Principles of Procedurally Just Policing

THE **JUSTICE COLLABORATORY**
Yale Law School

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The *Justice Collaboratory* brings together
an interdisciplinary group of scholars
and researchers at Yale University and
elsewhere to work on issues related
to institutional reform and policy innovation
and advancement. We infuse theory
and empirical research in order to achieve
our goal of making the components
of criminal justice operation simultaneously
more effective, just, and democratic.

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Introduction

 The guiding principle of this document is that police departments' policies should be conducive to building and maintaining law enforcement legitimacy and public trust. By **legitimacy**, we mean the public's belief that the authority enforcing the law has the right to do so. We emphasize this concept because empirical evidence persuasively demonstrates that perceptions of legitimacy have a greater impact on compliance with the law than do instrumental factors, such as sanctions imposed by authorities on individuals who commit crimes. The more legitimate members of the public perceive actors in the criminal justice system to be, the more likely they will be to obey the law.

The theory of **procedural justice** is grounded in the idea that people's perceptions of police legitimacy will be influenced more by their experience of interacting with officers than by the end result of those interactions. For instance, a driver's perception of his experience of being stopped by a police officer will depend less on whether he receives a ticket, and more on whether he feels the officer has treated him in a "procedurally just" way. Individuals evaluate whether they have received procedurally just treatment by considering four central features of their interactions: whether they were treated with dignity and respect, whether they were given voice, whether the decision-maker was neutral and transparent, and whether the decision-maker conveyed trustworthy motives. Research demonstrates that when members of the public perceive police officers to behave in a procedurally just manner, they have a more positive view not only of their individual encounters with those officers, but of the legitimacy of law enforcement more generally.

Notably, the recommendations made herein are in concert with those of the President's Task Force on 21st Century Policing. We believe those recommendations should serve as a model for law enforcement across the country.[1] Pillar One of the Task Force's final report focused on "building trust and legitimacy," and its very first recommendation stated:

> *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.*[2]

Concepts of procedural justice are already visible in many police departments' policies, particularly in the form of mission statements communicating the overall goal of the law enforcement agency, and in policies specifically addressing professional responsibility standards for officers. These provide an important opportunity to distill professional responsibility considerations into a set of principles to guide members of the department, and to establish that principles of procedural justice inform all of the departments' actions.

We believe that procedural justice can and should be integrated throughout the policies of a department. In this document, we identify three key areas of department policymaking in which procedural justice principles should be incorporated:

1. Addressing transparency and public engagement
If police departments are only able to make one change to their current operating procedures, it should be this: departments should move toward a process for publishing and revising their general and special orders that incorporates procedural justice principles. As described above, if a police department is to be viewed as procedurally just, it must give members of the public voice and make decisions in a fair and neutral way. **Procedural justice is not a project or program to be completed, nor a goal to be achieved; it is a comprehensive change to the ways in which police departments do business and a constant work in progress.** Departments that are committed to procedurally just policing should thus incorporate procedural justice principles into their decision-making processes on an ongoing basis.

Departments should also commit themselves to an ethic of transparency in their interactions with their communities. In particular, we highlight policies surrounding the reporting, documenting, and review of police uses of force, as well as policies relating to the use of body-worn and vehicle-mounted cameras, as having particularly strong implications for perceived and actual transparency. We offer some suggestions about how procedural justice principles might impact policymaking in these areas.

2. Addressing "internal" procedural justice in police departments
Research has found that the existence of procedural justice within police departments is central to implementing procedural justice externally. In short, officers who feel they are treated fairly by their departments are better able to implement policies that promote justice, and more readily communicate respect for members of the community. Thus, if departments wish to implement a procedural justice-based approach to policing their communities, it is essential for those departments to ensure that their internal policies treat officers with fairness and respect.

Procedural justice principles should also be included in a department's code of conduct or ethics policy. For instance, policies that call for officers to be truthful and courteous support the procedural justice principle of treating others with dignity and respect, while policies requiring impartiality and an ethic of service to the community aim to influence officers' tendency to convey trustworthy motives to the community.

3. Addressing "external" procedural justice in the community
In addition, procedural justice principles can be incorporated directly into policies governing how officers treat members of the community. This may include general interactions with community members as well as more particularized circumstances, such as investigatory stops. In this section, we will offer some suggestions for implementing procedural justice principles in interactions with groups that have significant contact with police officers and/or a historically fraught relationship with law enforcement. These include young people, crime victims, immigrants, and LGBTQI individuals.

Audience

These principles were drafted for an audience of policymakers and policing executives. As such, they were modeled on existing police department general orders. Our hope is that this will make the principles easy to adapt into new departmental policies for those that wish to do so. That said, we understand that the structure we have chosen is likely to make these principles somewhat inaccessible to lay audiences. We encourage those readers to consult the Executive Summary, which outlines our suggestions in a more condensed format.

Organization

This document outlines a set of 41 principles of procedurally just policing. These principles are written at a high level of generality to reflect the fact that different departments might accomplish these goals in different ways. For example, our first principle is that police departments should make their policies or general orders publicly available.

Following each principle, we provide commentary. This section highlights academic and other literature that supports the idea outlined in the principle. For example, commentary on the principle outlined above emphasizes the importance of transparency in procedural justice theory and research.

Following the commentary, we provide model policies that have been used by other police departments and/or that are supported by police professional associations or other groups. For example, in furtherance of the principle outline above, a department might create a general order stating that new departmental policies will be posted to the department's website within twenty-four hours of adoption. We emphasize that these models are meant as **examples**. For many of the principles we outline, there is no one, correct way to express that principle in policy. Specific policy language is thus something that each department that wishes to implement these principles must debate and develop for itself. That said, the extensive footnotes provided in connection with the model policies will help departments to identify the law enforcement agencies or other groups that have adopted substantially similar approaches.

What These Principles are NOT

Having addressed what these policies *are*, it may be useful to say an additional word about what they *are not*. These principles and model policies are not meant to replace a department's current general orders; these ideas are meant to supplement or modify existing general orders, which will no doubt cover topics that we do not address. These principles do not constitute legal advice; any department that wishes to make changes to its policies should consult with counsel to make sure that those changes comport with relevant state and local laws. These principles and model policies are also not meant to represent judgments about superior and inferior policing tactics. Although no discussion of procedural justice in policing can avoid all discussion of tactics, our view is that tactical considerations are better addressed by policing professionals with relevant expertise, in close and ongoing consultation with the communities in which they work.

Our sole and exclusive focus is on procedural justice and how it may be maximized by police departments. Procedural justice scholarship does not dictate a position on many extremely important choices about a police department's operational practices, and the principles outlined here should not be understood as attempting to foreclose debate around these issues. Instead, we hope this document will serve as a springboard for ongoing discussion about what local communities want from their departments.

Part One: Transparency and Public Engagement

If a police department is to be viewed as procedurally just, it must be open and transparent, give members of the public a voice, and make decisions in a fair and neutral way. In this Part, we highlight three areas in which these principles apply with particular force.

The first of these is a policy about policymaking. Police Department general orders are not, and should not be, static documents. They change as knowledge grows, technologies advance, and practices are tested. Thus, departments have to think not just about how they will make their policies procedurally just today, but how they will ensure that procedural justice principles guide their policymaking in the future. Procedural justice is not a project or program to be completed, nor a goal to be achieved; it is a comprehensive change to the ways in which police departments do business and a constant work in progress.

In this Part, we also highlight Use of Force review and body-worn camera policies as important areas of focus. How police departments review and learn from officer uses of force has become a focus of national attention. Body cameras are posited—we think rightly—as a tool of transparency, but communities must be engaged in the many difficult decisions that will have to be made about when and how the cameras should be used.

Procedurally Just Policymaking

Overview

If police departments are only able to make one change to their current operating procedures, it should be this: departments should move toward a process for publishing and revising their general and special orders[3] that incorporates procedural justice principles. As described above, if a police department is to be viewed as procedurally just, it must **give members of the public voice** and **make decisions in a fair and neutral way**. Thus, the aim of this model policy is that all future departmental policies enjoy the legitimacy that flows from having been formed with community input, in a climate of open and transparent communication.

The recommendations called for herein will be challenging to implement. Departments must endeavor to ensure that community members—especially those who live in neighborhoods with high rates of enforcement activities—fully understand the process for providing input on policing policies. The department must then listen to those voices with respect, learn from their concerns, and address their recommendations in its policies.

A community-engaged policymaking process will pay dividends: it has the potential to substantially increase the community's belief in the department's legitimacy. The changes departments make in this regard stand to generate public support for police reforms and channel public concerns into structured processes that—while more open and demanding—will be more consistent and more manageable than the current cycles of protest and debate.

The principles presented here are supported by national policing organizations. For example, the Police Executive Research Forum (PERF) says one of the key take-aways from its 2014 conference on the lessons police chiefs had learned from navigating major crises is that: "Police who listen and respond to what the community wants, and who solicit public opinions about issues such as whether to deploy a new technology, tend to enjoy greater support from the community than agencies with an autocratic approach."[4]

The Final Report of the President's Task Force on 21st Century Policing, moreover, contains four recommendations and two specific action items that address the need for departments to engage their communities in their policymaking.

- Recommendation 1.3 calls for developing a culture of transparency and accountability. Action Item 1.3.1 specifically calls for the posting of departments' policies for public review.

- Recommendation 1.5 calls for engaging communities with high rates of enforcement activities in positive activities with the department. Action Item 1.5.1 specifically calls for engaging the community in developing and evaluating policies and procedures.

- Recommendation 2.1 calls for working with communities with high rates of crime to develop policies that would reduce crime through improved relationships and cooperation.

- Recommendation 2.8 calls for civilian oversight of departments, which would include oversight of their policies and policymaking processes.

Chiefs of some departments around the country have had success in implementing such changes. As Chief Daniel O'Leary from Brookline, MA summarized his department's policymaking process and its results:

> *Often before we do something like deploy a new technology, we'll bring it to a public meeting and get public input. We usually write a policy based on the public input before we start implementing anything. That can involve a lot of work, because the people in our community don't want to give up their privacy rights, for example. But in the end, we get a lot of support in the community for the policies we end up adopting, because we are transparent.*[5]

Departments that seek to make their policymaking process more procedurally just thus have many models available to them from other departments around the country. They may also learn from the practices of other parts of their local governments. Many of the pressing questions for law enforcement—how to protect departments from illegitimate political interference while maintaining democratic accountability, how to respond to community concerns while still basing decisions on research and professional expertise, etc.—are similar to questions faced by other government agencies.

Definitions

Policies that substantially impact community members: those policies that govern interactions between the department and members of the public or the department's response to community complaints related to those interactions.

- Examples of orders that substantially impact community members might include:
  - when to use a SWAT team;
  - whether to allow BWC filming in a home without consent;
  - policies for responding to low-level crimes; and
  - how officer-involved shootings will be investigated
- Conversely, examples of orders that do not substantially impact community members might include:
  - standards for uniforms;
  - attendance and time off policies;
  - chain of command; and
  - equipment management policies.

PRINCIPLE 1. Make Policies Publicly Available

All general and special orders should be publicly available unless there is a specific law enforcement reason not to release a certain policy.

Commentary

Publishing orders promotes a culture of transparency and enables the public to be informed about sanctioned police policy and conduct. Government agencies that are highly transparent about their policies, even by posting information online, increase the public's knowledge and trust.[6]

Model Policies

A.1 All general and special orders shall be posted on the department's website.[7] Any revisions to the general orders or new or revised special orders shall be updated on the website within 24 hours of being issued.[8]

A.2 Departments without a website and/or that seek to provide equitable access to all community members regardless of internet access shall make complete copies of the general and special orders available at the public library, City Hall, police headquarters, and/or other publicly accessible areas.

A.3 The department shall issue exceptions to this policy for any specific general or special orders, or sections of a general or special order, that contain information that could interfere with effective enforcement of the law or endanger an individual. Any exceptions will be narrowly tailored to protect law enforcement activities while still providing maximum transparency about the department's policies. If the policy would be provided in response to a freedom of information request, it must be posted.[9]

A.4 The department shall make publicly available a list of all of the written policies and manuals it maintains, even when such a policy or manual is not released to the public because publication would interfere with effective enforcement of the law.[10]

PRINCIPLE 2. Subject Policies Likely to Substantially Impact Community Members to Intensive Public Review

When writing new special orders or updating general orders, the department should identify for more intensive public review: issues that are likely to substantially impact community members; and/ or issues regarding which the policy would be better accepted by the community if the department sought community input while developing the policy.

Commentary

The President's Task Force on 21st Century Policing begins its Policy and Oversight recommendations with a call for departments to engage community members in their policymaking processes (Recommendation 2.1). The research on procedural justice demonstrates that the community is more likely to accept police decisions if they have had an opportunity to voice their perspective.[11]

Note, however, that there may be instances in which the department's decision-making is constrained. For instance, one such constraint may be the department's current budget. If the department is unlikely to heed community opinion in such an instance, it may be better not to seek it. Procedural justice research has found evidence that if decision-makers provide community members with opportunities to speak but have no intention of following their input, such a false opportunity for voice can undermine trust.[12] The department may still, however, acknowledge that the decision was made and explain the reason for its decision (see Principle 5 below).

Model Policies

A.1 All new general or special orders or revisions to existing general or special orders that will substantially impact community members shall be considered for more intensive community review.

A.2 The Department shall establish a temporary advisory group to review the current Orders and (a) identify issues that substantially impact community members that are not addressed in the Orders and (b) recommend existing Orders that fit the above criteria and that should be prioritized for revision and/or public discussion.

- The group shall be composed of [X] members of the community to provide a representative cross section of the community and [X] employees of the department to provide a representative cross section of the department.
- Efforts should be made to ensure that this group includes key stakeholders particular to the locality. Examples might include: members of local Native American tribes, members of the LGBTQI community, crime victims, the formerly incarcerated, etc.
- The department should be fully transparent with such a group regarding its available resources and timeline for developing or revising policies. Doing so will set reasonable expectations and commit the department to a process for which it can reasonably be held accountable.[13]

PRINCIPLE 3. Solicit Community Input When Making or Revising Policies

When writing policies, departments should seek community input through one or more structured processes that provide community members with meaningful opportunities to be heard. When decisions regarding new special orders or updated general orders are made, community input should be given genuine, thoughtful consideration and decisions should advance procedural justice.

Commentary

Soliciting and thoughtfully considering community input is a way for police departments to give community members voice. When people have voice, they view authorities as more fair.[14]

Model Policies

A.1 Through discussions with community members, the department shall develop a clear statement of when and how it will engage community members in its policymaking process. The statement shall articulate the department's procedural justice-based goals for involving the community.

A.2 The department shall notify the community when it is creating or revising a policy that addresses an issue that is likely to have a substantial effect on the community. The form of such notification shall be determined based on the circumstances and the issue to be addressed, and could include an open letter to the mayor and city council, a press release, a website and social media announcement, etc. Such notification will provide information on how the department will be providing opportunities for community input into the policy or the reasons that community input will not be sought.

A.3 The department shall give genuine, thoughtful consideration to issues raised by members of the community. Community input received will be carefully reviewed in full. Whenever possible, recommendations from members of the community, particularly those most likely to be affected by the policy, will be addressed in the final policy. Even when the department cannot adopt certain recommendations, it will consider whether there are alternatives or modifications that might address both community and department concerns.[15]

A.4 The department shall seek guidance and assistance from municipal government in developing public policy decisions and conducting community input processes. As its needs require, a police department might formally request that its municipal government either (a) pass a law or otherwise issue a decision regarding the identified policy choice or (b) conduct a public process for seeking input into the department's development of its Order.

A.5 The department may seek guidance and assistance from the state government in developing public policy decisions.

A.6 The department shall implement educational programming to inform the public about the legal, administrative, and tactical constraints and considerations that guide the department's decision-making, as part of its larger community input process.[16]

A.7 [The municipality] shall establish a [Police Policy Advisory Council] to advise the police department regarding its policies and procedures based upon community input and best practices.[17]

A.8 The department shall create opportunities for the public to provide in-person input on policies and issues.[18] Opportunities for in-person input should be designed to engage members of the community most likely to be affected by a policy. They should be accessible to all, which includes physical accessibility (wheelchair accessible, held in affected neighborhoods at locations near public transportation stops, etc.), time accessibility (consider holding both day and evening sessions), sufficient notice (events should be advertised widely through means likely to reach those most affected by the policy), and genuine openness to nontraditional participants.[19]

A.9 The department shall create opportunities for the public to provide online and written feedback on policies and issues.[20] Requests for written community input can include such approaches as surveys, online public comments posted in response to a document (as is done with federal regulations), and receipt of mail or email on a topic. Departments should ensure that any method chosen allows for online and paper responses. The opportunity to provide input should be advertised widely by means likely to reach those most affected by the policy. Online methods should ideally be fully smart phone compatible.

A.10 The department shall engage staff of all ranks across the organization by requesting their input on policy decisions.

A.11 The department shall document and save all responses it receives for at least the duration of the policy development process. Documenting the community's voices will help provide assurances to the community that the department is listening.[21]

A.12 When weighing policy options, the department shall choose whenever possible the option that will increase the fairness and neutrality with which it enforces the law and increase the dignity with which it treats all members of the community, including its own officers.

