current research and officer surveys to assist in interpreting the reported declines in officer activity. These findings have possible implications for law enforcement agencies that adopt the reforms in the *Final Report* and *Guiding Principles*.



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## LIST OF ACRONYMS AND ABBREVIATIONS

ACLU	American Civil Liberties Union
BIA	Bureau of Internal Affairs
BJA	Bureau of Justice Assistance
BPD	Baltimore Police Department
BWC	body-worn camera
CIT	crisis intervention training
CJRA	Criminal Justice Reform Act
COPA	Civilian Office of Police Accountability
COPS	Community Oriented Policing Services
COTF	Community Oversight Task Force
CPD	Chicago Police Department
DOJ	Department of Justice
ECW	electronic control weapon
FBI	Federal Bureau of Investigation
IACP	International Association of Chiefs of Police
ICAT	integrating, communications, assessment, and tactics
IPRA	Independent Police Review Authority
ISR	investigative stop report
L.E.E.D.	listen, explain, equity, and dignity
LAPD	Los Angeles Police Department
LASD	Los Angeles Sheriff's Department
MCCA	Major Cities Chief's Association
NAACP	National Association for the Advancement of Colored People
NCPD	North Charleston Police Department
NYPD	New York Police Department
OIG-NYPD	Office of the Inspector General for the NYPD
PATF	Police Accountability Task Force
PERF	Police Executive Research Forum
POST	Peace Officer Standards and Training

SQF stop, question, and frisk  
UCR Uniform Crime Reporting

## EXECUTIVE SUMMARY

The recent events involving law enforcement agencies in Ferguson, Chicago, New York, Baltimore, North Charleston, and other cities across the United States have prompted widespread efforts to reform policing and address the longstanding issues that have plagued minority communities and their relationship with law enforcement. Specifically, these reforms have focused on establishing trust and legitimacy between police and the communities they serve along with insuring that police agencies adopt procedural justice as a guiding principle for their interactions with citizens and internally within their departments.<sup>1</sup> The President's Task Force on 21st Century Policing was established in 2014 to identify best practices for law enforcement agencies going into the future. The Task Force, consisting of stakeholders from law enforcement, government, higher education, and community groups, convened in a series of meetings where discussions were held with other experts and stakeholders to address the many issues involving policing in the United States. These discussions culminated in the publication of the *Final Report of the President's Task Force on 21st Century Policing*, hereafter referred to as the *Final Report*, in 2015, which included over 150 recommendations and action items for law enforcement agencies, institutions of higher education, state certifying boards, communities, and the federal government. In the following year, the Police Executive Research Forum (PERF) published the *Guiding Principles on the Use of Force*, hereafter referred to as the *Guiding Principles*, which called for significant reforms in the manner in which law enforcement agencies handled potential force encounters with individuals.<sup>2</sup> The *Final Report* and *Guiding Principles* have become the road map to police reform in the United States, and many agencies are adopting them whole or in part as a means of reforming their agencies and building trust with communities.

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<sup>1</sup> President's Task Force on 21st Century Policing, *Final Report of the President's Task Force on 21st Century Policing* (Washington, DC: Office of Community Oriented Policing Services, 2015), 1, [https://cops.usdoj.gov/pdf/taskforce/TaskForce\\_FinalReport.pdf](https://cops.usdoj.gov/pdf/taskforce/TaskForce_FinalReport.pdf).

<sup>2</sup> Police Executive Research Forum Critical Issues in Policing Series, *Guiding Principles on Use of Force* (Washington, DC: Police Executive Research Forum, 2016), 29, <http://www.policeforum.org/assets/30%20guiding%20principles.pdf>.



As these reforms are in the process of being adopted by law enforcement agencies nationwide, a number of challenges have emerged that have been problematic for these agencies. One of these challenges is the apparent disengagement of officers from the proactive or self-initiated activities that are critical in crime reduction strategies. This thesis researched the issue of police reform and police disengagement to determine whether a correlation or causal relationship exists between the two. Specifically, are the police reforms in the *Final Report* and *Guiding Principles* causing some level of police disengagement or de-policing? Since the reforms are relatively new and in various stages of implementation, it will take months if not years to determine how they will affect officer activity.

This thesis examined a number of case studies of law enforcement agencies under federally mandated reform to determine how these reforms affected the activity of their officers. The departments selected were the Chicago Police Department (CPD) under Department of Justice (DOJ) review, the New York Police Department (NYPD) under federal court supervision, and the Baltimore Police Department (BPD) under DOJ consent decree. In all three studies, a significant and sustained reduction in arrest and stop activity occurred based on the actions of their officers. These declines commenced as the reform process went forward in their agencies. An evaluation was then made of the specific mandated reforms each agency was subject to, and a comparison was made to the specific recommendations, action items, and principles in the *Final Report* and *Guiding Principles*. This analysis showed that the mandated reforms were very similar to and, in many respects, mirrored those in the *Final Report* and the *Guiding Principles*. It was also shown that the mandated reforms placed enhanced scrutiny on police officers and additional burdens on them in areas such as investigative stops and the use of force. These agencies experienced sustained decreases in the level of proactive or self-initiated officer activity during this reform process. The extent of police disengagement or de-policing attributed to the mandated reforms is difficult to quantify since many other factors were present, but this work concluded that in the context of these case studies, the available research, and officer surveys, a correlation in fact does exist between the reforms and the decrease in officer activity.

As law enforcement agencies go forward in the implementation of the recommendations in the *Final Report* and *Guiding Principles*, they may experience or should anticipate some level of police disengagement. The level depends on many factors unique to both the agency and the involved community. However, measures can be taken by law enforcement executives to mitigate this disengagement or de-policing, and they are included as recommendations in this thesis. These recommendations include insuring organizational justice within agencies, having an objective process free of political agendas, having officer representation throughout the reform process, and collaborating with a well-informed community in reform implementation.

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I also recognize that success in this course of study required the support of those around me. My classmates have been instrumental in my accomplishments, and I have greatly benefited from both their experience and friendship. I have appreciated the guidance and patience of my family who understood the challenges I faced and were willing to help whenever I asked. At the forefront of this effort was my wife, Kimberly K. Timpf, who has fully embraced this journey and worked daily to lighten my load and sustain our home. She kept me on task, even when I became discouraged, and helped me see the positive in everything. Over the past 35 years in my law enforcement career, she has been at my side and made many sacrifices that few people would know or understand. I dedicate this thesis to Kim, as it would not have been possible without her.

Finally, I also want to dedicate this thesis to our daughter, Alicia Marie Timpf, who gave me inspiration every day that she lived during her very short life.

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# I. INTRODUCTION

## A. PROBLEM STATEMENT

Police reforms are being implemented across the country by many police agencies, driven by both reoccurring events involving police shootings and the politics surrounding the national discussion on the state of policing in the United States. The reforms have originated from the President’s Task Force on 21st Century Policing and from professional organizations, such as the Police Executive Research Forum (PERF), the Major Cities Chief’s Association (MCCA), the International Association of Chiefs of Police (IACP), and other groups with a vested interest in policing. One of the most salient publications coming out of these efforts is the *Final Report of the President’s Task Force on 21st Century Policing*, hereafter referred to as the *Final Report*, which originated from a Presidential Executive Order in December 2014, which “charged the task force with identifying best practices and offering recommendations on how policing practices can promote effective crime reduction while building public trust.”<sup>1</sup> Another publication was the PERF’s *Guiding Principles on Use of Force*, hereafter referred to as the *Guiding Principles*, which significantly reformed the issues surrounding the police use of force.<sup>2</sup> The recommendations in both works are currently being incorporated into the policies and culture of law enforcement agencies across the country.

Parallel to these ongoing reforms, law enforcement agencies have experienced a number of challenges and problems that have manifested themselves as this national discussion has progressed and the reforms have been or are being implemented. These challenges and problems have included an increased number of police ambushes, difficulties in funding new technologies, recruiting issues (especially in diversity), increased officer safety concerns with respect to the utilization of force, and an apparent

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<sup>1</sup> President’s Task Force on 21st Century Policing, *Final Report of the President’s Task Force on 21st Century Policing* (Washington, DC: Office of Community Oriented Policing Services, 2015), [https://cops.usdoj.gov/pdf/taskforce/TaskForce\\_FinalReport.pdf](https://cops.usdoj.gov/pdf/taskforce/TaskForce_FinalReport.pdf).

<sup>2</sup> Police Executive Research Forum Critical Issues in Policing Series, *Guiding Principles on Use of Force* (Washington, DC: Police Executive Research Forum, 2016), <http://www.policeforum.org/assets/30%20guiding%20principles.pdf>.

disengagement on the part of officers from doing proactive activities related to their duties. With this disengagement, often referred to as “de-policing” or the “Ferguson Effect,” questions have arisen as to how this trend may have impacted community relations and the mission of law enforcement in general. In addition, this disengagement is suspected by many to be contributing to the recent increase in homicide rates in several large cities throughout the United States.

The publication of the *Final Report* has ushered in a major transition in the philosophy of policing, and most observers, including law enforcement practitioners, have concluded that the profession was in need of a systematic overhaul or a paradigm shift.<sup>3</sup> However, much of what has been accomplished has occurred in a very political environment driven by stakeholders and constituency groups who have advanced positions and recommendations based on their respective values and objectives. As a result, less emphasis was placed on an assessment of data relevant to the issues addressed by those involved in the reform process. These reforms nevertheless have been adopted by many police agencies and the resulting recommendations are in various stages of implementation. In the coming years, the reforms will be woven into the fabric of these agencies, as specifically recommended in the reports. It has also been the expectation of the stakeholders, such as Yale Law School Professor Tracey L. Meares, who stated that it would take all of them working together to get the recommendations in the *Final Report* implemented to make the needed changes to the profession.<sup>4</sup>

A major component of the reforms in law enforcement is an increased oversight over police operations and the individual activities of the officers employed by law enforcement agencies. The central goal of this oversight is to promote best practices and ensure a greater accountability on the part of officers. To this end, officers are facing a high level of scrutiny, as prescribed by the recommendations in the reforms.

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<sup>3</sup> W. K. Kellogg Foundation, “Experts Advance Solutions for Healing Relationships between Law Enforcement and Communities of Color at America Healing Conference,” U.S. Newswire, May 6, 2015, <http://www.prnewswire.com/news-releases/experts-advance-solutions-for-healing-relationships-between-law-enforcement-and-communities-of-color-at-america-healing-conference-300078565.html>.

<sup>4</sup> Tracey L. Meares, “Policing in the 21st Century: The Importance of Public Security,” *University of Chicago Legal Forum* 2 (2016): 7, <http://chicagounbound.uchicago.edu/cgi/viewcontent.cgi?article=1564&context=uclf>.

As the implementation of these reforms has gone forward, indications are that the issues of police reform and the current challenges law enforcement agencies are facing may be interrelated. Specifically, the issue of police disengagement is becoming an area of particular interest in law enforcement agencies and the communities they serve because it has the potential to impact the objectives sought out through the reforms and also to affect crime rates.

The concept of police disengagement, de-policing, and the Ferguson Effect is not a new one by any means. In the past, it has been also referred to as “passive law enforcement,” “selective disengagement,” “tactical detachment,” or “officer “retreat.”<sup>5</sup> A more precise and standard definition of police disengagement, de-policing, and the Ferguson Effect would also be helpful in determining the parameters of the subject since some studies view it in the context of crime rates and others in terms of officer activity in conducting stops or arrests. An examination of the available literature often uses the terms interchangeably although the Ferguson Effect has a more specific application to those impacts experienced by law enforcement agencies after the incident in Ferguson, Missouri. Although crimes rates are a significant measure to study in the context of disengagement, de-policing, or the Ferguson Effect, it is primarily the activities of officers that should concern law enforcement executives and managers, as they must ensure their officers are productive and seek to accomplish the objectives of their agency, which includes crime reduction.

Thus far, limited comprehensive work has been connected in assessing the current state of policing including the ongoing reforms and how they relate to the issue of police disengagement. However, some studies are now emerging and are referred to within this document. This thesis attempts to frame the existing research in this area, as it is important to an overall inquiry into how law enforcement agencies can move forward with police reform while minimizing the negative impacts related to it through sound strategies based on relevant data and objective analysis.

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<sup>5</sup> Stephen Rushin and Griffin Edwards, “De-policing,” *Cornell Law Review* 102 (2017): 732–733, <http://cornelllawreview.org/files/2017/04/RushinEdwardsfinal.pdf>.



## **B. RESEARCH QUESTION**

This thesis attempts to examine if in fact a correlation or causal relationship does exist between the police reforms and the issue of police disengagement. It asks if the police are in fact disengaging from self-initiated enforcement and community interactions, and if so, to what extent? In addition, do any causal links exist between the enhanced scrutiny brought on by police reforms being implemented in law enforcement agencies across the United States and the phenomenon of police disengagement? What elements of police reform are contributing to police disengagement and how are they connected?

If the connection between police reform and disengagement is established, a comprehensive strategy must be developed in each area where opportunities exist to minimize the negative impacts. This area of study and research is both critical and relevant in the respect that the objectives of police reform have the potential to be negatively affected if these impacts are not mitigated.

This thesis includes an analysis of the individual reforms and the concepts included within them to determine the factors or circumstances that supported their development. In addition, a review is made of any subsequent changes of police attitudes and activity in the data after the reforms were either adopted or implemented through an analysis of published studies focused on these issues along with an examination of data related to self-initiated police activity. Further analysis attempts to isolate what specific elements of the reforms may be contributing to the police disengagement. This analysis may identify some causal links that can be the subject of further study aimed at making informed strategic decisions or policies designed to reduce the negative impacts and enhance the success of the reforms themselves.

## **C. LITERATURE REVIEW**

This literature review begins by providing background on the events and conditions prompting the police reforms, the stakeholders who influenced the process, and the resulting reforms and recommendations directed at the practices of law

enforcement agencies and the policies that guide their operations. It concludes with an overview of the challenges emerging concurrently with these ongoing reforms.

## **1. Background and Impetus for Contemporary Police Reforms**

This section covers some underlying factors and conditions that prompted police reform. The issues highlighted influenced the reform process and eventually were addressed through the recommendations in the reform documents.

### ***a. The Black Lives Matters Movement***

Considerable literature confirms the role that “Black Lives Matter” had in prompting the national discussions on policing and the subsequent reforms. A good historical account of the group is provided by Russell Rickford in the *New Labor Forum*. He states that the Black Lives Matter Movement is a group that originated from a twitter hashtag, #BlackLivesMatter, which originated in 2013 after George Zimmerman was acquitted in the shooting death of Trayvon Martin.<sup>6</sup> The founders, Patrice Cullors, Alicia Garza, and Opal Tometi, had previously been activists in incarceration, immigration, and domestic labor issues before launching this effort that ultimately focused on the issue of police aggression, brutality, and racist violence.<sup>7</sup> The group has elected to pursue its objectives by engaging in street activities, such as the occupation and disruption of public property to include roadways and government buildings along with the interruption of campaign events, sporting events, and activities around retail stores and shopping malls.<sup>8</sup> The group views police practices, such as “stop and frisk,” “broken windows” policing, and other more aggressive enforcement strategies, as a ruthless “framework of white supremacy” aimed at subjugating rather than serving and protecting the community.<sup>9</sup>

The Black Lives Matter movement is not without significant opposition, as demonstrated by several articles expressing concerns about the legitimacy of the group’s

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<sup>6</sup> Russell Rickford, “Black Lives Matter, Toward a Modern Practice of Mass Struggle,” *New Labor Forum* 25, no. 1 (December 8, 2015), <http://journals.sagepub.com/doi/pdf/10.1177/1095796015620171>.

<sup>7</sup> *Ibid.*, 35.

<sup>8</sup> *Ibid.*, 36.

<sup>9</sup> *Ibid.*, 38.

objectives. For example, former Milwaukee County Sheriff David Clarke was quoted in a CNN interview as saying, “there is no data to support the idea that law enforcement officers treat black and white men differently,” and said, “the entire protest movement was based on a lie.”<sup>10</sup> In another article, the movement was questioned about its apparent indifference to the escalating number of blacks killed by other blacks.<sup>11</sup> Despite this opposition toward the group and its philosophy, it is clear that modern police reforms have been influenced by their activities. According to Columbia University Professor Fredrick C. Harris, director of the Center on African-American Politics and Society, their protests have “put police reform on the agenda.”<sup>12</sup> Black Lives Matter is a very influential force on both the reforms and the politics associated with the activities of most law enforcement agencies.

**b. Biased Policing**

Conflicting literature exists concerning the issue of biased policing in the United States. Kahn and Martin concluded it is “empirically established that racial disparities exist within policing, including the deaths that result from police shootings.”<sup>13</sup> Research has also clearly demonstrated “unequal criminal justice outcomes between racial minorities and whites.”<sup>14</sup> They assert that the perception of biased policing has consequences for minority communities and society in general because it erodes the trust and legitimacy needed by law enforcement to be effective in crime reduction.<sup>15</sup> As a result, police reforms or “policy interventions” are needed to address the behavior of

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<sup>10</sup> Peter Holley, “Wisconsin Sheriff: Black Lives Matter’s ‘Hateful Ideology’ Caused Police Killings,” *WP Company LLC d/b/a Washington Post* (blog), July 18, 2016, [https://www.washingtonpost.com/news/post-nation/wp/2016/07/18/sheriff-black-lives-matters-hateful-ideology-caused-police-killings/?utm\\_term=.716d724aef79](https://www.washingtonpost.com/news/post-nation/wp/2016/07/18/sheriff-black-lives-matters-hateful-ideology-caused-police-killings/?utm_term=.716d724aef79).

<sup>11</sup> Joel Gehrke, “Giuliani: Black Lives Matter Should Protest Chicago Shootings,” *Washington Examiner*, July 10, 2016, <http://www.washingtonexaminer.com/giuliani-black-lives-matter-should-protest-chicago-shootings/article/2596086>.

<sup>12</sup> Fredrick C. Harris, “The Next Civil Rights Movement?” *Dissent* (00123846) 62, no. 3 (2015): 34, <https://franklinshlibrary.pbworks.com/w/file/attach/101640115/Black%20Lives%20Matter.pdf>.

<sup>13</sup> Kimberly Barsamian Kahn and Karin D. Martin, “Policing and Race: Disparate Treatment, Perceptions, and Policy Responses,” *Social Issues and Policy Review* 10, no. 1 (2016): 84, doi: 1111/sipr.12019.

<sup>14</sup> *Ibid.*

<sup>15</sup> *Ibid.*, 111.

police and the manner in which they are perceived.<sup>16</sup> This work references the President’s Task Force on 21st Century Policing as the basis for these interventions derived from years of research that have identified the critical elements necessary for “harmonious and effective/community relations: legitimacy and trust.”<sup>17</sup>

With respect to the literature disputing racial bias in policing, Heather Mac Donald, a fellow at the Manhattan Institute, claims that the Black Lives Matter narrative about racially biased policing is false and she referenced four recent studies indicating that the identified bias is actually against whites to the advantage of blacks.<sup>18</sup> In one of these studies, it was determined that an officer using lethal force to effect an arrest for a violent felony was twice as likely to use it against white subjects rather than black subjects and another study showed that police officers were three times less likely to use lethal force against an unarmed black person than an unarmed white person.<sup>19</sup>

Harvard Professor Roland G. Fryer Jr., an African-American, concluded in a study that although blacks were more likely to have non-lethal force used on them by police, no racial differences occurred in the use of deadly force.<sup>20</sup> This finding contradicted much of the narrative about police racial bias when it involved lethal police encounters with African-Americans.

## **2. Contemporary Strategies and Reforms Adopted by Law Enforcement Agencies**

This section summarizes the literature on police reforms and provides input from some stakeholders and experts as to the impact of the measures and the concerns some may have with respect to their integration in police operational activities.

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<sup>16</sup> Kahn and Martin, “Policing and Race: Disparate Treatment, Perceptions, and Policy Responses,” 111.

<sup>17</sup> *Ibid.*, 104.

<sup>18</sup> Heather Mac Donald, “The Myth of the Racist Cop,” *Wall Street Journal*, October 24, 2016, <https://www.manhattan-institute.org/html/myth-racist-cop-9391.html>.

<sup>19</sup> *Ibid.*

<sup>20</sup> Roland G. Fryer Jr., *An Empirical Analysis of Racial Differences in the Police Use of Force* (Cambridge, MA: National Bureau of Economic Research, 2016), 35, <http://www.nber.org/papers/w22399.pdf>.

*a. President's Task Force on 21st Century Policing*

The President's Task Force on 21st Century Policing originated with an Executive Order signed by President Barack Obama on December 18, 2014.<sup>21</sup> The Task Force was commissioned to identify best police practices and make recommendations along with accompanying action items on how these practices can achieve effective crime reduction while establishing public trust and to develop strategies to form lasting collaborative relationships between law enforcement agencies and communities.<sup>22</sup> The *Final Report* was published in May 2015 and contained six main topic areas defined as "pillars": "building trust and legitimacy, policy and oversight, technology and social media, community policing and crime reduction, training and education, and officer wellness and safety."<sup>23</sup> The *Final Report* is the centerpiece of police reforms occurring today and the author has observed through his associations with the PERF, MCCA, and IACP that its content is now well ingrained in most police executives. It is a straightforward document that will be under critical analysis in this thesis as to how it may impact current police practices and activity, especially in the area of proactive policing.

Another work was published through the Community Oriented Policing Services (COPS) Office that included feedback from 40 "rank and file" practitioners from law enforcement agencies who discussed the implementation of the principles of the President's Task Force on 21st Century Policing.<sup>24</sup> Several areas are covered that present some critical analysis of several aspects of the report. This report explains some officers' perspectives with respect to the report and can shed some light on the attitudes and the emerging behaviors of officers.

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<sup>21</sup> Community Oriented Policing Services, *Public Teleconference with the President's Task Force on 21st Century Policing Discussing Final Report* (Washington, DC: Federal Register, 2015), <https://www.federalregister.gov/documents/2015/03/12/2015-05655/community-oriented-policing-services-public-teleconference-with-the-presidents-task-force-on-21st>.

<sup>22</sup> Ibid.

<sup>23</sup> President's Task Force on 21st Century Policing, *Final Report of the President's Task Force on 21st Century Policing*.

<sup>24</sup> Office of Community Oriented Policing Services, *Rank-and-File Officers Share Perspectives on the Recommendations from the President's Task Force on 21st Century Policing* (Washington, DC: United States Justice Department, 2016), <https://ric-zai-inc.com/Publications/cops-p351-pub.pdf>.

**b. Procedural Justice**

The *Final Report* advised that “law enforcement agencies should adopt procedural justice as the guiding principle for internal and external policies and practices to guide their interactions with rank and file officers and the citizens they serve.”<sup>25</sup> “According to a new report from the International City/County Management Association (ICMA) and the Major Cities Chiefs Association (MCCA) on the future of local government, police, and community relations, conditions, such as consistency, fairness, and procedural justice are essential to building foundations of trust and legitimacy.”<sup>26</sup>

**c. Guardian vs. Warrior Policing**

The contemporary strategy with respect to guardian vs. warrior policing is covered in a number of articles. A good account of the practice is found in an article by Sue Rahr and Stephen K. Rice who assert that it is “perhaps time to revisit the wisdom of Plato and Sir Robert Peel and strive to become the trusted guardians of democracy” and challenge the “very core of the warrior identity that many have embraced in the popular culture of policing.”<sup>27</sup> This philosophy and instruction was given to street officers through a model developed by Ms. Rahr when she was the Sheriff of King County, Washington and it emphasized the “specific behaviors of a good cop doing the right thing” along with “procedural justice which was simplified and operationalized for street officers” and it also emphasized treating citizens with respect and dignity.<sup>28</sup> This training advanced the concept of procedural justice that focused on “perceived impartiality during transactions between police and the communities they serve, participation (‘voice’) from

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<sup>25</sup> President’s Task Force on 21st Century Policing, *Final Report of the President’s Task Force on 21st Century Policing*, 1.

<sup>26</sup> International City/County Management Association, “Thought Leaders Discuss Conditions Required to Build Trust between Police and the Community,” PR Newswire, February 3, 2016, <http://www.prnewswire.com/news-releases/thought-leaders-discuss-conditions-required-to-build-trust-between-police-and-the-community-300214855.html>.

<sup>27</sup> Sue Rahr and Stephen K. Rice, *From Warriors to Guardians: Recommitting American Police Culture to Democratic Ideals*, NCJ 2486654 (Washington, DC: New Perspectives in Policing Bulletin, U.S. Department of Justice, National Institute of Justice, 2015), 7, <https://www.ncjrs.gov/pdffiles1/nij/248654.pdf>.

<sup>28</sup> *Ibid.*, 3.

the public during these interactions, fairness, and consistency of treatment.”<sup>29</sup> The program implemented by Rahr included the acronym called “L.E.E.D.,” which stands for “listen, explain, equity and dignity” and trained officers to “take the time to listen (L) to people; explain (E) what is going to happen and how the process works; explain why that decision was made so the equity (E) of the decision is transparent; and leave the participants with their dignity (D) intact.”<sup>30</sup>

Another article covers the guardian training currently being implemented in the Los Angeles Police Department (LAPD). The author Kate Mather chronicled how the LAPD was transitioning from being “warriors” to watching over the community like “guardians” and noted that departments all across the country are implementing programs that replace this “warrior” mindset with a “guardian” approach, which includes an emphasis on protection and patience instead of suppression and zero tolerance.<sup>31</sup> She acknowledged it was a fundamental shift for officers and it involved “transforming the law enforcement culture.”<sup>32</sup>

#### *d. De-Escalation*

Chuck Wexler, the PERF’s Executive Director stated that the de-escalation movement adopted by many police departments across the country is the “biggest change” in police use of force policy in recent history.<sup>33</sup> This change requires significant revisions to the use of force training conducted by most agencies as officers are instructed to employ strategies and techniques dramatically different from those they learned in their initial training. The discussion involving de-escalation is found in most current

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<sup>29</sup> Rahr and Rice, *From Warriors to Guardians: Recommitting American Police Culture to Democratic Ideals*, 3.

<sup>30</sup> *Ibid.*

<sup>31</sup> Kate Mather, “LAPD Urges Officers to be Community Guardians not Warriors on Crime,” *Los Angeles Times*, August 21, 2015, <http://www.latimes.com/local/crime/la-me-warrior-guardians-20150821-story.html>.

<sup>32</sup> *Ibid.*

<sup>33</sup> Kevin Johnson, “In Face of Criticism, Police Officials Preach Tactics of De-Escalation,” *USA Today*, October 7, 2015, <https://www.usatoday.com/story/news/nation/2015/10/07/police-encounters-violent-baltimore-ferguson/72636622/>.

police reform initiatives, such as the *Final Report*, the PERF's *Guiding Principles*, and many others.

In examining the available literature with respect to de-escalation, it is clearly evolving and a number of different programs are now being developed. This topic will greatly expand along with the available literature when programs, such as integrating, communications, assessment, and tactics (ICAT), are fully developed.<sup>34</sup> This program is sponsored by PERF and provides a comprehensive training guide for law enforcement agencies to train their personnel in the concepts and tactics involved in the use of force. De-escalation training is a significant element of this training.

Although the concept of de-escalation has widespread support, concerns have been raised that a significant philosophical shift in the police response and subsequent use of force may have implications for basic officer safety and that “real cultural change in law enforcement will require more than a series of retraining sessions.”<sup>35</sup> This issue of officer safety is of primary concern to police officers and the philosophy of de-escalation has prompted opposition from some experts. Most notable is Ron Martinelli, PhD, CMI-V, a nationally renowned forensic criminologist, police expert, and certified medical investigator, who suggests that the de-escalation training is not needed by officers but rather the public.<sup>36</sup> He emphasizes that citizens are often ill-informed about issues involving their actual rights and they often assert rights that they do not have, which prompts a lack of compliance resulting many times in force encounters with police.<sup>37</sup> He advised that officers are already well trained in all the disciplines needed for law enforcement officers and added that most academies are similar to “mini-universities” that even allow officers to earn undergraduate credits.<sup>38</sup>

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<sup>34</sup> Critical Issues in Policing Series, *Integrating, Communications, Assessment, and Tactics* (Washington, DC: Police Executive Research Forum, 2016), <http://www.policeforum.org/assets/icattrainingguide.pdf>.

<sup>35</sup> Johnson, “In Face of Criticism, Police Officials Preach Tactics of De-Escalation.”

<sup>36</sup> Ron Martinelli, “Editorial: It’s Citizens, Not Police Who Need De-Escalation Training,” *Law Enforcement Product News*, July 16, 2016, <http://www.officer.com/article/12232973/editorial-its-citizens-not-police-who-need-de-escalation-training>.

<sup>37</sup> *Ibid.*

<sup>38</sup> *Ibid.*



### 3. Current Research on Disengagement, De-policing, and the Ferguson Effect

The subject of police disengagement, de-policing, and the Ferguson Effect, as it relates to the events involving police in the last three years, has had limited research and much of it has been confined to limited samples of departments and other needed respondents. This subject area needs more expansive study and should include a more national scope. However, a few comprehensive studies and surveys are available that can assist in examining the central question of this thesis.

In April 2017, the Federal Bureau of Investigation (FBI) released a study entitled *The Assailant Study—Mindset and Behaviors*, which chronicled information on officers killed in the line of duty during 2016 to include specific data on their assailants.<sup>39</sup> The study noted that 28% of the assailants sought out to kill the officers before commencing their attacks and that their motivation was for social or political reasons or a hatred of police officers.<sup>40</sup> It specifically noted that the assailants responsible for the attacks in both Dallas, Texas and Baton Rouge, Louisiana were “influenced” by the Black Lives Matter movement and “their belief that law enforcement was targeting black males.”<sup>41</sup> The study also found that the Michael Brown shooting in Ferguson, Missouri and the social unrest that resulted in its aftermath “initiated a movement that some perceived made it socially acceptable to challenge and discredit the actions of law enforcement.”<sup>42</sup> Most law enforcement officials interviewed agreed that “law enforcement not only felt that their national political leaders publically stood against them, but also that the politicians’ words and actions signified that disrespect to law enforcement was acceptable in the aftermath of the Brown shooting” and this narrative allowed more assailants to become “more emboldened to question, resist, and fight law enforcement.”<sup>43</sup> Finally, the study concluded that these factors “had the effect of ‘de-policing’ in law enforcement

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<sup>39</sup> Office of Partner Engagement, *The Assailant Study—Mindsets and Behaviors* (Washington, DC: Federal Bureau of Investigation, 2016).

<sup>40</sup> *Ibid.*, 2.

<sup>41</sup> *Ibid.*

<sup>42</sup> *Ibid.*, 3.

<sup>43</sup> *Ibid.*

agencies across the country, which the assailants have exploited” and this de-policing involved the conscious decision on the part of individual officers “to stop engaging in proactive policing” and to “avoid interacting with the community.”<sup>44</sup>

A study conducted by Shjarback, Pyrooz, Wolfe, and Decker, “De-Policing and Crime in the Wake of Ferguson: Racialized Changes in the Quantity and Quality of Policing Among Missouri Police Departments,” used data from 118 law enforcement agencies in the state of Missouri between 2014 and 2015 to determine quantity (rates of vehicle/traffic stops, searches and arrests) and quality of policing (“hit rates from searches”).<sup>45</sup> The study defined “de-policing” as a “process of officers retreating from active police work as a reaction to an event that generates a negative response toward law enforcement (e.g., riot, consent decree, or civil lawsuit) and the subsequent oversight that accompanies it.”<sup>46</sup> Their study showed that 67,000 fewer stops occurred in these departments but that these stops did not result in a statistically significant pattern of searches or arrests.<sup>47</sup> However, they found evidence of a “racialized de-policing effect” in that “departments made fewer vehicle/traffic stops, searches, and arrests in 2015 relative to 2014 in jurisdictions with larger African-American populations” and offered the explanation that de-policing “may be a reaction to officers’ sense of ‘self-preservation.’”<sup>48</sup> They added that the highly publicized shootings of black males by police prompted the emergence of “Black Lives Matter,” which subsequently resulted in demonstrations across the United States, some of which turned “disruptive and violent.”<sup>49</sup> The study also noted that these “events and current climate led then President Obama to convene the President’s Task Force on 21st Century Policing in December of 2014, the first national-level committee directing attention towards issues of race and law

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<sup>44</sup> Office of Partner Engagement, *The Assailant Study—Mindsets and Behaviors*, 4.

<sup>45</sup> John Shjarback et al., “De-Policing and Crime in the Wake of Ferguson: Racialized Changes in the Quantity and Quality of Policing among Missouri Police Departments,” *Journal of Criminal Justice* 50 (2017): 43, <https://doi.org/10.1016/j.jcrimjus.2017.04.003>.

<sup>46</sup> *Ibid.*, 3.

<sup>47</sup> *Ibid.*, 50.

<sup>48</sup> *Ibid.*

<sup>49</sup> *Ibid.*

enforcement since the Kerner Commission in the late 1960's.”<sup>50</sup> They continued that “accordingly, it would make sense that officers are more likely to shy away from active police work in the very jurisdictions, and perhaps neighborhoods, that have higher African-American populations.”<sup>51</sup> They concluded that de-policing was more prevalent in jurisdictions with high minority populations.<sup>52</sup>

Chanin and Sheats conducted a study on de-policing as it relates to how it may be connected to “pattern or practice” reform occurring in agencies under review by federal authorities.<sup>53</sup> In examining the possibility of de-policing in these jurisdictions brought on by two theoretical explanations; an emotional response related to public criticism, lack of institutional support, organizational scandal, “characterized by flagging officers morale, disgruntlement, or disassociation” or a rational response to “changes in officer utility functions brought about by reform designed specifically to reduce officer misconduct through increased oversight and accountability,” they concluded that de-policing was not supported through empirical evidence as it relates to arrest activity.<sup>54</sup> However, they acknowledge that their findings are “inconsistent with sentiments expressed by officers who have endured the effects of changes brought on by DOJ-led oversight.”<sup>55</sup> They suggest that both assertions can be accurate if officers are verbalizing this discontent but are unwilling to “engage in kind of de-policing that a longitudinal analysis of arrest rates might detect.”<sup>56</sup>

The impact of the Ferguson Effect on crime rates in the United States has caused significant interest. In 2015, a study published in the *Journal of Criminal Justice* concluded that no evidence existed to support such a claim with respect to overall trends

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<sup>50</sup> Shjarback et al., “De-Policing and Crime in the Wake of Ferguson: Racialized Changes in the Quantity and Quality of Policing among Missouri Police Departments,” 50.

<sup>51</sup> Ibid.

<sup>52</sup> Ibid.

<sup>53</sup> Joshua Chanin and Brittany Sheets, “De-policing as a Dissent Shirking: Examining the Effects of Pattern or Practice Misconduct Reform on Police Behavior,” *Criminal Justice Review*, 2017, 1–22, <https://doi.org/10.1177/0734016817704696>.

<sup>54</sup> Ibid., 13.

<sup>55</sup> Ibid., 14.

<sup>56</sup> Ibid., 14–15.

to include both violent and property crime but that robbery rates that were declining before Ferguson increased in the months afterward.<sup>57</sup> However, this study did acknowledge preliminary support for the Ferguson Effect as being responsible for higher homicide rates in select cities in the United States and those particularly with a higher proportion of African-American residents.<sup>58</sup>

Another study by Gross and Mann used Google searches related to “police violence” to determine if the Ferguson Effect resulted in higher violent crime rates.<sup>59</sup> They determined that “public concern about police violence, as measured by Google search inquiries, is associated with elevated rates of homicide and other violent crime.”<sup>60</sup> This elevated crime was more prevalent in large U.S. cities plagued by racial segregation, poverty, and less educational achievement.<sup>61</sup>

Nix and Wolfe conducted a study that examined the factors associated with “management-level officers’ sensitivity to various manifestations of the Ferguson Effect.”<sup>62</sup> They noted the importance of “organizational justice” toward line level officers in mitigating the adverse impacts of Ferguson-related negative publicity and they further considered how these adverse impacts would affect officers in supervisory positions.<sup>63</sup> Since these supervisors are often tasked with administering “organizational justice” in their agencies, it could be asserted that if they were impacted in the same manner as their subordinates, they may not be able to ensure “effective managerial strategies like employing organizational justice.”<sup>64</sup> Their study did in fact find evidence of the Ferguson

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<sup>57</sup> David C. Pyrooz et al., “Was There a Ferguson Effect on Crime Rates in Large U.S. Cities?” *Journal of Criminal Justice* 46 (September 2016): 1, doi: <http://dx.doi.org/10.1016/j.jcrimjus.2016.01.001>.

<sup>58</sup> *Ibid.*, 5.

<sup>59</sup> Neil Gross and Marcus Mann, “Is There a ‘Ferguson Effect?’ Google Searches, Concern about Police Violence, and Crime in U.S. Cities, 2014–2016,” *Socius, Sociological Research for a Dynamic World* 3 (2017): 1–16, <http://journals.sagepub.com/doi/full/10.1177/237802311770312>.

<sup>60</sup> *Ibid.*, 13.

<sup>61</sup> *Ibid.*

<sup>62</sup> Justin Nix and Scott E. Wolfe, “Management-Level Officers’ Experiences with the Ferguson Effect,” *Policing: An International Journal*, 2017.

<sup>63</sup> *Ibid.*, 16.

<sup>64</sup> *Ibid.*

Effect occurring within the managerial ranks from many different agencies.<sup>65</sup> Finally, they concluded that departments should focus on building trust with the communities they serve to establish their “audience legitimacy,” which is how the community accepts the police as the “legitimate authority.”<sup>66</sup>

Another study considered the perceptions of de-policing by command level officers. Nix, Wolfe, and Campbell specifically examined the implications of command officers who believed a “war on cops” was occurring that would, in turn, lead to de-policing within the ranks they commanded.<sup>67</sup> They referenced Mac Donald’s definition of “war on cops” as being a condition whereby both citizens and media have become “more scrutinous of police actions” and concluded most of the commanders believed that a “war on cops” existed, but that they did not necessarily agree that it resulted in de-policing. However, a correlation did exist between the two concepts in that “those who were more likely to believe there was a ‘war on cops’ tended to be more likely to indicate that police engage in de-policing.”<sup>68</sup>

Nix and Wolfe attempted to address the impact of organizational justice on the Ferguson Effect and argued that organizational justice may be “associated with less sensitivity to the negative publicity stemming from Ferguson-related public discontent.”<sup>69</sup> They concluded that the “available evidence suggests that officers who perceive their supervisors as being fair are more likely to identify with their organization, comply with procedures, and hold more favorable attitudes toward community policing, procedural justice, and the public more generally.”<sup>70</sup> With respect to the Ferguson Effect, they emphasized that the current research does not support that it has resulted in increased crime rates; however, they did acknowledge that reductions in officer initiated activity

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<sup>65</sup> Nix and Wolfe, “Management-Level Officers’ Experiences with the Ferguson Effect,” 16.

<sup>66</sup> *Ibid.*, 19.

<sup>67</sup> Justin Nix, Scott E. Wolfe, and Bradley Campbell, “Command-level Police Officers Perception of the ‘War on Cops’ and De-policing,” *Justice Quarterly*, July 2017, 1–22.

<sup>68</sup> *Ibid.*, 19.

<sup>69</sup> Justin Nix and Scott E. Wolfe, “Sensitivity to the Ferguson Effect: The Role of Managerial Organizational Justice,” *Journal of Criminal Justice* 47 (2016): 13, doi: 10.1016/j.jcrimjus.2016.06.002.

<sup>70</sup> *Ibid.*

and order-maintenance policing that has been commonly used by law enforcement agencies to reduce crime could have a “lagged effect on crime problems in particular communities than recent research has been able to observe.”<sup>71</sup> Nix and Wolfe concluded that if officers believed that their agency practiced organizational fairness, they would be more motivated, less likely to believe their profession was more dangerous, that other officers were impacted by the negative publicity, and that their relations with the community have deteriorated.<sup>72</sup> Finally, they urged that law enforcement agencies “in the face of public scrutiny of immense proportions” must act and “strive to use organizational justice as a guiding principle of their managerial philosophy.”<sup>73</sup>

In another study, Nix and Wolfe considered how the Ferguson Effect might relate to community engagement on the part of police. They noted that community partnerships were critical in addressing local problems and that it was one of the recommendations of the President’s Task Force on 21st Century Policing.<sup>74</sup> They asserted that the recent number of police shootings involving black males has resulted in “media coverage, public protest, and political attention—even from President Obama—concerning police race relations and the use of force has consistently led to one conclusion: a non-trivial portion of the public wants change in law enforcement.”<sup>75</sup> They then concluded that it “appears to be a relationship between reduced motivation as a result of negative publicity and willingness to partner with the community. But this effect was washed away once we accounted for deputies’ perceptions of organizational justice and self-legitimacy.”<sup>76</sup>

A study in the *Cornell Law Review* by Rushin and Edwards considered if increased public scrutiny and external regulation contributed to de-policing and subsequently resulted in higher crime rates and they specifically studied agencies under

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<sup>71</sup> Nix and Wolfe, “Sensitivity to the Ferguson Effect: The Role of Managerial Organizational Justice,” 17.

<sup>72</sup> *Ibid.*

<sup>73</sup> *Ibid.*

<sup>74</sup> Scott E. Wolfe and Justin Nix, “The Alleged “Ferguson Effect” and Police Willingness to Engage in Community Partnership,” *Law and Human Behavior* 40, no. 1 (February 2016): 7, doi: <http://dx.doi.org/10.1037/lhb0000164>.

<sup>75</sup> *Ibid.*, 2.

<sup>76</sup> *Ibid.*, 7.

federally mandated reforms.<sup>77</sup> They concluded that jurisdictions where agencies were subject to federally mandated external regulation experienced a temporary “uptick” in some reported crime rates.<sup>78</sup> The study suggested that external regulation may come with “unforeseen costs” and that their findings provided some limited insight into the issue of de-policing.<sup>79</sup> Rushin and Edwards conceded the possibility that reforms are “inherently cumbersome” and “no matter how they are implemented, external regulations may always come with some de-policing costs.”<sup>80</sup> They added that this situation might have “the most far reaching implications, as it would suggest that that police regulations designed to combat misconduct by their very nature may come with de-policing side effects.”<sup>81</sup> It is important to note that although this study involved crime as it related to de-policing, much of the discussion involved both a historical view of de-policing or disengagement by police along with the current evolving context of the subject. It also involved only those agencies under federal supervision or under the Department of Justice (DOJ) Enforcement of § 14141 including either a review or existing agreement.

An older but still relevant study was done by Lan Shi of the University of Washington Department of Economics that examined the impacts of police scrutiny or oversight that occurred after the Cincinnati riot in April 2001. A black male subject was shot dead by a white Cincinnati police officer and a three-day riot ensued afterwards. A law was subsequently passed in May of the same year requiring officers to record the age, race, and gender of the drivers and occupants of all vehicles stopped by the Cincinnati Police.<sup>82</sup> According to the study, this law put officers in a “heighted fear” of being accused of “racial profiling.”<sup>83</sup> In the following year, the study revealed a significant

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<sup>77</sup> Rushin and Edwards, “De-policing.”

<sup>78</sup> Ibid., 768.

<sup>79</sup> Ibid.

<sup>80</sup> Ibid.

<sup>81</sup> Ibid., 769.

<sup>82</sup> Lan Shi, *Does Oversight Reduce Policing? Evidence from the Cincinnati Police Department after the 2001 Riot* (Washington, DC: Government of the United States of America—Office of the Comptroller of the Currency (OCC), 2005), <https://pdfs.semanticscholar.org/1f7e/d34d03e52760deb69be45fdc632dfff887d.pdf>.

<sup>83</sup> Ibid., 24.

drop in traffic enforcement and misdemeanor crimes, especially in areas with high concentrations of African-Americans.<sup>84</sup>

A very relevant discussion into the subject of disengagement, de-policing, and the Ferguson Effect involves examining the issues concerning recent events and police reform from the officer's perspective. Police attitudes and perceptions are a critical aspect of this study and they have the potential to impact greatly the way they view their jobs and the efforts they invest in policing. It is a difficult subject matter to measure and quantify fully because of the implications it may have on officers and their agencies. However, two recent surveys have attempted to provide some insight into officer attitudes and perceptions. This information will also better orient officers' behaviors with respect to the ongoing reforms occurring in law enforcement agencies and may clarify the specific conditions contributing to this phenomenon.

A study done by the Pew Research Center in 2016 found that 51% of police officers in their survey were frequently "frustrated and/or angry" during their job, 86% felt that fatal encounters between blacks and police have made their job harder, 76% of officers are less willing to use force when appropriate, 72% of officers are less willing to stop people they deem as suspicious, only 45% of the officers felt that their internal disciplinary process was "fair," and 92% of the officers strongly believed or somewhat agreed that the recent protests against police were prompted by bias against law enforcement.<sup>85</sup> This study was quite extensive and included a breakdown into many of the demographics of the respondents.

A survey done in 2017 by PoliceOne.Com and Louisiana State University of 3,346 sworn police officers of varied ranks, ages, agency type, tenure, assignment, region, agency size, shift time, and community demographics showed that 43.66% of respondents reported that they "strongly agreed" or "agreed" with the statement that it was "difficult to be motivated at work," 40.15% "strongly agreed" or "agreed" with the

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<sup>84</sup> Shi, *Does Oversight Reduce Policing? Evidence from the Cincinnati Police Department after the 2001 Riot*, 28.

<sup>85</sup> Rich Morin et al., "Behind the Badge, Amid Protests and Calls for Reform, How Police View Their Jobs, Key Issues and Recent Fatal Encounters between Blacks and Police," Pew Research Center, 2017, 1, <http://www.pewsocialtrends.org/2017/01/11/behind-the-badge/>.



statement, “I stop (traffic or pedestrian) as few people as possible while on duty,” 41.48% “strongly agreed” or “agreed” with the statement, “I am apprehensive about stopping minorities to investigate crime,” 56.03% “strongly agreed” or “agreed” with the statement, “I am fearful of losing my job in times I have to use force,” 45.32% advised that their “motivation to work” has decreased between August 2014 and June 2016 and 47% of respondents advised that the number of stops (traffic or pedestrian) have decreased between August 2014 and June 2016.<sup>86</sup> In the period after the Dallas police murders, July 2016 to the present, 36.84% advised that their “motivation to work” has decreased and 40.31% of respondents advised that the number of stops (traffic or pedestrian) have decreased.<sup>87</sup> The study also did polling on a number of law enforcement practices that have come under intense scrutiny and have resulted in a number of agencies falling under federal oversight. The study showed that 66% of respondents “strongly agreed” or “agreed” that police “should be aggressively enforcing the law for misdemeanor offenses” and 50% “strongly agreed” or “agreed” that police should use “stop and frisk” strategies for fighting crime.

As these two survey examples demonstrate, the issue of disengagement, de-policing, or the Ferguson Effect may be based on more than anecdotal evidence or perceptions and they can supply some interpretive value to the analysis of the subject.

#### **D. RESEARCH DESIGN**

The police reforms in the *Final Report* and the PERF’s *Guiding Principles* were published in 2015 and 2016, respectively, and law enforcement agencies that have elected to adopt them are undergoing a lengthy implementation process that will take many months if not years to accomplish. Thus, very little data is available that is predictive of police disengagement or de-policing occurring as a result of these reforms. To probe the research question of whether a causal connection exists between police reform and police

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<sup>86</sup> “2017 ‘Policing Post-Ferguson’ Survey Complete Results,” Police One, April 13, 2017, <https://www.policeone.com/major-event-impact/articles/326090006-2017-Policing-Post-Ferguson-survey-complete-results/>.

<sup>87</sup> Ibid.

disengagement or de-policing, a good understanding of these reforms is necessary to assist in a comparative analysis with the reforms identified in the subsequent case studies.

The police reforms in the *Final Report* and the PERF's *Guiding Principles* are summarized in Chapter II and individual recommendations, action items, and principles relevant to this study are highlighted for the purposes of providing a background for the subsequent case studies in Chapter III. A discussion of these selected reforms is illustrative of the extent that law enforcement agencies are impacted and the oversight the agencies are subject to upon adopting them.

Chapter III highlights three case studies of law enforcement agencies, the Chicago Police Department (CDP), the New York Police Department (NYPD), and the Baltimore Police Department (BPD), that are undergoing mandated police reform brought on by federal supervision either through the DOJ or the federal courts. As a result of these actions, the departments have been subject to significant changes both operationally and organizationally. In addition, the imposed reforms in these agencies have resulted in a major cultural shift from historical norms. It is then useful to study how these reforms have impacted the activities of officers working in these agencies and how they may have been impacted by the additional requirements and scrutiny brought upon them by the specific measures enacted as part of the process. In each case study, the resulting reforms are summarized and catalogued for comparison with the reforms in the *Final Report* and the PERF's *Guiding Principles*. The commonalities are displayed in tables showing how the specific reform measures in the case studies and the *Final Report* and the PERF's *Guiding Principles* are similar. In addition, the available data with respect to officer activity in each agency is analyzed in the context of the reform process occurring in each agency. These results are then further examined and interpreted in Chapter IV using the available academic studies and officer surveys to determine if they can provide additional background and an answer to the question of causality between police reform and police disengagement or de-policing.

Chapter V concludes with an overview of the findings of this thesis along with accompanying recommendations to mitigate any potential police disengagement or de-policing occurring in law enforcement agencies that elect to adopt the reforms in the

*Final Report* and PERF's *Guiding Principles*. The chapter closes by identifying needed areas of future research and study that apply directly to these reforms and how they are impacting law enforcement agencies to include further officer surveys focused on the reforms themselves.

## **II. OVERVIEW OF POLICE REFORM MEASURES**

### **A. INTRODUCTION**

This chapter highlights the major police reforms now being adopted by law enforcement agencies in the United States. These reforms have primarily originated from the President's Task Force on 21st Century Policing and initiatives developed through police professional organizations, such as the PERF, the (MCCA, and the IACP. This chapter includes an overview of two of the most influential works related to police reform: The *Final Report* and the PERF's *Guiding Principles*. Many of these reforms directly impact the activities of officers in the field including enforcement and other interactions with the public. In addition, the reforms in these documents are quite extensive, affecting not only law enforcement agencies but also the community, institutions of higher learning, state certifying authorities, and the federal government. This chapter summarizes the most relevant reforms to the study of police disengagement or de-policing. This summary provides a frame of reference for examining the research question of this thesis and allows the reader to make a comparative analysis with the mandated reforms in the law enforcement agencies under federal supervision covered in the case studies in Chapter III. A number of reoccurring themes emerge from this summary of reforms and are examined in the context of how they may impact policing in the agencies that adopt them.

### **B. FINAL REPORT OF THE PRESIDENT'S TASK FORCE ON 21ST CENTURY POLICING**

The centerpiece of modern police reform originated through the work of the President's Task Force on 21st Century Policing, which was created through an Executive Order signed by President Barack Obama on December 18, 2014. The members of the Task Force were charged by President Obama with "identifying best practices and offering recommendations on how policing practices can promote effective

crime reduction while building public trust.”<sup>88</sup> The *Final Report* was released in May 2015 and contained six main topic areas defined as “pillars”: “building trust and legitimacy, policy and oversight, technology and social media, community policing and crime reduction, training and education, and officer wellness and safety.”<sup>89</sup> Each pillar contained a number of “recommendations” and “action items” aimed at specific subject areas related to law enforcement practices and operations. These 59 recommendations and 92 actions items were supported by statements and other information generated from the work of the Task Force.

Many law enforcement agencies across the United States have adopted these reforms and are now incorporating the recommendations and action items into their policies and practices. However, since the *Final Report* is relatively new, the reforms are in various stages of implementation, as many of the recommendations require significant organizational and cultural changes as shown in the following paragraphs. In 2015, The COPS published an implementation guide to provide a road map for law enforcement agencies and involved stakeholders to implement the reforms contained within the *Final Report*.<sup>90</sup> The higher the degree of adherence to the individual recommendations and action items in the report, the greater the impact on the respective law enforcement agency.

### **1. Pillar #1: Building Trust and Legitimacy**

This pillar in the *Final Report* emphasizes “building trust and legitimacy.” The concept of “procedural justice” is found in this section and the report states that it is based on “four central principles; treating people with dignity and respect, giving individuals ‘voice’ during encounters, being neutral and transparent in decision making,

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<sup>88</sup> President’s Task Force on 21st Century Policing, *Final Report of the President’s Task Force on 21st Century Policing*, 1.

<sup>89</sup> *Ibid.*, I.

<sup>90</sup> Office of Community Oriented Policing Services, *President’s Task Force on 21st Century Policing Implementation Guide: Moving from Recommendations to Action* (Washington, DC: Office of Community Policing Services, 2015), [https://cops.usdoj.gov/pdf/taskforce/Implementation\\_Guide.pdf](https://cops.usdoj.gov/pdf/taskforce/Implementation_Guide.pdf).

and conveying trustworthy motives.”<sup>91</sup> The very first recommendation states, “Law enforcement culture should embrace a guardian mindset to build public trust and legitimacy. Toward that end, police and sheriffs’ departments should adopt procedural justice as the guiding principle for internal and external policies and practices to guide their interactions with the citizens they serve.”<sup>92</sup> The concept of “guardian” policing appears in this section as well and refers to police officers becoming the “trusted guardians of democracy” rather than the “warriors” that the culture of policing has embraced in the past.<sup>93</sup> This pillar recommends that the crime suppression and “zero tolerance” practices of police should be replaced with a philosophy that emphasizes “patience” and “protection.”<sup>94</sup>

This section also has recommendations and actions items on changing the police culture to one that requires “transparency” and “accountability,” which includes publishing department policies and giving information on police “stops, summonses, arrests, reported crime, and other law enforcement data aggregated by demographics.”<sup>95</sup> This transparency extends also to the reporting of information related to police misconduct.<sup>96</sup>

The reforms in this section also include the following:

- The initiation of non-enforcement activities to create positive interactions in communities with high numbers of enforcement driven contacts.
- The use of community members in the development and evaluation of policies and procedures.

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<sup>91</sup> Lorraine Mazerolle et al., “Legitimacy in Policing: A Systematic Review,” *Campbell Collection Library of Systematic Reviews* 9 (2013): 16, <https://campbellcollaboration.org/library/legitimacy-in-policing-a-systematic-review.html>.

<sup>92</sup> President’s Task Force on 21st Century Policing, *Final Report of the President’s Task Force on 21st Century Policing*, 11.

<sup>93</sup> Rahr and Rice, *From Warriors to Guardians: Recommitting American Police Culture to Democratic Ideals*, 7.

<sup>94</sup> Mather, “LAPD Urges Officers to be Community Guardians not Warriors on Crime.”

<sup>95</sup> President’s Task Force on 21st Century Policing, *Final Report of the President’s Task Force on 21st Century Policing*, 11.

<sup>96</sup> *Ibid.*

- Limiting the use of physical control equipment and techniques against vulnerable populations.
- Considering the damage to public trust when implementing crime reduction strategies. This reform was aimed at reducing “overly aggressive law enforcement strategies.”
- Researching the effectiveness of crime fighting strategies, especially as it relates to damaging community trust and legitimacy.
- Tracking the level of trust for police in communities through the use of surveys.
- Eliminating the use of local law enforcement in assisting the Department of Homeland Security in immigration enforcement.<sup>97</sup>

## **2. Pillar #2: Policy and Oversight**

Policy and oversight reforms are in the second pillar of the *Final Report*. This pillar contains direction for law enforcement agencies to collaborate with community members in developing policies and strategies that involve improving relationships and encouraging greater community engagement in neighborhoods disproportionately affected by crime.<sup>98</sup>

This section also recommends significant oversight with respect to the use of force and includes recommendations for law enforcement agencies to

- Adopt comprehensive policies covering training, investigations, prosecutions, data collection, information sharing, and availability to the public.
- Conduct training that emphasizes, “de-escalation and alternatives to arrest or summons in situations where appropriate.”

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<sup>97</sup> President’s Task Force on 21st Century Policing, *Final Report of the President’s Task Force on 21st Century Policing*, 14–18.

<sup>98</sup> *Ibid.*, 20.

- Adopt policies mandating external and independent review of police use of force resulting in death or injury.
- Adopt policies mandating “the use of external and independent prosecutors in cases of police use of force resulting in death, officer-involved shootings resulting in injury or death, or in custody deaths.”<sup>99</sup>
- Adopt policies that require reporting all police shootings and in custody deaths to the federal government.
- “Establish a Serious Incident Review Board comprising sworn staff and community members to review cases involving officer-involved shootings and other serious incidents that have the potential to damage community trust or confidence in the agency.”<sup>100</sup>

The pillar on oversight and policy also recommends that law enforcement agencies “collect, maintain, and analyze demographic data on all detentions (stops, frisks, searches, summons, and arrests.”<sup>101</sup> When dealing with mass demonstrations, law enforcement agencies were recommended to “employ a continuum of managed tactical resources that are designed to minimize the appearance of a military operation and avoid provocative tactics and equipment that undermine civilian trust” and in responding to these demonstrations they “should address procedures for implementing a layered response” to “prioritize de-escalation and a guardian mindset.”<sup>102</sup> The pillar also recommended civilian oversight of law enforcement agencies through a board, commission, or other means as defined by the community.<sup>103</sup>

Finally, this pillar concluded with some additional policy recommendations on enforcement measures by police that include:

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<sup>99</sup> President’s Task Force on 21st Century Policing, *Final Report of the President’s Task Force on 21st Century Policing*, 21.

<sup>100</sup> *Ibid.*, 22.

<sup>101</sup> *Ibid.*, 24.

<sup>102</sup> *Ibid.*, 25.

<sup>103</sup> *Ibid.*, 26.



- Discouraging the use of quotas involving “tickets, citations, arrests, or summonses, or to initiate contacts with citizens for reasons not directly related to improving public safety, such as generating revenue.”
- Requiring that law enforcement officers seek consent before conducting searches and advising citizens that they have the right to refuse the search. This consent should include a written acknowledgement from the citizen in these circumstances.
- Requiring that officers “identify themselves by name, rank, and command, and provide that information in writing to individuals they have stopped.”
- Requiring law enforcement agencies to adopt policies that prohibit “profiling and discrimination based on race, ethnicity, national origin, religion, age, gender, gender identity/expression, sexual orientation, immigration status, disability, housing status, occupation, and language fluency.”<sup>104</sup>

### **3. Pillar #3: Technology and Social Media**

The reforms in this pillar involve technology and social media and are intended to help police departments leverage modern technology to increase trust and legitimacy between police and the community. This pillar did not have a specific recommendation for implementing body-worn cameras (BWC) because consensus is not unanimous regarding their use and because of privacy issues related to the videos taken by law enforcement officers. However, for agencies that elect to utilize BWCs, an action item refers them to the Bureau of Justice Assistance’s (BJA) “body worn camera tool kit” to assist them during the implementation process.<sup>105</sup> This assistance was an acknowledgement of the challenges and sensitivities associated with the purchase and implementation of a BWC program.

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<sup>104</sup> President’s Task Force on 21st Century Policing, *Final Report of the President’s Task Force on 21st Century Policing*, 26–28.

<sup>105</sup> *Ibid.*, 36.