PRINCIPLE 4. Communicate Reasons for Policy Decisions

Final policy decisions and the reasons for those decisions should be communicated to the community, including acknowledgment of where and why community recommendations were or were not adopted.

Commentary

Public perception will strongly influence public responses to the new policy. The more that the community believes that their concerns were genuinely heard and addressed and the more that they understand and trust the reasons that alternate decisions were made, the more legitimacy the department will have when it implements its Orders.[22]

Model Policies

A.1 The department shall include a brief explanation in community-oriented language for its policy decisions when issuing a new or revised Order. The explanation should include the reasons the chief chose the alternative he or she did. It should also include a brief summary of the community input received regarding each major aspect of the policy. The explanation should highlight where community recommendations were included. In instances when community preferences were not followed or when the chief chose between competing community preferences, the summary should explain why the final decision was made.[23]

Use of Force Review: Principles and Policies

Overview

The neutrality and transparency of police department policies and procedures regarding officers' use of force—in particular, critical incidents involving the use of deadly force or in-custody deaths—are essential for maintaining public trust.

Currently, department policies differ in how they define and categorize "force" and offer different models for reporting and reviewing use of force incidents. Most department policy manuals that define the types of actions that constitute force also classify these actions at different levels corresponding to different kinds of investigation and review. Drawing upon existing policies and model practices, the following principles and policies focus on internal administrative review of more serious uses of force—officers' actions that risk or result in the death or serious injury of others, as well as in-custody deaths. Of course, every use of force should be considered a serious event and should be reported and evaluated in light of the police department's commitment to pursuing its mission with minimal reliance on the use of force and with the highest regard for the safety and dignity of all persons. However, more life-threatening use of force incidents should be—and generally are—subject to investigation and review by a specialized team and/or board, whereas other use of force incidents may be subject to more limited review by the involved officer's supervisor and chain of command.

All of the policies proposed herein reflect the recommendations made in Pillar Two of the final report of the President's Task Force on 21st Century Policing, the Police Executive Research Forum report *Use of Force: Taking Policing to a Higher Standard*, the International Association of Chiefs of Police report *Emerging Use of Force Issues*, the Department of Justice report *Principles for Promoting Police Integrity*, and the International Association of Chiefs of Police and Community Oriented Policing Services symposium on use of force, as well as promising practices and reforms already instituted by various police departments.

PRINCIPLE 5. Draft Specific and Comprehensive Use of Force Guidelines
General orders or policy manuals should include specific and comprehensive guidelines regarding the reporting, documentation, and review of use of force incidents.

Commentary
While the use of force may sometimes be necessary to protect the public, research suggests that police uses of force may encourage noncompliance.[24] That said, police legitimacy is associated with greater public support for reasonable uses of force.[25] A transparent use of force policy can help achieve such support by clearly articulating the circumstances in which force will and will not be used and generally enhancing the legitimacy of the department.

Model Policies
A.1 Department policies shall clearly define, with examples, and categorize by level the actions that constitute force. These definitions should be consistent with the legal standards used to judge objectively reasonable force, department training on de-escalation tactics and the use of force, written policies or

decision models guiding officers on the appropriate use of force, and the department's code of conduct and respect for life principles.

A.2 Definitions shall be revised as needed to reflect relevant changes in legal standards, weapons technology, and department practice. In determining how a new tool or tactic should be categorized and reviewed, or to determine whether an existing technique should be re-categorized, departments should evaluate the technique's potential to cause death or serious injury, both when applied correctly and when applied in violation of policy, and should review outcomes where the technique has been used.[26]

A.3 A.3 Every reportable use of force shall be documented and evaluated in a timely, thorough, objective, and consistent manner pursuant to detailed written policies. Policies shall convey that the objectives of the review process go beyond assessing whether an incident was legal and consistent with departmental policy to consider the incident's effect on public trust and the opportunities it presents for individual and department-wide improvement.

PRINCIPLE 6. Make Policies and Data Publicly Available

Departments should make their internal review policies publicly available and release both timely information and annual data on use of force incidents.

Commentary

A transparent use of force policy can help achieve public support for reasonable uses of force by clearly articulating the circumstances in which force will and will not be used.

Model Policies

A.1 Use of force policies and review procedures should be openly available to the public in un-redacted form, for example, through the online publication of the department's General orders or policy manual.[27]

A.2 Departments should provide public access to database information on use of force incidents and publish regular reports, annually at a minimum, with statistical and summary information on officers' use of force.[28] Departments should develop standardized categories for use of force data so that this information may usefully be compared across agencies. These categories could divide types of force as physical (where the officer uses his or her body to kick or strike), lethal weapon (where the officer uses a firearm, vehicle, or other deadly device), and less-lethal weapon (where the officer uses, for example, a TASER or chemical spray). Within these broad categories, which generally correspond with departments' existing classifications, reports of use of force incidents should be sub-categorized by the specific type of force used.[29]

A.3 Department policy on use of force incidents should specify what types of information will be released to the public and when, ideally requiring the release of a preliminary summary statement within hours of an incident's occurrence and regular updates thereafter with more complete information about the incident and the disposition of any investigation. The aim should be to share as much information as possible without compromising the investigation or the rights of the involved officer.

PRINCIPLE 7. Employ Sentinel Event Reviews and Early Warning Systems

Departments should use data on officers' use of force and administrative review findings as the basis for proactive, nonpunitive interventions, including sentinel event reviews, early warning systems to identify at-risk officers, and regular analyses of department-wide trends.

Commentary

Proactive interventions with officers about patterns of problematic behavior signal department leadership's belief in the capacity for that behavior to change, which is associated with greater employee commitment and more appropriate behaviors.[30] By fostering procedural justice internally in this way, departments may encourage more procedurally just dealings with the community.[31]

Model Policies

A.1 In addition to administrative review of critical incidents, police departments should strongly consider implementing nonpunitive, nonadversarial peer reviews of certain "sentinel" events—incidents that may be within department policy but that have serious negative effects on community relations.[32]

A.2 Departments should implement an early warning system or similar accountability software that monitors officers' uses of force, in addition to other indicators, in order to alert supervisors to potential patterns of problematic behavior. The objective of the early warning system should be to identify counseling, training, or supervision needs, not to impose formal discipline.[33]

A.3 Departments should conduct regular reviews of use of force data and incident investigations, annually at a minimum, in order to identify department-wide patterns that point to a need for changes in policy, supervision, equipment, tactics, training, or culture, or a need to audit or revise the documentation of use of force incidents.

Body-Worn and Vehicle-Mounted Cameras

Overview

In keeping with the procedural justice principles of neutrality and transparency, we believe that police officers should, whenever possible, wear cameras on their bodies. Body-worn cameras (BWCs) provide members of the public, the media, and researchers with vital information about the quality of police-public interactions—especially the relatively small, but critical, minority that involve officer use of force. These videos will not resolve all debates about the propriety of the officer behaviors they portray, but the information they do reveal may—particularly if made accessible to researchers for studies that involve clear hypotheses and strict privacy controls—advance empirically grounded policing reform.[34]

The introduction of cameras may also, however, contribute to public concern about large-scale invasions of privacy. Furthermore, BWCs, in particular, have the potential to be misused as a surreptitious form of search and seizure. Finally, there are important technological issues to be considered as well: specifically, once cameras are employed, their film must be maintained long enough to be called into use if necessary, but discarded before municipalities end up with an overly costly library of material.

This policy seeks to balance these considerations, while advocating the use of cameras as a tool of transparency and trust-building for police and communities. These recommendations do not address all issues that might ultimately be included in a department's BWC policy; we highlight a few examples of policy choices that may have particular resonance for increasing procedural justice. Here again, the most important of the principles outlined herein is the first: local communities must have open and ongoing input into the development of BWC policies, as they raise particularly complex normative concerns.

We emphasize that to say that police officers should wear cameras is to *begin* the conversation, not end it.[35] Communities that seek to develop policy on the use of body cameras must address many difficult questions that strike at the heart of concerns about improving the quality of police-community interactions and equally salient concerns about personal privacy. We know that Americans generally think that body worn cameras are a good idea—even across divides of race and political affiliation—but opinions on specific policies governing their use are more complex.[36] Local communities may well decide some of these questions differently, and they should have the opportunity to do so.

Thus, the most important recommendation for any community that wishes to bring body cameras online is to consult with a wide range of stakeholders before doing so. These stakeholders should include frontline officers, community groups, the local media, prosecutors, defense attorneys, police officers' unions, and the general public.[37] Body camera policies will be perceived as legitimate only if they are developed in a manner that is deliberative and consultative; shared publicly and widely; and re-visited from time to time as experience grows and technologies change.

Definitions

Body-worn camera: Small audiovisual device that records police interactions or transmits such material for remote recording. Police officers wear such devices clipped to their uniforms, embedded in safety vests, or as headsets.

Vehicle-mounted camera: Audiovisual recording devices that are affixed to police car dashboards or the interior windscreen of police cars and that record through the cars' windscreens.

PRINCIPLE 8. Involve the Community in Body-Worn and Vehicle-Mounted Camera Policymaking

Policing agencies must involve members of the public in the formulation and ongoing evaluation of policies regarding BWCs and vehicle-mounted cameras.[38]

Commentary

Soliciting and thoughtfully considering community input is a way for police departments to give community members voice. When people have voice, they view authorities as more fair.[39] Further, as the fair implementation of police policies increases the likelihood of civilian compliance,[40] a voice in the implementation of BWC policy can increase the likelihood that the public will support the cameras' use.

Model Policies

A.1 Policies regarding BWCs and vehicle-mounted cameras should be made publicly available, including on the department's website.[41]

A.2 Policing agencies should conduct periodic, public reviews of their BWC and vehicle-mounted camera policies and protocols.[42]

PRINCIPLE 9. Develop Clear Guidelines for Body-Worn Camera Activation
Police departments should develop clear guidelines on when BWCs must be turned on and off.

Commentary

Transparency and incentivizing police and the public to behave responsibly are compelling reasons for police officers to use body-worn cameras. However, these advantages must be balanced against the potential invasion of privacy. Research suggests that people are more accepting of initiatives that collect or require them to disclose private information if the procedures in place to protect their privacy are just.[43] In the case of BWCs, guidelines for activation will convey to the public the extent to which their privacy is affected, as well as provide a clear rationale for the imposition.

Model Policies

A.1 With the exceptions of the circumstances described in A.2, there are some situations in which the audio and visual functions of body-worn cameras must be on:

- In general, body-worn cameras must be turned on when an officer begins responding to a call for service or begins a law enforcement interaction with a member of the public and must remain on until the service call or interaction has ended and the officer leaves the scene.[44]
    - However, the officer must prioritize preserving the life and safety of members of the public over turning on the camera. In such situations, the officer must turn the camera on at the earliest possible opportunity.
- In rare circumstances, an interaction may begin too suddenly to be filmed or during which pausing to turn on the camera would endanger the lives or safety of an officer or the public.
    - In these circumstances, the officer must record his failure to film and the reason for the failure on camera.[45]
- Body-worn cameras must only be used to record officers' interactions and not for any other purpose. For example, it is impermissible to use body-worn cameras as devices for gathering evidence of crimes.
- The body-worn cameras of school resource officers must be turned on only in two situations:[46]
    - Cameras must be on when SROs are beginning a educator-initiated service call and must be turned off when the SRO leaves the scene.
    - The cameras must also be on anytime an SRO is about to use force — or reasonably expects it is probable that he may be required to use force — with a minor. For these purposes, force is defined as employing contact with the aim of causing the student to do, or not to do, something against her will. The camera must be turned off immediately after the interaction ends and the officer has left the scene.

- Departments should consider blurring the faces of any children caught on film before such film is released.

■ Ideally, a minimum of two police officers wearing body cameras should be present for law enforcement interactions with members of the public.[47]

A.2 There are some situations in which the audio and visual functions of body-worn cameras must be off.

■ BWCs must not record the image or voice of undercover officers.

■ Once the safety of an apparent crime victim is secured, an officer must ask the victim if he would like the camera turned off and comply with the victim's wishes. The officer must record the offer to stop recording and the person's request for the officer to do so.[48]

■ When alerted to someone who would like to report a crime anonymously, an officer must offer to keep her body-worn camera off before recording the sight or sound of the would-be reporter and comply with the would-be reporter's wishes before the formal interaction begins.

■ When entering a private residence, the police must tell the resident, in plain language, that she has the right to have the camera turned off and then get on-camera consent to film. Effective notice could take the following form: "I have my camera on now. I'm coming into your home. You have the right to tell me to turn it off."[49]

■ When in doubt, officers must record.

■ In the rare circumstance in which emergency demands that an officer violate any tenet of this sub-principle, the officer must record his violation and the reason for it on-camera and notify his immediate supervisor of the situation.

A.3 When the requisite technology is available, body-worn cameras must automatically turn on in response to certain procedural events.[50]

■ When an officer gets out of his car, turns on his vehicle's dome light, or removes his gun or taser from its holster, the officer's body camera must turn on.

A.4 When practicable, police officers should inform individuals that they are being recorded.[51]

PRINCIPLE 10. Develop Clear Guidelines for Vehicle-Mounted Camera Activation
Police departments should develop clear guidelines on when vehicle-mounted cameras must be turned on and off.

Commentary
As is true of body-worn cameras, transparency and incentives for police and the public to behave responsibly are compelling reasons for police officers to use vehicle-mounted cameras. Similarly, these pros, too, must be balanced against the con of invasion of privacy. Thus, policy recommendations on vehicle-mounted cameras are also designed to create a system that promotes public safety while respecting privacy.

Model Policies

A.1 There are some situations in which the audio and visual functions of vehicle-mounted cameras must be on:

- Cameras must begin recording at the commencement of a law enforcement action and must remain on until the action has ended.[52]

A.1 Vehicle-mounted cameras' audio and visual functions must automatically turn on in response to certain procedural events.[53]

- Cameras must automatically turn on when a driver uses his police lights or sirens or when the camera is signaled by a g-force reading (at a level determined by the individual police department).

PRINCIPLE 11. Develop Clear Guidelines for Film Retention

Police departments must develop and adhere to guidelines on how long film from body-worn cameras and vehicle-mounted cameras must be kept.

Commentary

Developing clear guidelines and making them publicly available will promote a culture of transparency and enable the public to be informed about sanctioned police policy and conduct. Government agencies that are highly transparent about their policies increase the public's trust in them.[54]

Model Policies

A.1 Film must be kept for two years or until the statute of limitations for claims of excessive force has passed, whichever is later.[55]

PRINCIPLE 12. Employ a Presumption in Favor of Film Release

In general, film recorded by BWCs and vehicle-mounted cameras should be treated as "public records," which the public has a presumptive right to access. Such film should be made available for public inspection and copying in accordance with the jurisdiction's existing statutes governing access to such records.[56]

Commentary

"Transparency around police activities is particularly important to maintain public confidence, which is essential to the continued legitimacy of law enforcement."[57] Access to information is a necessary prerequisite to enable the public to note and consider the efforts a department makes toward procedural justice.[58]

Model Policies

A.1 The cost to the public of accessing the non-confidential and/or redacted recordings made by police cameras should not be so high as to discourage or prohibit citizens from accessing the records.

A.2 Officers should not be permitted to review footage of an incident in which they were involved prior to making a statement about that incident.[59]

A.3 Facial blurring software may be used to facilitate public access.[60]

Part Two: Procedural Justice Inside the Department

Research has found that the existence of procedural justice within police departments is central to implementing procedural justice "externally."[61] In short, officers who feel they are treated fairly by their departments are better able to implement policies that promote justice, and more readily communicate respect for members of the community.[62] Thus, if departments wish to implement a procedural justice-based approach to policing their communities, it is essential for those departments to ensure that their internal policies treat officers with fairness and respect.

Procedural justice principles should also be included in a department's code of conduct or ethics policy. For instance, policies that call for officers to be truthful and courteous support the procedural justice principle of treating others with dignity and respect, while policies requiring impartiality and an ethic of service to the community aim to influence officers' tendency to convey trustworthy motives to the community.

Model Policy for Workplace Procedural Justice

Overview

Procedural justice is a powerful tool for police officers and police departments alike. For police officers, employing procedural justice principles will help to improve police-community interactions, increase police situational control and safety, and increase community members' compliance with laws and social norms.[63] These benefits should be realized through training and policies that activate officers' ethical motives for treating people well.[64] However even with such training and policies, procedural justice towards citizens will be impeded if procedural justice is not also present in police officers' workplace environments. That is, supervisors, other officers, and police departments as institutions must treat subordinate and peer officers in procedurally just ways if they are to encourage procedurally just policing.

Model principles for achieving procedural justice in police workplace environments are provided below. These principles should be imported and incorporated into police department policies at various places, depending on the structure and use of department code. They are drawn from policies that are already in place at departments of varying size and location. Where such examples exist, they are referenced in the footnotes to the model policies. They are meant not only as static code, but as an active guidance for departments that aim to increase procedurally-just policing.

Beyond those benefits described above, police departments should consider adopting procedurally just internal practices (1) for the sake of employee well-being, (2) to improve employee morale, productivity, and adherence to the rule of law,[65] and (3) to reduce lawsuits and unnecessary disputes and expenses associated with poor workplace practices.