Additional technology recommendations in this pillar include:

- Requirements for public oversight, input, and evaluation in the selection and use of technology.
- Adopting policies and best practices for “technology-based community engagement that increases community trust and access.”

#### **4. Pillar #4 Community Policing and Crime Reduction**

This pillar was devoted to community policing and crime reduction and promoted the adoption of policies and strategies that reinforced the need for engagement between police and the communities they serve.<sup>106</sup> In fact, it recommends that “community policing” be “infused throughout the culture and organizational structure of law enforcement agencies.”<sup>107</sup> In addition, it called for officers to be evaluated on their efforts in community engagement.<sup>108</sup>

This pillar also recommends that law enforcement agencies adopt “preferences for seeking the ‘least harm’ resolutions, such as diversion programs or warnings and citations in lieu of arrest for minor infractions.”<sup>109</sup> This reform is illustrative of an emerging trend for law enforcement agencies to channel criminal offenders into remedial programs instead of engaging in heavy enforcement or “zero tolerance” strategies.

Another main component of this pillar is law enforcement’s handling of persons in crisis. It recommends the use of “multidisciplinary, community team approaches for planning, implementing, and responding to crisis situations with complex causal factors.”<sup>110</sup> In other words, it refers to a more collaborative use of both police and community resources to address unique problems, such as mental illness, homelessness, drug dependency, and domestic violence.

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<sup>106</sup> President’s Task Force on 21st Century Policing, *Final Report of the President’s Task Force on 21st Century Policing*, 42.

<sup>107</sup> *Ibid.*, 43.

<sup>108</sup> *Ibid.*, 44.

<sup>109</sup> *Ibid.*, 43.

<sup>110</sup> *Ibid.*, 44.

Additional reforms in this pillar include:

- Encouraging law enforcement agencies to emphasize to their officers the importance of speaking to individuals with respect and refrain from using offensive or harsh language because it can escalate situations.
- Law enforcement agencies “should develop programs that create opportunities for patrol officers to regularly interact with neighborhood residents, faith leaders, and business leaders.”
- Law enforcement agencies should “schedule regular forums and meetings where all community members can interact with police and help influence programs and policy.”
- “Law enforcement agencies should establish formal community/citizen advisory committees to assist in developing crime prevention strategies and agency policies as well as provide input on policing issues.”<sup>111</sup>

## **5. Pillar #5: Training and Education**

Training and education was the emphasis of this pillar, which included many reforms that have the potential to change significantly the way in which law enforcement agencies train their personnel. It calls for agencies to model their training programs after adult learning principles and scenario-based exercises rather than the “boot camp” model that is common to many academies today.<sup>112</sup> It also recommends that law enforcement agencies should “engage community members in the training process” to make it more transparent and allow the community to weigh in on its development and delivery.<sup>113</sup>

This pillar also has a number of training recommendations directed at the state certifying boards, or Peace Officer Standards and Training (POST), of the individual states. These measures have a direct impact on all state officers, as they are required to

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<sup>111</sup> President’s Task Force on 21st Century Policing, *Final Report of the President’s Task Force on 21st Century Policing*, 44–46.

<sup>112</sup> *Ibid.*, 53.

<sup>113</sup> *Ibid.*, 54.

comply with the recommendations if adopted to retain their certification in law enforcement. These measures include:

- POST requirement that all officers receive crisis intervention training (CIT).
- POST requirement that basic officers receive instruction on improving “social interaction” in addition to tactical skills.
- POST requirement that all officers receive training on the “disease of addiction.”
- POST requirement that all officers receive training on “recognizing and confronting implicit bias and cultural responsiveness.”
- POST requirement that all officers receive training on “policing in a democratic society.”<sup>114</sup>

Finally, this pillar also directs law enforcement agencies to provide training on “cultural diversity” and recommends that this training include the assistance of “advocacy groups that represent the viewpoints of communities that have traditionally had adversarial relationships with law enforcement.”<sup>115</sup>

## **6. Pillar #6: Officer Wellness and Safety**

The final pillar on officer wellness and safety is exclusively focused on measures that contribute to the well-being of police officers and little if any impact occurs relating to their activities in the field.

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<sup>114</sup> President’s Task Force on 21st Century Policing, *Final Report of the President’s Task Force on 21st Century Policing*, 56–59.

<sup>115</sup> *Ibid.*, 58.

### C. POLICE EXECUTIVE RESEARCH FORUM'S 30 GUIDING PRINCIPLES ON USE OF FORCE

Less than a year after the *Final Report*, the PERF published the *Guiding Principles*. It has prompted many law enforcement agencies to reevaluate their use of force policies and its principles are being adopted in whole or in part by many of these same agencies. The *Guiding Principles* were developed to provide best practices for officers in dealing with persons who are unarmed or armed with weapons other than firearms and persons suffering from “mental illness, a developmental disability, a mental condition such as autism, a drug addiction, or another mental condition that can cause them to behave erratically and potentially dangerously.”<sup>116</sup> Some of these principles mirror recommendations in the *Final Report* and also have the potential to impact significantly the current practices of law enforcement agencies that elect to adopt them. The principles are categorized as policies, training and tactics, and equipment. The following paragraphs summarize a number of these principles relevant to this thesis.

The first principle is a general philosophical statement, “The sanctity of human life should be at the heart of everything an agency does.”<sup>117</sup> It also emphasizes the “importance of treating all persons with dignity and respect,” which is the same concept found within procedural justice in the *Final Report*.<sup>118</sup>

The second principle states, “Agencies should continue to develop best policies, practices, and training on the use-of-force issues that go beyond the minimum requirements of *Graham v. Connor*.”<sup>119</sup> This principle is a departure from the standard of “objective reasonableness” set forth by the United States Supreme Court in that case.<sup>120</sup> It recommends that law enforcement agencies “go beyond the bare requirements of *Graham*, by adopting more detailed policies and training on issues such as shooting at moving vehicles, rules on pursuits, guidelines on the use of Electronic Control Weapons

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<sup>116</sup> Police Executive Research Forum Critical Issues in Policing Series, *Guiding Principles on Use of Force*.

<sup>117</sup> *Ibid.*, 34.

<sup>118</sup> *Ibid.*

<sup>119</sup> *Ibid.*, 35.

<sup>120</sup> *Graham v. Conner*, 490 U.S. 386 (1989), <http://caselaw.findlaw.com/us-supreme-court/490/386>.

(ECW's), and other use-of-force issues, that are not mentioned in or required by Graham."<sup>121</sup>

Additional principles classified as policies include:

- Requiring that the use-of-force meet the “test of proportionality” or using the appropriate force to meet lawful objectives.
- Adopting de-escalation as departmental policy along with emphasizing crisis intervention policies and tactics.
- Requiring officers to intervene to prevent other officers from using deadly force.
- Prohibiting officers from discharging their firearms at moving vehicles.
- Prohibiting “the use of deadly force on individuals who pose a danger to only themselves.”<sup>122</sup>
- Requiring law enforcement agencies to “document use-of-force incidents, and review data and enforcement practices to ensure that they are fair and non-discriminatory.”
- Requiring agencies to issue regular reports to the public on the use of force.
- Requiring that “all critical police incidents resulting in death or serious bodily injury should be reviewed by specially trained personnel.”
- Requiring that law enforcement agencies be “transparent in providing information following use-of-force incidents.”<sup>123</sup>

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<sup>121</sup> Police Executive Research Forum Critical Issues in Policing Series, *Guiding Principles on Use of Force*, 36.

<sup>122</sup> *Ibid.*, 48.

<sup>123</sup> *Ibid.*, 38–51.

These “policies,” many of which are closely aligned with the recommendations in the *Final Report*, placed additional demands on law enforcement agencies that require them to develop training programs to prepare their officers properly in carrying out the new expectations of their departments. To accomplish this objective, a number of additional principles were classified as “training and tactics” and were directed at assisting in the implementation process.

Principle 14 directs agencies to ensure that their “training academy content and culture reflect agency values.”<sup>124</sup> This principle illustrated the potential impact these changes would have on law enforcement agencies and it was an acknowledgement that it was a process rather than just a policy or training program. The new culture would be more in alignment with the “core values, attributes, and skills that the agency wants its personnel to exhibit in their work in the community.”<sup>125</sup>

One of the most significant and controversial changes was found in Principle 16, which concluded that the “21-foot rule” was an “outdated concept” and needed to be replaced with tactics that took advantage of “distance, cover, and time.”<sup>126</sup> The “21-foot rule,” a widely trained concept essentially demonstrated to officers that they were at significant risk of a lethal attack when facing an assailant armed with an edged weapon within 21 feet. As a result, an officer may be justified in utilizing deadly force in these situations. The recommended training called for agencies to eliminate all references to the “21-foot rule” in policies and training in lieu of establishing a “reaction gap”, or “safe zone” between officers and suspects.<sup>127</sup> This philosophical shift now called for officers to avoid close engagement with suspects and seek out barriers and distance to avoid the possibility of having to use deadly force.

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<sup>124</sup> Police Executive Research Forum Critical Issues in Policing Series, *Guiding Principles on Use of Force*, 52.

<sup>125</sup> *Ibid.*

<sup>126</sup> *Ibid.*

<sup>127</sup> *Ibid.*, 54.

Principle 17 required that “de-escalation be core theme of an agency’s training program.”<sup>128</sup> This principle called for training in communication skills, using time to an officer’s advantage, considering proportionality in the use of force, and simply not having officers escalate situations through their actions or demeanor.<sup>129</sup>

Principle 19 recommends that agencies “implement a cohesive agency training program on dealing with people with mental health issues.”<sup>130</sup> Specifically, this recommendation involved training officers on identifying and reacting to mental health and substance abuse issues along with the skill of “crisis intervention” to prevent encounters where force may have to be used on subjects in crisis.

Principle 22 calls for agencies to “provide a prompt supervisory response to critical incidents to reduce the likelihood of unnecessary force.”<sup>131</sup> This type of response increases the oversight of developing incidents where officers are facing potential threats from suspects with or without weapons.

Finally, a number of principles were related to the equipment that officers had available to them during incidents. One recommendation states that officers utilize “less lethal” options when dealing with suspects and that agencies consider alternatives to the current chemical sprays they presently carry.<sup>132</sup> Also related to equipment was a discussion concerning ECWs and how agencies should ensure they are used consistent with the “53 Guidelines released by PERF and the U.S. Department of Justice, Office of Community Oriented Policing Services (COPS) in 2011.”<sup>133</sup> It emphasizes that an “ECW deployment that is not effective does not mean that officers should automatically move to their firearms.”<sup>134</sup>

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<sup>128</sup> Police Executive Research Forum Critical Issues in Policing Series, *Guiding Principles on Use of Force*, 54.

<sup>129</sup> *Ibid.*, 54–55.

<sup>130</sup> *Ibid.*, 55.

<sup>131</sup> *Ibid.*, 62.

<sup>132</sup> *Ibid.*, 65–66.

<sup>133</sup> *Ibid.*, 67.

<sup>134</sup> *Ibid.*



The PERF released the Integrated Communications, Assessment, and Tactics (ICAT) Training Guide in October 2016 to assist law enforcement agencies in implementing the *Guiding Principles*.<sup>135</sup> In addition, this guide was designed to assist agencies in training their officers on critical decision-making and communication skills when dealing with various threats from subjects who are either unarmed or armed with weapons other than firearms. The depth of the training programs found in this guide is also illustrative of the culture change required for law enforcement agencies to implement these reforms.

#### **D. SUMMARY**

The recommendations in the *Final Report* and the PERF *Guiding Principles* have been the foundation for police reform since the recent events involving law enforcement in Ferguson, Missouri, New York, Baltimore, Chicago, and other cities across the United States. These reforms in both the *Final Report* and the PERF *Guiding Principles* have arisen from many national discussions, debates about what the role of police should be, and how law enforcement agencies can establish trust and legitimacy within the communities they serve. As the preceding paragraphs have shown, several reoccurring themes and concepts have emerged and their implementation no doubt will significantly impact the operations of law enforcement agencies in addition to transforming the culture in which they operate.

Procedural justice, fairness, respect, trust, and dignity are just a few words commonly found in the literature of these reforms along with transparency, accountability, and oversight. These concepts are all aimed at building better relationships between police and the citizens in the communities they serve. However, more concrete measures call for systematic changes in the way law enforcement agencies conduct their business and police officers perform their duties. These measures include:

- An emphasis on community policing and engagement.

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<sup>135</sup> Critical Issues in Policing Series, *Integrating, Communications, Assessment, and Tactics*.

- Community representation in development of department policy, training, enforcement strategies, and oversight of department affairs.
- The collection, accessibility, and publication of data with respect to police stops, searches, arrests, summonses, traffic enforcement, and other contacts. This data includes information regarding the race, ethnicity, age, and other demographics on persons interacting with police.
- Increased documentation required for all police activities to include the use of force, stops, searches, arrests, summonses, traffic enforcement, and other contacts.
- An affirmative responsibility to evaluate this data to determine if any disparities arise in the manner in which specific groups are impacted by police strategies and enforcement.
- A comprehensive review of all police incidents involving the significant injury or death of citizens. This review includes community representatives and the relevant prosecutorial authority.
- An increased transparency, oversight, and review of most police operations.
- Increased accountability for both the decision making and actions of individual officers.
- A preference for non-enforcement resolutions to crime problems instead of heavy enforcement or “zero tolerance” policing.
- Significant changes to use of force policies and tactics employed by police.
- An emphasis on de-escalation or tactical retreat when encountering subjects who are either unarmed or armed with less than lethal weapons.

- The use of current technology, such as body-worn cameras, to increase both transparency and accountability.
- Comprehensive training in procedural justice, community engagement, crisis intervention, use of force, and other concepts or requirements related to contemporary police reform.

The reforms in the *Final Report* and the PERF *Guiding Principles* are relatively new having been released in in 2015 and 2016, respectively. The provisions in both works are not mandatory for law enforcement agencies and the level of acceptance may vary within these agencies. The reforms contain many recommendations and actions items that will require organizational changes for many agencies and significant revisions in policies, operations, and training. As a result, the implementation is a long arduous process that in many cases involves additional funding for both equipment and personnel. The road map to implementation is not fully complete as projects are still ongoing to develop guidance for law enforcement agencies that elect to adopt these reforms. One such effort is the “Advancing 21st Century Policing Project” by the DOJ COPS. This project has selected 15 agencies nationwide that have already “made strides in advancing task force recommendation implementation” where the COPS office will “provide hands-on assessments and technical assistance.”<sup>136</sup> This effort will generate “guiding materials for other agencies to use in their efforts to advance those policing practices.”<sup>137</sup> In reality, the reforms in both the *Final Report* and the PERF *Guiding Principles* are a work in progress and their full impact on law enforcement agencies will be known in the coming years not months.

The following chapter features three case studies involving the police departments in Chicago, New York, and Baltimore. These agencies have been subjected to police reforms brought on by both high profile incidents and practices deemed discriminatory by many in the community. As a result, they fell under federal supervision where the

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<sup>136</sup> Community Oriented Policing Services, *President’s Task Force on 21st Century Policing: One-Year Progress Report* (Washington, DC: Office of Community Oriented Policing Services, 2016), 13, <https://ric-zai-inc.com/Publications/cops-w0805-pub.pdf>.

<sup>137</sup> *Ibid.*, 14.

departments subsequently experienced a reform process and agreements not substantively different from those reforms found in the *Final Report* and the *PERF Guiding Principles*. These case studies consider the impacts on agency outputs in terms of proactive officer activity along with some examination of crime rates. These case studies may provide some insight as to how these police reforms can affect law enforcement agencies that elect to adopt them.

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### **III. CASE STUDIES OF AGENCIES UNDER FEDERAL SUPERVISION**

#### **A. INTRODUCTION**

A number of law enforcement agencies in the United States have undergone intense federal scrutiny for activities deemed discriminatory or engaging in systemic practices alleged to violate the civil rights of residents. As a result, they have been subject to federal consent decrees or other federal supervision that mandated reforms to their policies and operations. Three of these agencies were selected for case studies to determine how the mandated reform process impacted the operational practices of their officers. Of primary importance, however, is how these reforms affected the self-initiated or proactive activities, such as field interviews, investigative stops, and the enforcement of criminal laws. The agencies selected were the Chicago Police Department (CPD), the New York Police Department (NYPD), and the Baltimore Police Department (BPD). Each of these agencies had a high-profile incident involving one or more of their officers that resulted in the death of an African-American male citizen during a police encounter. In each case, the incident was viewed by certain constituency groups as being the result of a pattern of discriminatory or biased policing aimed at minority populations by the officers of these agencies. Each incident prompted extensive media coverage, much of which reflected negatively on the agency and its officers. In all three cities, a number of these constituency groups and other stakeholders engaged in organized efforts to implement comprehensive reforms that resulted in increased scrutiny of departmental practices and significant changes to their operations. In addition, the DOJ or the federal court conducted a review of these agencies to determine the legality of their practices and ascertain if they engaged in systemic discriminatory policing.

In examining each case, a background is provided as to the controversial practices of the department along with an overview of the particular incident that prompted the need for police reform. The reform process is summarized that includes relevant information and actions of the involved constituency groups and stakeholders along with the dates of salient events or actions involving the impending reforms. Also, the findings

and recommendations from the DOJ or federal court oversight are summarized and the resulting reforms then are categorized for the purposes of determining their impact on specific departmental activities. Finally, an examination is made to determine how these particular reform measures affected the outputs of officers with respect to field interviews, investigative stops, and the enforcement of criminal laws. If these numbers indicated a sustained level of decreased activity in these categories in the time period after the reform process was initiated, a correlation might be made that this disengagement was attributed in some way to the reforms themselves or other factors related to the reforms absent any other plausible explanation.

The adopted reforms in all three case studies are compared to the police reforms recommended by the *Final Report* and the *PERF Guiding Principles* to determine if consistencies or similarities occur in the specific measures relating to the operational activities of police officers. Specifically, if provisions in the reforms negatively impact operational practices of police by causing increased scrutiny or additional burdens on officers, it can be relevant in the study of police behavior with respect to the issue of disengagement. This comparison is important in testing the hypothesis of this thesis, which is that agencies adopting police reforms in the *Final Report* and the *PERF Guiding Principles* may be subject to a level of disengagement or de-policing as that experienced by the CPD, NYPD, and BPD.

## **B. CHICAGO POLICE DEPARTMENT CASE STUDY**

The first case study involves an agency currently under federal supervision by the DOJ for widespread problems involving the use of force, civil rights violations, and a lack of accountability. The CPD is now undergoing significant reform prompted by a comprehensive review of department practices and this study will cover the reform process along with the resulting impacts specific to CPD's compliance with the recommendations aimed at correcting the identified deficiencies in the agency.

## 1. Background and Reforms

The CPD is a law enforcement agency with 12,902 employees including over 12,000 sworn officers.<sup>138</sup> The agency serves a heavily urbanized population of 2,704,958 residents.<sup>139</sup> The community is racially diverse with 45% of the residents being white, 32.9% black, and the remainder being Hispanic or other ethnic minorities.<sup>140</sup> The department has been the subject of intense controversy after the police involved shooting of 17 year-old Laquan McDonald who was shot 16 times on October 20, 2014 by Officer Jason Van Dyke.<sup>141</sup> This high-profile shooting was captured on video and it prompted both local and federal investigations.<sup>142</sup> After the release of this video, Chicago Mayor Rahm Emanuel fired CPD Superintendent Garry McCarthy because of the controversy surrounding the department's investigation of the shooting and the alleged delay in charging Officer Van Dyke due to political considerations.<sup>143</sup> On December 7, 2015, the DOJ opened a civil "pattern or practice" investigation into the CPD for the purposes of determining if "systemic violations of the Constitution or federal law" by officers of the department occurred and indicated that the focus would be on the department's "use of force, including racial, ethnic, and other disparities in the use of force, and its system of accountability."<sup>144</sup> Also in December 2015, the City of Chicago established the Police Accountability Task Force (PATF), which was charged with developing "comprehensive

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<sup>138</sup> "Crime in the United States, UCR Data 2014," Federal Bureau of Investigation, accessed November 5, 2017, [https://ucr.fbi.gov/crime-in-the-u.s/2014/crime-in-the-u.s.-2014/tables/table-78/table-78-by-state/Table\\_78\\_Full\\_time\\_Law\\_Enforcement\\_Employees\\_Illinois\\_by\\_Cities\\_2014.xls](https://ucr.fbi.gov/crime-in-the-u.s/2014/crime-in-the-u.s.-2014/tables/table-78/table-78-by-state/Table_78_Full_time_Law_Enforcement_Employees_Illinois_by_Cities_2014.xls).

<sup>139</sup> "Quick Facts, Chicago, IL, 2016," U.S. Census Bureau, accessed November 5, 2017, <https://www.census.gov/quickfacts/fact/table/chicagocityillinois/PST045216>.

<sup>140</sup> "Community Facts, 2010 U.S. Census Summary File 1, Chicago, IL, 2010," U.S. Census Bureau, accessed November 5, 2017, <https://factfinder.census.gov/faces/nav/jsf/pages/index.xhtml#>.

<sup>141</sup> Associated Press, "A Look at High-Profile Police Shootings," *Business Insider*, May 3, 2017, <http://www.businessinsider.com/ap-a-look-at-high-profile-police-shootings-2017-5>.

<sup>142</sup> *Ibid.*

<sup>143</sup> David A. Graham, "The Firing of Chicago Police Chief Garry McCarthy," *Atlantic*, December 1, 2015, <https://www.theatlantic.com/national/archive/2015/12/garry-mccarthy-fired-chicago/418203/>.

<sup>144</sup> "Justice Department Opens Pattern or Practice Investigation into the Chicago Police Department," Department of Justice, Office of Public Affairs, December 7, 2015, <https://www.justice.gov/opa/pr/justice-department-opens-pattern-or-practice-investigation-chicago-police-department>.



findings with specific recommendations for change in the short, interim, and long-term within the Chicago Police Department.”<sup>145</sup>

In April 2016, the PATF called for “sweeping changes to the nation’s second-largest police department including acknowledging a history of racial discrimination and disbanding an agency in charge of investigating officer misconduct.”<sup>146</sup> The Independent Police Review Authority (IPRA) was abolished because of its “sluggish investigations that rarely led to discipline” and replaced it with a civilian agency “that has more independence and more resources to do its work.”<sup>147</sup> In April 2016, the PATF issued a report making recommendations for change in five areas: community relations, oversight and accountability, de-escalation, early intervention and personnel concerns, and video release protocols.<sup>148</sup> The report had “over a hundred recommendations for improving transparency and accountability.”<sup>149</sup> These recommendations called for increased scrutiny on many aspects of the department, and in many instances, involved areas covered by the recommendations, and action items found in the *Final Report* and *PERF Guiding Principles*.

In January 2017, the DOJ issued its report after its investigation into the CPD.<sup>150</sup> The report concluded that CPD officers “engage in a pattern or practice of using force, including deadly force that is unreasonable” and further found that “CPD officers’ force practices unnecessarily endanger themselves and others and result in unnecessary and

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<sup>145</sup> “What is the Task Force?,” Chicago Police Accountability Task Force, accessed June 18, 2017, <https://chicagopatf.org/about/what-is-police-accountability-task-force/>.

<sup>146</sup> Mark Peters and Joe Barrett, “Chicago Task Force Calls for Police Overhaul, Cites History of Racism,” *Wall Street Journal*, April 13, 2016, <http://www.wsj.com/articles/chicago-police-task-force-expected-to-release-critical-report-amid-new-protests-1460563513>.

<sup>147</sup> Dan Hinkel and Jodi S. Cohen, “Emanuel Plans to Scrap Beleaguered Police Oversight Agency IPRA,” *Chicago Tribune*, May 14, 2016, <http://www.chicagotribune.com/news/local/breaking/ct-ipra-abolish-met-20160513-story.html>.

<sup>148</sup> Police Accountability Task Force, *Recommendations for Reform: Restoring Trust between the Chicago Police Department and the Communities They Serve* (Chicago: Police Accountability Task Force, 2016), 6, [https://chicagopatf.org/wp-content/uploads/2016/04/PATF\\_Final\\_Report\\_Executive\\_Summary\\_4\\_13\\_16-1.pdf](https://chicagopatf.org/wp-content/uploads/2016/04/PATF_Final_Report_Executive_Summary_4_13_16-1.pdf).

<sup>149</sup> “Investigation of the Chicago Police Department,” Department of Justice, Civil Rights Division and United States Attorney’s Office Northern District of Illinois, January 13, 2017, 3, <https://www.justice.gov/opa/file/925846/download>.

<sup>150</sup> *Ibid.*

avoidable shootings and other uses of force.”<sup>151</sup> A number of issues were also brought out relating to its internal review process, especially related to the investigation of officer-involved shootings. The 164-page document articulated a number of deficiencies occurring within the department along with a number of “recommendations” that were designed to remedy the issues raised in the report. These recommendations included reform provisions aimed at the use of force, force reporting, officer-involved shooting investigations, improving interactions with people in crisis, accountability, internal investigations, training, officer wellness and safety, data collection and transparency, community policing, and several aspects of procedural justice.<sup>152</sup> These proposed recommendations or reforms are very similar to those contained within the *Final Report* and *PERF Guiding Principles*.

On May 17, 2017, the CPD announced a “sweeping change to its use of force policy, embracing the concepts of de-escalation during critical incidents and the sanctity of life.”<sup>153</sup> These new rules “closely adhere to the controversial ‘30 Guiding Principles’ unveiled by the Washington-based Police Executive Research Forum in January 2016 and supported by nearly every big-city police chief but strongly opposed by the Fraternal Order of Police officers union and the International Association of Chiefs of Police, made up largely of the heads of smaller departments.”<sup>154</sup> Accountability was emphasized in the policy and it required officers to intervene if they observed other officers engaging in violations involving force along with requiring them to report these violations to their supervisor.<sup>155</sup> The policy also included revised direction regarding the use of CEW), chemical sprays, and police dogs in addition to limiting the officer’s authority to shoot at fleeing persons unless they were a threat to officers or others.<sup>156</sup>

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<sup>151</sup> “Investigation of the Chicago Police Department,” 5.

<sup>152</sup> *Ibid.*, 150–162.

<sup>153</sup> Tom Jackman, “Chicago Police Adopt De-Escalation in Sweeping Change to Use-of-Force Policy,” *Washington Post*, May 17, 2017, [https://www.washingtonpost.com/news/true-crime/wp/2017/05/17/chicago-police-adopt-de-escalation-in-sweeping-change-to-use-of-force-policy/?utm\\_term=.3e90135cb0d9](https://www.washingtonpost.com/news/true-crime/wp/2017/05/17/chicago-police-adopt-de-escalation-in-sweeping-change-to-use-of-force-policy/?utm_term=.3e90135cb0d9).

<sup>154</sup> *Ibid.*

<sup>155</sup> *Ibid.*

<sup>156</sup> *Ibid.*

A 2016 press release from the City of Chicago advised that “Mayor Rahm Emmanuel and Chicago Police Department (CPD) Superintendent Eddie Johnson are fully committed to continuing to make broad, thoughtful and meaningful reforms that will provide officers with the clarity, certainty and standards they need to do their jobs and build on our work to restore trust between police the communities they serve.”<sup>157</sup> This release added that the City of Chicago and the CPD began the process of implementing reforms in the following six areas: (1) transparency, (2) accountability and oversight, (3) mental health response, (4) community—police relations, (5) use of force and de-escalation, and (6) police training.<sup>158</sup> These reforms were announced prior to the publication of the DOJ report on the CPD.

One of the most controversial practices of the CPD was the investigative stop procedure or “stop and frisk” activities of officers that many deemed to be disproportionately directed at African-American residents in the city. This concern was first brought forward by the American Civil Liberties Union (ACLU) of Chicago in September 2013 when it complained that the process was unlawful, not properly reported or documented, and was lacking relevant data on the extent of the practice.<sup>159</sup> This issue was later addressed by the PATF, the ACLU, and the DOJ in their review of the CPD. In March 2015, the ACLU published a comprehensive report and concluded that the City of Chicago “failed to ensure that officer’s use of stop and frisk is lawful” and it was also used disproportionately on minorities.<sup>160</sup> On August 7, 2015, a “landmark agreement” was reached between the CPD and the ACLU of Illinois involving investigative stops in Chicago. The agreement reported that there “will be an independent evaluation of the

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<sup>157</sup> City of Chicago, *Chicago Police Department 2016 Reforms* (Chicago: City of Chicago, 2017), 1, <https://www.cityofchicago.org/content/dam/city/depts/mayor/Press%20Room/Press%20Releases/2017/January/CPD2016Reforms.pdf>.

<sup>158</sup> *Ibid.*

<sup>159</sup> “Chicago’s Data Collection and Oversight over Stop and Frisks Is Insufficient,” ACLU of Chicago, September 25, 2013, <http://www.aclu-il.org/chicagos-data-collection-and-oversight-of-stop-and-frisks-is-insufficient/>.