PRINCIPLE 13. Promote an Ethic of Respect

Departments should promote and practice an ethic of respect toward all employees. Further, departments should expect and require that all employees shall treat fellow employees with respect, fairness, trust, and a listening, responsive attitude.[66]

Commentary

When people feel that members of their group respect them, they engage more as members of that group.[67] Following this research, the more that officers feel that the rest of their department respects them, the more they will engage as officers, performing their duties with sincere effort and working to help other officers.

Model Policies

A.1 Police department leadership should commit themselves to listening to and responding to employee concerns.

A.2 The department will promote the ethic of respect with visible reminders in work spaces that activate social motivations in officers.

A.3 Require and promote open communication between supervisors and subordinate officers.[68]

A.4 Incorporate a concept of "respect and fair treatment towards fellow employees" as an element of performance reviews and evaluations.
   - Performance reviews will consider whether officers behave with "respect and fair treatment toward fellow employees." Performance reviews and evaluations for supervisors and any officers of higher rank will also include "respect and fair treatment toward officers of lower rank and those under one's supervision."
   - Officers who do not appear to be treating fellow officers with the standard of professionalism and respect that the department requires will be counseled in performance review sessions as to their conduct and how to remediate it.

A.5 Abuse of authority, harassment, intimidation, or other violations of the ethic of respect are prohibited.
   - Harassment includes, but is not limited to, the systematic or incidental creation of a hostile work environment through repeated activity. All forms of harassment are prohibited and will be swiftly penalized.
      - Any supervisor who learns of an allegation of hostile work environment has a duty to take prompt remedial action when necessary to protect the alleged victim and to investigate thoroughly all claims of harassment.

   - Abuse of authority can be perpetrated through seemingly minor acts such as the alteration of lower-ranking employees' schedules to accommodate senior officers' preferences (not including seniority systems that are established and governed by clear rules). Where such actions are done for the convenience of senior officers at the expense of, or in disregard of, other officers' requests, rights, and preferences they will be considered an abuse of authority, investigated, and remediated.

PRINCIPLE 14. Give Officers Due Process and Voice

Provide due process when handling officer complaints and disciplinary proceedings and give officers voice when changing department rules.

Commentary

Procedural justice requires processes that are fair, respectful, and responsive. Officers, just like, members of the public, care about fair treatment. The more that they feel they are treated with procedural justice within their department, the more that they will enact those principles in their interactions with civilians.[69] If officers feel that the processes for reviewing their own performance and behavior are unfair, they may view the process as illegitimate, thus undermining the review process itself.

Model Policies

A.1 Create and follow Pre-Established Procedures for Grievances, Disciplinary Proceedings, and Changes to Department Rules.

A.1 Treat employee complaints seriously and follow all established procedures for evaluating such complaints. Where complaint procedures are ambiguous or unmanageable, the department should clarify or revise those procedures as appropriate.

- Employee complaints and grievances shall be received in writing and investigated by the internal review office as soon as possible for all complaints involving officer safety, harassment, intimidation, abuse of authority, and other circumstances affecting officer well-being as is consistent with other department policy and state law. No complaint shall be dismissed without providing a specific reason why it was dismissed and what steps the officer can take to amend the complaint or otherwise seek remediation.

- Employee complaints about lesser matters that affect well-being can be submitted in writing or verbally to the internal review office, which will record and register the complaint solely for record-keeping and future investigations of related complaints, unless the employee requests other specific actions.

A.3 Increase transparency and responsiveness of decision-making, whether for routine or major actions, including personnel decisions and policy revisions.

- Major policy developments, such as changes to command structure, disciplinary proceedings, officer hours, essential equipment, and on- or off-duty behavior should include opportunity for suggestions from personnel of any rank, especially at the conceptual phase of the new rule.[70]

- Major policy changes will be released with an accompanying explanation of why the changes were made and what factors were considered, including employee comments, in making those changes.

- Personnel decisions, including employee schedules, squad assignments, disciplinary actions, and promotions will be made according to written policies, with each successive step of the decision communicated to the affected officer(s) by email. The entire record of decision will be kept by the internal affairs office and will be available for review upon request by the affected officer(s). Once made, all such decisions will be final unless otherwise covered by a relevant section of this code.

PRINCIPLE 15. Accommodate Officers' Needs and Preferences

Accommodate employees' needs and preferences in ways that grant them respect and dignity.

Commentary

When employees are treated with respect, this helps to make them feel that they are part of a group, enhancing their engagement with that group.[71] For police officers, feeling respected within their departments should lead them to engage more fully as members of the department.

Model Policies

A.1 Consider employees' needs when making personnel decisions.

- Special needs, religious observances, hardships, and other significant aspects of employees' lives should be considered, but need not dictate personnel decisions. Where a specific request is made by an employee, the fulfillment of which would not adversely affect department operations and would otherwise comply with department policy, the department should strongly consider granting such a request. Reasonable administrative effort required to grant such a request shall not be deemed to adversely affect the department.
- Where personnel decisions are made that deny relevant employee requests, the department should provide an explanation of why such decisions were made.

PRINCIPLE 16. Provide Employees with Support

Support employees to ameliorate stress, injury, trauma, and other adverse consequences of their service.

Commentary

A great deal of research links the experience of trauma to anger and hostility.[72] This poses a particular problem for police departments because officers are placed in traumatic situations as part of their normal job, whether that trauma comes from the risk to their own lives, or their exposure to others' trauma.[73] To conduct their jobs effectively, it is critical that officers are not burdened with such anger and hostility. Therefore, treatment and time away from the job are critical. We recommend that some level of treatment be mandatory, since the stigma of choosing to seek treatment might prevent officers from doing so.[74]

Model Policies

A.1 Counseling and temporary reassignment will be provided for officers who have experienced traumatic situations.

- Mandatory counseling services will be provided for all employees at the scene of traumatic situations. The duration, content, and frequency of any counseling sessions will be treated as confidential information.[75]
  - A traumatic event is defined as any event resulting in death or serious bodily injury at which police personnel are present in their official roles, regardless of on- or off-duty status.
- Officers involved in traumatic situations may be temporarily reassigned to other duties at the request of a supervisor, a peer support coordinator, or the officer himself. The duration of the assignment will be decided by the Chief of Police or an appropriate designee. Counseling may be provided during this period as well. Counseling sessions started during such a period may continue after such reassignment ends, as requested by the officer, supervisor, or peer support coordinator.

A.2 The department will employ police chaplains, who will be available to provide guidance, counseling, and crisis intervention to all department employees.

- These services shall be provided in a non-denominational manner and with sensitivity to and respect for differences in religion, culture, gender, sexual orientation, socioeconomic status, or other factors relevant to any people, inside or outside of the department to whom the chaplains minister in their duties.
- Police chaplains shall be recruited from representative and numerous religions; departments should take special care to provide for the needs of police officers who are a minority in their faith within the department.
- Police chaplains may ride-in with officers where consistent with other department policies.

A.3 The department will develop a peer support program.

- Peer support program volunteers will be trained at the beginning of their involvement in the program and then retrained once per year. Such training will focus on developing capacities of emotional support, practical assistance, and knowledge related to common officer challenges.

A.4 The department will assign a traumatic incident coordinator.

- When departmental resources permit, a traumatic incident coordinator shall be designated among officers or civilian staff to refer officers to available resources and review when employees should return to their normal work after traumatic incidences for which they are reassigned or given paid leave. Such a coordinator will work with the peer support team, counseling services, chaplains and other resources to evaluate the collective needs of the department and the adequacy of services.

A.5 Occupational health and safety of all employees shall be prioritized and reviewed on an annual basis and whenever significant health events arise.[76]

- Employee health and safety in all circumstances is an utmost priority to the department, and any threat to employee health and safety will be minimized and mitigated in a prompt and thorough manner.[77] Any unsafe condition should be reported to supervisors and command staff as soon as possible.

A.6 The department will appoint an occupational health and safety coordinator to oversee and respond to health and safety concerns, affirmatively investigate potential or suspected safety concerns whether or not they are reported by officers, and maintain awareness of all applicable safety norms and requirements affecting department activities and personnel. While supported by the occupational health and safety coordinator, the Chief of Police has ultimate responsibility for the safety of all officers.[78]

PRINCIPLE 17. Recognize Employees' Contributions
Formally recognize employees' essential contributions to the workplace.

Commentary

When employees are treated with respect, this helps to make them feel that they are part of a group, enhancing their engagement with that group.[79] For police officers, feeling respected within their departments should lead them to engage more fully as members of the department.

Model Policies

A.1 Commendations should reflect procedural justice principles and safety goals.

- Commendations should be provided on the basis of employee actions that achieve significant procedural justice in instances that require special employee effort. Commendations shall also reflect significant personal sacrifices made by employees for the sake of the department and other officers' safety either before, during, or after dangerous and traumatic events, or in the normal course of work and otherwise unnoticed or unheralded.

- Officers' anti-harassment and anti-corruption efforts should be commended as efforts that improve work for all officers, but which may be unpopular or opposed by significant forces. Such positive models should be upheld, sustained, and rewarded for the betterment of the officers and the department.

A.2 Officers' career development should be advanced through appropriate counseling, credentialing, and skill development.[80]

- Supervisors and command staff should solicit and be responsive to officers' requests to develop appropriate credentialing, skills, and experiences, as will advance their career regardless of immediate benefit to the department.

- An officer development and advancement coordinator, or an appropriate existing position such as a training officer, shall take an affirmative role in identifying resources and officer needs relevant to employee advancement. All officers should take an affirmative attitude that employee advancement and development is a priority for the department.

- Building officers' credentials in appropriate procedural justice, leadership, or other personnel skills and capacities that are non-physical but complimentary to physical skills shall be a priority of the department.

Model Policy for Performance Assessment in Procedurally Just Agencies

Overview

In order to build trust and legitimacy both within police agencies and with the public, law enforcement agencies must adopt, measure, and reward procedural justice as the fundamental principle guiding all department policies and practices.[81] To this end, performance evaluations should recognize and reward police work that enhances departmental legitimacy for community members.[82] Research has shown that police departments can enhance their image in the eyes of the public, be objectively more effective in enforcing the law, and gain greater discretion in performing their regulatory duties by focusing on an understanding of the determinants of legitimacy.[83]

Assessment metrics that align with procedural justice principles promote internal accountability to department priorities, enhance officer morale, and increase department legitimacy in the community.[84] These indicators should be effective and comprehensive, which means they both measure the real, complicated work officers do in the community and encourage and reward ideal officer behavior.[85] These

model principles should be incorporated into police department assessment schemes to the extent possible. They are drawn from existing policies in diverse departments and empirical research into best practices for law enforcement agencies. These measures go beyond simple numerical data to reward activities such as building partnerships with community members and promoting safety.[86]

Definitions

Internal Procedural Justice: practices within an agency and the relationships officers have with their colleagues and leaders.

External Procedural Justice: agency practices with members of the public and the relationships police employees build with community members.

Indicator: a quantitative or qualitative factor or variable that provides a simple and reliable means to measure achievement, to reflect the changes connected to an intervention, or to help assess the performance of a development actor. Indicators are used in security and justice programming to monitor activities, describe the outputs of projects, track outcomes, and assess whether they are meeting their intended targets.

Input/Process Measures: The resources a police agency uses to reach its goals. Inputs can include finances, technology and training, and relationships and personnel.
- Inputs are the budgetary resources, human capital, materials, services, and facilities and equipment associated with a goal or objective. Process measures are the functions and activities undertaken that are geared toward accomplishing an objective.

Output Measures: Outputs are the products and services produced by the organization and generally can be observed and measured. Efficiency is a measure of the relationship between an organization's inputs/processes and its outputs. (*e.g.* incident response time).

Outcome/Impact Measures: Outcome measures indicate how well individual tasks or target objectives contribute to achieving agency goals.

PRINCIPLE 18. Encourage Officers to Act as Guardians
Set officers up for success as guardians in the community.[87]

Commentary
In order to develop a "guardian" police culture, police agencies must define successful police work according to procedurally just principles, and structure police work to maximize opportunities for community engagement.[88]

Programs that create opportunities for patrol officers to interact regularly with neighborhood residents give officers greater opportunity to build relationships and demonstrate their commitment to serving those communities fairly.

Model Policies

A.1 Adopt an accountability system based on a set of department values and standards aligned to procedural justice principles.[89]

A.2 Develop events and activities that engage community members in a non-enforcement context.[90] Use survey results and department data to focus especially on neighborhoods where distrust of police is high.

PRINCIPLE 19. Track and Prioritize Community Trust

Track and prioritize community trust in police. [91]

Commentary

Having the community's trust and confidence is critical for police to effectively keep the community safe. Trust and confidence are a form of legitimacy that promote not only obedience to the law, but also cooperation with police: calling them for help or volunteering as a witness, for example.[92] Tracking trust will serve as an indicator of how much police departments can expect that the public will call them in times of need. Tracking trust will also help departments identify times and areas where trust-building is especially important.

Model Policies

A.1 Partner with local organizations and universities to conduct periodic community surveys to monitor public trust and the relationship between policing and public trust.[93]
- In order to maximize the usefulness of voluntary contact surveys, use formats that are accessible and convenient for community members. These may be stamped mail-in cards, online forms, push polls, mobile-compatible surveys, phone and tip lines, or department websites.

A.2 Incorporate specific community member feedback in employee, unit, and internal agency evaluations.[94]

A.3 Schedule listening forums where diverse community members can share concerns with police, engage in dialogue, and influence programs and policy.[95]

PRINCIPLE 20. Reward Procedural Justice

Assess and reward police activity that increases trust and confidence in the community.

Commentary

In order to develop a "guardian" police culture, police agencies must measure and reward successful adherence to department values that promote procedural justice and community policing.[96] Therefore, department values and priorities must be reflected in the indicators a department uses to assess and reward performance.

Model Policies

A.1 Include positive community member feedback in officer and unit assessment protocols.[97]

A.2 Do not base evaluation metrics on quotas.
- The department will de-prioritize the number of investigatory stops and low-level arrests made by officers and prioritize community policing by including measures of community policing performance in assessments.[98]

PRINCIPLE 21. Encourage a Growth Mindset

Develop a performance assessment system that encourages a "growth mindset" and goal attainment for all employees, including department leadership.

Commentary

A growth mindset, one that views ability as learnable rather than innate, encourages effort towards acquiring new skills and abilities.[99] Research shows that police employees want opportunities to assess their own performance and address challenges they face in reaching performance goals.[100] Regular, structured re-assessment of progress will give leaders an opportunity to offer positive feedback on accomplishments that may otherwise go unnoticed. Regular check-ins on a plan designed with officer input will shift conversations about performance from occasional, and often negative, to regular and a mixture of positive and negative.

Model Policies

A.1 Department leaders should ensure that evaluation metrics match job expectations and activities and are aligned to the department's ultimate goals

A.2 Routine performance assessment should utilize an individual development plan (IDP) as a personalized tool for employees.[101]
- Departments may use an IDP to reframe discussions about weak performance areas from punitive and reactive to proactive and growth-oriented or to highlight issues where additional training may be needed.
- The IDP should be aligned to procedural justice principles and measure indicators consistent with department values.
- Establish a practice of setting goals that are SMART - Specific, Measurable, Achievable, Relevant and Timely. The SMART approach towards goals will allow employees to target specific objectives related to the core competencies.

PRINCIPLE 22. Make Performance Metrics Transparent to the Public

Police values, performance measurement, and progress should be transparent to all stakeholders.

Commentary

The more that policies are made transparent, the more that stakeholders will feel as though they have direct information to evaluate fairness. When there is high uncertainty, people's judgments about fairness of procedures could be more vulnerable to indirect experiences.[102] The lack of transparency may indicate to the public that police departments have reason to hide their policies and decision-making procedures, and the public may not presume benevolent intentions. Transparency will help to quell these suspicions.

Model Policies

A.1 Proactively educate community members on police competencies, activities, and policies.[103]

A.2 Establish and promote a Citizens' Police Academy (CPA) to educate citizens on day-to-day police work and department procedures. Reward officers who participate in the program.[104]

A.3 Inform community members about the officer evaluation process, and account for community views and priorities when assessing officers.[105]
- Officers will complete a checklist of relevant activities during citizen encounters. For each encounter, an officer will provide a citizen with a "receipt" that summarizes the officer's account of the incident. Depending on the type of encounter, the citizen may then use the receipt to track the progress of an investigation and confirm or challenge an officer's version of events.[106]
- Involve community members—including representatives from groups with significant law enforcement contact—in the recruiting and hiring process for new officers.

A.4 Evaluation indicators and goals should be publicly available to community members, and clearly understandable to officers and all relevant stakeholders.
- Inform and engage the community by making all relevant policies and procedures, records, and open data sets public and easily accessible. Consider creating an easy-to-access, easy-to-use platform for community members to get information about the police department.

PRINCIPLE 23. Model Procedural Justice at All Levels of the Department

Procedurally just policing should be modeled and assessed at all levels of a law enforcement agency.

Commentary

People evaluate fairness both in terms of treatment and decision-making. These two components can further be categorized at the informal and formal levels, which could be thought to reflect different levels of authority in a law enforcement agency.[107] For example, police officers may use discretion in deciding who to stop (informal decision-making), and they may treat people fairly or not during that stop (informal treatment). On a different level, people may evaluate department policies (formal decision-making and treatment), as fair or unfair.

It is critical to model procedurally just policing at all levels of an agency so that the public views that agency generally as legitimate.

Model Policies

A.1 Make performance metrics clear to officers. Performance management systems and their consequences must be communicated clearly and thoroughly to all team members.

A.2 Provide officers with opportunities to evaluate the effectiveness of policies and the performance of department leadership.

A.3 To the extent possible, supervisors should be assessed on their role in encouraging procedurally just behavior of subordinates.[108]

- Supervisors might use body-worn cameras (BWCs) to evaluate an officer's performance in the field. By using BWCs to evaluate both positive and negative encounters between officers and community members, departments can foster a positive culture around transparency.[109]

Part Three: Officer Interactions with Their Communities

Procedural justice principles can and should be incorporated directly into policies governing how police officers treat members of the community. In this Part, we highlight situations in which law enforcement employees have significant interaction with members of their communities. These include: phone calls with 911 operators, traffic stops, and pedestrian stops. We offer particular thoughts about how these interactions might be made more procedurally just. We also highlight police department policies around de-escalation of conflict as an important arena for the enactment of procedural justice principles.

Model Policies for Police Dispatch Procedures

Definitions

911 dispatchers: the city or police department employees who are responsible for answering incoming calls for service through 911 and other systems, collecting information from callers, entering information into the computer-aided dispatch (CAD) system and relaying real-time information to responding units, determining the priority level of requests for services and dispatching appropriate resources, and querying registries and databases to gather further information relevant to the incident. In cities that do not have a combined 911 call center for different emergency services, 911 call takers are the initial point of contact responsible for transferring calls to the correct emergency provider (police, EMS, and/or fire). Police dispatchers to whom calls are transferred are then responsible for relaying information from the caller to the police and dispatching the appropriate personnel. The term "911 dispatcher" is used here to cover both roles.

PRINCIPLE 24. Provide Supplemental Training to 911 Dispatchers

Police departments should supplement the training and guidance provided to 911 dispatchers on gathering information from callers and determining the appropriate service response.

Commentary

Many police departments' existing trainings and policies provide guidance to 911 dispatchers on diagnosing and prioritizing problems reported by 911 callers. Dispatchers are directed to gather information from callers about the nature of the incident, including its urgency and whether it is a crime in progress; the incident's exact location; an accurate description of people, places, and any vehicles involved; the presence of any injuries; the presence and type of weapons; the direction and method of a suspect's flight, and other relevant information. Call code numbers, priority classifications, and signals enable dispatchers and officers to indicate the nature and seriousness of an incident, as well as the proper response procedure

and timeframe. The policy recommendations provided here are aimed at expanding the information and resources available to dispatchers, callers, responding officers, and department supervisors who monitor and control officers' responses. Situation-specific dispatch procedures have potential advantages for police and the public: reducing the risk of police-citizen conflict, increasing officers' confidence and safety, linking citizens with the services they need and diverting them from the criminal justice system where appropriate.

Model Policies

A.1 911 dispatchers will complete training in procedural justice, vocal de-escalation tactics, and situation-specific responses.[110]

A.2 Dispatcher training will include techniques for identifying signs that that a person may be under the influence of drugs or alcohol, suffering a mental health crisis, or possibly suicidal.
- The Crisis Intervention Team (CIT) Model of police response should guide the training of dispatchers on responding to calls involving mental health crises. Dispatchers may undergo CIT training alongside officers but, ideally, should receive dispatcher-specific training on this subject. Dispatchers must be able to identify and appropriately assign mental health related calls to CIT officers or mental health teams, if available, and should familiarize themselves with local mental health services to which responding officers can turn for support or provide referrals.

A.3 911 dispatchers will gather information and dispatch police or other agency resources in accordance with situation-specific guidelines.[111] These procedures should be guided by data on police responses to incidents reported through 911.
- For example, guidelines should instruct dispatchers about how to respond to calls in which the presence of a weapon is reported, a factor known to increase the likelihood of police use of force.[112] In these situations, dispatchers must gather and relay as much information as possible about the potential threat to officers' safety, but they should also convey any information that might change the dynamics of the officers' response, for example, indications that the person in possession of the weapon is mentally ill or suicidal, or evidence that the suspected weapon is not a real gun or knife.[113] This information could trigger the dispatch of a CIT officer and/or supervisor and could increase the chances of de-escalation.
  - Likewise, police departments should identify situations in which referral to mental health or other services—for example, grief counselors or dispute resolution services—may be appropriate. Dispatch procedures for these situations should mobilize additional resources like specialized mental health teams or other support agencies.

A.4 911 dispatchers will be required to maintain constant contact with callers reporting crimes in progress in order to keep callers calm and to relay updated information to responding officers about the incident and any new threats. Dispatchers should maintain radio contact with officers once they arrive on the scene in order to keep officers-in-charge informed and notify any additional police resources or outside support agencies as needed.

PRINCIPLE 25. Incorporate the Best Available Data and Technology

Police dispatch procedures should incorporate the best available data and technology for enhancing pre-contact information and officer decision-making.

Commentary

Using available technology to improve dispatchers' and officers' timely access to information offers many potential advantages in terms of officer safety and pre-contact decision-making. In addition, updating call technology would enable dispatchers to provide officers with more real-time information before and after they arrive on the scene and would make it easier to communicate with the public, especially hearing-impaired or disabled persons, and coordinate with other agencies over IP-based networks. Trends in personal communication technologies—specifically, the greater use of wireless and VoIP services— are making the existing 911 system increasingly obsolete and inconsistent with the public's expectations for accessibility.

Model Policies

A.1 911 dispatchers will gather relevant information from databases and relay this information to responding officers through the CAD system.[114]

- Police departments should use the CAD system or other technology to provide dispatchers and officers with timely access to information needed to determine a call's priority level and the need for de-escalation tactics or social services. Dispatchers can interact with local and national databases to gather and relay information about outstanding arrest warrants, recent 911 calls, guns registered at the address, and criminal histories. This information can alert police to the risk of violent encounters, but the CAD system should also be used to provide additional information that triggers de-escalation/diversion responses or the dispatch of specialized teams—for instance, by identifying calls involving juveniles, mentally ill persons, or individuals with repeated police contacts. Dispatchers should also have access to timely data regarding the community's policing priorities and likely growing problems (for example, through repeat call analysis).

A.2 Police departments will invest in call technology updates, where feasible.

- Police departments should upgrade to IP-enabled 911 systems that allow call centers to receive text messages, videos, and photos, and can more consistently pinpoint the location of calls made on mobile devices, compared to analog equipment.[115]
- Police departments that have moved to IP-enabled 911 systems should expand and adapt 911 dispatcher training to handle the greater quantity of multimedia data that can be sent through the system.

PRINCIPLE 26. Employ and Expand Alternative Call Systems and Responses

Police departments should expand alternatives to immediate patrol response and implement non-emergency call systems.

Commentary

The advantages of differentiated response strategies and non-emergency call systems, for both citizens and police, are to free up patrol resources for more productive purposes, relieve over-burdened 911 call

centers, and ensure a better match between the service requested and the response provided.[116] Although critics of these strategies complain of longer response times and mishandled top-priority calls, studies have found that citizens' satisfaction is shaped not by response time alone, but by the speed of police response relative to their expectations, based on what dispatchers tell them.[117] Police guidelines should therefore require dispatchers to inform callers about the reasons for delay and express concern for the community's policing priorities when responding to low-priority calls.

Model Policies

A.1 Police departments should employ some form of differentiated police response that expands options for responding to service requests beyond immediately dispatching a patrol unit. Implementing this strategy may require modifications to call classification systems and additional dispatcher training.[118]

- Police departments should implement 311 systems to handle nonemergency calls for services and/ or Tele-Serve Units to which citizens can report certain non-violent, non-priority crimes via a direct dial number or through 911.

- Police departments should revise manual guidelines and evaluation metrics in accordance with differentiated response strategies. Response times for top-priority calls should remain an important metric of success, but response times for non-priority calls should be evaluated differently, taking into account community priorities and expectations, as well as officers' and dispatchers' transparency about the reasons for delayed responses.

A.2 911 dispatchers will gather information and dispatch police or other agency resources in accordance with the police department's differentiated response system.

- 911 dispatchers should gather information necessary to determine the appropriate response: a delayed response by patrol units when there is no danger to lives or property or risk that a suspect will disappear or destroy evidence, or a relief response, in which the call is diverted from patrol dispatch to be handled by civilian personnel or sworn specialists or referred to other agencies.

- For non-urgent calls that are delayed, 911 dispatchers should inform the caller of the anticipated delay and the reason for the delay while still on the phone. For low priority calls that can be handled through Tele-Serve, 911 dispatchers should take the report over the phone or advise callers to make the report online or at the local precinct.

A.3 Police departments and 911 dispatchers will identify and respond to community priorities.

- 911 call takers should be aware of the community's policing priorities and recent call trends — information that can be gleaned through the CAD system — and should express this awareness to callers. For example, dispatchers responding to a common non-emergency complaint or chronic complaints about a particular address should explain that the police are aware of the problem and will respond as soon as they become available, giving reasons for any delays.

Investigatory Stops and Traffic Stops

Overview

Social science research into the concepts of procedural justice and legitimacy reveals the importance of public perception to the goal of producing safe communities. Procedural justice research finds that where individuals are able to exercise a voice in law enforcement encounters, are subject to neutral decision-making processes, experience respectful treatment, and feel they are treated fairly, they are more likely to evaluate their experiences with law enforcement favorably.[119] Increased perceptions of procedural justice lead people to view authorities and institutions as more legitimate and thus more deserving of their deference and cooperation.[120] Law enforcement agencies stand to benefit from the increased cooperation from the communities they are tasked with policing that will result from incorporating principles of procedural justice into investigatory and traffic stop policies.

Definitions

Investigatory stop or Terry stop or stop and frisk: the stop and brief detention of a suspect for the purpose of confirming or dispelling an officer's reasonable suspicion that the suspect has committed, is committing, or is about to commit a crime.

Traffic stop: the stop and brief detention of a vehicle and its driver or passengers, made upon probable cause to believe that a violation of traffic law has occurred.

Probable cause: reasonable belief, based on facts and circumstances within an officer's knowledge, that a suspect is committing or has committed a crime.

Reasonable suspicion: suspicion, based on specific and articulable facts, that a suspect is committing, has committed, or is about to commit a crime, but which does not rise to the level of probable cause.

PRINCIPLE 27. Limit Investigatory Stops to Appropriate Circumstances
The use of investigatory stops should be limited to circumstances in which they promote public safety and do not unnecessarily harm police–community relations.

Commentary
Investigatory stops can be a useful tool in the law enforcement arsenal. They allow officers to uncover unlawful conduct that is occurring or has already occurred but for which less than probable cause exists to effectuate an arrest, and permit officers to prevent obvious imminent criminal activity from occurring. This goal of "effective crime prevention and detection" is what the Supreme Court in the *Terry* case sought to promote with its approval of police stops on less than probable cause.[121] Despite this utility, investigatory stops have the potential to erode public trust in police. Insights from procedural justice research suggest that the use of investigatory stops should be restricted to a small range of circumstances and that they should be conducted in a manner that reduces their potential to cause harm.

By nature, investigatory stops are based on less than probable cause, and are therefore less likely than arrests to involve actual instances of lawbreaking.[122] Because a large proportion of stopped persons are innocent of wrongdoing, they are likely to conclude that the law is not being neutrally applied to them, undermining their perception of the procedural justice of the encounter. Investigatory stops also have the potential to be used in a discriminatory manner, whether intentionally or unintentionally, thereby undermining community trust.[123] When officers conduct investigatory stops with a harsh tone or in an aggressive manner they risk angering or upsetting the communities that they police.[124] The fewer the number of situations in which an investigatory stop is utilized, the fewer opportunities for community trust to be eroded. In situations where investigatory stops are necessary to protect public safety, they should be conducted in line with procedural justice principles as described in more detail below.

Investigatory stops can entail great costs to the police departments that utilize them. They are the bases of civilian complaints and lawsuits that take up precious department and legal resources to investigate and defend against.[125] Placing reasonable limits upon the number of investigatory stops will lessen the burden of internal departmental review and will reduce the likelihood of litigation concerning such practices. Furthermore, restricting the universe of suspected conduct susceptible to investigation by investigatory stops will diminish the number and strength of lawsuits challenging the practice as discriminatory or unreasonable under the Fourth and Fourteenth Amendments.

Model Policies

A.1 Stops must be based on reasonable suspicion.[126]

- Officers use investigatory stops only when they possess articulable, reasonable suspicion that a suspect is committing, has committed, or is about to commit a criminal offense.

- Officers must be able to put into words both the specific criminal offense that they suspect has been committed and the reasons for their suspicion.

- An investigatory stop must be limited in scope to the investigation of the criminal offense for which the officer has reasonable suspicion, unless during the course of the stop the officer develops reasonable suspicion or probable cause to believe another criminal offense has occurred, is occurring, or is about to occur.

- An investigatory stop must last no longer than is necessary for the limited purpose of confirming or dispelling reasonable suspicion that a suspect is committing, has committed, or is about to commit a criminal offense.

A.2 Investigatory stops are used to investigate the commission of criminal offenses in individual instances when such offenses pose a threat to public safety.[127]

- The department's goal of protecting community members is advanced by preventing and investigating serious criminal offenses that pose a threat to public safety. The department should therefore establish law enforcement priorities that differentiate between violations of public order and offenses that pose a threat to public safety.

- Investigatory stops are not to be used to investigate petty crimes, even if reasonable suspicion exists that a suspect is committing, has committed, or is about to commit a petty crime.

A.3 Investigatory stops should not be used in a widespread, programmatic manner. For the purpose of protecting the public safety, officers are only to conduct investigatory stops when investigating a specific incident of a suspected criminal offense which the officer has reasonable suspicion to believe has occurred, is occurring, or is about to occur.[128]

PRINCIPLE 28. Limit Traffic Stops to Appropriate Circumstances
The use of traffic stops should be limited to enforcing traffic laws for the purpose of ensuring public safety.

Commentary

Empirical evidence demonstrates that traffic stops, and the consent searches to which such stops often lead, cumulatively damage community relations and individuals' trust in police. One study found that individuals from a national sample who had experienced a traffic stop within the previous year were both significantly less likely to seek assistance from the police and significantly less likely to report neighbor-hood problems to the police than those who had not experienced a stop.[129] Another study performed using data from the Bureau of Justice Statistics' National Crime Victimization Survey series found that requests for consent to search were associated with reductions in both procedural justice and perceived stop legitimacy.[130] Furthermore, research shows that there is a racial aspect to the perceived legitimacy of traffic stops. One study found that African American drivers were significantly less likely than white drivers both (1) to believe that the reason given for their traffic stop was legitimate and (2) to believe that the officer had behaved properly during the stop, while being significantly more likely than white drivers to believe that they received a harsher outcome than they deserved.[131] Perceived stop legitimacy is important to citizens' respect for the rule of law and the co-production of public safety (by, for example, reporting crimes). In light of the potentially harmful effects of traffic stops and consent requests, their use should be minimized to situations in which they are necessary to recover evidence of a serious crime or material or circumstances that otherwise represent a threat to public safety, and procedures should be utilized for officers to obtain informed consent.

A.1 Officers may only stop vehicles if they have probable cause to believe that a traffic violation or serious crime has occurred.

A.2 Officers should only stop vehicles if they have probable cause to believe that a traffic violation has occurred and they intend to issue a citation for such violation. Vehicle stops are not to be used as a pre-text to engage with a motorist to attempt to develop reasonable suspicion of criminal wrongdoing.[132]

A.3 Officers may search a person without a warrant and on less than probable cause only when they first obtain consent of the person to be searched.[133]
- The officer must explain that the person has the right to refuse to consent to the search.
- The officer must obtain written (or, if the officer is wearing a BWC, on-camera) acknowledgement of (1) the person's understanding of their right to refuse to consent and (2) their consent to search.
- Officers should strive to limit their use of consent searches to situations in which they have articulable, reasonable suspicion to believe that they will find evidence of a serious crime or material or circumstances that otherwise represent a threat to public safety.

■ For the purposes of this section, restrictions on traffic stops are not to apply to certain law enforcement and public safety strategies that constitute "special needs," such as roadblocks to check for drunk driving.[134] Such efforts represent a distinct type of law enforcement strategy that does not rely on the same reasonable suspicion and probable cause justifications as traditional traffic stops.

PRINCIPLE 29. Employ Procedural Justice in all Stops

Officers should endeavor to communicate effectively with the community and with suspects in a way that promotes the tenets of procedural justice.