<sup>160</sup> ACLU of Illinois, *Stop and Frisk in Chicago* (Chicago: ACLU of Illinois, 2015), 2–3, [http://www.aclu-il.org/wp-content/uploads/2015/03/ACLU\\_StopandFrisk\\_6.pdf](http://www.aclu-il.org/wp-content/uploads/2015/03/ACLU_StopandFrisk_6.pdf).

practices, and increased transparency and public disclosure of these stops.”<sup>161</sup> Former U.S. Magistrate Arlander Keys was appointed to oversee the CPD’s investigative stop practices and procedures, which included a review and analysis of the CPD’s stop data and training.<sup>162</sup> He was given the authority to make recommendations for changes in CPD policies and training based on the data and to increase transparency; bi-annual public reports would be published assessing the practices of stop and frisk in Chicago, which included an assessment of the effectiveness of the policy changes.<sup>163</sup> The agreement also included the following direction:

The agreement also calls for heightened training of officers, designed to ensure that investigatory stops in Chicago are conducted only where there is reasonable suspicion of criminal activity and that protective pat downs are performed only when legally justified. The training will be followed up by quarterly or semiannual audits by CPD and can lead to re-training, enhanced supervision or discipline of officers who engage in unlawful stops and pat downs or who violate CPD procedures.<sup>164</sup>

This quote was a clear statement on the oversight of investigative stops and the implications for officers who violated the provisions of the agreement. In addition, the investigative stops going forward would be more thoroughly documented. Prior to this reform, CPD officers completed a “contact card” with selected information involving the nature of the stop and some data on the person contacted.<sup>165</sup> After the ACLU report, a new investigative stop procedure was adopted by the CPD that required officers to complete an “investigative stop report” (ISR) recording very detailed information regarding every aspect of the stop and the person contacted.<sup>166</sup> This two-page document created controversy in the CPD because officers complained that they were both time-

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<sup>161</sup> ACLU of Illinois, *Landmark Agreement Reached on Investigatory Stops in Chicago* (Chicago: American Civil Liberties Union of Illinois, 2015), 1, <http://home.chicagopolice.org/wp-content/uploads/2015/08/Click-here-for-more-information-on-the-News-Release1.pdf>.

<sup>162</sup> *Ibid.*, 2.

<sup>163</sup> *Ibid.*

<sup>164</sup> *Ibid.*

<sup>165</sup> “Comparing Contact Cards to Investigative Stop Reports,” *Chicago Tribune*, February 25, 2016, <http://www.chicagotribune.com/news/ct-met-contact-cards-stop-reports-police-gfx-20160226-htm1story.html>.

<sup>166</sup> *Ibid.*

consuming and confusing to complete and investigative stops significantly plummeted as a result.<sup>167</sup> Although the ISR was subsequently modified, a page and a half document was still required of officers on every stop.<sup>168</sup>

Another major area of reform in the CPD involved its internal investigative process. It was especially deficient when reviewing instances when CPD officers used force. The DOJ report on the CPD “confirmed that CPD’s accountability systems are broadly ineffective at deterring or detecting misconduct, and at holding officers accountable when they violate the law or CPD policy.”<sup>169</sup> At issue was the overall ineffectiveness of the IPRA, a civilian disciplinary body independent from the CPD and the Bureau of Internal Affairs (BIA), the internal mechanism for investigating officer misconduct. The DOJ report had extensive discussions about the lack of accountability along with examples of inadequate or biased internal investigations. In October 2016, the City of Chicago took steps towards creating the Civilian Office of Police Accountability (COPA).<sup>170</sup> This investigative unit, originating out of the PATF, “recommended a complete overhaul of the city’s police accountability system to make sure investigations of officer misconduct are timely, independent, and transparent.”<sup>171</sup> The COPA was given powers and duties for complaint intake, investigating individual cases of officer misconduct, making disciplinary, non-disciplinary, and policy recommendations, reviewing civil lawsuits against the city or the police department, engaging with the public, and transparent reporting and cooperation.<sup>172</sup> The CPD internal investigative process had become more vigorous and officer accountability was significantly enhanced

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<sup>167</sup> Jeremy Gorner, “After Officers Complain, Chicago Police Simplifying Stop Reports Required by ACLU Deal,” *Chicago Tribune*, February 25, 2016, <http://www.chicagotribune.com/news/ct-investigatory-stop-form-replaced-20160223-story.html>.

<sup>168</sup> “Comparing Contact Cards to Investigative Stop Reports.”

<sup>169</sup> “Investigation of the Chicago Police Department,” 47.

<sup>170</sup> *Ibid.*, 49.

<sup>171</sup> “Police Accountability Ordinance,” City of Chicago, 1, August 2016, <https://www.cityofchicago.org/content/dam/city/depts/mayor/Press%20Room/Press%20Releases/2016/August/8.30.16PoliceAccountabilityOrdinanceFactSheet.pdf>.

<sup>172</sup> *Ibid.*, 2.

as a result of the reforms originating through the PATF, the ACLU, and the DOJ review of the department.

The reviews made by the PATF and the DOJ both recommended the expanded use of officer BWC. In November 2015, the CPD announced a substantial expansion of its BWC program to include an additional 1,400 cameras to increase transparency in the department.<sup>173</sup> In December 2016, the CPD announced that its BWC program will be expanded even further to include every police district by the end of 2018.<sup>174</sup> However, a general agreement has not been reached on the use of body cameras in the CPD. Although these cameras have been supported by community activists and civil libertarians to monitor and deter possible police misconduct, opponents claimed they could violate the privacy of police officers.<sup>175</sup> In any case, the BWCs were a means of ensuring that CPD officers were monitored in their interactions with the public and that they would be beneficial in helping police build trust in minority communities.

The critical aspect of the reviews made by the PATF, the ACLU, and the DOJ was that they resulted in significant department reforms and these measures have subjected the CPD and its officers to significantly more oversight and scrutiny than they have in the past. In addition, these reforms have imposed operational requirements and mandates on officers that have had a major impact on their daily activities. Finally, new technologies, such as BWCs, were introduced to ensure more transparency and accountability for CPD officers.

The City of Chicago experienced 762 homicides in 2016, the “highest in 19 years,” which was a dramatic increase from the previous three years and attacks on CPD officers nearly doubled during the same year.<sup>176</sup> According to Uniform Crime Reporting

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<sup>173</sup> Monica Davey, “Chicago to Expand Use of Body-Worn Cameras,” *New York Times*, November 29, 2015, [https://www.nytimes.com/2015/11/30/us/chicago-police-body-cameras.html?\\_r=0](https://www.nytimes.com/2015/11/30/us/chicago-police-body-cameras.html?_r=0).

<sup>174</sup> William Lee, “Chicago Police to Expand Body Camera Program Citywide a Year Early,” *Chicago Tribune*, December 28, 2016, <http://www.govtech.com/public-safety/Chicago-Police-Expand-Body-Camera-Program-Citywide-Year-Early.html>.

<sup>175</sup> *Ibid.*

<sup>176</sup> Azadeh Ansari and Rosa Flores, “Chicago’s 762 Homicides Are the Highest in 19 Years,” CNN, January 2, 2017, <http://www.cnn.com/2017/01/01/us/chicago-murders-2016/>.

(UCR) data, homicides rose from 416 in 2013 to the 762 reported in 2016 (see Table 1). The 2017 DOJ report on the CPD included an acknowledgement of the “unprecedented surge” in homicides in 2016 and noted that it was the “largest single-year homicide increase of the last 25 years among the five most populous United States cities.”<sup>177</sup> This report coincided with the ongoing reviews by the City of Chicago PTAF and the DOJ in December 2015. Also, according to the DOJ report, the clearance rate for the homicides in 2016 was only 29 percent, which is less than half the national rate for 2015.<sup>178</sup> The report advised that the “broad consensus, including throughout Chicago, that increasing community trust and confidence in CPD is necessary for CPD to be able to clear more homicides.”<sup>179</sup> The report also stated that the community policing efforts of the CPD were not as successful as they were in the past and made reference to the *Final Report*, which stated that community policing must be “infused throughout the culture and organizational structure” of a police department.<sup>180</sup>

Table 1. City of Chicago, Homicides<sup>181</sup>

	2013	2014	2015	2016
Homicides	414	411	478	765

## 2. Decline in CPD Officer Activity

As the homicide rate increased in the City of Chicago, a number of explanations emerged as being responsible or contributing to the growing number of deaths. One of the more prevalent theories advanced was that CPD officers were disengaging or depolicing. Heather MacDonald, who is the Thomas W. Smith fellow at the Manhattan Institute and a contributing editor at *City Journal*, stated, “Chicago is Exhibit A in what happens when the police back off from enforcing public order, having been told that

<sup>177</sup> “Investigation of the Chicago Police Department,” 3.

<sup>178</sup> *Ibid.*, 135.

<sup>179</sup> *Ibid.*

<sup>180</sup> *Ibid.*

<sup>181</sup> Adapted from: “Crime in the United States, Federal Bureau of Investigation UCR Data 2016,” Federal Bureau of Investigation, accessed November 6, 2017, <https://ucr.fbi.gov/crime-in-the-u.s>.

maintaining control of the streets constitutes racial oppression.”<sup>182</sup> She advised that police stops were down 90% during the first quarter of 2016 and that the “criminals have become emboldened by the disengagement.”<sup>183</sup> In the first three months of 2016, stops conducted by CPD officers declined to 20,908 compared to the 157,346 stops during the same period in 2015.<sup>184</sup> The stops were in fact down dramatically as officers had to justify their stops by completing a very detailed investigatory stop report that included a detailed narrative of the reasons and circumstances leading up to the contact.<sup>185</sup>

Pursuant to the City of Chicago and ACLU August 2015 agreement, Judge Arlander Keys released the first *Semi-Annual Report on Investigatory Stop and Protective Pat Down*. The report covered January 1 through June 30, 2016. It confirmed a dramatic drop in the investigative stops made by CPD officers. According the report, between January 2014 and December 2015, CPD officers conducted 1,321,506 stops, but in the first six months of 2016, only 54,116 stops were recorded.<sup>186</sup> In addition, the report also showed a significant drop in the annual arrest activity of CPD officers during the same period (see Table 2). The decline in arrests for violent crimes were less dramatic going from 3,702 in 2014 to 3,028 in 2015, and finally to 937 during the first four months of 2016.<sup>187</sup> When comparing the first four months of 2015 with the same time period in 2016, the total arrests were down from 38,853 (2015) to 29,336 (2016) for a decrease of 24.4%.<sup>188</sup>

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<sup>182</sup> Heather Mac Donald, “As Chicago Backs off Policing, Its Murder Rate Sky Rockets Even Higher,” *New York Post*, December 27, 2016, <http://nypost.com/2016/12/27/as-chicago-backs-off-policing-its-murder-rate-skyrockets-ever-higher/>.

<sup>183</sup> Heather Mac Donald, “How Chicago’s Streets Became the Wild West,” *Wall Street Journal*, June 16, 2016, <https://www.wsj.com/articles/how-chicagos-streets-became-the-wild-west-1466029701>.

<sup>184</sup> Kelly Bauer and Mark Konkol, “Chicago Stops Down 90 Percent as Gun Violence Skyrockets,” *Dnainfo*, March 31, 2016, <https://www.dnainfo.com/chicago/20160331/bronzeville/chicago-police-stops-down-by-90-percent-as-gun-violence-skyrockets>.

<sup>185</sup> Jeremy Gerner and Dan Hinkle, “New Report Shows Chicago Police Street Stops Down, Minorities Still Stopped More,” *Chicago Tribune*, March 24, 2017, <http://www.chicagotribune.com/news/local/breaking/ct-chicago-police-stop-and-frisk-report-met-20170324-story.html>.

<sup>186</sup> Arlander Keys, *The Consultant’s First Semiannual Report on the Investigatory Stop and Protective Pat Down Agreement for the Period January 1, 2016–June 30, 2016* (Chicago: n.p., 2017), 21–28, <http://www.aclu-il.org/wp-content/uploads/2017/03/The-Consultants-First-Semiannual-Report-3-23-17.pdf>.

<sup>187</sup> *Ibid.*, 190.

<sup>188</sup> *Ibid.*, 52.



Table 2. Chicago Police Department Arrest Activity<sup>189</sup>

	2014	2015	2016
All Officer Arrest Activity	128,568	112,933	29,336*

\*four months only

Upon examination of these investigative stop statistics and the dates in which the investigation of the CPD commenced and subsequently progressed to the reforms recommended in the DOJ report, a distinct decline occurs between the number of stops conducted by CPD officers and the reforms being implemented in the department during the same period. Although, it cannot be concluded with a certainty that this decline is attributed to de-policing or disengagement on the part of CPD officers, in fact, substantial revisions to the investigative stop process were contained within these reforms. In addition, no other known factors occurred inside or outside the department that would account for such a decrease in investigative stops.

What can be conclusively stated is that a precipitous drop in the number of investigative stops occurred and it is in fact disengagement by CPD officers. This decrease coincided with the ongoing investigations, published reports and emerging reforms coming from the PATF, the ACLU, and the DOJ, which began in the latter half of 2015. For the purposes of this case study, it should be noted that these reforms are very similar and often identical to current reforms being implemented in many agencies pursuant to the *Final Report* and the *PERF Guiding Principles* (see Table 3).

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<sup>189</sup> Adapted from Keys, *The Consultant's First Semiannual Report on the Investigatory Stop and Protective Pat Down Agreement for the Period January 1, 2016–June 30, 2016*, 196–197.

Table 3. Chicago Police Department Reform Comparison<sup>190</sup>

<b>Justice Department “Investigation of the Chicago Police Department” Recommendations</b>	<b>Final Report of President’s Task Force on 21st Century Policing, PERF Guiding Principles, IACP Reforms R=Recommendation/A=Action Item</b>
Revision of Use of Force and Policies <i>p. 151</i>	Final Report R. 2.2 / PERF Guiding Principles #2
De-Escalation Training <i>p. 151</i>	Final Report A. 2.2.1 / A. 2.7.1 / PERF Guiding Principles #4 / #17 /#18
Shooting at or from a Moving Vehicle <i>p. 151</i>	PERF Guiding Principles #8
Rendering First Aid <i>p. 152</i>	Final Report R. 6.4 / PERF Guiding Principles #7
Use of Body-Worn Cameras <i>p. 152</i>	Final Report R. 3.3.3
Use of Force Reporting <i>p. 152</i>	Final Report R. 2.2 / A. 2.2.4 / PERF Guiding Principles #10 / #11 / #13
Supervisory Review of the Use of Force <i>p. 152</i>	Final Report R. 2.2 / PERF Guiding Principles #12 /#22
Higher Level , Interdisciplinary Review of Force Involving Firearms, Canine Deployments, Tasers, Chemical Weapons, Force Resulting in Injury <i>p. 152</i>	Final Report A. 2.2.2 / A. 2.2.6 /PERF Guiding Principles #12
Discipline Officers who Fail to Report Use of Force, Supervisors who Fail to Properly Investigate <i>p. 152</i>	Final Report 2.2
Collect and Analyze Data on Uses of Force to Identify Racial and Other Disparities in the Officers Use of Force <i>p. 152</i>	Final Report A. 2.2.4 / A.2.2.5 / PERF Guiding Principles #10
Revise the Initial Response to Officer Involved Shootings to Prevent Collusion and Contamination of Evidence <i>pp. 152–153</i>	IACP Officer Involved Shootings; A Guide for Law Enforcement Leaders <sup>191</sup>
Implement Policies and Develop Training to Improve Interactions with People in Crisis <i>pp. 153</i>	Final Report R. 2.2 / R. 5.6 / PERF Guiding Principles #19 /#20

<sup>190</sup> Adapted from “Investigation of the Chicago Police Department,” Department of Justice, Civil Rights Division and United States Attorney’s Office Northern District of Illinois, January 13, 2017, <https://www.justice.gov/opa/file/925846/download>; President’s Task Force on 21st Century Policing, *Final Report of the President’s Task Force on 21st Century Policing*.

<sup>191</sup> International Association of Chiefs of Police, *Officer-Involved Shootings: A Guide for Law Enforcement Leaders* (Washington, DC: U.S. Department of Justice, Office of Community Oriented Policing Services, 2016), [http://www.theiacp.org/portals/0/documents/pdfs/e051602754\\_Officer\\_Involved\\_v8.pdf](http://www.theiacp.org/portals/0/documents/pdfs/e051602754_Officer_Involved_v8.pdf).

<b>Justice Department “Investigation of the Chicago Police Department” Recommendations</b>	<b>Final Report of President’s Task Force on 21st Century Policing, PERF Guiding Principles, IACP Reforms R=Recommendation/A=Action Item</b>
Development of Crisis Intervention Training (CIT), Selection of CIT officers and availability in field situations <i>pp. 153–154</i>	Final Report R. 4.3 / A. 4.3.1 / A. 4.3.3 / R. 4.4/ R. 5.6/ PERF Guiding Principles #19
Improve CPD’s Internal Accountability and make it easier for Citizens to File Complaints <i>p. 154</i>	IACP Publication Internal Practices Guide <sup>192</sup>
Implement changes to city’s discipline system including the Chicago Police Board, to ensure disciplinary decisions are fair, timely, and transparent <i>p. 155</i>	Final Report R. 1.4 / A. 1.4.1
Implementation of an Early Intervention System <i>p. 157</i>	IACP Publication Internal Practices Guide
Officer Wellness and Safety / Resources Made Available For Stress <i>pp. 157–158</i>	Final Report R. 6.1 / A. 6.1.2 / A. 6.1.3/ R. 6.2
Data Collection and Transparency. Release of Data Relevant to Policing and Accountability Efforts <i>pp. 157</i>	Final Report A. 1.3.1 / R. 2.2 / A. 2.2.4 / R. 2.6 / PERF Guiding Principles #10 /#11 /#13
Increase Transparency with Outside Review Activities <i>pp. 158–159</i>	Final Report R. 2.8 / PERF Guiding Principles #13
Community Policing Core Component of CPD’s Policing Strategies Tactics, and Training <i>p. 160</i>	Final Report R. 4.1 /R. 4.2 /A. 4.2.1 /A. 4.2.2 /A. 4.4.2 /R. 4.5 /A. 4.5.1/ A. 4.5.2 /A. 4.5.3/A. 4.5.4/ PERF Guiding Principles #20
Policing Fair and Compassionately in all Neighborhoods, Including in those with High Rates of Crime and in Minority Communities. <i>p. 160</i>	Final Report R. 1.6 / A. 1.6.1 / R. 2.6 /R. 2.13 / A. 4.1.1
Collection of Data to Identify Patterns of Unequal Enforcement on the Base of Race	Final Report A. 1.3.1 / R. 2.6

<sup>192</sup> International Association of Chiefs of Police, *Building Trust between the Police and the Citizens They Serve; An Internal Affairs Promising Practices Guide for Local Law Enforcement* (Washington, DC: U.S. Department of Justice, Office of Community Oriented Policing Services, 2009), <http://www.theiacp.org/portals/0/pdfs/BuildingTrust.pdf>.

Justice Department “Investigation of the Chicago Police Department” Recommendations	Final Report of President’s Task Force on 21st Century Policing, PERF Guiding Principles, IACP Reforms R=Recommendation/A=Action Item
or Ethnicity. Publish Stop, Search, Arrest, and Force Data Bi-Annually along with Steps to Correct Problems <i>p. 161</i>	

As of June 2017, a draft agreement between the City of Chicago and the DOJ has been negotiated that includes an independent monitor to oversee the specific reforms stated in the agreement.<sup>193</sup> The actual details of the agreement were not available but according to one report, the DOJ under the Trump Administration “may take a different approach from that President Barack Obama’s, which typically took a city’s negotiated plan to a federal judge to make it legally binding in the form of a ‘consent decree.’”<sup>194</sup> As of this time, the specific framework from which the reforms will be finalized will be dependent on an agreement between the City of Chicago and the current DOJ under Attorney General Jeff Sessions.

**C. NEW YORK POLICE DEPARTMENT CASE STUDY**

The study of the NYPD is another example of an agency undergoing the reform process that has experienced significant changes to its policies and operations. This study examines the reform process prompted by both federal court action and pressure from the involved stakeholders. This section concludes with an analysis of how these reforms have ultimately impacted officer activity and crime rates, which are relevant to the focus of this thesis.

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<sup>193</sup> Michael Tarm and Herbert G. McCann, “Source: Chicago, Federal Government Draft Police Reform Deal,” *U.S. News*, June 3, 2017, <https://www.usnews.com/news/politics/articles/2017-06-02/chicago-proposes-independent-monitor-for-police-department>.

<sup>194</sup> *Ibid.*

## 1. Background and Reforms

The NYPD is a law enforcement agency with 34,500 officers and several thousand civilian employees.<sup>195</sup> The agency serves a heavily urbanized population of 8,537,673.<sup>196</sup> The community is racially diverse with 44% of the residents being white, 25.5% black, and the remainder being Hispanic, other ethnic minorities or mixed race.<sup>197</sup> The department was embroiled in significant controversy after the chokehold death of Eric Garner on July 17, 2014. Garner, an African-American male, was initially contacted by NYPD officers for illegally selling untaxed cigarettes when he became non-compliant. When the officers attempted to place him under arrest, he began resisting and was placed in a carotid chokehold by one of the officers.<sup>198</sup> The encounter was videotaped by a person who was with Garner at the time he was contacted and the video prompted widespread outrage after it was released.<sup>199</sup> Chokeholds were in fact prohibited by NYPD at the time of his death.<sup>200</sup> On December 3, 2015, then Attorney General Eric Holder issued a press release indicating that a federal civil rights investigation would be opened in the Garner case after a grand jury declined to indict any of the officers who used force on Eric Garner.<sup>201</sup> The federal investigation is still pending as of this date.

Prior to the Garner incident, the NYPD had been receiving criticism for its frequent use of investigative contacts known as “stop and frisks.” The NYPD used this strategy of conducting high numbers of “stop and frisks” as a means to reduce crime and

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<sup>195</sup> “Index,” New York Police Department, accessed June 22, 2017, [http://www.nyc.gov/html/nypd/html/faq/faq\\_police.shtml#1](http://www.nyc.gov/html/nypd/html/faq/faq_police.shtml#1).

<sup>196</sup> “Quick Facts, New York, NY, 2016,” U.S. Census Bureau, accessed November 6, 2017, <https://www.census.gov/quickfacts/fact/table/newyorkcitynewyork/PST045216>.

<sup>197</sup> “Community Facts, 2010 U.S. Census Summary File 1, New York, NY, 2010,” U.S. Census Bureau, accessed November 6, 2017, <https://factfinder.census.gov/faces/nav/jsf/pages/index.xhtml#>.

<sup>198</sup> Al Baker, J. David Goodman, and Benjamin Mueller, “Beyond the Chokehold: The Path to Eric Garner’s Death,” *New York Times*, June 13, 2015, [https://www.nytimes.com/2015/06/14/nyregion/eric-garner-police-chokehold-staten-island.html?\\_r=0](https://www.nytimes.com/2015/06/14/nyregion/eric-garner-police-chokehold-staten-island.html?_r=0).

<sup>199</sup> *Ibid.*

<sup>200</sup> Matt Apuzzo, Adam Goldman, and William K. Rashbaum, “Justice Dept. Shakes up Inquiry into Eric Garner Chokehold Case,” *New York Times*, October 24, 2016, <https://www.nytimes.com/2016/10/25/nyregion/justice-dept-replaces-investigators-on-eric-garner-case.html>.

<sup>201</sup> “Statement by Attorney General Holder on the Federal Investigation into Death of Eric Garner,” United States Department of Justice, December 3, 2014, <https://www.justice.gov/opa/speech/statement-attorney-general-holder-federal-investigation-death-eric-garner>.

improve the quality of life for New York residents. As a result, these stops routinely resulted in arrests for low-level crimes, such as marijuana possession and other misdemeanors. The attempted arrest of Eric Garner for selling loose cigarettes on the street was typical of the contacts NYPD officers were frequently making and receiving criticism. However, many viewed the practice as discriminatory since it was often directed at minorities and it caused these communities to distrust the police. As a result, NYPD Commissioner William J. Bratton was subsequently asked by Mayor de Blasio to work toward restoring relations between the police and the community by moving away from these street stops and minor marijuana arrests.<sup>202</sup>

Several months before Eric Garner's death, the practice of "stop and frisk" resulted in legal action initiated by several groups that wanted reform measures implemented in the NYPD. On August 12, 2013, U.S. District Judge Shira Scheindlin found the NYPD's stop and frisk practices unconstitutional, calling it "indirect racial profiling because it targeted racially defined groups, resulting in the disproportionate and discriminatory stopping of tens of thousands of blacks and Hispanics while the city's highest officials 'turned a blind eye.'"<sup>203</sup>

A federal monitor, Peter Zimroth, was appointed as part of a ruling by Judge Scheindlin to oversee the NYPD's response to her decision and ensure minorities were no longer targeted. The judge also "ordered the NYPD to adopt a written policy specifying the circumstances where stops are authorized; required them to adopt a trial program requiring the use of body-worn cameras in one precinct in each of the city's five boroughs; and also required them to set up a community-based remedial process under a court-appointed facilitator."<sup>204</sup>

Another issue generating controversy for the NYPD was its adoption of the philosophy of "broken windows" policing. The practice of "broken windows" policing

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<sup>202</sup> J. David Goodman and Al Baker, "Wave of Protests after Grand Jury Doesn't Indict Officer in Eric Garner Chokehold Case," *New York Times*, December 3, 2014, <https://www.nytimes.com/2014/12/04/nyregion/grand-jury-said-to-bring-no-charges-in-staten-island-chokehold-death-of-eric-garner.html>.

<sup>203</sup> Bernard Vaughn, "NYPD's 'Stop-and-Frisk' Practice Unconstitutional, Judge Rules," Reuters, August 12, 2013, <http://www.reuters.com/article/us-usa-newyork-police-idUSBRE97B0FK20130812>.

<sup>204</sup> Ibid.

was first introduced by James Q. Wilson and George L. Kelling in their 1982 *Atlantic* article “Broken Windows: The Police and Neighborhood Safety.”<sup>205</sup> In this article, they drew the connection between “order maintenance and crime prevention,” stating,

That link is similar to the process whereby one broken window becomes many. The citizen who fears the ill-smelling drunk, the rowdy teenager, or the importuning beggar is not merely expressing his distaste for unseemly behavior; he is also giving voice to a bit of folk wisdom that happens to be a correct generalization—namely, that serious street crime flourishes in areas in which disorderly behavior goes unchecked. The unchecked panhandler is, in effect, the first broken window. Muggers and robbers, whether opportunistic or professional, believe they reduce their chances of being caught or even identified if they operate on streets where potential victims are already intimidated by prevailing conditions. If the neighborhood cannot keep a bothersome panhandler from annoying passersby, the thief may reason, it is even less likely to call the police to identify a potential mugger or to interfere if the mugging actually takes place.<sup>206</sup>

In other words, they asserted that neighborhoods deteriorated progressively into “high-crime areas through disorderly conditions and they argued that social incivilities (e.g., loitering, public drinking, and prostitution) and physical incivilities (e.g., vacant lots, trash, and abandoned buildings) cause residents and workers in a neighborhood to be fearful.”<sup>207</sup> Since then, it has “become a powerful and enduring part of the criminological nomenclature, with deep influences in both the disciplines’ scholarly and applied traditions.”<sup>208</sup> Wilson and Kelling did not specifically describe how law enforcement agencies should implement “broken windows” policing but suggested that the police should engage “order maintenance activities and ameliorate physical blight to reinforce informal social control in neighborhoods.”<sup>209</sup>

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<sup>205</sup> George L. Kelling and James Q. Wilson, “Broken Windows: The Police and Neighborhood Safety,” *Atlantic*, March 1982, <https://www.theatlantic.com/magazine/archive/1982/03/broken-windows/304465/>.

<sup>206</sup> *Ibid.*

<sup>207</sup> Brandon C. Welsh, Anthony A. Braga, and Gerbin J. N. Bruinsma, “Reimagining Broken Windows: From Theory to Policy,” *Journal of Research in Crime and Delinquency* 52, no. 4 (June 4, 2015): 448, doi: <http://dx.doi.org/10.1177/0022427815581399>.

<sup>208</sup> *Ibid.*

<sup>209</sup> *Ibid.*, 453.

Commissioner Bratton became a strong proponent of “broken windows” policing having practiced it Boston, Los Angeles, and New York.<sup>210</sup> It was implemented city wide in 1994 after the election of Mayor Rudy Giuliani and his appointment of Commissioner Bratton.<sup>211</sup> In the years after its implementation, a substantial drop in crime occurred in New York City and it exceeded the decline in crime in other U.S. cities.<sup>212</sup> However, the practice drew criticism from many groups, as it was viewed as targeting minorities in specific neighborhoods. Derrick Z. Jackson, a columnist with the *Boston Globe* noted that “New York Mayor Rudolph Giuliani and his police commissioner, William Bratton adopted this strategy and violent crime did drop in New York, but it also dropped nationwide, under many different policing styles.”<sup>213</sup> He further advised that “broken windows” developed into something more than just perceptions of disorder but rather an intensifying of the stereotypes about the “dangerousness of blacks.”<sup>214</sup> He added, that “Because of that perceived dangerousness, black people became the broken windows, joined in recent years by Latinos.”<sup>215</sup> The result was that large numbers of minorities were being taken off the streets.<sup>216</sup>

In a *City Journal* article jointly authored by Kelling and Commissioner Bratton, they defended “broken windows” by concluding that it was not the same as “stop, question, and frisk (SQF).” They maintained that SQF was a tactic whereby police conducted a stop based on reasonable suspicion that a crime had occurred, was occurring, or was about to occur and “broken windows” was not a tactic as such “but rather a more broadly based policy mandating that police will address disorderly illegal behavior, such as public drinking and drug use, fights, public urination, and other acts considered to be

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<sup>210</sup> George L. Kelling and William J. Bratton, “Why We Need Broken Windows Policing,” *City Journal*, Winter 2015, <https://www.city-journal.org/html/why-we-need-broken-windows-policing-13696.html>.

<sup>211</sup> *Ibid.*

<sup>212</sup> *Ibid.*

<sup>213</sup> Derrick Z. Jackson, “‘Broken Windows,’ Broken Police Policy,” *Boston Globe*, December 29, 2014, <https://www.bostonglobe.com/opinion/2014/12/29/broken-windows-broken-policy/WM8hUySUL0YerJq2S2Ay1N/story.html>.