Commentary

Even where stops may be legally justified and would not transgress constitutional boundaries there is a significant chance that they could be perceived as contravening norms of procedural justice. As the Cambridge Review Committee — tasked with reviewing and issuing recommendations in the fallout from the high-profile arrest of Harvard Professor Henry Louis Gates — notes in their final report, "[a] judge can determine if a police action was lawful, and a police supervisor can determine whether an officer acted within the bounds of departmental policy. But citizens will form their own opinions about whether they view the actions of an officer as measured or excessive, as impartial or discriminatory."[135] Police can influence how favorably citizens view their interactions with law enforcement by communicating their mandate to investigate non-petty crimes and promote public safety. Since investigatory stops will inevitably result in police–citizen encounters that do not turn up any evidence of criminal wrongdoing, it is necessary to manage the stopped citizens' understanding of how and why they were stopped.

Model Policies

A.1 All officers should receive training in procedural justice and should learn about implicit biases and strategies to interrupt the connection between implicit biases and behavior.[136]

A.2 Officers should incorporate the principles of procedural justice into their interactions with individuals during investigatory stops and traffic stops, in the manner described below.
■ Officers should use their professional judgment in determining when in the course of an interaction to incorporate the following scripts.

A.3 Officers should inform suspects of the need to investigate the suspected commission of criminal offenses and enforce traffic laws.
■ *Example script:* "It's not our business to hassle you for something minor, but we do have to keep the community safe by investigating serious criminal conduct."

A.4 Officers should explicitly articulate the basis for their reasonable suspicion or probable cause when they make an investigatory or traffic stop.
■ *Example script:* "I am stopping you because _____."

A.5 Officers should express appreciation for a suspect's cooperation during the course of an investigatory or traffic stop.
■ *Example Script:* "Thank you for your cooperation," or "I understand that it is an inconvenience to have to take time out of your day to answer our questions."

De-escalation of Conflict

Overview

The key advantage of incorporating de-escalation into police practice is that it is a way of decreasing the chances that any given encounter will end in the use of force and violence,[137] which will help ensure greater safety for police officers and the community. Yet another benefit of de-escalation is that many de-escalation tools are also aligned with treating individuals with respect and slowing situations down enough for the officer to listen to and communicate productively with the individual. From procedural justice research, we know that these actions improve public perception of the police department.[138] Finally, de-escalating a situation gives the officer more time and space to make informed tactical decisions about how to deal with a given encounter. Adept and appropriate use of officer discretion is central to effective, safe policing. De-escalation tactics that enhance officer discretion by providing greater time and space should be used whenever possible.

Definitions

De-escalation: the process of reducing the level of agitation and tension in a situation or encounter.

PRINCIPLE 30. Use De-escalation Techniques in All Encounters

Police should use de-escalation techniques in all encounters, except where policies specify otherwise.

Commentary

This recommendation is in line with Pillar 1, "Building Trust & Legitimacy," of the President's Task Force on 21st Century Policing, which notes, "Procedurally just behavior is based on four central principles: 1. Treating people with dignity and respect 2. Giving individuals 'voice' during encounters 3. Being neutral and transparent in decision-making [and] 4. Conveying trustworthy motives."[139]

Model Policies

A.1 The primary duty of all police officers is to preserve human life. *Only the amount of force necessary to protect life or to effectuate an arrest should be used by an officer. Excessive force will not be tolerated.* An officer's goal is always to attempt to de-escalate a situation where force may become necessary. In the event force becomes unavoidable, officers should use the minimal amount of force necessary to overcome an immediate threat or effectuate an arrest.[140]

   ■ Once a threat has been overcome, or an individual is secured or in custody, it is an officer's responsibility to further de-escalate using verbal tactics to increase any individual's compliance and immediately address any injuries the individual may have sustained.

A.2 De-escalation tactics—whether verbal or physical—should be used where possible.

- In order to de-escalate a situation, officers should attempt to use one or more of the following techniques, in addition to any other techniques, words, or actions reasonably intended to slow down an encounter and engage the individual(s) in the encounter:[141]
  - *Verbal de-escalation:*
    Use the Listen and Explain with Equity and Dignity (LEED) framework:
    - ⋆ *Listen*—allow people to give their side of the story; give them voice
    - ⋆ *Explain*—officers should explain what they are doing, what the individual can do, and what will happen
    - ⋆ *Equity*—officers should explain why they are taking action; the reason should be fair and show that the individual's statements and input were taken into account
    - ⋆ *Dignity*—officers should act with dignity and leave the individual with their dignity
  - Echo back the individual's statements to show that the officer is listening
  - Communicate using verbal persuasion, including advisements
  - *Physical de-escalation:*
  - Avoid physical confrontation, unless immediately necessary to prevent direct harm to others or to stop behavior that may result in serious harm to others
  - Use physical de-escalation techniques, including:
    - ⋆ moving temporarily to a safer position
    - ⋆ communicating from a safe position
    - ⋆ decreasing exposure to potential threat using distance or cover

A.3 Officers should call and wait for more officers to assist if a threat of physical harm to others appears likely to materialize, or if the officer otherwise feels that additional assistance would decrease the likelihood of harm to any party or overall force used against any party.

- Officers should call CIT officers (officers trained in responding to people with mental illnesses) or social/mental health assistance when appropriate.

A.4 Officers' use of successful de-escalation tactics in appropriate circumstances will be taken into account in their performance reviews.

- Officers' use of de-escalation tactics will be evaluated in consideration of whether they appropriately used force.[142] *Officers will be held accountable for neglecting their duty to de-escalate during an incident in the sequence of events leading to force being used.*
- Officers should reference their de-escalation chart/graphic periodically to remind themselves of appropriate responses and de-escalation methods to use in encounters. Every precinct must post this chart/graphic in clear view.

A.5 When time and circumstances reasonably permit, officers shall consider whether an individual's lack of compliance is a deliberate attempt to resist or an inability to comply based on factors including, but not limited to:[143]

- Medical conditions
- Mental impairment
- Developmental disability

- Physical limitation
- Language and cultural barriers
- Drug or alcohol interaction

- An officer's awareness of these possibilities, when time and circumstances reasonably permit, shall then be balanced against the facts of the incident when deciding which tactical options are the most appropriate to bring the situation to a safe resolution.
  - "When time and circumstances reasonably permit" means that unless the officer or someone else is in imminent danger of harm, the officer shall make efforts to learn or ascertain whether lack of compliance may be due to the inability to comply.
  - Departments should provide officers with information about the most common language barriers likely to exist in the particular communities the department serves. Departments should also provide officers with common signs or indicia that might be evidence of an individual's inability to comply due to medical conditions, mental impairments, developmental disabilities, physical limitations, or drug and alcohol interaction.

PRINCIPLE 31. Give Officers De-Escalation Training

Officers must be trained—and routinely re-trained—in tactics of de-escalation.

Commentary

Research shows that the public confers legitimacy only on those whom they believe are acting in procedurally just ways.[144]

Model Policies

A.1 At least one member of the Police Department's training unit must be involved in the initial walkthrough and review of every officer-involved shooting.[145]

A.2 Each officer must complete the force-option simulator annually.[146]
- The simulator must include at least one scenario involving an individual under the influence of alcohol or narcotics or a mentally ill individual.[147]

A.3 Use of force training simulations must include at least one scenario where the officer is not expected to resort to the use of force.[148]
- Officers will be assessed on whether they properly de-escalate force in response to a threat.

A.4 The annual firearms qualification must include scenario-based evaluations.[149]
- At least one scenario should not lead to discharge of the weapon.

A.5 De-escalation, use of force, and firearms training shall be arranged so that they immediately follow one another in each officer's training schedule, with the concepts of the prior trainings (de-escalation and use of force) integrated with the latter trainings (use of force and firearms).[150]

PRINCIPLE 32. Publicly Debate Vehicle Pursuit Policy

Vehicle pursuits represent unique dangers for police officers and members of the public. Policies related to their use must be publicly debated, and officers should be given clear lines about what is appropriate and under what circumstances.

Commentary

Vehicle-related causes are the single highest cause of law enforcement officer death over the past decade.[151] Courts have attempted to intervene, with some success — auto crash fatalities, for instance, have been reduced in part because of more restrictive pursuit policies enacted by police departments following *Tennessee v. Garner*.[152] That case placed more stringent standards on use of deadly force, and departments have responded by specifying and limiting situations in which pursuit is allowed to better account for danger to the public.[153]

Departments must provide clear appropriate guidance to their officers so that they may understand the factors that must be considered when deciding whether to engage in pursuit.[154] In addressing these concerns, departments can adopt policies that provide clear direction to officers concerning when it is appropriate to engage in a pursuit, what procedures should be taken while engaging in pursuits, when to cease pursuing, and when to terminate a pursuit. In particular, departments that permit the utilization of the Precision Immobilization Technique (PIT) maneuver, designed to stop a fleeing vehicle through pursuit vehicle contact, must clearly outline the limited set of circumstances in which this dangerous tactic may be used.

Vehicle pursuits may present unique dangers to bystanders and other members of the public who are driving on the street or highway where the pursuit occurs. Members of the public should thus have input into the rules that govern such situations. Public debate on these matters gives police departments an opportunity to educate the public about the complicated decisions they must make when determining whether to, for example, pursue a suspect whom they have reason to believe presents an imminent threat to public safety, over and above the threat that may be caused by the pursuit itself.

Model Policies

A.1 Draft clear vehicle pursuit policies, with the benefit of public and police officer input.

Part Four: Practicing Procedural Justice with Particular Groups

Procedural justice principles should be employed with all people, always. Moreover, there is no evidence that different people experience procedural justice differently. The four factors identified in the Introduction influence all people's judgments about the quality of an interaction. For this reason, we have reservations about singling out particular groups and speaking about how procedural justice should be practiced with them. No group or individual is more or less deserving of procedurally just treatment than any other. Nor is there any reason to think that special procedural justice rules are needed to guide interactions with the wonderful diversity of groups with whom American police officers will have the privilege and duty of working.

That said, certain communities have historically fraught relationships with police departments. And some of these groups—specifically, immigrants, youth, racial minorities, and members of the LGBTQI community—are a special focus of the Department of Justice as part of the National Initiative for Building Community Trust and Justice. In this part, we offer examples of how the principles of procedural justice might be practiced with these groups. Many groups, including the mentally ill, criminal offenders, and crime victims, for example, have disproportionate interaction with the criminal justice system, and offenders and victims (who can be one and the same) have often experienced trauma that may affect how they respond to law enforcement. Because we believe that general procedural justice principles can and should be applied with all people and because we have no metric by which to prioritize the many groups whose histories and concerns merit law enforcement attention, we have chosen to focus here only on those groups that are a focus of the National Initiative.

However, it is important to remember that these are just *examples* of how the general principles of procedural justice, *which do not change based on context*, might be practiced. And even these specific examples might be generalized to the public more broadly. For example, in our model policy on interactions with immigrant communities, we emphasize the need for law enforcement agencies to ensure that their policies and meetings are accessible to individuals who may have limited English proficiency. But similar concerns about accessibility might be raised regarding individuals with physical disabilities, who might require sign language interpretation, for example, or wheelchair ramps to access police buildings. In our model policy regarding the LGBTQI community, we speak about honoring people's choices to be referred to as "he," "she," or "they," as an example of how one might show respect. Here again, this is a specific example of a universal truth: calling people by names they find offensive makes them feel disrespected, which diminishes their sense of procedural justice and of the legitimacy of law enforcement.

LGBTQI Individuals

Overview

Members of the LGBTQI community are one group that has faced discrimination from law enforcement.[155] Even officers who do not wish to cause offense may not be aware that certain of their behaviors may be perceived by members of this community as disrespectful. The policies that follow suggest some specific thoughts on how best to practice procedural justice with members of the LGBTQI community.

Definitions[156]

LGBTQI: This acronym refers to Lesbian, Gay, Bisexual, Transgender, Queer or Questioning, and Intersex people. Although all of the different identities within "LGBTQI" are often lumped together, there are specific needs and concerns related to each individual identity.

Sexual orientation: An inherent or immutable enduring emotional, romantic or sexual attraction to other people.

Bisexual: A person who is attracted to both people of their own gender and another gender.

Gay: A person who is attracted primarily to members of the same sex. Although it can be used for any sex (e.g. gay man, gay woman, gay person), "lesbian" is sometimes the preferred term for women who are attracted to women.

Gender identity: One's innermost concept of self as male, female, a blend of both or neither—how individuals perceive themselves and what they call themselves. One's gender identity can be the same or different from their sex assigned at birth.

Gender expression: External appearance of one's gender identity, usually expressed through behavior, clothing, haircut or voice, and which may or may not conform to socially defined behaviors and characteristics typically associated with being either masculine or feminine.

Cisgender: Types of gender identity where an individual's experience of their own gender matches the sex they were assigned at birth.

Transgender: An umbrella term for people whose gender identity and/or expression is different from cultural expectations based on the sex they were assigned at birth. Being transgender does not imply any specific sexual orientation. Therefore, transgender people may identify as straight, gay, lesbian, bisexual, etc.

Intersex: A person whose sexual anatomy or chromosomes do not fit with the traditional markers of "female" and "male." For example: people born with both "female" and "male" anatomy (penis, testicles, vagina, uterus); people born with XXY.

Gender transition: The process by which some people strive to more closely align their internal knowledge of gender with its outward appearance. Some people socially transition, whereby they might begin dressing, using names and pronouns and/or be socially recognized as another gender. Others undergo physical transitions in which they modify their bodies through medical interventions.

Gender dysphoria: Clinically significant distress caused when a person's assigned birth gender is not the same as the one with which they identify. According to the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders (DSM), the term – which replaces Gender Identity Disorder – "is intended to better characterize the experiences of affected children, adolescents, and adults."

Queer: 1) An umbrella term sometimes used by LGBTQI people to refer to the entire LGBTQI community. 2) An alternative that some people use to "queer" the idea of the labels and categories such as lesbian, gay, bisexual, etc. It is important to note that the word queer is an in-group term, and a word that can be considered offensive to some people, depending on their generation, geographic location, and relationship with the word.

PRINCIPLE 33. Treat all People with Respect

Officers should "treat all persons with the courtesy and dignity which is inherently due every person as a human being. Department members will act, speak, and conduct themselves in a professional manner, recognizing their obligation to safeguard life and property, and maintain a courteous, professional attitude in all contacts with the public."[157]

Commentary

Procedurally just treatment promotes police legitimacy in part because it makes people feel like they are respected within a social group, such as a community. Showing disrespect could thus undermine legitimacy.

Model Policies

A.1 Departments should have policies that make clear that there will be zero tolerance for discrimination against or harassment of LGBTQI individuals in any context (including those who work in the department and live in the community).

A.2 Services shall not be limited or denied on the basis of an individual's actual or perceived sexual orientation, gender identity, or gender expression.[158]

A.3 Officers must respect people's desired self-identification.
- One should never assume another person's gender identity based on that person's appearance. It is always best to ask people how they identify, including what pronouns they prefer, and to respect their wishes.
- Officers should ask individuals by what name they wish to be addressed. This name may be noted as an AKA if it differs from the individual's legal name.[159]
- If an officer has need to determine an individual's legal name, they should ideally ask for this information one-on-one rather than in the presence of bystanders or witnesses.[160]

A.3 Officers should receive training about the dimensions of sexual orientation, gender identity, and gender expression that are relevant for law enforcement practices. Such training should highlight the origins of the historically fraught relationship between LGBTQI individuals and law enforcement.

■ Such trainings should communicate types of behaviors that are viewed as offensive by this community and convey the message that these behaviors will not be tolerated.

PRINCIPLE 34. Ensure the Safety of all People

Officers should ensure the safety of all individuals, and particularly LGBTQI individuals, in arrest processing, searches, and placement in custody.

Commentary

Ensuring the safety of all people is part of demonstrating fairness. When one segment of the population receives less protection than the rest, it could signal that this group is excluded and undermine the legitimacy that is built upon the perception that authorities treat all people fairly.

Model Policies

A.1 Searches for the purpose of assigning gender based on anatomical features are prohibited.[161]

A.2 Absent exigent circumstances, officers should respect individuals' requests to be searched by an officer of a particular gender. This request should be documented.

A.3 When making decisions about transport and custody, officers should deem an individual's gender to be male or female based on the individual's gender identity.[162]

PRINCIPLE 35. Conduct Outreach to LGBTQI Organizations

Departments should conduct outreach to LGBTQI organizations in their communities, and consider assigning a liaison(s) to this community.

Commentary

Conducting outreach is a way to signal to the LGBTQI community that authorities care about their views, and to communicate that they have voice. This should promote their perceptions of procedural justice and thus their views of police as legitimate.

Immigrant Communities

Overview

Immigrants represent a significant, growing population across the United States. In 2013, the number of immigrants in the US had surpassed 41 million people, representing over 13% of the country's total population.[163] Immigrants thus make up a significant portion of the communities that many police departments serve. It is crucial that police departments intentionally build positive relationships with immigrants in their communities, as there are unique challenges that arise when serving these populations.

Although immigrants in the US have been found to be less likely to commit crimes than native-born individuals,[164] they also are less likely to report to the police if they become victims of crime,[165] a fact which in some cases causes them to be targeted by criminals.[166] In many cases, immigrant communities' distrust of the police has been caused by factors that are outside the control of any individual police department. A significant minority of immigrants in the US are undocumented,[167] and immigrants may fear that contact with police will lead to immigration consequences for either themselves or other members of their community. In addition, immigrants may have pre-existing negative expectations of law enforcement based on cultural norms or experiences abroad.[168] Although they may not have caused this lack of trust, however, individual police departments bear unavoidable responsibility for building and maintaining relationships with all who live in the communities they serve, including immigrants. In order to build positive relationships with immigrants, police departments must clearly communicate their role in the community, and must contribute to an environment in which immigrants are welcomed and included.