<sup>214</sup> *Ibid.*

<sup>215</sup> *Ibid.*

<sup>216</sup> *Ibid.*



minor offenses, with responses ranging from warning and referral to summons and arrest.”<sup>217</sup> Finally, they suggested that “whatever the critics might say, the majority of New Yorkers, including minorities, approve of such police order-maintenance activities.”<sup>218</sup>

In 2016, the New York City Department of Investigation’s Office of the Inspector General for the NYPD (OIG-NYPD) released a report entitled *An Analysis of Quality-of-Life Summonses, Quality-of-Life Misdemeanor Arrests, and Felony Crime in New York City, 2010–2015*, which concluded that “OIG-NYPD finds no evidence to suggest that crime control can be directly attributed to quality-of-life summonses and misdemeanor arrests.”<sup>219</sup> Current Mayor Bill de Blasio advised that he disagreed with the report and Commissioner Bratton even called the report “fatally flawed” and “useless.”<sup>220</sup> A prominent civil rights and civil liberties lawyer Norman Seigel responded to this report by stating,

Last year, Brooklyn Borough President Eric Adams, Manhattan Borough President Gale Brewer and I sponsored seven town halls to heal the harm caused by “Broken Windows” as nearly a thousand New Yorkers told their stories. Their message is: Cooperative neighborhood policing and not civil rights violations and mass summonsing reduce crime.<sup>221</sup>

This opposition to “broken windows” was part of the growing movement to implement reforms in the NYPD. The persistence of Mayor de Blasio and Commissioner Bratton in continuing the practice illustrated the complexities of how this issue divided

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<sup>217</sup> Kelling and Bratton, “Why We Need Broken Windows Policing.”

<sup>218</sup> Ibid.

<sup>219</sup> Mark G. Peters and Philip K. Eure, *An Analysis of Quality-of-Life Summonses, Quality-of-Life Misdemeanor Arrests, and Felony Crime in New York City, 2010–2015* (New York: New York City Department of Investigation Office of the Inspector General for the NYPD), <http://www1.nyc.gov/assets/oignypd/downloads/pdf/Quality-of-Life-Report-2010-2015.pdf>.

<sup>220</sup> Josh Dawsey and Zolan Kanno-Youngs, “Mayor, Police Commissioner Bash ‘Windows’ Report; NYPD Commissioner William Bratton Called an Analysis of the ‘Broken Windows’ Approach ‘Fatally Flawed’ and Useless,” *Wall Street Journal*, June 23, 2016, <https://www.wsj.com/articles/mayor-police-commissioner-bash-windows-report-1466714344>.

<sup>221</sup> Norman Seigel, “Inspector General Confirms the Broken Windows Won’t Make New Yorkers Safer,” *New York Daily News*, June 22, 2016, <http://www.nydailynews.com/new-york/ig-report-confirms-broken-windows-won-nyc-safer-article-1.2684292>.

the police and the communities they served and how police reforms would affect them both.

Newly appointed Attorney General Jeff Sessions came out in support of the practice in April 2017 in a speech at the Ethics and Compliance Initiative Annual Conference in Washington, DC when he maintained that “broken windows absolutely works.”<sup>222</sup> He made remarks specific to the NYPD later in the same month during a speech on Long Island, New York when he said, “I’m a big admirer, as I’m sure you are, of the New York Police Department. They’ve led the way in community-based policing. They’ve proven Broken Windows strategies work.”<sup>223</sup>

The discussion of the NYPD’s “stop and frisk” practices and “broken windows” policing in the City of New York is critical in understanding the police reform movement and how it has become such a contested issue. On one side were those who believed that “stop and frisk” and “broken windows” had reduced crime, improved the quality of life, and had the support of most New Yorkers. On the other side were those who contended that the practices led to widespread discrimination and constitutional violations. These issues became the thrust of those seeking to reform the NYPD and the practices of its officers. The end of “stop and frisk” and “broken windows” policing were the very first category of policy solutions for the “Zero Campaign,” an initiative started by Black Lives Matter that called for widespread police reform.<sup>224</sup> This initiative called for the decriminalization or to “de-prioritize” the enforcement of several offenses, such as consumption of alcohol on streets, marijuana possession, disorderly conduct, trespassing, loitering, disturbing the peace, spitting, jaywalking, and bicycling on the sidewalk.<sup>225</sup> It also called for the end of “profiling” and “stop and frisk.”<sup>226</sup> The Zero Campaign had

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<sup>222</sup> Jeff Sessions, “Speech at Ethics and Compliance Initiative Annual Conference,” *Washington Post*, April 24, 2017, [https://www.washingtonpost.com/video/national/sessions-praises-broken-windows-policing/2017/04/24/a9ee7f6a-2925-11e7-9081-f5405f56d3e4\\_video.html](https://www.washingtonpost.com/video/national/sessions-praises-broken-windows-policing/2017/04/24/a9ee7f6a-2925-11e7-9081-f5405f56d3e4_video.html).

<sup>223</sup> Azi Paybarah, “Sessions Makes Nice with NYPD on Long Island- and Targets Gangs,” *Global Politico*, April 28, 2017, <http://www.politico.com/story/2017/04/28/jeff-sessions-nypd-long-island-237755>.

<sup>224</sup> “We Can End Police Violence in America,” Campaign Zero, accessed June 27, 2017, <https://www.joincampaignzero.org/#vision>.

<sup>225</sup> *Ibid.*

<sup>226</sup> *Ibid.*

other policy proposals that included measures calling for greater community oversight, limiting the police use force, the independent investigation and prosecution of police officers, better community representation on police departments, requirements for body-worn cameras, training on racial bias, crisis intervention, de-escalation, demilitarization of the department, and police contracts that reduce union influence and officer protections in misconduct investigations.<sup>227</sup>

In 2014, a collection of nine proposed ordinances known as the “Right to Know Act” began the process of working its way through the New York City Council legislative process. This legislation was supported by over 200 organizations and was designed to “protect the civil and human rights of New Yorkers in everyday encounters with the NYPD by improving transparency and accountability.”<sup>228</sup> These reform measures prompted the anger of “rank and file cops” who were described as “fuming” over their consideration by the New York City Council.<sup>229</sup> On July 12, 2016, the Council decided not to vote on the Right to Know Act after Speaker Melissa Mark-Viverito advised other council members that the proposed reform measures would be handled internally through the NYPD instead.<sup>230</sup> This agreement placed restrictions on police consent searches and also required officers to provide business cards to those searched in addition to those stopped at vehicle checkpoints or street conversations where the encounter was not a legally conducted stop.<sup>231</sup> However, other reform bills up remained for consideration by the New York City Council that required the NYPD to report

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<sup>227</sup> Matthew Speiser, “Black Lives Matter Has a Plan to Radically Change America’s Police,” *Business Insider*, August 24, 2015, <http://www.businessinsider.com/black-lives-matter-has-a-policy-platform-2015-8>.

<sup>228</sup> “Right to Know Act,” Communities United for Police Reform, 2012, <http://changethenypd.org/RightToKnowAct>.

<sup>229</sup> Michael Gartland, “Cops Livid over Proposed Reform Measures,” *New York Post*, June 29, 2016, <http://nypost.com/2015/06/29/cops-livid-over-proposed-police-reform-measures/>.

<sup>230</sup> J. David Goodman, “New York Council Won’t Vote on Police Reform Bills, but Agency Agrees to Changes,” *New York Times*, July 12, 2016, <https://www.nytimes.com/2016/07/13/nyregion/new-york-city-council-will-not-vote-on-police-reform-measures.html>.

<sup>231</sup> *Ibid.*

specific data on the police use of force and deployment of police officers with substantiated civilian complaints.<sup>232</sup>

With respect to the concerns of the NYPD's excessive use of force, the New York City Council attempted to attach a ban on the use of the police chokehold to the Right to Know Act.<sup>233</sup> In the end, Mayor de Blasio threatened to veto it and Police Commissioner Bratton opposed it because they believed that it should be an issue handled internally to the department, which had already banned the practice for 21 years.<sup>234</sup> However, the NYPD did enter into an agreement with the New York Civil Liberties Union on October 1, 2015 that compelled it to reform its use of force policy, which included a requirement that it collect data and use a "comprehensive reporting system" to track instances where force is used by NYPD officers.<sup>235</sup> This reform also required the NYPD to produce an annual report "analyzing the documented use of force episodes."<sup>236</sup>

On the same date, October 1, 2015, the OIG-NYPD released the *Police Use of Force in New York City: Findings and Recommendations on NYPD's Policies and Practices*, which critically analyzed the use of force practices by the NYPD and recommended several reforms that included:

- Updating its current use of force policy to include defining "force, excessive force, and deadly physical force" better.
- Requiring officers to "de-escalate" encounters.
- Creating a "Use of Force Form."

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<sup>232</sup> Goodman, "New York Council Won't Vote on Police Reform Bills, but Agency Agrees to Changes."

<sup>233</sup> Anna Sanders, "De Blasio Would Veto City Council Bill Making Chokeholds Illegal," Staten Island Advance, January 14, 2015, [http://www.silive.com/news/index.ssf/2015/01/de\\_blasio\\_veto\\_chokehold\\_illegal\\_bill.html](http://www.silive.com/news/index.ssf/2015/01/de_blasio_veto_chokehold_illegal_bill.html).

<sup>234</sup> Ibid.

<sup>235</sup> "NYPD Agrees to Use of Force Reforms Advocated by NYCLU," New York Civil Liberties Union, October 1, 2015, <https://www.nyclu.org/en/press-releases/nypd-agrees-use-force-reforms-advocated-nyclu>.

<sup>236</sup> Ibid.

- Requiring comprehensive documentation in each instance where NYPD officers utilize force.
- Creating a database to track department wide use of force.
- Creating and publishing an annual report with data collected from the use of force reports that includes comprehensive data on all aspects of the use of force.
- Requiring training on de-escalation tactics including both classroom and scenario training.
- Incorporating “a formal evaluation system for all scenario-based trainings concerning the use of force.”
- Increasing funding for the new training in the use of force tactics.
- Requiring officers to intervene when they observe other officers escalating situations, using excessive force, and engaging in other misconduct.
- Implementing a “review use of force trends to identify which categories of officers (e.g., by years of service and/or duty assignments) are most in need of de-escalation and use-of-force in-service training, and then implement such instruction.”
- Pursuing a number of recommendations involving the application and tracking of officer discipline in instances where excessive force was used.<sup>237</sup>

On June 13, 2016, Mayor de Blasio signed the Criminal Justice Reform Act (CJRA), “eight bills that further the administration’s goals of preserving public safety and

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<sup>237</sup> Mark G. Peters and Philip K. Eure, *Police Use of Force in New York City: Findings and Recommendations on NYPD’s Policies and Practices* (New York: New York City Department of Investigation, Office of the Inspector General of the NYPD, 2015), 58–61, [http://www.nyc.gov/html/oignypd/assets/downloads/pdf/oig\\_nypd\\_use\\_of\\_force\\_report\\_-\\_oct\\_1\\_2015.pdf](http://www.nyc.gov/html/oignypd/assets/downloads/pdf/oig_nypd_use_of_force_report_-_oct_1_2015.pdf).

building stronger and safer neighborhoods by reducing arrests and incarceration”<sup>238</sup> This legislation made many of the criminal summonses for crimes, such as open container of alcohol, littering, public urination, and unreasonable noise into civil summonses where the offenders no longer had a permanent criminal record or were subject arrest on warrants.<sup>239</sup> These violations were often produced by “stop and frisk” and “broken windows” policing. New York residents received 297,413 criminal summonses for these crimes in 2015 and these types of offenses were targeted by NYPD officers in their crime reduction strategies.<sup>240</sup>

## **2. Decline in NYPD Officer Activity**

It was reported that between December 2014 and January 4, 2015, arrests across the city dropped by 56% and summonses were down 92% from the same period the previous year.<sup>241</sup> An obvious slowdown in the activities of NYPD officers had occurred. The movement to reform NYPD in areas, such as “stop and frisk” and “broken windows” policing, was the catalyst of the slowdown by NYPD officers according to some. Charles F. Coleman, a civil rights attorney in Brooklyn and professor at Berkley College in New York, said of the slowdown, “The police department is attempting to flex its muscles to remind de Blasio and the thousands of non-violent protesters who dared to speak out against NYPD practices that the city needs them.”<sup>242</sup> Others attributed the NYPD work slowdown to a repudiation of Commissioner Bratton who made the broken windows style of policing a pillar of his strategy to keep crime at record lows, an approach that has

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<sup>238</sup> “Mayor de Blasio Signs the Criminal Justice Reform Act,” City of New York, June 13, 2016, <http://www1.nyc.gov/office-of-the-mayor/news/530-16/mayor-de-blasio-signs-criminal-justice-reform-act>.

<sup>239</sup> “Criminal Justice Reform Act,” New York City Council, June 2016, <http://council.nyc.gov/legislation/criminal-justice-reform/>.

<sup>240</sup> Ibid.

<sup>241</sup> Jacob Siegal, “The NYPD Slowdown’s Dirty Little Secret,” Daily Beast, January 10, 2015, <http://www.thedailybeast.com/articles/2015/01/10/the-nypd-slowdown-s-dirty-little-secret>.

<sup>242</sup> Charles F. Coleman, “The NYPD Slowdown Is Proving That ‘Broken Windows Is a Failure. Isn’t Time to Drop it?,” The Root, January 1, 2015, <http://www.theroot.com/the-nypd-slowdown-is-proving-that-broken-windows-is-a-1790858359>.

angered some community activists because they argue it still disproportionately targets minority communities.<sup>243</sup>

The slowdown also coincided with the ambush deaths of Officers Rafael Ramos and Wenjian Liu on December 20, 2014. These killings further deteriorated Mayor de Blasio's standing with NYPD officers because the officers and their union felt that his remarks against NYPD practices "stoked anti-police sentiment."<sup>244</sup> This tension began during Mayor de Blasio's campaign when he promised to implement reforms to the NYPD's city's stop-and-frisk practices, which they believed reduced crime but opponents called institutionalized racial profiling.<sup>245</sup>

Although the NYPD slowdown resulted from a number of possible reasons, most were connected in some way to the debates or limitations related to "stop and frisk" and "broken windows" policing. Radley Balko, a journalist with the *Washington Post*, Media Fellow at the Cato Institute and well-known criminal justice author and blogger, stated,

There's some murkiness surrounding what "de-policing" actually means. If it means fewer suspicionless stops, mass arrests or harassment for petty offenses, perhaps it's not such a bad thing. By this definition, NYPD was forced to engage in mass de-policing when a court ordered an end to the city's stop-and-frisk policy. Crime continued to fall. If de-policing means less unconstitutional harassment, then let's have more de-policing. But if de-policing means cops don't respond to calls, or disengage from the community entirely, that of course is a lot more problematic.<sup>246</sup>

It was clear that those advocating reforms impacting "stop and frisk" had the objective of reducing them overall but that they were in fact still permitted under the law if conducted within the parameters defined by the courts. However, the reforms placed

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<sup>243</sup> Matt A. V. Chaban, "Data Show New York Police Are Resuming Their Work," *New York Times*, January 19, 2015, <https://www.nytimes.com/2015/01/20/nyregion/after-police-slowdown-arrests-and-summons-continue-to-rise-in-new-york.html>.

<sup>244</sup> Alex Altman, "Why New York Cops Turned Their Backs on Mayor de Blasio," *Time Magazine*, December 22, 2014, <http://time.com/3644168/new-york-police-de-blasio-wenjian-liu-rafael-ramos/>.

<sup>245</sup> *Ibid.*

<sup>246</sup> Radley Balko, "Why Are Police Groups and their Advocates Advancing a Theory that Makes Police Officers Look Terrible?" *Washington Post*, January 23, 2015, [https://www.washingtonpost.com/news/the-watch/wp/2017/01/23/why-are-police-groups-and-their-advocates-advancing-a-theory-that-makes-police-officers-look-terrible/?utm\\_term=.4fc690e28ce7](https://www.washingtonpost.com/news/the-watch/wp/2017/01/23/why-are-police-groups-and-their-advocates-advancing-a-theory-that-makes-police-officers-look-terrible/?utm_term=.4fc690e28ce7).

additional burdens on officers by requiring additional documentation, data collection, and even the use of BWC.<sup>247</sup> It is difficult to attribute the decrease to any one cause because in many cases, legal prohibitions were placed on NYPD officers from conducting some stops, and in other instances, the decrease can be attributed to the increased burdens placed on the officers that prompted them to avoid some stops altogether. The police reforms, by either the designed prohibitions or their additional requirements, prompted a significant reduction in officer activity.

Tables 4 and 5 indicate the precipitous drop in “stop and frisk” activity by NYPD officers and select crimes rates during this period. The period showed decreases in homicide and robbery, sexual assaults remaining level, and an increase in felony assault. The noted level of disengagement or de-policing by NYPD officers had a mixed but minimal impact on the level of crime.

Table 4. New York Police Department, Stop and Frisks<sup>248</sup>

<b>Stop and Frisks</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016*</b>
Total	<b>685,724</b>	<b>532,911</b>	<b>191,558</b>	<b>45,787</b>	<b>22,939</b>	<b>10,171</b>
Innocent	605,328	473,644	169,252	37,744	18,353	7,758
Blacks	350,743	284,229	104,958	24,319	12,223	5,401
Latino	223,740	165,140	55,191	12,489	6,598	2,944
White	61,805	50,366	20,877	435,467	2,567	1,042

\*January through September 2016

<sup>247</sup> Floyd v. City of New York, 813 F. Supp. 2d 417 (S.D.N.Y. 2011).

<sup>248</sup> Adapted from “Stop-Add-Frisk Data,” New York Civil Liberties Union, 2017, <https://www.nyclu.org/en/stop-and-frisk-data>.



Table 5. New York Police Department, Felony Crimes<sup>249</sup>

<b>Felony Crimes</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>
Murder	515	419	335	333	352	335
Rape	1,420	1,445	1,378	1,352	1,438	1,438
Robbery	19,717	20,144	19,128	16,539	16,931	15,500
Felony Assault	18,482	19,381	20,297	20,207	20,270	20,847

The level of quality of life enforcement activity by NYPD officers significantly declined between 2010 and 2015, as reported by the OIG-NYPD.<sup>250</sup> Although the summonses rate dropped from 386,094 in 2010 to 258,008 in 2015, no commensurate increase occurred in felony crime in the City of New York.<sup>251</sup> With the exception of the widely reported slowdown of NYPD officers following the ambush deaths of Officers Rafael Ramos and Wenjian Liu on December 20, 2014, no available data supports any coordinated action on the part of NYPD officers to disengage from proactive enforcement. However, some indications show that the work slowdown may have been influenced in part by the criticism the NYPD was receiving regarding its “stop and frisk” practices and its “broken window” policing strategies. In addition, ongoing discussions concerned major police reforms involving Mayor de Blasio, Commissioner Bratton, the New York City Council, and numerous community groups. The reduction in arrests and summonses was also attributed to agreements made between the NYPD and the City Council along with those opposing the “stop and frisk” practices and their “broken windows” policing strategies. Federal Magistrate Shira Scheindlin also ruled that the NYPD’s stop-and-frisk practices were unconstitutional, which prompted the appointment of a federal monitor and other oversight measures. Finally, the Criminal Justice Reform Act

<sup>249</sup> Adapted from City of New York, *Seven Major Felony Offense* (New York: City of New York, n.d.), accessed June 27, 2017, [http://www.nyc.gov/html/nypd/downloads/pdf/analysis\\_and\\_planning/seven-major-felony-offenses-2000-2016.pdf](http://www.nyc.gov/html/nypd/downloads/pdf/analysis_and_planning/seven-major-felony-offenses-2000-2016.pdf).

<sup>250</sup> Office of the Inspector General for the NYPD, *An Analysis of Quality-of-Life Summonses, Quality of Life Misdemeanor Arrests, and Felony Crime in New York City, 2010–2105* (New York: New York City Department of Investigation, 2016), <http://www1.nyc.gov/assets/oignypd/downloads/pdf/Quality-of-Life-Report-2010-2015.pdf>.

<sup>251</sup> *Ibid.*, 3, 48.

adopted in 2016 changed many of the minor offenses from criminal summonses to civil summonses; thereby, making them a lower priority for NYPD officers.

Like the CPD, the reforms ultimately adopted by the NYPD were very similar to those in the *Final Report* and *PERF Guiding Principles*. These were through local agreements with the ACLU, the New York City Council, the New York City Department of Investigation, OIG-NYPD, Federal Monitor Peter Zimroth, and the federal court. However, collectively, they amounted to a reform package that covered most areas addressed by the *Final Report* and *PERF Guiding Principles* (see Table 6).

Table 6. New York Police Department Reform Comparison

New York Police Department Reforms; Federal Court, Federal Monitor, <sup>252</sup> Criminal Justice Reform Act, <sup>253</sup> New York City Department of Investigation, Office of the Inspector General for NYPD (OIG-NYPD), <sup>254</sup> NYPD Policies, <sup>255</sup> ACLU Agreements <sup>256</sup> (Recommendations)	Final Report of President’s Task Force on 21st Century Policing, United States Justice Department, PERF Guiding Principles, and other PERF Reforms R=Recommendation / A=Action Item
Use of Force/ Revision of Use of Force and Policies <i>ACLU Agreement 10-1-2015</i> <sup>257</sup> <i>OIG-NYPD Force Report, p. 58</i> <sup>258</sup>	Final Report R. 2.2 / PERF Guiding Principles #2
Use of Force / Use of De-Escalation Tactics/Training <i>NYPD-OIG Force Report, p. 58</i> <sup>259</sup> <i>NYPD Procedure 221-01, p. 1</i>	Final Report A. 2.2.1 / A. 2.7.1 / PERF Guiding Principles #4 / #17 /#18
Use of Force / Shooting at or from a Moving Vehicle <i>NYPD Procedure, Use of Force, 221-01, p. 2</i>	PERF Guiding Principles #8

<sup>252</sup> Floyd v. City of New York, 813 F. Supp. 2d 417 (S.D.N.Y. 2011).

<sup>253</sup> “Criminal Justice Reform Act,” New York City Council, June 2016, <http://council.nyc.gov/legislation/criminal-justice-reform/>.

<sup>254</sup> Peters and Eure, *Police Use of Force in New York City: Findings and Recommendations on NYPD’s Policies and Practices*.

<sup>255</sup> “NYPD Patrol Guide, NYC, 2017,” NYC Civilian Complaint Review Board, accessed November 6, 2017, <http://www1.nyc.gov/site/ccrb/investigations/nypd-patrol-guide.page>.

<sup>256</sup> “NYPD Agrees to Use of Force Reforms Advocated by NYCLU.”

<sup>257</sup> Ibid.

<sup>258</sup> Peters and Eure, *Police Use of Force in New York City: Findings and Recommendations on NYPD’s Policies and Practices*, 34–37.

<sup>259</sup> Ibid., 58.

<b>New York Police Department Reforms; Federal Court, Federal Monitor,<sup>252</sup> Criminal Justice Reform Act,<sup>253</sup> New York City Department of Investigation, Office of the Inspector General for NYPD (OIG-NYPD),<sup>254</sup> NYPD Policies,<sup>255</sup> ACLU Agreements<sup>256</sup> (Recommendations)</b>	<b>Final Report of President’s Task Force on 21st Century Policing, United States Justice Department, PERF Guiding Principles, and other PERF Reforms R=Recommendation / A=Action Item</b>
Use of Force / Prohibition of Chokeholds <i>NYPD Procedure 221-01, p. 3</i>	United States Justice Department Civil Rights Division prohibition in reforms of 12 agencies <sup>260</sup>
Use of Force / Conducted Electrical Weapons <i>NYPD Procedure 221-08, pp. 1–8</i>	PERF Guiding Principles #27 / PERF 53 Guidelines for CEW’s <sup>261</sup>
Use of Force / Rendering First Aid <i>NYPD Procedure, Use of Force 221-02, p. 3</i>	Final Report R. 6.4 / PERF Guiding Principles #7
Use of Force / Reporting ACLU Agreement, 10-1-2015 <sup>262</sup> <i>NYPD OIG Force Report, pp. 59–60<sup>263</sup></i>	Final Report R. 2.2 / A. 2.2.4 / PERF Guiding Principles #10 / #11 / #13
Use of Force / Supervisory Review of the Use of Force <i>NYPD Procedure, Use of Force 221-02, p. 3</i> <i>NYPD Procedure, Use of Force 221-03</i> <i>NYPD Interim Order 36</i>	Final Report R. 2.2 / PERF Guiding Principles #12 / #22
Use of Force / Investigation of Use of Force including Lethal, Non-Lethal, Serious Injury <i>NYPD Procedure, Use of Force 221-03</i> <i>NYPD Interim Order 36</i>	Final Report R. 2.2 / A. 2.2.6 / PERF Guiding Principles #12
Use of Force / Review by Use of Force Board <i>NYPD Procedure, Use of Force 221-03</i> <i>NYPD Interim Order 36</i>	Final Report R. 2.2 / R. 2.2.6 / Guiding Principles #12
Use of Force / Require Officers to Report Excessive Force by Other Officers <i>NYPD Procedure 221-01, p. 2</i>	PERF Guiding Principles #6
Use of Force / Collect and Analyze Data on Uses of Force to Identify Racial and Other Disparities in the Officers Use of Force ACLU Agreement, 10-1-2015 <i>NYPD OIG Force Report, p. 59<sup>264</sup></i>	Final Report A. 2.2.4 / A.2.2.5 / PERF Guiding Principles #10

<sup>260</sup> “An Interactive Guide to the Civil Rights Division’s Police Reforms,” United States Justice Department, accessed August 26, 2017, <https://www.justice.gov/crt/page/file/922456/download>.

<sup>261</sup> Police Executive Research Forum and Community Oriented Policing Services, *Electronic Control Weapon Guidelines* (Washington, DC: Police Executive Research Forum and U.S. Department of Justice, 2011), [http://www.policeforum.org/assets/docs/Free\\_Online\\_Documents/Use\\_of\\_Force/electronic%20control%20weapon%20guidelines%202011.pdf](http://www.policeforum.org/assets/docs/Free_Online_Documents/Use_of_Force/electronic%20control%20weapon%20guidelines%202011.pdf).

<sup>262</sup> “NYPD Agrees to Use of Force Reforms Advocated by NYCLU.”

<sup>263</sup> Peters and Eure, *Police Use of Force in New York City: Findings and Recommendations on NYPD’s Policies and Practices*, 59.

<sup>264</sup> *Ibid.*

<b>New York Police Department Reforms; Federal Court, Federal Monitor,<sup>252</sup> Criminal Justice Reform Act,<sup>253</sup> New York City Department of Investigation, Office of the Inspector General for NYPD (OIG-NYPD),<sup>254</sup> NYPD Policies,<sup>255</sup> ACLU Agreements<sup>256</sup> (Recommendations)</b>	<b>Final Report of President’s Task Force on 21st Century Policing, United States Justice Department, PERF Guiding Principles, and other PERF Reforms R=Recommendation / A=Action Item</b>
Implement Policies and Develop Training to Improve Interactions with People in Crisis <i>OIG-NYPD Report, 34–37<sup>265</sup></i> <i>NYPD Procedure, Use of Force 221-13</i>	Final Report R. 2.2 / R. 5.6 / PERF Guiding Principles #19 /#20
Development of Crisis Intervention Training (CIT), Selection of CIT officers and availability in field situations <i>OIG-NYPD Report, pp. 34–37<sup>266</sup></i> <i>NYPD Procedure, Use of Force 221-13</i>	Final Report R. 4.3 / A. 4.3.1 /A. 4.3.3 / R. 4.4/ R. 5.6/ PERF Guiding Principles #19
Stop and Frisk / Legal Standard <i>Floyd v. New York, Remedies, pp. 13–18</i>	Final Report R. 2.10 / R. 2.11
Stop and Frisk / Requirement for Officer Identification <i>Floyd v. New York, Remedies, p. 21</i> <i>NYPD Procedure 212-11, pp. 1–12</i> <i>NYPD UF-250 Form</i>	Final Report R. 2.10 / R. 2.11
Stop and Frisk / Documentation Required <i>Floyd v. New York, Remedies, pp. 19–22</i>	Final Report R. 1.3.1 / R. 2.6
Stop and Frisk / Data Collection and Analysis <i>Floyd v. New York Remedies, pp. 15–17</i> <i>Federal Monitor</i>	Final Report R. 1.3.1 / R. 2.6
Stop and Frisk / Published Reports <i>Floyd v. New York and Federal Monitor</i>	Final Report R. 1.3.1 / R. 2.6
Stop and Frisk / Accountability and Discipline <i>Floyd v. New York, Remedies, p. 24</i>	Final Report A. 2.11.1
Stop and Frisk / Community Oversight and Input over Police Practices <i>Floyd v. New York Remedies Federal Monitor, pp. 30–32</i>	Final Report R. 2.8 / R. 4.1 / R. 4.5 / A. 4.5.1 /A. 4.5.3
Enforcement / Alternatives to Arrest <i>NYC Criminal Justice Reform Act, 1057-A, 1067-A, 1070-A, 1058-A, 1056-A<sup>267</sup></i>	Final Report R. 1.5 / R. 1.6 / A.1.6.1 /A. 2.2.1 / A. 4.1.1
Use of Body-Worn Cameras <i>Federal Court–Floyd v. New York Remedies, p. 27</i>	Final Report A. 3.3.3

<sup>265</sup> Department of Investigation, *Putting Training into Practice: A Review of NYPD’s Approach to Handling Interactions with People in Mental Crisis* (New York: Office of the Inspector General of the NYPD, 2017), 34–37, <http://www1.nyc.gov/assets/doi/reports/pdf/2017/2017-01-19-OIGNYPDCIT-Report.pdf>.