PRINCIPLE 36. Decouple Federal Immigration Enforcement from Local Policing

Federal immigration enforcement should be decoupled from routine local policing for civil enforcement and non-serious crime.[169]

Commentary

Local police departments' involvement in federal immigration enforcement erodes these departments' efforts to build community trust and decreases their ability to ensure the safety of the communities they serve.[170] The procedural justice literature demonstrates that how individuals' perceive themselves to be treated by police officers affects the degree to which they feel included or excluded from their larger national community. Recent work by Ben Bradford, in particular, has shown that police behavior can enhance or diminish people's feelings of belonging to the country in which they live. This effect is particularly powerful for people who claim multiple identities of importance to them, like immigrants and ethnic and religious minorities. And that feeling of belonging is *even more predictive* of future cooperation with law than is police officer legitimacy in those who are immigrants. Indeed, Bradford finds that procedural justice is of special importance to those unsure of their status because the way in which people are treated affects what they feel about themselves and others around them.[171]

Bradford's work strongly suggests that if local police officers are perceived as being engaged in a project of seeking out immigration violations—such that factors like skin color and accent can make one suspect—they risk further alienating immigrants from feeling as if they belong to the city and country where they live. Importantly, in so doing, they diminish the likelihood of cooperation with the law and with the police by these communities.

There may be other compelling reasons to avoid local entanglement with the enforcement of federal immigration law. For example, immigration law is a complicated system that includes both civil and criminal violations; navigating these rules can prove onerous and difficult for actors outside the federal system.[172] Cooperating in immigration enforcement also exposes local police departments to increased risk of civil liability.[173] For all of these reasons, police departments should seriously consider limiting their immigration enforcement activities to the greatest extent possible under governing law.

Departments should note that while the above policy is consistent with existing federal law, it may conflict with state and local law in some jurisdictions; some adjustments may therefore be required. The existence and extent of joint operations and other cooperation with federal immigration authorities will also vary by jurisdiction in accordance with state and local policies. If the department regularly communicates any information to Immigrations and Customs Enforcement, the procedures for doing so should be clearly outlined in the department's publicly-available policies.

Allowing immigration status to become a tool of coercion or intimidation in the hands of officers would severely undermine a department's efforts to limit the negative impact of immigration enforcement on its own relationship with the community. Thus, officers should clearly understand that such practices are against department policy, regardless of the extent to which the department formally participates in the enforcement of federal immigration law.

Model Policies

A.1 Departmental policies with respect to the treatment of people's immigration status should be guided by the following principles:

- A person's right to file a police report, participate in any police-community activities, or otherwise benefit from general police services shall not be contingent upon the individual providing proof of citizenship or any type of documented immigration status.[174]
- Police officers shall not inquire about a person's immigration status unless that person is reasonably believed to be or has been involved in the commission of a felony.

A.2 Enforcement of federal immigration law shall be limited by the following:

- The enforcement of federal immigration law is the responsibility of the federal government.
- Officers shall never commence an investigation with the primary purpose of detecting civil immigration violations.
- No person shall be detained solely on the belief that he or she is not legally present in the United States or has committed a civil immigration violation, except in cases where a civil administrative warrant has been signed by a judge.
  - This policy does not limit cooperation or joint operations with federal agencies that are otherwise permitted under department policy.
  - Officers shall never use coercion or intimidation based on immigration status.

PRINCIPLE 37. Adopt Inclusive and Welcoming Attitude Toward Immigrant Members of the Community

Police departments should contribute to a community environment in which immigrants are welcomed and included.

Commentary

Research has shown that variations in the way that laws and policies are administered towards marginalized groups shape individuals' understanding of their place in society."[175] Thus, it is crucially important for law enforcement agencies to ensure that immigrant communities are welcomed and well-served by law enforcement to the greatest extent possible. However, obstacles can be expected. As discussed above,

immigrants may have pre-existing negative expectations of law enforcement based on cultural norms or experiences abroad.[176] In addition, even if a local police department chooses not to enforce immigration law, federal law enforcement may still actively do so within their jurisdiction. Community members may not distinguish between these two roles, which may strain relationships with local police.[177] Proactively including immigrant communities in outreach efforts and communicating whenever possible in a language that is accessible to residents are important ways that police departments can cultivate community trust.

In building relationships with immigrant communities, police departments should be transparent about their own relationship to the enforcement of federal immigration law.[178] State and local law enforcement agencies vary widely in the extent to which they participate or cooperate in the enforcement of federal immigration law, and it is understood that each department's policy may vary in this area. Regardless of their underlying content, department policies must clearly articulate what officers may and may not do to enforce federal immigration law. This policy should be consistently and openly shared with the community.[179] Special attention should be paid to providing this information in languages other than English as needed.

Model Policies

A.1 The department shall provide both written and online materials in languages other than English in accordance with the needs of the community.

A.2 The department shall make efforts to recruit bilingual officers as reflective of community needs, and may provide additional financial compensation to them if necessary and possible.

A.3 The department shall include immigrant communities when conducting outreach efforts. Whenever possible, officers should go out into the community for these outreach events, rather than asking community members to travel to a police station.

A.4 When possible, the department shall proactively seek to partner with organizations serving immigrant communities in order to conduct outreach activities.[180]

A.5 Departments shall provide cultural training for officers in order to equip them to build relationships and trust with immigrant communities.[181]
- Departments should develop this training curriculum in consultation with immigrants within their own communities whenever possible. Existing community groups may prove to be a valuable resource in this area.

A.6 The Department must at all times maintain a written policy limiting the extent to which officers may engage in enforcing federal immigration law, consistent with existing state and local law.
- The aforementioned policy shall be openly communicated to all members of the community, and shall be made accessible to the public in written form (and on the department's website) if possible.

Racial Minorities

Overview

There is no evidence to suggest that racial minorities experience procedural justice differently than whites. In fact, the available evidence suggests the opposite.[182] Thus, police departments that wish to practice procedurally just policing with racial minorities should be mindful of the elements of procedural justice (respect, voice, neutrality and transparency, and trustworthy motives) that we have detailed throughout this document.

That said, racial minorities express consistently lower trust and confidence in police than do their white counterparts.[183] And the behavior of the police toward minority communities has been a flashpoint in our nation's history.[184] Police leaders thus are, and should be, concerned about how to minimize racial bias among their ranks and improve their departments' relationships with minority communities.

Consistent with the focus of the National Initiative for Building Community Trust and Justice, we elevate one recommendation in particular to achieve this goal: creating training programs and developing policies that seek to minimize the activation of police officers' implicit biases.

PRINCIPLE 38. Developing Training Programs and Policies that Reduce the Potential for Racial Biases to Affect Decisionmaking

Commentary[185]

Every day, our brains make shortcuts that, for example, allow us to drive home from work without consciously thinking through every turn on the route.[186] Such shortcuts are necessary if people are to function efficiently and effectively in a complex world. And without them, police officers in particular would have a difficult time doing their jobs, which require an ability to respond to fast-moving developments.

The problem is that these associations can reflect stereotypes about groups that are present in the larger culture, even if we do not consciously endorse them.[187] Moreover, these stereotype-based associations may influence our behavior, in some cases causing us to act in ways that run counter to our own values. As Jack Glaser puts it: "*'normal' is not always 'desirable.'*"[188]

An example of a normal cognitive process leading to deeply undesirable results is found in the literature on implicit bias, which teaches that even well-intentioned individuals, who disavow explicit racism, may harbor implicit biases that can—particularly under certain circumstances—affect their conduct. For instance, the Implicit Association Test (IAT) and similar studies have shown that "people are faster to pair positive evaluations (*e.g.* good) with white faces and negative evaluations (*e.g.* bad) with black faces," indicating an implicit preference for whites.[189] Indeed, researchers have determined that the power of these stereotypes is so great that they can actually impact visual perception. For example, when subjects were exposed to black faces, they were more easily able to detect crime-relevant objects.[190]

An implicit bias that is particularly relevant to policing is the connection many of us make between black people and crime. A large body of psychological research demonstrates that people make a strong (*i.e.*,

consistent and frequent) association between Blacks and crime and that these associations are automatic (*i.e.*, unintentional). The association is also bi-directional — that is, "Black faces and Black bodies can trigger thoughts of crime, [and] thinking of crime can trigger thoughts of Black people."[191] As one group of authors summarized: "Most Americans — and especially white Americans — believe that crime has a black face."[192]

Importantly, some research suggests that some types of undesirable police behavior (so-called shooter bias, or the tendency to shoot armed black men faster than armed white men or not shoot unarmed white men faster than unarmed black men) is *better* predicted by one's awareness of general stereotypes in society than one's own prejudices.[193] In studies undertaken by Josh Correll and his colleagues, participants played a videogame in which they encountered white and black people who were holding either guns or other objects. Participants were told to shoot the armed individuals and not shoot the unarmed individuals. Both white and black participants decided to shoot an armed target more quickly if he was black and decided not to shoot an unarmed target more quickly if he was white. Importantly, the magnitude of this bias varied based upon participants' stated perception that there is a cultural stereotype that blacks are aggressive and violent but *not* upon their expressions of explicit prejudice.[194] There is thus reason to think that implicit biases can be just as dangerous as explicit prejudice, and in some cases perhaps even more so.

PRINCIPLE 39. Promote Positive Interactions Between Racial Minorities and Police Officers

Commentary

The psychological literature teaches us that improving relationships between police and communities is likely to be very challenging due to the power asymmetries between the two groups.[195] That said, the literature also suggests steps that police departments may take to attempt to minimize these asymmetries and promote positive interactions. Specifically, research suggests that the positive effects that occur from intergroup contact are enhanced by certain conditions, such as equal status, cooperation, shared goals, and institutional support (e.g., support of the local government or police department).[196] With these lessons in mind, Principle 39 encourages police departments to affirmatively seek out opportunities for contact with community members - outside of the patrol and enforcement contexts - where departments can try to meet these conditions.

Departments should remain mindful that contact with the police might be an anxiety and threat-provoking situation for community members if they are distrustful of police. If people feel threatened in contact, it could lead to negative rather than positive outcomes.[197] For this reason, departments should take steps to optimize the situation. Such steps may include: 1) emphasizing the equal status between police and community in the context of the interaction; 2) making clear that the department's aim for the interaction is to cooperate with community members to achieve shared goals; and 3) making clear that the interaction has the full institutional support of the police department and that the police department as a whole values positive relations with community members.

Departments should demonstrate that they are listening to the perspective of community members. Instead of opening the meeting by having officers make statements about what the police department believes the community's position to be, which could backfire, we suggest opening the meeting by clearly

stating the officers' intention to listen to what community members have to say. Officers should signal active listening throughout the meeting, and distractions (such as checking cellphones) should be minimized.

Departments should demonstrate to community members that they should feel empowered as co-producers of public safety in their neighborhoods.[198] This could be accomplished by demonstrating that they have a voice and may participate in decision-making with the police about things like enforcement priorities.

Young People

Overview

These recommendations focus on strategies to increase the legitimacy of the police department in the eyes of young people in the community, in particular. So how do young people come to view authorities as legitimate (or illegitimate, as the case may be)? At the outset, we should acknowledge a reality that is likely intuitive based upon our own experiences: that adolescence is a particularly formative period in people's lives. The period from 12-18 is an especially important time for the development of people's views about the law and legal authorities. This is a process that academics refer to as "legal socialization."[199]

Experience matters for the development of young people's orientations to the law. "[W]hat adolescents see and experience through interactions with police and other legal actors . . . influence[s] the development of their notions of law, rules, . . . and the legitimacy of authority to deal fairly with citizens who violate society's rules."[200] Adolescents have a lot of experience with the criminal justice system, and police in particular, typically as a result of their engagement in minor offending.[201]

In 2011, young people under the age of 18 were involved in 11% of all arrests in the United States.[202] And, of course, not all police contact results in an arrest, so that number underestimates youth-police contact to an unknown degree. Part of the reason for all of this contact is that, in the main, "[t]he prevalence of [criminal] offending tends to increase from late childhood, peak in the teenage years (from 15 to 19) and then decline in the early 20s." In other words, our teenage years are our peak years for criminal activity, even though much of it involves minor offending.[203]

That criminal offending peaks in late adolescence is not surprising. As a growing body of developmental neuroscience and behavioral research reveals, "adolescents differ from adults in their greater propensity for risk taking and susceptibility to peer influence and their reduced capacity for self-regulation and for attending to future consequences."[204]

The good news is, if they are simply left alone, the overwhelming number of youthful offenders mature into adults who are generally law abiding. "Studies agree that 40 to 60 percent of juvenile delinquents stop offending by early adulthood."[205] The bad news is, the more that adolescents are drawn into contact with the police, the courts, and jails the more they develop a criminogenic trajectory (which is to say, they are more likely to commit crimes in the future).[206] This is particularly troubling as negative intergroup

contact experiences can promote feelings of threat.[207] In fact, negative intergroup contact experiences may more powerfully promote hostility than positive intergroup contact experiences promote positive intergroup attitudes.[208] To the extent that people harbor negative expectations of police as a group, they may avoid them, which can have consequences for their compliance with the law.[209]

However this empirical finding that criminal contact is bad confounds two things that each deserves our focus. *First*, the way that police officers manage their individual contacts with young people may result in them feeling unfairly treated.[210] The factors that contribute most to a teenager viewing a police stop, in particular, as negative are whether the police threaten or use force, or are humiliating or disrespectful. Notably, whether the stop results in an arrest is *less important* for young people for the purposes of perceived legitimacy.[211] So police need to know how to act fairly when they deal with young people, or they risk making young people less law abiding and less cooperative through that contact.

Second, when young people are repeatedly stopped by police they begin to experience all stops as unfair, regardless of the individual characteristics of those stops. Young people who are stopped by the police again and again come to believe—in some cases correctly—that they have been targeted for an unlawful reason, like their race or gender. This belief leads them to the conclusion that all police stops are unjust, regardless of how the individual officers making those stops behave or the actual rationale for any one stop. This is a particularly troubling finding given that young people are having more and more contact with the police as a result of proactive policing policies, which lead to many more street contacts (stop and frisks, for example).[212]

As it stands, the research shows that the average impact of being stopped by police is to lower trust and confidence in legal institutions and increase the likelihood of criminal behavior. Those who have been treated unfairly by the police are twice as likely to engage in subsequent criminal conduct. However, it is also important to note that contact between young people and adult authorities can be positive, and can actually build legitimacy and trust. Police officers can and do interact with young people in Police Athletic Leagues and other similar friendly and supportive environments, and these activities should be encouraged. According to some of the leading researchers on procedural justice "[W]e should treat each encounter between citizens and police (as well as courts and other legal actors) as a socializing experience—a teachable moment—that builds or undermines legitimacy."[213]

PRINCIPLE 40. Engage Young People in the Co-Production of Public Safety

Communities and law enforcement should engage young people in a process of co-producing public safety.

Commentary

Young people are intimately implicated in problems of community violence and disorder, and their proximity to the problem gives them unique insight into the factors that are driving it and possible solutions. Lawmakers, law enforcement, and others who are charged with producing public safety should develop mechanisms to engage with young people in consistent and meaningful ways.

Model Policies

A.1 Police departments should engage young people in the process of departmental policymaking.[214]

PRINCIPLE 41. Employ Procedural Justice in Interactions with Young People

Commentary

Procedural justice is as important, if not more so, to young people than to adults. With young people, procedurally just treatment by police is particularly strongly associated with reduced subsequent criminal activity.[215] Such early contacts with police serve as "teachable moments," shaping adolescents' views toward the law, and likelihood of later criminal conduct.[216]

Model Policies

A.1 When police officers must interact with young people in the context of stops, frisks, arrests, and the like, they should always exhibit procedurally just behavior.[217]

A.2 All police officers—particularly those, like School Resource Officers (SROs)—who interact frequently with young people, should be trained in concepts of procedural justice.[218]

A.3 The first priority of police departments should be to divert youth out of the criminal justice system at every possible stage.
- Instead of having arrest and criminal processing as their only available option, officers should be empowered to connect young people with services that might help them to address any underlying challenges that might be driving their criminal behavior.[219]

A.4 Police officers should seek out opportunities to interact with young people in positive, non-punitive ways.[220]
- Such interactions might occur in the context of Police Athletic Leagues, for example. Police departments should also be encouraged to participate in existing community activities that attract young people and to develop new PAL-like programs that will connect them with kids with diverse interests.

A.5 Police Departments should be mindful of the fact that not all problems that young people encounter are best dealt with by the criminal justice system.[221] Schools must address non-criminal discipline problems without resorting to law enforcement.[222]

Endnotes

1 PRESIDENT'S TASK FORCE ON 21ST CENTURY POLICING, OFFICE OF COMMUNITY ORIENTED POLICING SERVICES, FINAL REPORT OF THE PRESIDENT'S TASK FORCE ON 21ST CENTURY POLICING (May 2015), *hereinafter* PRESIDENT'S TASK FORCE REPORT.