<sup>266</sup> Ibid.

<sup>267</sup> “Mayor de Blasio Signs the Criminal Justice Reform Act.”

## **D. BALTIMORE POLICE DEPARTMENT CASE STUDY**

The last case study is the BPD, which is currently operating under a consent decree approved through the DOJ in 2017. However, the reform process actually began well before this agreement when it submitted to a voluntary review through the DOJ COPS in 2014. This section will detail how the reform process progressed in the BPD and what impact it had on the activity of its officers and the crime rates within the city.

### **1. Background and Reforms**

The BPD is a law enforcement agency with 3,340 employees of which 2,851 are sworn police officers.<sup>268</sup> The agency serves a heavily urbanized population of 614,664.<sup>269</sup> The community is racially diverse with 63.7% of the residents being black, 29.6% white, 4.2% Hispanic/Latino, and the remainder being other races.<sup>270</sup>

In October 2014, the BPD under the leadership of Mayor Stephanie Rawlings-Blake and Police Commissioner Anthony W. Batts along with Ron L. Davis of the DOJ COPS announced a federal review of the BPD to include an examination of BPD practices, policies, supervision, and oversight of the department's activities.<sup>271</sup> This process under the COPS "Collaborative Review Initiative" was in response to allegations of brutality, officer misconduct, and a lack of trust from the community.<sup>272</sup> The initiation of police reforms through this review subjected BPD officers to more transparency and accountability according to Davis and he expected that some officers would resist proposals coming out of the review.<sup>273</sup>

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<sup>268</sup> "Baltimore Police Department," Baltimore Police, accessed June 28, 2017, <https://www.baltimorepolice.org/>.

<sup>269</sup> "Quick Facts, Baltimore, MD, 2016," U.S. Census Bureau, accessed November 6, 2017, <https://www.census.gov/quickfacts/fact/table/baltimorecitymaryland,US/PST045216>.

<sup>270</sup> "Community Facts, 2010 U.S. Census Summary File 1, Baltimore, MD, 2010," U.S. Census Bureau, accessed November 6, 2017, <https://factfinder.census.gov/faces/nav/jsf/pages/index.xhtml#>.

<sup>271</sup> Mark Puente, "Review of Baltimore Police Won't Change Culture Overnight, Official Says," *Baltimore Sun*, October 23, 2014, <http://www.baltimoresun.com/sports/bs-md-doj-davis-20141023-story.html>.

<sup>272</sup> *Ibid.*

<sup>273</sup> *Ibid.*

The department was also the subject of significant controversy after the death of 25-year old Freddie Gray on April 19, 2015 while in the custody of Baltimore police officers. Gray, an African-American, was arrested on April 12 after he and another subject ran on foot from police only to be subsequently apprehended after he stopped voluntarily and no force was used on him during his capture.<sup>274</sup> A prisoner transport van was then used to take Gray to the police station for processing and it was during this transport that he suffered the injuries to his spine that ultimately led to his death on April 19.<sup>275</sup>

After Freddie Gray's death, a number of protests erupted outside of the Western District Police Station, the location he was originally transported to in the prisoner van. These protests eventually spread to both police headquarters and Baltimore City Hall. At issue was the allegation that he repeatedly asked for medical care but did not receive it during the time preceding his death.<sup>276</sup> The BPD initiated an investigation into the incident and it resulted in the suspension of six Baltimore police officers, all of whom had a role in the arrest or transport of Mr. Gray in the transport van.<sup>277</sup> On April 21, 2015, the DOJ opened a criminal and civil rights investigation into Freddie Gray's death announcing that "based on preliminary information, the Department of Justice has officially opened this matter and is gathering information to determine whether any prosecutable civil rights violation occurred."<sup>278</sup>

On April 23, Maryland Governor Larry Hogan sent Maryland state troopers to the City of Baltimore after the protests intensified over the death of Freddie Gray.<sup>279</sup>

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<sup>274</sup> "Timeline: Freddie Gray's Arrest, Death and the Aftermath," *Baltimore Sun*, accessed June 28, 2017, <http://data.baltimoresun.com/news/freddie-gray/>.

<sup>275</sup> *Ibid.*

<sup>276</sup> *Ibid.*

<sup>277</sup> Justin George, "Baltimore Police Identify Officers Suspended after Freddie Gray's Death," *Baltimore Sun*, April 22, 2015, <http://www.baltimoresun.com/news/maryland/crime/bs-md-ci-freddie-gray-officers-20150421-story.html>.

<sup>278</sup> Mark Puente and Dog Donovan, "Justice Department Opens Probe into Death of Freddie Gray," *Baltimore Sun*, April 21, 2015, <http://www.baltimoresun.com/news/maryland/crime/bs-md-gray-federal-probe-20150421-story.html#page>.

<sup>279</sup> "Timeline: Freddie Gray's Arrest, Death and the Aftermath."

Although two arrests were made in the protests involving hundreds, they remained non-violent.<sup>280</sup>

On April 24, civil right groups asked Governor Hogan to convene a special session to pass “more comprehensive body camera laws.”<sup>281</sup> These groups, including the ACLU and the National Association for the Advancement of Colored People (NAACP), also asked Governor Hogan to “address some of the broader problems the Freddie Gray case highlighted such as poverty, police brutality, and inequality.”<sup>282</sup> The issue of comprehensive police reform was also brought forward by Sara Love, the Public Policy Director for the ACLU of Maryland, who was very critical of police in Maryland and wanted the state legislature to revise the Law Enforcement Officers’ Bill of Rights, which guided the disciplinary process for police officers.<sup>283</sup> Also on this date, Police Commissioner Anthony Batts acknowledged mistakes during Gray’s arrest saying that his officers violated department policies by not securing him properly in the transport van and he additionally concluded that they “failed to give him medical attention in a timely manner multiple times.”<sup>284</sup>

On April 27 at 11:00 am, Freddie Gray’s funeral was held in Baltimore and riots erupted in the city afterwards during the afternoon hours. Baltimore Police responded by using teargas grenades, pepper ball munitions, and “less lethal” projectiles to disperse the crowd.<sup>285</sup> Several fires were started and they burned into the early morning hours. After the riot, city officials advised that between 285 and 350 businesses were damaged, 60

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<sup>280</sup> “Timeline: Freddie Gray’s Arrest, Death and the Aftermath.”

<sup>281</sup> Erin Cox and Jessica Anderson, “Civil Rights Groups Call on Hogan to Convene Special Session,” *Baltimore Sun*, April 24, 2015, <http://www.baltimoresun.com/news/maryland/>.

<sup>282</sup> *Ibid.*

<sup>283</sup> *Ibid.*

<sup>284</sup> Luke Broadwater, “Baltimore Police Acknowledge Mistakes in Freddie Grays’s Death,” *Baltimore Sun*, April 25, 2015, <http://www.baltimoresun.com/news/maryland/bs-md-freddie-gray-protest-prepare-20150424-story.html#page=1>.

<sup>285</sup> Jon Swain, Ben Jacobs, and Paul Lewis, “Baltimore Protests Turn into Riots as Mayor Declares State of Emergency,” *Guardian*, April 28, 2015, <https://www.theguardian.com/us-news/2015/apr/27/baltimore-police-protesters-violence-freddie-gray>.

structures were set on fire, and 150 vehicles were also set on fire.<sup>286</sup> As a result, Governor Hogan issued an executive order declaring a “state of emergency” in Baltimore and also called out the National Guard “to protect the lives and property of citizens.”<sup>287</sup>

On May 8, 2015, Attorney General Loretta E. Lynch announced that the DOJ was opening a “civil pattern or practice” investigation into the BPD and would focus on the “department’s use of force, stops, searches, arrests, and whether there was a pattern or practice of discriminatory policing.”<sup>288</sup> This inquiry was separate from the review being conducted through the COPS Collaborative Review Process.

Like the NYPD, the BPD was also coming under scrutiny for its “stop and frisk” practices and was beginning to implement reforms with respect to the manner in which it conducted such practices. In 2013, well before Freddie Gray’s death, Baltimore’s Deputy Police Commissioner Jerry Rodriguez said, “Controversy over the New York Police Department’s heavy use of the practice led to a negative connotation from which police must distance themselves.”<sup>289</sup> Baltimore police elected even to change the name of the practice from “stop and frisk” to “investigative stops” and the word “frisk” was removed from the forms officers were required to complete after making a stop.<sup>290</sup> The ACLU of Maryland protested the name change and called on the BPD to “enforce the policies already on the books that require officers to document their use of stop-and-frisk and those that require supervisory review to ensure that officers are complying with the law.”<sup>291</sup> Commissioner Batts came out in “strong agreement” with the ACLU and

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<sup>286</sup> Yvonne Wenger, “One Estimate of Business Damage from Baltimore Riot Estimated at \$9M, Total Cost Unknown,” *Baltimore Sun*, May 13, 2015, <http://www.baltimoresun.com/news/maryland/baltimore-city/bs-md-ci-damage-estimate-20150513-story.html>.

<sup>287</sup> Swaine, Jacobs, and Lewis, “Baltimore Protests Turn into Riots as Mayor Declares a State of Emergency.”

<sup>288</sup> “Justice Department Opens Pattern or Practice Investigation into the Baltimore Police Department,” Department of Justice, Office of Public Affairs, May 8, 2015, <https://www.justice.gov/opa/pr/justice-department-opens-pattern-or-practice-investigation-baltimore-police-department>.

<sup>289</sup> Justin Fenton, “Baltimore Police Ditch ‘Stop and Frisk’ in Name but Not Practice,” *Baltimore Sun*, September 23, 2013, <http://www.baltimoresun.com/news/maryland/crime/bs-md-ci-baltimore-stop-and-frisk-20130830-story.html>.

<sup>290</sup> *Ibid.*

<sup>291</sup> “Illegality of ‘Stop and Frisk’ Practice by Police Not Addressed by Name Change,” ACLU of Maryland, September 24, 2013, [http://www.aclu-md.org/press\\_room/145](http://www.aclu-md.org/press_room/145).



concluded that he has had “long standing concerns regarding the data collection methods employed by BPD.”<sup>292</sup> The BPD did not effectively track the use of “stop and frisk” and no useful numbers were available to determine how the practice was being carried out.

In May 2015, the State’s Attorney for Baltimore, Marilyn J. Mosby, charged the six BPD officers involved in the Freddie Gray arrest after she received the medical examiner’s report ruling that his death was a homicide.<sup>293</sup> The officers were charged with offenses, such as manslaughter, assault, false imprisonment, and misconduct in office.

In June 2015, a number of BPD commanders claimed that during the riots of April 27–28, they ordered their officers multiple times not to engage the rioters because they prioritized life over property.<sup>294</sup> Commissioner Batts denied giving a “stand down” order to his officers but many insisted that they were in fact given such an order.<sup>295</sup> An attorney representing many of these officers claimed that his clients were placed in danger when their commanders ordered them not to engage rioters.<sup>296</sup> On July 8, 2015, Commissioner Batts was fired by Mayor Rawlings-Blake after the police union published an after-action report very critical of his actions during the riots. Although he was allegedly removed for his part in the operational activities connected to the aftermath of Freddie Gary’s death, his role in initiating the reforms in the BPD may have also been problematic for him.

Commissioner Batts was highly educated and supported by the progressive police reformers and the PERF.<sup>297</sup> Before coming to Baltimore, he worked at Harvard

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<sup>292</sup> Justin Fenton, “‘On Stop and Frisk’ Batts in Strong Agreement with ACLU,” *Baltimore Sun*, November 20, 2013, <http://www.baltimoresun.com/news/maryland/baltimore-city/bs-md-ci-batts-stop-and-frisk-aclu-20131120-story.html>.

<sup>293</sup> Alan Blinder and Richard Perez-Pena, “6 Baltimore Police Officers Charged in Freddie Gray Death,” *New York Times*, May 1, 2015. <https://www.nytimes.com/2015/05/02/us/freddie-gray-autopsy-report-given-to-baltimore-prosecutors.html>.

<sup>294</sup> Justin George, “‘Hold the Line’ Commands Protected Lives during the Riot, Police Say,” *Baltimore Sun*, June 30, 2015, <http://www.baltimoresun.com/news/maryland/crime/bs-md-ci-riot-deployments-20150629-story.html>.

<sup>295</sup> *Ibid.*

<sup>296</sup> *Ibid.*

<sup>297</sup> Simone Weichselbaum, “The Rise and Fall of Anthony Batts,” Marshall Project, July 10, 2015, <https://www.themarshallproject.org/2015/07/10/the-rise-and-fall-of-anthony-batts#.N57EPfu0M>.

University with an “informal cadre of policing intellectuals, who moved from city to city, sometimes running departments and sometimes working as consultants, and shared theories of modern day law enforcement such as ‘problem oriented policing’ and ‘collaborative reform.’”<sup>298</sup> He had also worked as the Chief of Police in both Oakland and Long Beach, California. However, a close look at his career “suggests that his fluency in the theories of modern policing masked an inability to connect with the cities that hired him or to win the trust of the police he was hired to lead.”<sup>299</sup> The manner in which he advanced contemporary police reforms may have very well contributed to his demise in Baltimore. On October 19, 2015, Ken Davis was approved by the Baltimore City Council to be the next police chief of the BPD and he remains in this position as of this date.

In 2016, the criminal trials of three of the officers charged in Freddie Gray’s death resulted in acquittals and the charges on the remaining three were dropped in July of the same year.<sup>300</sup> That concluded the state prosecution efforts directed at the officers but a federal investigation into the incident and the BPD was still pending, which included the DOJ’s civil “pattern or practice” investigation into the BPD. It was through this inquiry that police reforms would be achieved in the BPD.

On August 12, 2016, the DOJ issued a report detailing the findings of its investigation pursuant to 42 U.S.C. § 14141 (Report).<sup>301</sup> The Report documented areas in which the DOJ found “reasonable cause to believe that BPD engaged in a pattern or practice of conduct that violates the Constitution and federal law” and categorized these violations in four areas: “(1) making unconstitutional stops, searches, and arrests; (2) using enforcement strategies that produce severe and unjustified disparities in the rates of stops, searches and arrests of African Americans; (3) using excessive force; and (4)

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<sup>298</sup> Weichselbaum, “The Rise and Fall of Anthony Batts,”

<sup>299</sup> Ibid.

<sup>300</sup> Kevin Rector, “Charges Dropped, Freddie Gray Case Concludes with Zero Convictions,” *Baltimore Sun*, July 27, 2016, <http://www.baltimoresun.com/news/maryland/freddie-gray/bs-md-ci-miller-pretrial-motions-20160727-story.html>.

<sup>301</sup> “Investigation of the Baltimore City Police Department,” Department of Justice, Civil Rights Division, August 10, 2016, <https://www.justice.gov/crt/file/883296/download>.

retaliating against people engaging in constitutionally-protected expression.”<sup>302</sup> The Report additionally described in detail many of these practices in which it had “serious concerns” and produced data to substantiate the claims.<sup>303</sup>

On January 12, 2017, the DOJ and the BPD agreed on a 227-page consent decree outlining the reforms mandated for the BPD.<sup>304</sup> The following measures were taken out of the consent decree issue by the court:

- Establishment of the “Community Oversight Task Force (COTF) to recommend reforms to the current system of civilian oversight. COTF will consist of five members, representative of diverse communities of Baltimore, appointed by the Mayor.”<sup>305</sup>
- Mandated training on “strategies to improve public safety and crime prevention through community engagement,” “problem-oriented policing tactics,” “principles of procedural justice and its goals,” “conflict resolution, including verbal de-escalation of conflict,” and “cultural awareness and sensitivity training.”<sup>306</sup>
- Several restrictions and reporting requirements on officers for citizen contacts, field interviews, detentions, and all vehicle stops.
- Several restrictions and reporting requirements on all voluntary searches, warrantless searches, pat downs, frisks, made by BPD officers.
- Several restrictions and reporting requirements on all arrests made by BPD officers.

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<sup>302</sup> “Investigation of the Baltimore City Police Department,” 3.

<sup>303</sup> *Ibid.*, 21–121.

<sup>304</sup> United States District Court for the District of Maryland, *United States of America vs. Baltimore Police Department, Consent Decree, United States District Court for the District of Maryland* (Baltimore, MD: United States District Court for the District of Maryland, 2016), <http://s3.documentcloud.org/documents/3284089/Conset-Decree-Agreement.pdf>.

<sup>305</sup> *Ibid.*, 4.

<sup>306</sup> *Ibid.*, 6–7.

- Several requirements for the BPD to maintain stop, search, and arrest data.
- Several requirements to insure “Fair and Impartial Policing policy extends to all protected classes under state, federal, and local laws, including race, ethnicity, national origin, gender, age, religion, sexual orientation, gender identity, or disability.”<sup>307</sup>
- Several requirements for BPD officers in dealing with people with behavioral health disabilities or in crisis to include the establishment of a crisis intervention team program for BPD officers.
- Several restrictions and requirements on BPD officers’ use of force to include the use of de-escalation techniques and tactics.

In examining the activity of BPD officers and the crime rate in Baltimore, to be considered is that the death of Freddie Gray occurred over eight months after the death of Michael Brown in Ferguson, Missouri and the NYPD was already reforming its controversial “stop and frisk” practices. Law enforcement agencies had already been undergoing intense scrutiny for several months and even as far back as the shooting death of Trayvon Martin death on February 26, 2012 in Sanford, Florida. Furthermore, police reforms in the BPD were already underway through the “Collaborative Review Initiative” review by the DOJ COPS Office, which was started back in October 2014.

## **2. Decline in BPD Officer Activity**

A study conducted by Stephen L. Morgan and Joel A. Pally of Johns Hopkins University in 2015 attempted to address both the crime rates and police arrest activity in Baltimore in the aftermath of both the Michael Brown (Ferguson) shooting and the arrest of Freddie Gray.<sup>308</sup> The study considered both crime and officer arrest activity for the periods after Ferguson but before Freddie Gray’s arrest, the three-month period after

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<sup>307</sup> United States District Court for the District of Maryland, *United States of America vs. Baltimore Police Department, Consent Decree, United States District Court for the District of Maryland*, 31.

<sup>308</sup> Stephen L. Morgan and Joel A. Pally, *Ferguson, Gray, and Davis: An Analysis of Recorded Crime Incidents and Arrests in Baltimore City, March 2010 through December 2015* (Baltimore, MD: John Hopkins University, 2016), <http://socweb.soc.jhu.edu/faculty/morgan/papers/MorganPally2016.pdf>.

Gray's arrest, and the period after the dismissal of Commissioner Anthony Batts and the hiring of the new chief, Ken Davis.

This study showed that crime rates were relatively stable after the Ferguson incident but that arrests decreased 19% from the previous 52-week period.<sup>309</sup> The decrease in arrests were mainly for less serious crimes, such as property destruction (-34%), driving violations (-33%), prostitution (-33%), and disorderly conduct (-34%).<sup>310</sup> They indicated that "arrests for violent crimes, such as murder, attempted murder, robbery, and aggravated assault did not decrease over the same time period, suggesting that the declines in arrests were in areas where police have discretionary alternatives."<sup>311</sup> Morgan and Pally concluded that the evidence for a "Ferguson Effect" in Baltimore was in the pattern of arrests only at this point.<sup>312</sup>

In the three months after the arrest of Freddie Gray, dramatic increases in violent crime occurred, such as shootings (+140%), homicides (+92%), street robbery (+31%), commercial robbery (+82%), carjacking (+33%), and automobile theft (+53%).<sup>313</sup> The total arrest activity on the part of BPD officers decreased an additional 30% with driving violations decreasing an additional 44%, prostitution arrests were down an additional 40%, and disorderly conduct arrests going down 49%.<sup>314</sup> Substantial decreases even occurred in arrests for more serious crime, such as murder (-30%) deadly weapons (-18%), burglary (-37%), and larceny (-39%).<sup>315</sup> Morgan and Pally also determined that a 58% decrease in what they termed "police non-compliance" arrests.<sup>316</sup>

After the appointment of the BPD Chief Ken Davis in July 2015, the arrest numbers by BPD officers went up 20% but this increase only amounted to about 77% of

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<sup>309</sup> Morgan and Pally, *Ferguson, Gray, and Davis: An Analysis of Recorded Crime Incidents and Arrests in Baltimore City, March 2010 through December 2015*, 2.

<sup>310</sup> Ibid.

<sup>311</sup> Ibid.

<sup>312</sup> Ibid.

<sup>313</sup> Ibid., 3.

<sup>314</sup> Ibid.

<sup>315</sup> Ibid.

<sup>316</sup> Ibid.

what it was before Ferguson.<sup>317</sup> Also, arrests for murder and attempted murder (+43%) and weapons offenses (+39%) also greatly increased, which may have been attributed to the huge increases in those crimes as stated previously.<sup>318</sup> Additionally, as the arrest activity increased for these crimes, shootings and homicides decrease correspondingly, but the net increase from the period before Freddie Gray's arrest was still substantial with shootings up 76% and homicides up 63%.<sup>319</sup>

What the Morgan and Pally study showed was that although crime rates were relatively stable after Ferguson, the arrest rates by BPD officers went down, especially in the area of discretionary enforcement. However, after the arrest of Freddie Gray, the crime rates escalated substantially and the arrest activity dropped precipitously to include both serious and less serious crime. After the departure of reform-minded Police Commissioner Anthony Batts, and the hiring of the Chief Ken Davis, the arrest activity increased but only to about 77% of the levels of the 52-week period before Ferguson. Additionally, crime rates decreased but still remained substantially higher than the period before Freddie Gray's arrest.

It is important to note as indicated in the Morgan and Pally study, arrest rates, especially from discretionary offenses, declined significantly in the period after Ferguson (August 9, 2014) but before Freddie Gray's arrest on April 12, 2015. The review through the "Collaborative Review Initiative" began in October 2014 and although Morgan and Pally assert that a "Ferguson Effect" with respect to arrest activity may have occurred after the incident in Ferguson, this decline may have also been attributed to the review being conducted on the BPD during the same time period. After the review was announced in October 2014, Gene Ryan, Vice President of the Fraternal Order of Police, the police union representing BPD officers criticized the review and said that it would

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<sup>317</sup> Morgan and Pally, *Ferguson, Gray, and Davis: An Analysis of Recorded Crime Incidents and Arrests in Baltimore City, March 2010 through December 2015*, 4.

<sup>318</sup> Ibid.

<sup>319</sup> Ibid.

have a negative effect on policing.<sup>320</sup> He added that officers would be shying away from their jobs and further stated, “it’s already happening....why should they get out of their cars?”<sup>321</sup>

The BPD is currently undergoing significant reforms through the consent decree executed through the DOJ in January 2017. However, the reform process actually began with the review of the BPD through the Collaborative Reform process announced in October 2014. Although the steep decline in arrest activity by BPD officers has been somewhat reversed, arrest activity in the period after Commissioner Davis was hired was still 23% below the levels it was before Ferguson and the Collaborative Reform review.

In April 2017, the DOJ under the new Trump administration expressed “grave concerns” over the police reform agreement between the City of Baltimore and the DOJ.<sup>322</sup> Deputy Assistant Attorney General John Gore of the DOJ Civil Rights Division asked U.S. District Judge James K. Bredar to “hold off on signing the decree for at least 30 days so officials of the Trump administration could ‘analyze it and re-engage with the city if necessary.’”<sup>323</sup> This move demonstrated the contrast between the DOJ under the Obama administration and the Trump administration. Judge Bredar ultimately rejected the DOJ request and approved the pending consent decree making it the road map for police reform in the city of Baltimore.

The statistics regarding stops and enforcement activity by BPD officers indicate that in fact a sustained decrease had begun about the time the BPD submitted to a federal review under the Collaborative Review Initiative. Although the death of Freddie Gray and negative publicity from other events involving law enforcement across the United States during that time further impacted many of the issues occurring within the BPD, the

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<sup>320</sup> Mark Puente and Justin Fenton, “Baltimore Police Union Critical of Upcoming Federal Probe,” *Baltimore Sun*, October 6, 2014, <http://www.baltimoresun.com/news/maryland/sun-investigates/bs-md-fop-reaction-20141006-story.html>.

<sup>321</sup> *Ibid.*

<sup>322</sup> Kevin Rector, “Justice Department Registers ‘Grave Concerns’ with Baltimore Consent Decree, Even as Residents Express Hope,” *Baltimore Sun*, April 6, 2017, <http://www.baltimoresun.com/news/maryland/baltimore-city/bs-md-ci-consent-decree-thursday-20170406-story.html>.

<sup>323</sup> *Ibid.*

disengagement of BPD officers was occurring well before then. They were experiencing increased scrutiny from a reform process that would place restrictions on long-standing practices that they deemed to be successful in fighting crime. With respect to investigative stops, the imposed restrictions and additional requirements on BPD officers coincided with the decline in the numbers of arrests. These reforms starting with the Collaborative Review Initiative and eventually the DOJ consent decree were closely aligned with the recommendations in the *Final Report* and *PERF Guiding Principles* as indicated in Table 7.

Table 7. Baltimore Police Department Reform Comparison

<b>Baltimore Police Department Reforms</b> <b>Department of Justice<sup>324</sup> / City of Baltimore Consent Decree</b> <b>January 12, 2017<sup>325</sup></b>	<b>Final Report of President’s Task Force on 21st Century Policing / PERF Guiding Principles</b> <b>R=Recommendation / A=Action Item</b>
Body Worn Cameras, <i>City of Baltimore Recommendation CD, p. 1</i>	Final Report A. 3.3.3
Establishment of Community Oversight Task Force <i>CD, p. 4</i>	Final Report A. 1.5.1 / R. 2.1. / R. 2.8 /A. 4.5.3 / R. 5.2
Encourage Non-Enforcement over Citations, Searches, Arrests, and Use of Force <i>CD, pp. 7 and 23</i>	Final Report R. 1.5 / R. 1.6 / A.1.6.1 /A. 2.2.1 / A. 4.1.1
Community Engagement <i>CD, p. 7</i>	Final Report R. 1.5 / A. 1.5.1 / R. 1.9 / R. 2.1 / R. 4.1 / A. 4.2.2 / A. 4.4.2 / R. 4.5 / A. 4.5.1 / A. 4.5.2 / A. 4.5.3 / A. 4.5.4 / A. 4.6.3 / A. 4.6.5 / A. 4.6.6 / A. 4.6.7 / A. 4.7.1 / R. 5.2
Community Engagement Assessments <i>CD, pp. 9–10</i>	Final Report R. 1.7

<sup>324</sup> “Investigation of the Baltimore City Police Department,” Department of Justice, Civil Rights Division, August 10, 2016, <https://www.justice.gov/crt/file/883296/download>.

<sup>325</sup> United States District Court for the District of Maryland, *United States of America vs. Baltimore Police Department, Consent Decree, United States District Court for the District of Maryland* (Baltimore, MD: United States District Court for the District of Maryland, 2016), <http://s3.documentcloud.org/documents/3284089/Conset-Decree-Agreement.pdf>.



<b>Baltimore Police Department Reforms</b> <b>Department of Justice<sup>324</sup> / City of Baltimore Consent Decree</b> <b>January 12, 2017<sup>325</sup></b>	<b>Final Report of President’s Task Force on 21st Century Policing / PERF Guiding Principles</b> <b>R=Recommendation / A=Action Item</b>
Stops/ Field Interviews / Officer Identification <i>CD, p. 13</i>	Final Report R. 2.10 / R. 2.11
Stops / Field Interviews / Voluntary Cooperation <i>CD, p. 13</i>	Final Report R. 2.10
Stops / Field Interviews / Comprehensive Documentation <i>CD, p. 14</i>	Final Report R. 1.3.1 / R. 2.6
Searches / Pat Downs / Probable Cause <i>CD, p. 19</i>	Final Report R. 2.10 / R. 2.11 /
Consent to Search Form / Explanation of Rights <i>CD, pp. 21–22</i>	Final Report R. 2.10
Data Collection of Minor Arrests / Annual Review <i>CD, p. 23</i>	Final Report A. 1.3.1 / R. 2.6
Training for Stops, Searches, and Arrests <i>CD, pp. 24–25</i>	Final Report R. 5.9
Data Collection / Review /Analysis of Stop, Search, and Arrests <i>CD, pp. 28–30</i>	Final Report R. 1.3.1 / R 2.6
Impartial Policing <i>CD, pp. 30–34</i>	Final Report R. 1.1 / R. 2.13 / R. 5.9
Crisis Intervention Tactics and Training <i>CD, pp. 34–42</i>	Final Report R. 2.2 / R. 4.3 / R. 4.3.2 / R. 4.4 / R. 5.6 /
Use of Force / De-escalation <i>CD, pp. 39, 42–43, 45, 54</i>	Final Report A. 2.2.1 / A. 2.7.1 / PERF Guiding Principles #4 / #17 /#18
Use of Force Policy Revisions <i>CD, p. 43</i>	Final Report R. 2.2 / PERF Guiding Principles #2
Use of Force / Duty to Report Excessive Force <i>CD, p. 43</i>	PERF Guiding Principles #6
Use of Force / Accountability <i>CD, p. 43</i>	Final Report R. 2.2 / A. 2.2.2 / A. 2.2.3 / A. 2.2.6
Use of Force / Prohibition of Chokeholds <i>CD, p. 46</i>	United States Justice Department Civil Rights Division prohibition in reforms of 12 agencies <sup>326</sup>

<sup>326</sup> “An Interactive Guide to the Civil Rights Division’s Police Reforms.”