2 *Id. at* 11 (Recommendation 1.1).

3 We use the term "general and special orders" to refer to a department's primary policies. We recognize that departments may use different names to refer to such policies.

4 *See* POLICE EXECUTIVE RESEARCH FORUM, DEFINING MOMENTS FOR POLICE CHIEFS 59 (2015), *available at* http://www.policeforum.org/assets/definingmoments.pdf.

5 *See id.* at 34.

6 Stephan Grimmelikhuijse, *Do Tranparent Government Agencies Strengthen Trust?* 14 INFORMATION POLITY, 173-186 (2009)

7 Many departments have already adopted the practice of posting their general orders online, including: Minneapolis (http://www.ci.minneapolis.mn.us/police/policy/index.htm); Albuquerque (https://www.cabq.gov/police/our-department/standard-operating-procedures); Boston (http://bpdnews.com/rules-and-procedures/); Fairfax County (http://www.fairfaxcounty.gov/police/inside-fcpd/generalorders/); Milwaukee http://city.milwaukee.gov/Directory/police/About-MPD/Code-of-Conduct.htm#.VvvsQnrNyC4; and Cincinnati (http://www.cincinnati-oh.gov/police/department-references/), which also has posted all of the documents relating to its agreement with the Department of Justice, including all five years of monitor reports. Major policy controversies are also leading to new requirements in state law for the public posting of at least some department policies. For example, Utah now requires that, "An agency shall make the agency's policies regarding the use of body-worn cameras available to the public, and shall place the policies on the agency's public website when possible." Utah Code Annotated 77-7A-105 (2).

8 Or as soon as practicable given a department's technological and staffing limitations.

9 While exceptions may be necessary to protect individuals or ensure effective enforcement, departments should strive to publish as much material as possible. Policies should be carefully redacted to allow the public to review overarching approaches and the processes for determining when to employ certain tactics. For example, while some specifics of SWAT team tactics may need to be withheld to protect officer safety, policies regarding when SWAT teams may be used, who may request and authorize the use of a SWAT team, when the SWAT team may conduct a no-knock raid, etc. should be made publicly available in full.

10 This is the practice used by many government agencies when responding to Freedom of Information Law requests.

11 *See* Tom R. Tyler & Yuen Huo, TRUST IN THE LAW: ENCOURAGING PUBLIC COOPERATION WITH THE POLICE AND COURTS (2002); *see also* Tom R. Tyler, *Procedural Justice, Legitimacy, and the Effective Rule of Law*, 30 CRIME AND JUST. 283(2003).

12 See Kees Van den Bos, Henk A.M. Wilke & E. Allan Lind, *When Do We Need Procedural Fairness? The Role of Trust in Authority*, 75 J. OF PERS. AND SOC. PSYCHOL. 1449 (1998); *see also* Robert J. MacCoun, *Voice, Control, and Belonging: The Double-Edged Sword of Procedural Fairness*, 1 ANN. REV. L. SOC. SCI. 171 (2005).

13 In some instances, municipalities facing major community concerns about their policing practices have conducted a comprehensive review of their policies instead of updating policies one-by-one as circumstances arise. Following the upheavals in Ferguson after the death of Michael Brown, for example, the Governor of Missouri appointed the Ferguson Commission to conduct a "thorough, wide-ranging and unflinching study of the social and economic conditions that impede progress, equality and safety in the St. Louis region," including "citizen-law enforcement interaction[s]." http://

governor.mo.gov/news/executive-orders/executive-order-14-15. Similarly, the Board of Supervisors for Fairfax County, Virginia established a citizen commission to conduct a comprehensive review of all of its policies related to critical incidents and public information. The Commission issued 142 recommendations on a wide range of subjects, including use of force, recruitment, mental health training, and civilian oversight. Press Release, Fairfax County Virginia, *Police Commission Delivers Final Report* (Oct. 20, 2015), *available at* http://www.fairfaxcounty.gov/news2/police-commission-delivers-final-report/.

14 E. Allan Lind, Ruth Kanfer & P. Christopher Earley, *Voice, Control, and Procedural Justice: Instrumental and Non-Instrumental Concerns in Fairness Judgments*, 59 J. of Pers. and Soc. Psychol., 952 (1990).

15 As the recommendations of police chiefs and community leaders were summarized by PERF: "Discussions must be honest: Actions must match words. If police leaders promise something and fail to deliver, the result can be worse than if they have never spoken about the issue in the first place." Police Executive Research Forum, Advice from Police Chiefs and Community Leaders on Building Trust: "Ask for Help, Work Together, and Show Respect," 73 (2016), *available at* http://www.policeforum.org/assets/policecommunitytrust.pdf. The department must follow through on its promise to listen to the community if it asks for the community's input. The *Building Communities of Trust* report, funded by the Bureau of Justice Assistance, emphasizes that the advisory boards it recommends must have real input into the decision-making process and their advice should be "carefully considered." Robert Wasserman, U.S. Dep't of Just. Office of Community Oriented Policing Serv., Guidance for Building Communities of Trust 22 (2010), *available at* https://nsi.ncirc.gov/documents/e071021293_BuildingCommTrust_v2-August%2016.pdf.

16 "[The public engagement] approach also allows law enforcement executives the opportunity to educate stakeholders about the benefits and limitations of a BWC program." Dep't of Pub. Safety, Division of Crim. Just., Off. of Res. & Stat., Recommendations Regarding Body-Worn Camera Policies in Colorado 16 (Feb. 2016), *available at* http://coloradofoic.org/files/2016/02/Body-Worn-Cameras-Report-of-Recommendations-Feb-2016.pdf.

17 Advisory councils or commissions can help organize the community involvement process. To have legitimacy, it will be helpful if they have authority independent of the department. To be effective, they need to have administrative staff; full, timely access to the department's policymaking process; and clear responsibilities.

　　The IACP National Policy Summit on Community-Police Relations recommends municipalities consider the creation of a community advisory board. Int'l Ass'n. of Chiefs of Police, IACP Nat'l Policy Summit on Community-Police Relations: Advancing a Culture of Cohesion & Community Trust 21 (2015), *available at* http://www.theiacp.org/Portals/0/documents/pdfs/CommunityPoliceRelationsSummitReport_Jan15.pdf.

　　Several consent decrees or related lawsuit settlements have created community policy input processes with varying structures and degrees of formality. These include decrees and settlements in Albuquerque, Seattle, Portland, and Puerto Rico:

- Seattle's Community Police Commission was established to provide community input related to the police department's policies, practices, and training. They had a specific focus on stops and detentions, but their mandate extended to other policy issues as requested or as they thought community input was needed. Since beginning work in March 2013, the Commission has made recommendations related to the Department's use-of-force, accountability systems, bias-free policing, training, and public consumption policies. (http://www.seattle.gov/community-police-commission/recommendations-and-reports)
- The DOJ agreement with Albuquerque includes two mechanisms for community input into department policymaking. The Civilian Police Oversight Agency, which includes a nine member Police Oversight Board and administrative staff, makes recommendations related to department policies in addition to reviewing complaints. https://www.cabq.gov/cpoa. Members of the public also now sit on the Department's internal Policy and Procedures Review Board.
- The DOJ agreement with Portland established a Community Oversight Advisory Board, whose charge of reviewing the police department's community outreach and accountability efforts includes an opportunity to make recommendations on the "integration of community and problem-oriented policing principles into PPB's management, policies and procedures." The COAB's bylaws state that it will "oversee, advise, and make recommendations regarding the implementation of the Settlement. Agreement between the U.S. Department of Justice . . . and the City of Portland

that requires reform of Portland Police Bureau . . . policies, training, and practices." (http://www.cocl-coab.org/sites/default/files/Approved%20COAB%20Bylaws%207-9-2015.pdf)

- The DOJ agreement with Puerto Rico established regional Community Interaction Councils. They have an explicit charge to review policies, including those on discriminatory policing, search and seizure, use of force, the civilian complaint process, and victim services.

Note that advisory councils also pose risks from a procedural justice perspective. If they are not carefully structured to ensure the inclusion of a diverse array of voices, including nontraditional and critical voices, they may be perceived as rubber stamps for departments. If they are not given sufficient authority and administrative support, they may be ineffective at gathering input.

18 The Police Chief of Greenville, NC invited community members representing a wide range of stakeholders to join the department's strategic planning process. They began with the creation of a new mission statement for the department and moved on to the development of a three-year plan. Former-Chief Aden reports, "Agencies seeking to improve their relationships with their communities, and ultimately to increase their legitimacy within their communities, ought to consider [a community-inclusive strategic planning process] as part of their comprehensive community partnership and engagement strategy. If the process is managed properly, it can have a significant, positive impact on community relations and partnerships." http://www.policechiefmagazine.org/magazine/index.cfm?fuseaction=display&article_id=3142&issue_id=102013

The Ferguson Commission's process exemplifies efforts to engage a wide range of community members and to grant community members substantial roles in shaping the work of the commission and the final recommendations. The Commission held 17 full Commission meetings and 38 work group meetings. All meetings were open to the public and held in various neighborhoods around the region. The agenda for subsequent meetings was set by the participants at the first meeting through a process that prioritized their concerns. The full Commission meetings alone had almost 2,000 participants. The meetings used open public comment, presentations from experts, and facilitated discussion in small breakout groups to gather community input in a variety of ways that were inclusive of many community perspectives.

As a community partner in PERF's *Advice from Police Chiefs and Community Leaders on Building Trust* put it: "It's important to create a citizens' panel that doesn't just include lawyers and ministers and the 'respectable citizens' in our society, but also people who the police have contact with." Police Executive Research Forum, *supra* note 15 at 6.

19 Departments can and should experiment with formats that go beyond traditional public hearings or advisory groups. Well-structured and facilitated community meetings may produce more diverse and useful insights than traditional public hearings or advisory groups and may generate greater credibility and community buy-in. Departments should not rely on a consistent, small set of community leaders as their only source for community input, particularly for major issues. Departments should be cognizant of potential non-representativeness in the responses received, and should consider additional outreach if they believe they have not heard from a sufficient range of community perspectives.

20 Both Seattle and Portland's consent decrees required substantial community surveys to gather community input regarding police policies and practices. Seattle, for instance, partnered with 13 community organizations that served hard-to-reach populations, ultimately collecting more than 3,000 survey responses, including in almost 500 in languages other than English. Betsy Graef, *The Seattle Community Police Commission: Lessons Learned and Considerations for Effective Community Involvement*, 14 Seattle J. Soc. Just. 1 (2016).

New York City receives public comments on its proposed policies through a website that all city agencies use for that purpose. *See* http://rules.cityofnewyork.us/proposed-rules.

Camden, NJ conducted an online survey—the link for which was prominently displayed in highlighted text on the police department homepage. The department developed the survey in consultation with the Policing Project at NYU. Nonny Onyekweli & Annie Carney, Camden Gives Democratic Policing a Chance (Mar. 9, 2016), *available at* http://policingproject.org/dispatches/camden-gives-democratic-policing-a-chance/.

Minneapolis posted its draft body camera policy on the front page of the police department's website in four languages (English, Somali, Spanish, and Hmong). http://www.ci.minneapolis.mn.us/police/ (as of 4/12/16). The department accepted written comments via an email address from those unable to attend one of their public listening sessions on body cameras. Press Release, City of Minneapolis, Police Conduct Oversight Commission Seeks Public Input on Body Cameras (Jul. 22, 2015), *available at* http://www.ci.minneapolis.mn.us/news/WCMS1P-144274.

21 Minneapolis's website for its body camera policy review process includes records of the comments from all of the community sessions. *See* http://www.ci.minneapolis.mn.us/civilrights/conductcomm/rs/WCMS1P-148037. Seattle's Community Police Commission websites includes several reports summarizing the results of its community surveys and other community input processes. *See* http://www.seattle.gov/community-police-commission/recommendations-and-reports.

22 *See* Bies, Robert J. Bies & Debra L. Shapiro, *Voice and Justification: Their Influence on Procedural Fairness Judgments*, 31 Acad. Mgmt. J. 676 (1988); *see also* Tom R. Tyler, *Conditions Leading to Value-Expressive Effects in Judgments of Procedural Justice: A Test of Four Models*, 52 J. of Pers. and Soc. Psychol. 333 (1987).

23 The department should make its explanation widely available and be willing to answer further community questions. As Tallahassee Police Chief Michael DeLeo told PERF, "I have no issue with anybody questioning what we do and how we do it. That is what we are here for. We answer to you, on any questions." *See* Police Executive Research Forum, *supra* note 4, at 38.

Albuquerque's consent decree specifies that the police chief must provide a written explanation when she or he decides not to adopt a recommendation of the Civilian Police Oversight Agency.

Building Communities of Trust similarly concludes that it is important to give reasons when community advice is not adopted. Wasserman, supra note15, at 22.

This type of explanation is routinely provided by agencies at all levels of government at the conclusion of a public process. Other municipal departments may be able to provide examples tailored to the local community.

24 *See* Mengyan Dai, James Frank, & Ivan Sun, *Procedural Justice During Police-Citizen Encounters: The Effects of Process-Based Policing on Citizen Compliance and Demeanor*, 39 J. Crim. Just. 159 (2011).

25 *See* Monica M. Gerber & Jonathan Jackson, *Justifying Violence: Legitimacy, Ideology and Public Support for Police Use of Force*, 23 Psychol., Crime & L. 79 (2017).

26 Many police departments have revised their policies on certain force techniques, such as neck and carotid restraints and electronic control weapons, in response to new medical research on the injury risks associated with these techniques, the departments' own experience and data on the use of these techniques, and relevant court decisions. These revisions offer an example of how, going forward, departments can use objective criteria and new information to determine how recently introduced tools and tactics should be categorized and reviewed.

27 Examples of some U.S. police departments that provide a substantially complete use of force policy online — with guidelines for officers on using force and policies on the reporting and review of force — include: Austin, Baltimore, Chicago, Denver, Fort Worth, Indianapolis, Las Vegas, Los Angeles, Minneapolis, Philadelphia, Phoenix, San Antonio, San Francisco, Seattle, and Washington, D.C.

28 Several police departments maintain public databases and/or produce public reports on use of force incidents. For example, the Indianapolis Police Department provides a detailed online database on uses of force and officer-involved shootings, including information on the disposition of investigations as to whether the officer was in compliance with law and policy. *See* https://www.projectcomport.org/department/IMPD/useofforce/. The Las Vegas Metropolitan Police Department provides online public access to reports produced through the internal and external review of officer-involved shootings, including Force Investigation Team Reports, Office of Internal Oversight Review findings, and District Attorney decisions. *See* http://www.lvmpd.com/AboutLVMPD/OfficeofInternalOversight/OfficerInvolvedShootings/tabid/451/Default.aspx. The department distributes an Awareness Report to officers providing a preliminary factual summary shortly after a deadly force incident and is developing procedures to mandate the timely release of information on officer-involved shootings. It maintains detailed deadly force statistics that are used by the Office of Internal Oversight to produce both an internal Quarterly Report, which identifies trends and progress made toward reducing these incidents, and a publicly available annual report, which breaks down incidents by time, location, type of event, type of force, and officer and subject information. *See* James K. Stewart et al., Office of Community Oriented Policing Services, Collaborative Reform Process: A Review of Officer-Involved Shootings in the Las Vegas Metropolitan Police Department 143-45(2012).

29 The proposed standardized system for categorizing use of force data would enable useful national comparisons that are currently difficult to make but would also allow departments to create sub-categories to reflect local practice. For example, Seattle Police Department Policy 8.050 includes the use of stop-sticks on moving motorcycles in the category of deadly force because of the technique's potential for death or injury. This technique may be less common in other localities, but including it within the broader reporting category of lethal techniques is useful for aggregate comparison.

30 *See* Peter A. Heslin & Don VandeWalle, *Performance Appraisal Procedural Justice: The Role of a Manager's Implicit Person Theory*, 37 J. Mgmt. 1694 (2011).

31 Rick Trinkner, Tom R. Tyler, & Phillip Atiba Goff, *Justice from Within: The Relations Between a Procedurally Just Organizational Climate and Police Organizational Efficiency, Endorsement of Democratic Policing, and Officer Well-Being*, 22 Psychol., Pub. Pol'y & L. 158 (2016).

32 The sentinel event review model draws on practices used in other high-risk fields like aviation and medicine — for example, hospitals' morbidity and mortality reviews — to identify systemic errors and proactively prevent their repetition through education and changes in organization or policy. Unlike existing internal review procedures, sentinel event reviews are nonadversarial and designed to serve as the basis for education and reform, not discipline. As in the medical context, these reviews afford participants robust legal protections, including use immunity and confidentiality.