<b>Baltimore Police Department Reforms</b> <b>Department of Justice<sup>324</sup> / City of Baltimore Consent Decree</b> <b>January 12, 2017<sup>325</sup></b>	<b>Final Report of President’s Task Force on 21st Century Policing / PERF Guiding Principles</b> <b>R=Recommendation / A=Action Item</b>
Use of Force / Requirement of Less Lethal Options <i>CD, p. 46</i>	Final Report R. 3.6
Use of Force / Use of Conducted Electrical Weapons <i>CD, pp. 49–51, 55</i>	PERF Guiding Principles #27 / PERF 53 Guidelines for CEW’s
Use of Force / Shooting at Moving Vehicles <i>CD, p. 53</i>	PERF Guiding Principles #8
Use of Force / Training, Decision Making <i>CD, pp. 54–56</i>	Final Report A. 2.2.1/ Guiding Principles #2 / #5 / #14 / #15 / #17 / #19 / #20 / #23 / #24 / #25
Use of Force / Reporting <i>CD, pp. 56–72</i>	Final Report R. 2.2 / A. 2.2.4 / PERF Guiding Principles #10 / #11 / #13
Use of Force / Supervisory Review <i>CD, pp. 56–72</i>	Final Report R. 2.2 / PERF Guiding Principles #12 / #22
Use of Force / Data Collection, Analysis <i>CD, pp. 72–74</i>	Final Report A. 2.2.4 / A.2.2.5 / PERF Guiding Principles #10 / #11
Technology / Body-Worn Camera Policy <i>CD, pp. 95–96</i>	Final Report A. 3.3.3
Discipline / Accountability <i>CD, p. 112–149</i>	Final Report R. 1.3 / R. 2.8
Staffing / Performance Evaluations and Promotions <i>CD, pp. 155–157</i>	Final Report A. 4.2.1

## **E. SUMMARY OF CASE STUDIES**

In the case studies of Chicago, New York, and Baltimore, all three police departments were subject to federal oversight by the DOJ or the federal courts for long-standing practices viewed by civil rights groups and the communities they served as discriminatory and targeting those who lived in minority neighborhoods. Of particular interest were the agencies’ use of “stop and frisk” tactics to reduce crime and these efforts resulted in large numbers of arrests for minor crimes. Much debate surrounds how successful these efforts were in reducing crime but the “stop and frisk” practices were

deemed unconstitutional in the manner in which they were carried out in all three cities. The subsequent agreements with the DOJ or federal courts imposed increased oversight, scrutiny, and accountability on the officers employed by these agencies. The effects of these agreements were felt by the agencies well before these agreements were completed or signed due to the intense media attention and pressure from community and civil rights groups. Furthermore, each of these cities experienced a substantial defining event that escalated the reform discussions in the respective cities. In Chicago, it was the shooting death of Laquan McDonald, while in New York, it was the chokehold death of Eric Garner, and finally in Baltimore, it was the arrest and death of Freddie Gray. All three of these individuals were African-American males who died under circumstances that many alleged involved the unlawful use of force by the police officers attempting to apprehend them or while in police custody.

As stated previously, the effects of these pending reforms were experienced by officers during the period before the agreements were signed or formalized. The practice of “stop and frisk” or investigative stops was subject to significant restrictions if not prohibition and increased burdens were placed on officers who elected to conduct them. They relied on these very practices for crime control. In all three cities, discretionary activities of police officers decreased. Both in Chicago and New York, investigative stops plummeted to a fraction of what they were before the reform process was initiated. The available numbers for Baltimore were not useful due to problems with its record keeping but the precipitous drop in arrests would indicate that its investigative stop numbers have also substantially dropped. The arrest rate for all three agencies also declined and especially in the area of discretionary offenses.

The crime rates, and especially violent crime, have risen in both Chicago and Baltimore but have remained stable in New York. Although crimes rates may be indicative or otherwise related to disengagement, de-policing or the “Ferguson Effect,” this thesis focuses on the overall disengagement on the part of officers since this topic is of critical concern to law enforcement executives.

The federal agreements in Chicago and Baltimore imposed significant oversight and accountability over the operations and activities of their officers. The reforms in New

York included oversight through a federal monitor and specific reforms adopted through NYPD policy and legislative action on the part of the New York City Council.

The purpose of these case studies is to illustrate that the reforms in these agencies are in fact quite similar to the reforms in the *Final Report* and the *PERF Guiding Principles*. The specific elements in these mandated agreements have largely mirrored those recommendations published in the *Final Report* and the *PERF Guiding Principles* and although such a consistency is expected as they are viewed as best practices for law enforcement agencies, this fact is critical in evaluating the potential impacts on agencies that elect to adopt these reforms voluntarily. Chapter IV provides additional background on the complex subject of disengagement, de-policing, and the Ferguson Effect and how officers have responded to the current environment in which they operate. These case studies have demonstrated that the causality of disengagement is difficult to assign to any one cause but that police reforms must be considered as an element that has in fact substantively changed long-standing police practices, some of which involve officers' discretionary activities in the field.

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## IV. ANALYSIS OF POLICE DISENGAGEMENT

### A. INTRODUCTION

The issue of police disengagement, de-policing, or the “Ferguson Effect” is complex and the phenomenon is not fully embraced by all those researchers and academics who have examined the subject. This chapter attempts to cover the available research and studies as it relates to this subject and further assess how it may be connected to the police reforms now occurring in a number of police agencies throughout the United States through mandated federal supervision or through the recommendations in the *Final Report* and the *PERF Guiding Principles*. The hypothesis of this work is that a causal link does in fact exist between these reforms and police disengagement. Specifically, many law enforcement agencies are experiencing a decline in the discretionary or proactive activity of their officers and the central question is whether this decline is attributed in some way to the reforms adopted by their agencies.

Police agencies in the United States have been undergoing significant changes as a result of several factors. Several high-profile police incidents have involved the deaths of African-American males that have been especially problematic for police. The handling of the Treyvon Martin shooting in Sanford, Florida, the shooting death of Michael Brown in Ferguson Missouri, the shooting death of Walter Scott in North Charleston, the shooting death of Laquan McDonald in Chicago, the chokehold death of Eric Garner in New York, and the death of Freddie Gray in Baltimore, are all examples of incidents that resulted in widespread disapproval and outrage at police, especially in minority communities. These incidents also generated very intense news coverage around the clock on a number of media platforms to include television, radio, cable news stations, social media, the internet, and print media, such as newspapers and magazines. In addition, civil rights groups, professional organizations, and some political movements, have taken a determined interest in these matters and have advocated change from both law enforcement agencies and the political bodies that commission them. Police practices, such as “stop and frisk” and “broken windows” policing have come under criticism from these same groups and the constitutionality of these practices has

been under review by the federal courts. These factors have placed law enforcement agencies and their officers under very intense scrutiny and significant police reform measures are being drafted and implemented at both the local and national level. These reforms have primarily come from the *Final Report* and the *PERF Guiding Principles*. The DOJ is advocating these reforms through the COPS Office just as they are mandating the reforms in departments under their supervision.

Other factors are also impacting law enforcement agencies apart from the activities of the officers but have nonetheless changed the dynamic of policing. The advancement of technology, especially in the area of video cameras and global positioning systems, has resulted in a better means of tracking officers and their daily activities. The stagnant economy has put additional strains on law enforcement agencies as their budgets have decreased and the number of sworn officers has declined in many law enforcement agencies, and especially in large departments.<sup>327</sup> Finally, law enforcement officers have been ambushed in very high profile and widely publicized attacks in New York, Las Vegas, Dallas, and Baton Rouge to name just a few. Some of these attacks have been committed by individuals who were prompted by a perception of police abuse and a desire to retaliate against them, including those who by all indications were inspired by the Black Lives Matter movement, which has been advocating many of the reforms to which law enforcements agencies are now subject.

The current landscape in policing in light of all these conditions has presented many complicated challenges for law enforcement managers as they attempt to fulfill their responsibilities to insure public safety and control crime. They also have the responsibility of ensuring that they achieve these goals through the work of their officers who are paid for duties that include actively seeking out those who break the law or otherwise disrupt the peace of the community. A major component of these duties are the self-initiated or proactive efforts on the part of officers to identify these individuals or groups responsible for committing crimes and take the appropriate and legal enforcement action. The issue of police disengagement, de-policing, or the “Ferguson Effect” is

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<sup>327</sup> Carl Bialik, “The Biggest U.S. Police Departments Are Getting Smaller,” *FiveThirtyEight*, May 14, 2015, <https://fivethirtyeight.com/datalab/the-biggest-us-police-departments-are-getting-smaller/>.

important to police executives and managers because of the resulting impact on both public safety and crime rates if it occurs with any regularity in their agencies. As stated previously, several conditions may contribute to the phenomenon of disengagement and it is particularly difficult and perhaps even irresponsible to attribute it to any one of them. Several officers indicated in one study that it was “predominately an individual phenomenon.”<sup>328</sup> The fact is that the autonomous discretion of police officers conducting their specific duties may be affected by any one or all of these conditions. The central question of this inquiry is whether the ongoing police reforms are one of those factors contributing to the police disengagement. If so, law enforcement executives and managers must develop strategies to mitigate the concerns officers have with the reforms being implemented in their agencies.

## **B. POLICE DISENGAGEMENT, DE-POLICING, AND THE FERGUSON EFFECT**

As stated previously, police disengagement has been referred to as “de-policing,” the “Ferguson Effect,” “passive law enforcement,” “selective disengagement,” “tactical detachment,” and even “officer “retreat.””<sup>329</sup> In defining the concept for this study, it is a conscious decision on the part of individual officers to refrain from engaging in proactive or self-initiated activities while performing their duties as law enforcement officers. While perhaps not involving a complete cessation of self-initiated activities, it could include a mere reduction brought on by factors impacting their working environment. It has been long accepted that officer productivity is critical to crime reduction and community engagement is necessary to establish trust with communities.

The events in Ferguson, Missouri accelerated the police reform efforts and heightened the national debate on police and their relationship with minority communities. In the aftermath of Ferguson, assertions of rising crime rates were brought on by de-policing, which was prompted a study by Shjarback, Pyrooz, Wolfe, and Decker of 118 law enforcement agencies in the state of Missouri to investigate “De-policing in

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<sup>328</sup> Willard M. Oliver, “Depolicing: Rhetoric or Reality?” *Criminal Justice Review* 28, no. 5 (2017): 448, doi: 10.1177/0887403415586790.

<sup>329</sup> Rushin and Edwards, “De-policing,” 732–733.



the Wake of Ferguson.”<sup>330</sup> This study found “more consistent evidence of racialized de-policing effect. Departments made fewer vehicle/traffic stops, searches, and arrests in 2015 relative to 2014 in jurisdictions with larger African-American populations.”<sup>331</sup> Thus, the “major finding of this study is that context—especially the racial composition of cities—shapes de-policing behavior.”<sup>332</sup> This study referenced the *Final Report* and the attention it placed on “issues of race and law enforcement” and noted, “Accordingly, it would make sense that officers are more likely to shy away from active police work in the very jurisdictions, and perhaps neighborhoods, that have higher African-American populations.”<sup>333</sup>

Returning to the case studies of Chicago, New York, and Baltimore, it is noteworthy to acknowledge that each of these departments had a defining event that prompted the intense media attention they received, and in fact, brought it to a national level. In each case, a controversial death resulted at the hands of law enforcement, which many believed was the product of systematic discriminatory practices and abuse by police directed at specific minority communities. However, the efforts to reform these agencies were ongoing before these events. In Chicago, well before the death of Laquan McDonald, the ACLU of Chicago was voicing its concerns over the way the CPD was conducting “stop and frisks.”<sup>334</sup> In New York, before the death of Eric Garner, “stop and frisk” was ruled unconstitutional in the manner in which it was carried out by NYPD officers and the “Broken Windows” policing was becoming controversial for the way it targeted specific communities. Finally, in Baltimore, the police department was already under review by the DOJ for its own “stop and frisk” practices among other things months before Freddie Gray’s death. It is clear that these agencies were already undergoing the reform process before the deaths of McDonald, Garner, and Gray.

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<sup>330</sup> Shjarback et al., “De-Policing and Crime in the Wake of Ferguson: Racialized Changes in the Quantity and Quality of Policing among Missouri Police Departments,” 23.

<sup>331</sup> *Ibid.*, 24.

<sup>332</sup> *Ibid.*

<sup>333</sup> *Ibid.*, 24–25.

<sup>334</sup> “Chicago’s Data Collection and Oversight over Stop and Frisks Is Insufficient.”

However, it could also be argued that these incidents might have magnified and accelerated the reform process.

As shown by the respective case studies in Chicago, New York, and Baltimore, in each case, a documented decrease occurred in the proactive activities of their officers. To determine why this decline occurred, the case studies attempted to frame the then existing conditions in these departments and evaluate what factors might have impacted the disengagement. It was critical to examine the emerging reforms in these agencies and what impact they had on the practices of those officers employed by these agencies. As was demonstrated in all three cities, the ongoing reforms mirrored many of the concepts in the *Final Report* and the *Guiding Principles*. It is important that the timeline of these reforms, including all the litigation and processes that led to their development, be compared with the observed declines in the discretionary or proactive activity of officers. In fact, observable evidence demonstrated that these declines occurred concurrently with the reform process within the departments. With respect to “stop and frisk” or investigative stops that declined in all three agencies, it was true that many of the stops were determined not to be constitutionally valid and as such, the numbers decreased as an objective of the reforms. However, investigative stops are in fact legal if conducted within the parameters of the law. The reforms also imposed additional burdens on officers, such as enhanced reporting requirements on stops, providing information to those detained, BWC recordings of encounters, and the collection of demographic data on police stops for analysis. An emphasis was also placed on resolutions involving dispositions other than arrest. In reality, although conducting stops is still legal, the practice was significantly changed by the reforms. A strong likelihood exists that these factors also contributed to the resulting decline in stops, although it is difficult to determine to what extent. The published surveys of law enforcement officers referred to later in this chapter provides some support for the assertion that officers are in fact withdrawing from some of the discretionary stops that they once conducted with regularity. Knowing this fact, it can be concluded that at least a correlation does exist with police reforms occurring in these departments and police disengagement.

Other studies have attempted to determine if agencies under federal supervision or “pattern or practice” investigations by the DOJ were experiencing de-policing among their officers. Chanin and Sheets examined a number of agencies that have experienced “pattern or practice” inquiries to determine if their officers were “dissent shirking or de-policing.”<sup>335</sup> Specifically, they examined two theories, that de-policing was “an emotionally-driven response to public criticism, a perceived lack of institutional support” and that it was “a rationally driven response to changes in officer utility functions brought about by reform designed specifically to reduce officer misconduct through increased oversight and accountability.”<sup>336</sup> They concluded empirically that “an exhaustive review of 20 years of arrest records from 10 jurisdictions investigated by the DOJ indicates clearly that neither DOJ investigation, the release of investigative findings, nor a jurisdiction’s agreement to submit to DOJ-led reform, was causally related to statistically significant declines in arrest rates.”<sup>337</sup> However, Chicago, New York, and Baltimore were not among the law enforcement agencies examined by Chanin and Sheets. The case studies in this thesis do contradict these findings, at least in the short term. Arrests and summonses did in fact decrease in Chicago, New York, and Baltimore, and thus far, no recovery has occurred to the pre-existing levels. Chanin and Sheets do concede that the narrative of de-policing put forth by the media and officers is a valid one by indicating, “it is possible that both the anecdotal and statistical analysis are accurate, such as officers are comfortable verbalizing discontent, but are less willing to engage in the kind of de-policing that a longitudinal analysis of arrest rates might detect.”<sup>338</sup>

Rushin and Edwards also studied the effects of federal supervision on law enforcement agencies and concluded that they experienced a “temporary uptick” in reported crime and suggested that external regulation “may come with some unforeseen costs.”<sup>339</sup> They posed a number of possible explanations, one of which was the impacts

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<sup>335</sup> Chanin and Sheets, “De-policing as a Dissent Shirking: Examining the Effects of Pattern or Practice Misconduct Reform on Police Behavior,” 1.

<sup>336</sup> *Ibid.*, 13.

<sup>337</sup> *Ibid.*, 14.

<sup>338</sup> *Ibid.*, 14–15.

<sup>339</sup> Rushin and Edwards, “De-policing,” 768.

of the reforms on the agencies and added, “If true, this explanation would have the most far reaching implications, as it would suggest that that police regulations designed to combat misconduct by their very nature may come with de-policing side effects.”<sup>340</sup> Another possible explanation they felt was more likely was that officers were experiencing “growing pains” and the de-policing would only be lasting temporarily until the officers “fully understood the implications of these regulations.”<sup>341</sup> In any case, Rushin and Edwards did acknowledge discernable impacts on agencies from federally mandated reforms although they could only empirically state that the impacts resulted in temporary increases in crime rates.

### **C. STOP AND FRISK AND HIGH PROFILE ENFORCEMENT**

Law enforcement agencies have historically used intensive patrol strategies that have involved making large numbers of investigative stops in high-crime areas. These stops often led to arrests and a large number of these arrests were for lower level and misdemeanor crimes. No tolerance or zero tolerance enforcement operations have often been used by agencies to address chronic crime problems aggressively that often occurred in communities inhabited by large numbers of African-Americans, Hispanics, and other minority groups. The police departments in Chicago, New York, and Baltimore widely used this practice before it became controversial for the impact it had on these minority neighborhoods. The departments subsequently came under DOJ or federal court review and the mandated reform process began, which imposed restrictions that affected their “stop and frisk” practices. These reforms included the retraining of officers, comprehensive and time consuming reporting, which included the collection of data with respect to the circumstances of the stop and the demographics of the persons contacted, having officers provide their names and other information to those persons stopped, and a greater accountability on the part of officers when conducting these stops. All these reforms amounted to a much greater level of scrutiny that made the process much more transparent, which was the actual intent of the reforms. The data collected by each agency

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<sup>340</sup> Rushin and Edwards, “De-policing,” 68.

<sup>341</sup> *Ibid.*, 68–89.

would subsequently be analyzed to determine if patterns of a discriminatory application of the practice occurred. In addition, this data would also be made available to the public. In all three departments, the number of stops plummeted along with the number of arrests. In Chicago and Baltimore, violent crime went up significantly, while in New York the crime rate remained static.

The *Final Report* has recommendations that also address the practice of stop and frisk and high-profile enforcement by law enforcement agencies. These recommendations call for restrictions and additional requirements similar, and in most cases identical, to those imposed on Chicago, New York, and Baltimore. The *Final Report* also had recommendations that call for crime fighting strategies that use “positive non-enforcement activities” and “least harm resolutions in lieu of making arrests and using heavy enforcement tactics.”<sup>342</sup> If these recommendations are adopted into a law enforcement agency’s policies, they then become mandated in the sense that officers are compelled to abide by the new provisions and are held accountable if they do not comply.

Officer attitudes are very relevant when considering the subject of police disengagement and de-policing and studies are now emerging that can provide some understanding of how they impact officer activity. In January 2017, PoliceOne.Com in collaboration with Louisiana State University, conducted a survey of 3,346 police officers of various demographics, rank, and tenure regarding their views and attitudes in the “post-Ferguson era,” and it provided some insight into several areas relevant to police reform and the subject of disengagement and de-policing.<sup>343</sup> With respect to “stop and frisk,” 50% of the officers surveyed indicated that they strongly agree or agree that “stop and frisk” strategies are the best way for patrol officers to fight crime” and 66% of officers strongly agreed or agreed that officers should be “aggressively enforcing the law for misdemeanor offenses.”<sup>344</sup> This viewpoint is obviously contrary to the objectives of police reform, as 47.29% of the officers stated that the number of stops they have made

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<sup>342</sup> President’s Task Force on 21st Century Policing, *Final Report of the President’s Task Force on 21st Century Policing*, 14, 43.

<sup>343</sup> “2017 ‘Policing Post-Ferguson’ Survey Complete Results.”

<sup>344</sup> *Ibid.*, 21, 20.

since August 2014 has decreased.<sup>345</sup> The same study showed that 40% of officers strongly agreed or agreed with the statement “I stop (traffic or pedestrian) as few people as possible while on duty” and 41% of officers strongly agreed or agreed with the statement “I am apprehensive about stopping minorities to investigate crimes.”<sup>346</sup> In another study of a large police department in the southeastern United States, 80% of the officers “believed that unfavorable media coverage of the police greatly increases or increases crime.”<sup>347</sup> A survey of command personnel from various agencies in a southeastern state showed a correlation between commanders who believed that a “war on cops” was happening, and the belief that de-policing existed in their agency.<sup>348</sup>

These numbers should concern law enforcement executives and managers, as they clearly indicate an atmosphere for disengagement. It is especially problematic when supervisors, mid-level managers, and commanders exhibit these views. According to Nix, Wolfe, and Campbell, “A command-level officer who believes the public has become more defiant and empathizes with de-policing is not likely in a position to restrict such behavior among his or her patrol officers.”<sup>349</sup>

In 2016, a Pew Research Center national survey conducted by the National Police Research Platform of 7,917 officers in 54 police and sheriff’s departments across the United States concluded “that recent high-profile fatal encounters between black citizens and police officers have made their jobs riskier, aggravated tensions between police and blacks, and left many officers reluctant to fully carry out some of their duties.”<sup>350</sup> In the same study, 72% of the officers surveyed indicated that they were “less willing to stop

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<sup>345</sup> “2017 ‘Policing Post-Ferguson’ Survey Complete Results,” 12.

<sup>346</sup> *Ibid.*, 10.

<sup>347</sup> Justin Nix and Justin T. Pickett, “Third-Person Perceptions, Hostile Media Effects, and Policing: Developing a Theoretical Framework for Assessing the Ferguson Effect,” *Journal of Criminal Justice* 51, (August 2017): 30.

<sup>348</sup> Nix, Wolfe, and Campbell, “Command-level Police Officers’ Perceptions of the ‘War on Cops’ and De-policing,” 23.

<sup>349</sup> *Ibid.*, 13.

<sup>350</sup> Morin et al., “Behind the Badge, Amid Protests and Calls for Reform, How Police View Their Jobs, Key Issues and Recent Fatal Encounters between Blacks and Police,” 1.

and question suspicious persons.”<sup>351</sup> It is important to note that this study involved on-line interviews regarding the general climate of law enforcement at the time the survey was conducted. However, it does further support a reluctance of officers to conduct stops given what has occurred in law enforcement in the past three years. Furthermore, it provides some insight beyond the raw data that stops and arrests are decreasing in many police departments.

In October 2015, then FBI Director James Comey lamented about the rising violent crime rates occurring in many cities throughout the United States by stating, “Something disturbing is happening all across America” and referenced that the homicide rates were up dramatically in most of the 50 largest cities in the United States.<sup>352</sup> He posed a number of possible theories that could be attributing to the increase but then continued:

These are all useful suggestions, but to my mind none of them explain both the map and the calendar in disparate cities over the last 10 months. But I’ve also heard another explanation, in conversations all over the country. Nobody says it on the record, nobody says it in public, but police and elected officials are quietly saying it to themselves. And they’re saying it to me, and I’m going to say it to you. And it is the one explanation that does explain the calendar and the map and that makes the most sense to me. Maybe something in policing has changed... In today’s YouTube world, are officers reluctant to get out of their cars and do the work that controls violent crime? Are officers answering 911 calls but avoiding the informal contact that keeps bad guys from standing around, especially with guns? So the suggestion, the question that has been asked of me, is whether these kinds of things are changing police behavior all over the country. And the answer is, I don’t know. I don’t know whether this explains it entirely, but I do have a strong sense that some part of the explanation is a chill wind blowing through American law enforcement over the last year. And that wind is surely changing behavior.<sup>353</sup>

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<sup>351</sup> Morin et al., “Behind the Badge, Amid Protests and Calls for Reform, How Police View Their Jobs, Key Issues and Recent Fatal Encounters between Blacks and Police,” 1.

<sup>352</sup> James B. Comey, “Law Enforcement and the Communities We Serve: Bending the Lines toward Safety and Justice,” Federal Bureau of Investigation, October 23, 2015, <https://www.fbi.gov/news/speeches/law-enforcement-and-the-communities-we-serve-bending-the-lines-toward-safety-and-justice>.

<sup>353</sup> Ibid.

Director Comey suggested that de-policing may in fact be a reality that was occurring and he linked the rising violent crimes rates to the possibility that officers were reluctant to stop individuals due to the scrutiny under which they were currently. He specifically made reference to the “You Tube world” as inhibiting officers from making stops in efforts to address crime problems proactively.<sup>354</sup> Although this scrutiny is brought on by the saturation of video capabilities by both the media and the public, the police reforms likewise call for the use of technology and BWC and are becoming more commonplace in law enforcement agencies.

After the shooting of Walter Scott in North Charleston, South Carolina, the North Charleston Police Department (NCPD) issued all of their patrol officers BWC only to experience a 51% drop in police stops in the following nine months.<sup>355</sup> This decline led Charles Epp, a University of Kansas political science professor, to call it the “Walter Scott Effect.”<sup>356</sup> In California, the number of arrests by law enforcement agencies statewide has plummeted to the lowest number in 50 years according to the California Attorney General’s Office.<sup>357</sup> However, the decline included more than just arrests. The number of interviews or contacts has also plummeted in agencies, such as the Los Angeles Police Department (LAPD) and the Los Angeles Sheriff’s Department (LASD), and even citations issued by LAPD have dropped from almost 600,000 to about 269,000 in the period from 2010 to 2016.<sup>358</sup> Although a number of factors may have contributed to this decline, many suspect that the scrutiny officers are now under may be partly responsible, and even LAPD Chief Charlie Beck noted, “I’d be denying human nature if I

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<sup>354</sup> Comey, “Law Enforcement and the Communities We Serve: Bending the Lines toward Safety and Justice.”

<sup>355</sup> Andrew Knapp, “The Walter Scott Effect’: North Charleston Traffic Stops Cut in Half after Shooting, but Is This the Lasting Change Critics Seek? S.C. Expert; Many factors at Play in Fluctuating Statistics,” *Post and Courier*, April 1, 2016, [http://www.postandcourier.com/archives/the-walter-scott-effect-walter-scott-effect-north-charleston-traffic/article\\_cd882211-14e7-5e1f-9985-03f007f0dfa1.html](http://www.postandcourier.com/archives/the-walter-scott-effect-walter-scott-effect-north-charleston-traffic/article_cd882211-14e7-5e1f-9985-03f007f0dfa1.html).

<sup>356</sup> *Ibid.*

<sup>357</sup> James Queally, Kate Mather, and Cindy Chang, “Police Arrests are Plummeting across California, Fueling Alarm and Questions,” *Los Angeles Times*, April 1, 2017, <http://www.latimes.com/local/lanow/la-me-ln-police-slowdown-20170401-story.html>.

<sup>358</sup> *Ibid.*



didn't say police are very cautious about what they do now because of the scrutiny."<sup>359</sup> Finally, a study by the Federal Bureau of Investigation, Office of Partner Engagement concluded, "Departments—and—individual officers have increasingly made the conscious decision to stop engaging in proactive policing. The intense scrutiny and criticism law enforcement has received in the wake of several high-profile incidents has caused several officers to (1) 'become scared and demoralized' and (2) avoid interacting with the community."<sup>360</sup>

Although no national study on police disengagement and de-policing has been published concerning aggregate numbers of stops, arrests, and discretionary enforcement, the anecdotal evidence states that it is occurring in many agencies nationwide and the additional scrutiny on police has been identified as a possible causal factor. What is known is that the *Final Report* has recommended significant restrictions and requirements on this activity and the case studies of the departments in Chicago, New York, and Baltimore have clearly shown precipitous drops in the same activity after submitting to mandated reforms by the DOJ or the federal court, many of which are the same as those recommended in the *Final Report*. This issue of enhanced scrutiny will also be a reoccurring element when considering the other issues subject to police reform.

#### **D. USE OF FORCE**

The use of force and especially deadly force has been the most controversial issue in policing since the death of Michael Brown in Ferguson, Missouri. In the case studies of Chicago, New York, and Baltimore, the use of force became one of the most salient issues in police-community relations after the deaths of Laquan McDonald, Eric Garner, and Freddie Gray who were killed in deadly force incidents. The reforms in Chicago and Baltimore had several provisions that were similar if not identical to those in the *Final Report* and *PERF Guiding Principles*. However, as stated in Chapter III, the NYPD did not have specific measures regarding its use of force in the mandated federal reforms it

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<sup>359</sup> Queally, Mather, and Chang, "Police Arrests are Plummeting across California, Fueling Alarm and Questions."

<sup>360</sup> Office of Partner Engagement, *The Assailant Study—Mindsets and Behaviors*.

was subject to but was compelled to deal with that issue internally.<sup>361</sup> This topic was dealt with through the New York City Department of Investigation, OIG-NYPD report issued on October 1, 2015 (See Chapter III).<sup>362</sup> The recommendations in this report mirrored many of those in both the *Final Report* and the *PERF Guiding Principles*. It also entered into an agreement with the NYCLU to reform its use of force policy including the addition of a “comprehensive reporting system” and an annual report “analyzing the documented use of force episodes.”<sup>363</sup> Thus, all three agencies were subject to significant reforms with respect to the manner in which force was used by their officers.

For officers working in high-crime areas in these cities where they were more likely to utilize force, the data was certain to indicate that force was disproportionately used on minorities since these high crime areas were often inhabited by higher numbers of minorities. Most of these encounters involved street stops, and statistically, they are far more likely to result in the use of force (7.6%) than traffic stops (1.1%).<sup>364</sup> The reluctance of officers to engage persons in high-crime areas for fear of being in an encounter where force might have to be used should be a concern to police executives and managers. It inhibits strategies to reduce crime and it poses a real officer safety issue. For example, the FBI study referenced an incident in which an officer was justified in using deadly force but failed to do so, and as a result, was “beaten and slammed to the ground.”<sup>365</sup> The officer feared a “community backlash” and it was also reported that the officer “informed the superintendent that the officer chose not to shoot because the officer didn’t want his/her family or the department to have to go through the scrutiny the next day on the national news.”<sup>366</sup> The decision to use or not use force by officers should

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<sup>361</sup> Sanders, “De Blasio Would Veto City Council Bill Making Chokeholds Illegal.”

<sup>362</sup> New York City Department of Investigation, Office of the Inspector General for NYPD (OIG-NYPD), *Police Use of Force in New York City: Findings and Recommendations on NYPD’s Policies and Practices*, 58–61.

<sup>363</sup> “NYPD Agrees to Use of Force Reforms Advocated by NYCLU.”

<sup>364</sup> Bureau of Justice Statistics, *Police Use of Nonfatal Force, 2002–2011* (Washington, DC: Department of Justice, 2015), <https://www.bjs.gov/content/pub/pdf/punf0211.pdf>.

<sup>365</sup> Comey, “Law Enforcement and the Communities We Serve: Bending the Lines toward Safety and Justice,” 4.

<sup>366</sup> *Ibid.*

be dictated by established legal precedents, the overall circumstances surrounding the incident, and the resistance they are encountering and should never be driven by the potential repercussions from media or other potential disciplinary implications from either their department or the prosecutorial authority. To do so is a form of de-policing and it has possible lethal consequences.

Officer surveys of officer attitudes with respect to the use of force indicate some troubling trends. The PoliceOne.Com and Louisiana State University study indicated that nearly 53% of officers were apprehensive about using force even though it was necessary and over 56% of officers feared that they would lose their jobs if they used force.<sup>367</sup> In both of these questions, the respondents indicated that these concerns have risen dramatically (39.8% and 52.2%, respectively) since the events in Ferguson, Missouri. The 2016 Pew Research Center Survey reported that 76% of respondents say “officers in their department have been more reluctant to use force when it is appropriate.”<sup>368</sup> These findings are not trivial, as they have the potential to impact the safety of the public in addition to officers.

The collection of data, including information on demographics and race in use of force incidents, was a primary aspect of the reforms and additional scrutiny placed on police officers working in Chicago, New York, and Baltimore. Since they are relatively new mandates, little useful data is currently available on the use of force in these cities as of this date. The published numbers thus far are for recent periods and have limited value because of the absence of historical data to use for comparative analysis. In fact, the reporting of data on the police use of force has been problematic nationwide. The data reported to the DOJ by agencies across the United States during this period was described as “useless” for the following reasons: no mandatory reporting requirement, a lack of consistency in defining what constituted force, and many agencies simply did not know

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<sup>367</sup> “2017 ‘Policing Post-Ferguson’ Survey Complete Results.”

<sup>368</sup> Morin et al., “Behind the Badge, Amid Protests and Calls for Reform, How Police View Their Jobs, Key Issues and Recent Fatal Encounters between Blacks and Police.”

what their use of force statistics were.<sup>369</sup> The FBI initiated the “National Use-of-Force Data Collection” system on July 1, 2017, and although participation is not mandatory, this system will “provide an aggregate view of the incidents reported and the circumstances, subjects, and officers involved.”<sup>370</sup> This initiative, along with the recommendations in the *Final Report* and the PERF *Guiding Principles*, will place increased transparency and scrutiny on law enforcement agencies and the published data will be closely examined by both the media and civil rights groups that will publicly respond if disparities or troubling trends are detected.

#### **E. OVERSIGHT AND ACCOUNTABILITY**

The reforms in the *Final Report* and PERF *Guiding Principles* have many recommendations that place intense scrutiny on officers in many aspects of their duties. This scrutiny is a common denominator in many of the studies and reported accounts of de-policing among law enforcement agencies. As the previous surveys have indicated, many officers have expressed concerns about carrying out their duties and reported that they are not engaging as often as they have in the past due to the exposure they may have to discipline or the possibility of losing their jobs. It is then useful to consider how these attitudes can impact their discretionary or proactive activities.

#### **F. ORGANIZATIONAL JUSTICE**

Organizational justice is a concept related to the perceived fairness of an organization.<sup>371</sup> Wolfe and Nix noted that organizational justice is achieved when employees believe that opportunities and benefits are fairly and equally distributed within the organization, they are treated with respect, and most importantly, “procedural fairness,” exists, meaning that “employees look for supervisory decisions and organizational processes to be handled in procedurally just manners—decisions are

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<sup>369</sup> Matt Apuzzo and Sarah Cohen, “Data on Use of Force by Police across the U.S. Proves Almost Useless,” *New York Times*, August 11, 2015, <https://www.nytimes.com/2015/08/12/us/data-on-use-of-force-by-police-across-us-proves-almost-useless.html>.

<sup>370</sup> “National Use-of-Force Data Collection,” Federal Bureau of Investigation, 2017, <https://ucr.fbi.gov/use-of-force>.

<sup>371</sup> Nix and Wolfe, “Sensitivity to the Ferguson Effect: The Role of Managerial Organizational Justice,” 14.

clearly explained, unbiased, and allow for employee input.”<sup>372</sup> Wolfe and Nix studied the possibility of de-policing with respect to community engagement in the context of negative media brought on by the high profile deaths of African-American males at the hands of police. They concluded that “there appears to be a relationship between reduced motivation as a result of negative publicity and the willingness to partner with the community.”<sup>373</sup> What was significant, however, was that this effect was “washed away” when they accounted for the officer’s “perception of organizational justice and legitimacy.”<sup>374</sup> Their data “reveal that reduced motivation attributable to negative publicity may be counteracted if supervisors ensure fairness among subordinates.”<sup>375</sup> This concept was not lost in the *Final Report*, as one of the recommendations is that “law enforcement agencies should promote legitimacy internally within the organization by applying the principles of procedural justice.”<sup>376</sup> Wolfe and Nix conducted additional research on this subject and their findings reinforced those from their earlier study. They concluded,

Respondents’ perceived organizational fairness on the part of their supervisors was significantly associated with less sensitivity to five manifestations of the Ferguson Effect. Officers who felt their agency was fair were less likely to report (1) being unmotivated, (2) that law enforcement has become more dangerous, (3) that their colleagues have been impacted by negative publicity, and (4) that citizen’s attitudes (both nationally and locally) toward police have worsened.<sup>377</sup>

Wolfe and Nix conceded that a “growing body of evidence that cops have indeed been impacted by negative publicity” exists and “if in fact police officers across the country are less willing to be proactive on the job in the post-Ferguson era, this is a

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<sup>372</sup> Nix and Wolfe, “Sensitivity to the Ferguson Effect: The Role of Managerial Organizational Justice,” 14.

<sup>373</sup> Wolfe and Nix, “The Alleged “Ferguson Effect” and Police Willingness to Engage in Community Partnership,” 7.

<sup>374</sup> *Ibid.*

<sup>375</sup> *Ibid.*

<sup>376</sup> President’s Task Force on 21st Century Policing, *Final Report of the President’s Task Force on 21st Century Policing*, 14.

<sup>377</sup> Nix and Wolfe, “Sensitivity to the Ferguson Effect: The Role of Managerial Organizational Justice,” 17.

serious problem that we need to know more about.”<sup>378</sup> Finally, they concluded that “in the face of public scrutiny of immense proportions, law enforcement agencies are in a position they must act” and “to minimize the impact of negative publicity and the Ferguson Effect on officers, agencies must strive to use organizational justice as a guiding principle of their managerial philosophy.”<sup>379</sup> Although these studies focused on the negative publicity as a factor contributing to the disengagement on the part of officers, the scrutiny the officers were subjected to has in turn precipitated the emerging reforms occurring throughout the country and these reforms subject officers to accountability. Thus, the importance of “organizational justice” has great value to officers lest they feel unjustly exposed to disciplinary sanctions for carrying out their duties.

Organizational justice is administered in law enforcement agencies through managers and supervisors. The role of these positions is critical in motivating and instilling confidence among officers internally in law enforcement agencies. One recent study of managers and supervisors from various agencies in the southeastern United States indicated that they have in fact been impacted by the Ferguson Effect and the authors posed the question of whether it diminishes their ability to insure organizational justice within their respective departments.<sup>380</sup> Some insight into this question was gained in another study where in depth interviews were conducted on a number of officers and nearly all of the respondents indicated supervisors were the “solution” to the problem of de-policing.<sup>381</sup> One respondent indicated that de-policing would be minimized if “superiors have their back” and another was quoted as saying, “When the police administration does a good job balancing public concerns with those of the department and their officers that goes a long way towards building trust and reduce the chances

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<sup>378</sup> Nix and Wolfe, “Sensitivity to the Ferguson Effect: The Role of Managerial Organizational Justice,” 17.

<sup>379</sup> *Ibid.*, 19.

<sup>380</sup> Nix and Wolfe, “Management-level Officers’ Experiences with the Ferguson Effect, Policing,” 16–17.

<sup>381</sup> Oliver, “Depolicing: Rhetoric or Reality?” 453.

officers are going to start de-policing.”<sup>382</sup> If managers and supervisors have the same attitudes as line personnel, it can inhibit organizational justice. This viewpoint is extremely problematic because of the secondary impact of potentially reinforcing disengagement on the part of line personnel.

With respect to the officers’ attitudes towards organizational justice in their agency, the Pew Research Center survey indicated that only 45% of officers view their disciplinary process as fair.<sup>383</sup> Even more troubling was that only 31% of the officers from agencies over 1,000 officers felt that their disciplinary process was fair.<sup>384</sup> These large departments are in the majority when it comes to strained relations with minority communities and the oversight by the DOJ. With this being the case, law enforcement agencies would be well advised to invest as much effort in ensuring due process for their personnel as they have invested in reforms.

#### **G. DE-POLICING AS AN OBJECTIVE**

For law enforcement agencies and many segments of the community, de-policing is always discussed in a negative context. However, police reforms have specific features in their provisions that by their very nature will create additional burdens on officers that will inhibit their activities in the field. For example, the requirement to gather comprehensive data on stops, which may be time consuming or crime fighting strategies that focus on non-arrest tactics, will no doubt reduce stops and arrests. For some, it is not a bad thing, as highly aggressive enforcement strategies can harm the relationship between police and minority communities.<sup>385</sup> Nix, Wolfe, and Campbell asserted that “the police may be responding to public scrutiny by de-policing in good faith as a way to adjust their legitimacy claim to the public” and that “de-policing may be a necessary

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<sup>382</sup> Oliver, “Depolicing: Rhetoric or Reality?” 453.

<sup>383</sup> Morin et al., “Behind the Badge, Amid Protests and Calls for Reform, How Police View Their Jobs, Key Issues and Recent Fatal Encounters between Blacks and Police,” 3.

<sup>384</sup> Ibid.

<sup>385</sup> Nix, Wolfe, and Campbell, “Command-level Police Officers’ Perceptions of the ‘War on Cops’ and De-policing,” 20.

response to provide the public the type of service they seek.”<sup>386</sup> In this respect, de-policing is the logical outcome of the reforms and the efforts to gain legitimacy in minority communities.

## H. CONCLUSION

The research in the causes of disengagement, de-policing, and the Ferguson Effect is far from complete. With the exception of some officer surveys, the scope of the existing studies has had a more narrowly defined inquiry or was limited to a specific geographical region or a number of agencies. The available data is also problematic since many police departments lack comprehensive recordkeeping systems or its availability is cumbersome and even expensive. Many agencies also have data systems that cannot separate self-initiated or discretionary officer activity from call or response driven activity. To this end, future studies may be more useful since many of the recommendations in the current reforms call for mandatory data and information collection.

The published studies of agencies under federal review and supervision indicate mixed results with respect to crime and officer activity. The case studies in Chicago, New York, and Baltimore clearly indicate sustained declines in stops and arrests. However, it is unknown how these trends will hold in the future. What is clear is that both Chicago and Baltimore are experiencing large increases in violent crime and homicides. In June 2017, 20 additional federal agents were assigned to Chicago to assist in stemming the violence in a city where 424 homicides have occurred as of August 12, 2017.<sup>387</sup> On August 4, 2017, residents in Baltimore called for a “ceasefire” from the escalating homicides that had reached 208 for this year as of August 4.<sup>388</sup> Chicago, New York, and Baltimore continue down the path of police reform, but thus far, the decrease in the

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<sup>386</sup> Nix, Wolfe, and Campbell, “Command-level Police Officers’ Perceptions of the ‘War on Cops’ and De-policing,” 20–21.

<sup>387</sup> Jeremy Goner, “As Feds Help Chicago on Guns, Trump Aide Says City’s Crime More about ‘Morality,’” *Chicago Tribune*, June 30, 2017, <http://www.chicagotribune.com/news/local/breaking/ct-federal-agents-gun-crimes-trump-20170630-story.html>.

<sup>388</sup> Doug Donovan, “Standing up for a Cause: Baltimore Hopes for a 72-hour Ceasefire,” *Baltimore Sun*, August 4, 2017, <http://www.baltimoresun.com/news/maryland/crime/bs-md-ci-citywide-ceasefire-20170803-story.html>.



proactive engagement of their officers in terms of stops and arrests remains an issue that appears to have some causal connection to the mandated reforms to which they are subject. To what extent is it difficult to assess since the many factors are in play and the decision to engage or not engage is dependent on the decisions of individual officers? The reforms mandated in the case studies are not unlike those in the *Final Report* and the PERF *Guiding Principles* in many respects; it can be logically asserted that agencies adopting these new reforms will experience some level of disengagement or de-policing. The degree to which this phenomenon takes hold will be determined by several factors, which include the demographics of the jurisdiction, the existing support from the community, the level of organizational justice in the agency, and the philosophical position the community, and police take on enforcement and crime reduction strategies.

The conclusion that some level of police disengagement or de-policing will occur in agencies adopting the recommendations in the *Final Report* and PERF *Guiding Principles* is based on the measures in the reforms themselves, the officer surveys results, and other studies that allude to how officer behavior is affected by the increased scrutiny brought on by negative media coverage, reformed policies, increased accountability, an emphasis on data collection, and new technologies, such as BWC.

## V. CONCLUSION

The preceding chapters examined the police reforms drafted in the aftermath of several police incidents that resulted in the death of citizens in places, such as Ferguson, Chicago, New York, Baltimore, North Charleston, and other cities across the United States. However, these reforms were also prompted by controversial police practices viewed as discriminatory, especially when directed at minority communities. These reforms were the product of an ongoing national debate concerning the role of police in the United States and how they should best serve their communities.

### A. FINDINGS

The resulting police reforms, primarily found in the recommendations, action items, and guiding principles of the *Final Report* and the *PERF Guiding Principles*, provided a road map for law enforcement agency best practices. They have gained wide acceptance in many agencies and the implementation process has gone forward although the progress is in various stages depending on the department involved. Nevertheless, these reforms are relatively new and few if any agencies have completed this implementation process because the reforms often require an extensive change to department training, policies, and culture. As a result, no studies have been published on what the long-term effects will be on the agencies that elect to adopt the reforms.

The law enforcement agencies that have adopted the reforms in the *Final Report* and the *Guiding Principles* have submitted themselves to intense oversight and transparency. These reforms are very comprehensive and touch nearly every aspect of their operations. Additional burdens have been placed on officers and their departments, which include restrictions and limitations on historical practices, increased use of technology, more comprehensive documentation, systematic review of operations and incidents, and civilian oversight has been placed on many of the most routine elements of patrol work and investigations. These reforms were designed to ensure procedural justice, build trust and legitimacy, and eliminate past practices of agencies that have been long considered discriminatory.

The case studies in Chicago, New York, and Baltimore have provided some insight into the impacts of police reform. These agencies have been under federal supervision and subject to intense oversight and review. The investigation into these agencies and the mandated reforms prompted significant changes in the policies and practices of the officers working in these departments. An examination of these mandated reforms showed that they actually mirror the reforms in the *Final Report* and the *Guiding Principles* in many respects. Thus, it can be asserted that these agencies have already adopted many of the reforms now being advanced on law enforcement agencies across the United States.

An observed and sustained reduction can be seen in the proactive activity on the part of officers in Chicago, New York, and Baltimore. The number of stops, arrests, and summonses has decreased. In Chicago and Baltimore, violent crime has gone up whereas in New York, it has remained static. Although crime rates may be impacted by disengagement or de-policing, it is the reduction in discretionary officer activity that should be of concern to all law enforcement executives. It is important to note that the decrease in this discretionary officer activity was concurrent with the reform efforts in each city and the reforms implemented will be monitored by the DOJ or the federal court in the future to ensure compliance. Thus far, the officer activity in each city has not recovered to its previous levels.

The conclusion reached by this thesis is that police reform in Chicago, New York, and Baltimore did in fact impact discretionary officer activity and that de-policing to some extent did occur as a result of these reforms. In examining what occurred in these three departments in conjunction with the published research and officer surveys, convincing evidence indicates that a causal connection does in fact exist. When evaluating the possibility of police disengagement or de-policing resulting from the reforms in the *Final Report* and the *Guiding Principles*, it is crucial to look at what occurred in Chicago, New York, and Baltimore. Two additional factors should also be considered when making this assessment. First, the reforms in the *Final Report* and the *Guiding Principles* are far more comprehensive than those imposed on Chicago, New York, and Baltimore. The scope and recommendations in the *Final Report* and *Guiding*

*Principles* are extensive and would impose requirements that exceed those placed on these cities. Secondly, published surveys of officer attitudes with respect to the state of policing in the United States and the practices of law enforcement agencies are now available. As the previous chapter indicated, the results of these studies have clearly indicated that officers have concerns about what is occurring in their profession and are not in majority agreement with many of the specific measures in the reforms. Therefore, law enforcement agencies that elect to adopt the reforms in the *Final Report* and the *Guiding Principles* should expect some decrease in proactive officer activity when they are implemented. With the reform process still in its infancy stages, no comprehensive study has been published to date on the impacts of police reform and the potential for de-policing.

## **B. RECOMMENDATIONS**

Law enforcement managers should expect a decrease in discretionary officer activity when implementing reforms in their agency. However, based on the case studies and research completed for this thesis, a number of recommendations should be considered by law enforcement agencies to assist in mitigating the level of police disengagement or de-policing caused by the reform process. Law enforcement agencies all across the county experience significant differences, and reforms should be tailored to meet the individual needs of the particular agency and community they serve. The following recommendations may assist in this assessment.

### **1. Ensure the Individual Reforms Are Compatible with Both the Law Enforcement Agency and Community**

Although, the reforms in the *Final Report* and the *Guiding Principles* are comprehensive and they provide recommendations for best police practices, their applicability to some law enforcement agencies may vary depending on several factors to include agency size, demographics, agency history, economics, the existing relationship with the community, and political environment, just to name a few. Agency heads should carefully evaluate each of the reforms to determine if they are applicable to their department, evaluate what their impact on department objectives will be, determine if

they will enhance public trust and legitimacy, and consider if they will increase the effectiveness of department operations and strategies. Some agencies already have considerable community support and approval and they may have successful initiatives not worth disturbing. A rigid implementation of all the recommendations in the *Final Report* may be counterproductive. Forcing a dramatic cultural change on a well-functioning department already succeeding in their community outreach and engagement may cause officer morale problems and subsequent de-policing. In May 2016, the COPS Office hosted a forum involving rank and file police officers to discuss building trust and community policing.<sup>389</sup> The report indicated that the participants discussed the issue of officer safety, wellness, and morale, and stated repeatedly that if officers do not trust their departments, they will not do their job.<sup>390</sup> The report continued by saying, “This is more than a perception—it is a position stated repeatedly by forum participants.”<sup>391</sup>

## **2. Use Qualified and Well-Informed Community Representation for Civilian Oversight**

The *Final Report* has several recommendations calling for civilian oversight over several aspects of law enforcement agencies to increase transparency and accountability, which in turn, builds trust and legitimacy. Rank and file officers are more accepting of this concept if the civilians are trained and “understand the complexities of policing.”<sup>392</sup> They also recommended that civilian oversight panels “include retired judges or law enforcement officers to bring impartiality and independence to the process.”<sup>393</sup> When examining issues related to policing, it is critical that those persons making judgements and recommendations about the profession fully understand the skills and training required by officers, the unique environments in which they work, and the unpredictable and dynamic conditions in which police officers often operate.

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<sup>389</sup> James Copple and Nicola Erb, “*Rank and File: Leaders in Building Trust and Community Policing* (Washington, DC: Office of Community Oriented Policing Services, 2016), <https://ric-zai-inc.com/Publications/cops-p351-pub.pdf>.

<sup>390</sup> *Ibid.*, 4.

<sup>391</sup> *Ibid.*

<sup>392</sup> *Ibid.*, 10.

<sup>393</sup> *Ibid.*

### **3. Use an Objective, Diverse, and Balanced Ideological Approach in Selection of Community Representation**

Another potentially sensitive factor concerning civilian oversight is the ideological representation in panel and boards. Governmental entities and law enforcement agencies must ensure that civilian oversight is balanced from an ideological standpoint to ensure credibility to the process. Ideally, civilian oversight should be inclusive, diverse, representative of the community, independent, and open minded. Any perceived conflict of interest or inherent activism emerging from the process will be problematic and the exercise will be viewed as political. In the Denver Police Department reform process, the sole officer assigned to an advisory committee revising the department's use of force policy withdrew after the drafted proposal was deemed to put officer safety at risk.<sup>394</sup> The representative concluded, "I cannot continue to participate nor does the draft reflect any of the input I have provided. I cannot endorse it."<sup>395</sup> The Denver police union called the process a "joke," and the union representative complained that "there was a lot of political motivation being demonstrated at the meetings."<sup>396</sup>

Denver was a good example of how destructive the reform process can become if caution is not exercised when collaborating with communities and other groups in police reform.

### **4. Use Officer Representation in Implementing Police Reform**

In departments where obvious reform is needed and especially one with strained community relations, a full implementation of the recommendations in the *Final Report* and *Guiding Principles* may be needed to rebuild trust and legitimacy. As seen in the mandated reforms in Chicago, New York, and Baltimore, de-policing can occur. Departments should consider bringing their officers and their labor organizations into the

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<sup>394</sup> Noelle Phillips, "Denver Police Officers Are No Longer Helping Revise the Department's Use-of Force Policy," *Denver Post*, August 14, 2017, <http://www.denverpost.com/2017/08/14/denver-police-officers-no-longer-helping-revise-use-of-force-policy/>.

<sup>395</sup> Ibid.

<sup>396</sup> Jennifer Kovalski, "DPD Union Calls Use-of Force Committee a Joke, Only Officer Resigns," Scripps Media, 2017, <http://www.thedenverchannel.com/news/local-news/dpd-union-calls-use-of-force-committee-a-joke-only-officer-left-resigns>.

implementation process where they can collaborate with the agency commanders and community members to reach collaborative agreements on the individual measures in the reform. If consensus cannot be reached, a negotiated agreement may be reached that satisfies the objectives of both sides. For example, in the rank and file forum, general consensus was not reached regarding police taking on an exclusively “guardian” role in its relationship with the community, as some participants believed that officers must assume the role of “warrior” in some circumstances, and as a result, they believe in “balance.”<sup>397</sup> This agreement is reasonable knowing that law enforcement officers are forced into violent encounters on occasion and must have “warriors” skills to survive such incidents and fulfill their responsibility to protect the public, as well as themselves.

## **5. Ensure Organizational Justice is Established Internally within Departments**

As stated in Chapter IV, de-policing is less likely to occur when officers believe that their departments exercise organizational justice and that they will get a fair review of their cases both internally and externally through the appellate review process. The *Final Report* also makes reference to this topic as well in its discussion of procedural justice.<sup>398</sup> It is recommended that “departments should adopt procedural justice as the guiding principle for internal and external policies and practices to guide their interaction with the citizens they serve.”<sup>399</sup> The critical point to be made is that the same priority should be placed on internal procedural justice as it is on external procedural justice. The officer’s view of the credibility of the *Final Report* is dependent on how it is applied to them, as well as the community. The rank and file forum hosted by the COPS Office in 2016 considered the *Final Report*’s recommendation for civilian oversight and the participants concluded that it was “part of the future of policing” but also maintained that if it was implemented, the “transparency and protection of officer’s rights must be

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<sup>397</sup> Kovaleski, “DPD Union Calls Use-of Force Committee a Joke, Only Officer Resigns,” 21.

<sup>398</sup> President’s Task Force on 21st Century Policing, *Final Report of the President’s Task Force on 21st Century Policing*, 11.

<sup>399</sup> *Ibid.*

guaranteed.”<sup>400</sup> Clearly, this viewpoint is important to them and basic officer protections and due process must be safeguarded to ensure the success of reforms.

### **C. FURTHER RESEARCH**

The issue of police reform is a very fluid one and a need exists for continued study in several areas. Reforms in Chicago, New York, and Baltimore have shown that de-policing has occurred but the extent is still unclear. Many suggest that it may be driven by controversial police shootings or intense media coverage in addition to the reforms themselves. As the reforms progress into the coming months and years in these cities, subsequent studies should be made to determine the levels of proactive officer activity to determine if they recover from previous levels or if they reach levels commensurate with the expectations of the specific agency after the reforms; that is, determining the level of activity that would be expected considering the agency’s compliance with the reforms. With the absence of further controversial incidents and declining media coverage, proactive police activity should stabilize at levels determined to be appropriate by the respective agency. A sustained decrease in activity over time would be more indicative of police disengagement or de-policing as a result of police reform.

With respect to the reforms in the *Final Report* and *Guiding Principles*, systematic tracking of officer activity is needed from the very onset. Apart from the potential impact from national incidents involving police, agencies adopting the reforms may not be subject to negative press reporting, and in fact, may receive positive coverage for adopting major reform in their agencies. In addition, the reforms, although mandated by department policy, will not carry the stigma of federal oversight or supervision like in Chicago, New York, and Baltimore. Demographics and the strength of community trust may also play a role in mitigating the effects of police disengagement or de-policing. Nevertheless, a study is needed regarding the impacts of the *Final Report* and the *Guiding Principles* on officer activity over time.

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<sup>400</sup> Copple and Erb, *Rank and File: Leaders in Building Trust and Community Policing*, 10.



Another area of study relevant to this subject of police reform is an examination of officer attitudes and their self-disclosure of how they have responded to the reforms in the *Final Report* and *Guiding Principles* in terms of their activity. This study should focus directly on police reform and how police officers feel about it and how they are reacting to it. The surveys in the previous chapter did not specifically address reforms but rather the current climate in policing. The study should involve agencies both adopting the reforms and those who have declined to do so. In addition, subsequent surveys of the same respondents should be administered after a sufficient period of time to allow the agencies to stabilize after implementing the reforms.

A final consideration with respect to the implementation of police reforms is determining what the new norms are with respect to levels of discretionary officer activity. This determination would require research into the specific provisions of the reforms to determine how they restrict the functions of an officer in areas, such as stops, searches, arrests, patrol strategies, traffic enforcement, and even use of force. Some recommendations in the *Final Report* may very well permanently reduce certain activities of officers by restricting or eliminating certain practices. In fact, some of the stakeholders in the reform process had this intention from the very beginning. However, the level of activity should eventually stabilize over time and new norms established. In the previous chapter, studies were highlighted that showed initial declines in activity before recovering to levels below historical averages. Determining the new norms will be a relevant area of study after police reforms have been well established in the law enforcement community.

#### **D. THE FUTURE**

The reforms in the *Final Report* and the *Guiding Principles* have addressed long standing issues that have plagued law enforcement agencies in their efforts to serve communities and reduce crime. In addition, the recent controversial deaths of citizens at the hands of police have only exacerbated these conditions and have seriously impacted the level of trust and legitimacy of law enforcement agencies in many cities. Police reform was long overdue. The *Final Report* and *Guiding Principles* are the products of a national debate and it succeeded in bringing together the critical stakeholders that have an

interest in policing and the priorities it should have in the future. In the end, consensus was reached in these reforms and a national model has been established for all law enforcement agencies to follow. However, these reforms will require a substantial investment on the part of law enforcement agencies in time and money. Significant changes in policy, practices, and training are required and the culture in many agencies will dramatically change. Law enforcement managers must proceed carefully when adopting these reforms and should expect challenges along the way. The issue of police disengagement or de-policing is a real one and it may be brought on by the reforms they are implementing. Future research and studies should further probe this issue and the subsequent findings should provide law enforcement managers some guidance as to the extent and duration of this disengagement and de-policing.

The *Final Report* and the reforms initiated by and endorsed by PERF, MCCA, and IACP were products originating during a tumultuous period when law enforcement agencies were under intense scrutiny by civil rights groups, minority communities, and the media. The DOJ was also intimately involved in the oversight of many agencies and the review of specific incidents involving the actions of individual police officers. All these incidents occurred under the administration of President Barack Obama who took a determined interest in police reform as demonstrated by his DOJ's active participation in the oversight of many police agencies and he further commissioned the President's Task Force on 21st Century Policing in 2014.

With the election of President Donald Trump, it is now apparent that a different philosophy is being advanced in policing and police reform coming from his administration, which will influence the new DOJ leadership. How this change will impact the current reforms remains to be seen, as it is too early to determine if changes to the reforms themselves will result. Current Attorney General Jeff Sessions has already weighed in on his position on the federal supervision of law enforcement agencies and called for a review of all "collaborative investigations" and "existing or contemplated

consent decrees.”<sup>401</sup> These factors can dramatically change how police reforms go forward and how they will be implemented by law enforcement agencies. This nation is less than one year into President Donald Trump’s first term and significant uncertainty has now ensued as to the future of police reform. However, the *Final Report* and the *Guiding Principles* are very influential documents that will still heavily influence the practices of law enforcement agencies well into the future.

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<sup>401</sup> Office of the Attorney General, “Supporting Federal, State, Local, and Tribal Law Enforcement” (official memorandum, Washington, DC: United States Department of Justice, 2017), 2, <https://www.documentcloud.org/documents/3535148-Consentdecreebaltimore.html>.

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