    Successful precedents exist for the use of sentinel event reviews in policing. These include, for example, the Cambridge Review Committee's examination of police practices after the highly publicized arrest of Professor Henry Louis Gates, *see* Cambridge Review Committee, Missed Opportunities, Shared Responsibilities: Final Report of the Cambridge Review Committee (2010), and experiments with sentinel event reviews of criminal justice outcomes by Milwaukee, Philadelphia, and Baltimore, three cities selected as "beta sites" by the National Institute of Justice as part of its Sentinel Events Initiative. *See* National Institute of Justice, Paving the Way: Lessons Learned in Sentinel Event Reviews (2015); *see also* Sean Smoot, *Punishment-Based vs. Education-Based Discipline: A Surmountable Challenge?*, in National Institute of Justice, Paving the Way: Lessons Learned in Sentinel Event Reviews (2015).

33 Research by the National Institute of Justice has shown that a small percentage of officers within police departments are responsible for a disproportionate share of citizen complaints and that well-designed early warning systems have been effective in reducing complaints and litigation. *See* Samuel Walker et al., National Institute of Justice, Early Warning Systems: Responding to the Problem Police Officer (2001).

34 Roseanna Sommers, Note, *Will Putting Cameras on Police Reduce Polarization?*, 125 Yale L.J. 1150 (2016). The results of studies exploring whether BWCs may encourage more responsible behavior from both the police and the public, decreasing officer uses of force, has been more equivocal. These possibilities merit further study, and should examine how departmental characteristics may affect the results. *Compare* Barak Ariel, William A. Farrar & Alex Sutherland, *The Effect of Police-Worn Cameras on Use of Force and Citizens' Complaints Against the Police: A Randomized Control Trial*, 31 J. Quantitative Criminology 509 (2015) *with* David Yokum, Anita Ravishankar & Alexander Coppock, The Lab @ DC, Evaluating the Effects of Police Body-Worn Cameras: A Randomized Control Trial (2017).

35 *See* Megan Quattlebaum, *Should Police Wear Body Cameras? Experts Pick Sides*, WalletHub (Oct. 5, 2016), *available at* https://wallethub.com/blog/should-police-wear-body-cameras/25343/#megan-quattlebaum.

36 Press Release, Pew Research Center, Sharp Racial Divisions in Reactions to Brown, Garner Decisions: Many Blacks Expect Police-Minority Relations to Worsen (Dec. 8, 2014), *available at* http://www.people-press.org/2014/12/08/sharp-racial-divisions-in-reactions-to-brown-garner-decisions/bipartisan/.http://www.people-press.org/2014/12/08/sharp-racial-divisions-in-reactions-to-brown-garner-decisions/bipartisan/

37 *See* Community Oriented Policing Services & Police Executive Research Forum, Implementing a Body-Worn Camera Program: Recommendations and Lessons Learned (2014), *available at* https://www.justice.gov/iso/opa/resources/472014912134715246869.pdf.

38 Examples of community engagement in BWC policymaking to which departments may look for guidance include:
- Colorado's legislatively-established Body Worn Camera Study Group recommended in their final report to the State Legislature that: "any agency that chooses to adopt BWC policies do so with the benefit of input from the public, local policymakers and other stakeholders." (http://coloradofoic.org/files/2016/02/Body-Worn-Cameras-Report-of-Recommendations-Feb-2016.pdf, 16)
- Minneapolis conducted an extensive public process that involved their Police Department, City Council, Police Conduct Oversight Commission, three community listening sessions, community polls, and a website documenting the process and all of the input considered. (http://www.ci.minneapolis.mn.us/civilrights/conductcomm/rs/WCM-S1P-148037).
- The complexity of the process can be proportionate to the resources of the community. Carrboro, North Carolina, with a police department of 39 sworn officers, developed their policy through multiple meetings with the ACLU of North Carolina, then presented the draft policy to the Board of Alderman, who held a public hearing and reviewed the draft before approving it. (https://carrboro.legistar.com/LegislationDetail.aspx?ID=2245899&GUID=C63475E1-8014-4363-A77E-1FA990ED5A3F)

39 Lind et al., *supra* note 14.

40 Stephen J. Schulhofer, Tom R. Tyler, & Aziz Z. Huq, American Policing at a Crossroads: Unsustainable Policies and the Procedural Justice Alternative, 101 J. Crim. L. & Criminology 335 (2011).

41 PERF and the COPS office recommend that "[a]gencies should make the[ir BWC] policies available to the public, preferably by posting the policies on the agency website." *See* Community Oriented Policing Services & Police Executive Research Forum, *supra* note 37, at 38. Minneapolis posted its draft body camera policy on the front page of the police department's website in four languages: English, Somali, Spanish, and Hmong. (http://www.ci.minneapolis.mn.us/police/ (as of 4/12/16)).

42 PERF and the COPS office suggest that "[a]n initial evaluation should be conducted at the conclusion of the body-worn camera pilot program or at a set period of time (e.g. six months) after the cameras were first implemented. Subsequent evaluations should be performed on a regular basis . . . ." *See* Community Oriented Policing Services & Police Executive Research Forum, *supra* note 37, at 49.

43 Mary J. Culnan & Pamela K. Armstrong, *Information Privacy Concerns, Procedural Fairness, and Impersonal Trust: An Empirical Investigation*, 10 Organization Science 104 (1999).

44 American Civil Liberties Union, A Model Act for Regulating the Use of Wearable Body Cameras by Law Enforcement, https://www.aclu.org/model-act-regulating-use-wearable-body-cameras-law-enforcement (last visited Sept. 24, 2017). The Pittsburgh Bureau of Police has the following policy: "When the recording function has been activated to record an incident, it shall not be deactivated until the incident has been completed." Pittsburgh Bureau of Police, Body Worn Camera and Mobile Video/Audio Recording Systems 5.3.1.

45 The NYPD requires officers to document failure to film on an occasion when filming was mandated and to report this failure to desk officers. The Leadership Conference, Police Body Worn Cameras: A Policy Scorecard, https://www.bwcscorecard.org/ (last visited Nov. 2015).

46 This model policy is in line with a bill introduced in the Iowa House in February 2015 by Representative Ako Adbul-Samad of Des Moines that would require school resource officers to wear body cameras. Kathy A. Bolten, *Iowa Bill Would Require Body Cameras for Officers*, Des Moines Register (Feb. 26, 2015) *available at*, http://www.desmoinesregister.com/story/news/crime-and-courts/2015/02/25/police-body-cameras-iowa-legislation/24024853/. The Parker Police Department (in Colorado) generally does not allow the activation of body-worn cameras in schools but makes a few exceptions including "while affecting an arrest," "while controlling a person through response to resistance techniques," and during "circumstances that are extraordinary." *See* The Leadership Conference, *supra* note 45.

47 When two or more officers wearing body-worn cameras are present during an interaction with a member of the public, the event will be recorded from multiple perspectives. This impedes bias as viewers tend to identify with the person from whose perspective they viewed an event. *See* G. Daniel Lassiter, et al., *Criminal Confessions on Videotape: Does Camera Perspective Bias Their Perceived Veracity?*, 7 Current Research in Social Psychology (2001) (finding that there is a "camera perspective bias." In police interrogations, for example, perspectives that only frame the civilian are found to inflate his perceived guilt/culpability).

48 The Daytona Beach (Florida) Police Department requires "officers obtain consent, on camera, from all crime victims prior to recording an interview." *See* Community Oriented Policing Services & Police Executive Research Forum, *supra* note 37.

49 The ACLU recommends, "Prior to entering a private residence without a warrant or in non-exigent circumstances, a law enforcement officer shall ask the occupant if the occupant wants the officer to discontinue use of the officer's body camera." American Civil Liberties Union, *supra* note 44. Tennessee Representative Brenda Gilmore of Nashville filed a bill in January 2016 that would prevent officers from recording inside homes without permission. *See* The Leadership Conference, *supra* note 45. The Philadelphia Police Department requires officers to obtain filmed consent to the use of a body-worn camera once inside a residence. *See id.*

50 The police of Lakeway, Texas and Buda, Texas use cameras that turn on automatically. *See* Robert Maxwell, *Lakeway Police First to use Automatic Body Cameras*, KXAN (June 12, 2015) *available at*, http://kxan.com/2015/06/12/lakeway-police-first-to-use-automatic-body-cameras/.

51 To the extent that BWCs may promote civility from members of the public, these benefits cannot accrue unless those individuals are aware that they are being filmed. *See* Community Oriented Policing Services & Police Executive Research Forum, *supra* note 37, at 40. Note that, in the minority of states with two-party consent laws, officers must obtain the *consent* of the recorded, unless the law makes an exception for police recordings. Mere notification is unlikely to suffice.

52 The Pittsburgh Bureau of Police has the following policy: "When the recording function has been activated to record an incident, it shall not be deactivated until the incident has been completed." Pittsburgh Bureau of Police Mobile Video/Audio Recording Equipment (MVR) 5.3.1. The Bureau further requires the following interactions to be recorded: "traffic and criminal enforcement stops," "in-progress Vehicle and Crimes Code violations," "police vehicle pursuits," "patrol vehicle travel and movements when emergency lights or siren are activated," "fatal crash or major crime scenes, as necessary, to document the scene," "prisoner transport (mandatory for patrol wagons, optional for patrol sedans)," and "any other incident the member deems appropriate while acting in the performance of his/her official duty." *Id.* at 5.1.1–5.1.7.

53 The Austin Police Department plans to give officers in patrol cars "cameras that automatically turn on prior to exiting the car." *5 Things We Learned from APD's Body Camera AMA*, KUT 90.5 (Dec. 4, 2015), *available at* http://kut.org/post/5-things-we-learned-apds-body-camera-ama. Houston Police Department vehicle-mounted cameras "are automatically triggered to record when a deputy activates lights and sirens or reaches speeds over 85 mph." *Local Police Support Dash Cam Policies, Protecting Citizens and Officers*, KHOU (Apr. 25, 2012), *available at* http://www.khou.com/story/news/2014/07/19/11707856/. The Seattle Police Department's vehicle-mounted cameras are "set to automatically turn on whenever a car's lights and/or sirens are activated." Tracy Vedder, *"Glitch" in SPD Dashcam System Could Cause Problems*, KOMONews.com (Apr. 2, 2014), *available at* http://komonews.com/archive/glitch-in-spd-dashcam-system-could-cause-problems. Chicago Police Department vehicle-mounted cameras are automatically engaged when police emergency lights are turned on." Carol Marin & Don Moseley, *Questions Remain about Missing Audio in McDonald Dash-cam Video*, NBC5 Chicago (Dec. 17 2015), *available at* http://www.nbcchicago.com/investigations/Missing-Audio-353927451.html.

54 *See* Grimmelikhuijse, *supra* note 6.

55 The police department of Oakland, California stores its film "for two years at a minimum." Zusha Elinson & Dan Frosch, *Police Cameras Bring Problems of Their Own*, Wall St. J. (Apr. 9, 2015), *available at* http://www.wsj.com/articles/police-cameras-bring-problems-of-their-own-1428612804. "SFPD retains all BWC footage for at least two years." *See* The Leadership Conference, *supra* note 45. Campaign Zero recommends "allow[ing] civilians to review footage of themselves or their relatives and request this be released to the public and stored for at least two years." Campaign Zero, Solutions, http://www.joincampaignzero.org/solutions/#contracts (last visited Sept. 24, 2017).

56 "PERF generally recommends a broad disclosure policy to promote agency transparency and accountability." *See* Community Oriented Policing Services & Police Executive Research Forum, *supra* note 37, at 46. "[E]xisting exemptions [in freedom of information laws] for confidential informants, personal privacy interests, trade secrets, etc. adequately protect the persons and businesses whose activities are captured in such recordings from the harms attendant with disclosure of such material." Memo Explaining MLRC's Model Policy on Police Body-Worn Camera Footage at 5, *available at* https://www.doj.state.wi.us/sites/default/files/policebwcrecordings.pdf.

57 The Media Freedom & Information Access Clinic, Police Body Cam Footage: Just Another Public Record 6 (Dec. 2015).

58 Jerald Greenberg & Russell Cropanzano, *The Social Side of Fairness: Interpersonal and Informational Classes of Organizational Justice*, *in* Justice in the workplace: Approaching fairness in human resource management (1993).

59 This rule will help preserve the independent evidentiary value of officer reports. The Leadership Conference on Civil and Human Rights notes that "[p]re-report viewing could cause an officer to conform the report to what the video appears to show, rather than what the officer actually saw." Press Release, Leadership Conference on Civil and Human Rights Civil Rights, Privacy, and Media Rights Groups Release Principles for Law Enforcement Body-Worn Cameras (May 15, 2015).

60 "YouTube has featured an automated facial-blurring tool for videos since 2012, and this technology has become increasingly well-tuned over time. The Guardian Project and the human rights activist organization WITNESS have collaborated to produce ObscuraCam, a free and open source software tool with similar aims." The Media Freedom & Information Access Clinic, Police Body Cam Footage: Just Another Public Record 23 (Dec. 2015).
  The Seattle Police Department has its own free and open source facial blurring software consisting of five lines of code. *Id.*

61 President's Task Force Report, *supra* note 1, at 10.

62 *Id.*

63 These benefits of procedural justice and legitimacy have been researched and characterized for decades. *See, e.g.*, John Thibaut & Laurens Walker, Procedural Justice: A Psychological Analysis (Erlbaum Press 1975); Tom R. Tyler, *Psychological perspectives on legitimacy and Legitimation*, 57 Annual Review of Psychology 375 (2006); Tom R. Tyler, Why People Obey the Law (2006) [hereinafter Tyler, Why People Obey]; Tom R. Tyler, Why People Cooperate: The Role of Social Motivations (2011).

64 Tom R Tyler, Why People Cooperate: The Role of Social Motivations, 122-123 (Princeton University Press 2011).

65 Rick Trinkner, Tom R. Tyler, & Philip Atiba Goff, *Justice from within: The relations between a procedurally just organizational efficiency, endorsement of democratic policing, and officer well-being*, 22 Psychol., Pub. Pol'y, & L., 158 (2016).

66 The Minneapolis Police Department's code directs employees to "treat all fellow employees with respect. They shall be courteous and civil at all times with one another." Similar statements should be expressed in terms that are likely to resonate with the officers in the department.

67 Tom R. Tyler & Steven L. Blader, *The Group Engagement Model: Procedural Justice, Social Identity, and Cooperative Behavior*, 7 Personality & Soc. Psychol. Rev. 349 (2003).

68 Open communication among officers and supervisors "builds rapport between supervisors and officers; teaches the supervisor about the strengths and weaknesses, preferences and aspirations, and personal concerns of officers; and provides supervisors with direct access to field information." Department of Justice, Office of Community Oriented Policing Services, Implementing a Comprehensive Performance Management Approach in Community Policing Organizations: An Executive Guidebook 6 (2015). Open Communication initiatives are becoming more popular due to their impact on morale, employee effectiveness, and unit cohesion. Minneapolis's Police Department has used a "Goals and Metrics" performance review system that fosters monthly supervisor-subordinate conversations. Brooklyn Park, Minnesota, requires end-of-shift debriefing with the entire squad.

69 *See* Trinkner, Tyler, & Goff, P, *supra* note 65.

70 Birmingham Alabama's police department policies specifically require that major policy changes "involve all levels of personnel at the conceptual phase when time and subject matter permit." Birmingham Alabama Police Code, 100-1(IV).

71 *See* Tyler & Blader, *supra* note 67.

72 *See* Uhrlich Orth & Elias Wieland, *Anger, Hostility, and Posttraumatic Stress Disorder in Trauma-Exposed Adults: A Meta-Analysis*, 74 J. Consulting & Clinical Psychol. 698 (2006).

73 Akiva M. Liberman et al., *Routine Occupational Stress and Psychological Distress in Police*, 25 Policing: Int'l J. Police Strategies & Mgmt. 421 (2002).

74 *See* Patrick Corrigan, *How stigma interferes with mental health care*, 59 Am. Psychologist 614 (2004).

75 When officers are given mandatory traumatic incident leave, they are less likely to feel stigmatized and more likely to receive treatment essential to their wellbeing and to their procedurally just treatment of others. For example, in Fort Worth, each employee involved in a traumatic incident is placed on a three-day traumatic incident leave, which may be extended or converted to a temporary reassignment as determined by the appropriate Deputy Chief in consultation with the Traumatic Incident Coordinator. In Boston, mandatory leave explicitly extends to all officers present at the scene of a traumatic incident. Boston Police Department Deputy Superintendent Steven Whitman found that this policy "makes the officer who was involved feel less singled out. That helps reduce the stigma surrounding counseling." Police Executive Research Forum, Labor and Management Roundtable Discussions: Collaborating to Address Key Challenges in Policing 26 (2015).

76 Some police departments and associations have developed proactive voluntary programs for increasing employee health and safety. Such programs enable officers to create a healthy police force and workplace environment. For example, the Los Angeles Command Officers' Association wellness initiative includes small financial or administrative incentives to use for "preventative physical checkups, consultations with psychologists, and substance abuse education." Police Executive Research Forum,*supra* note 75, at 29. Similarly, the Columbus Division of Police contracts with third-party fitness centers for reduced and free membership for officers and has hired an industrial hygienist to review injury claims, sick days, training protocols, and safety protocols.

77 The department should prominently identify and repeat through mottos or statements about the occupational health and safety responsibilities it holds towards its employees. Similar to the sanctity of human life concept discussed in the model policy on de-escalation, this policy should be a driving force of the Department's work and rhetoric: *the department is vitally concerned about the safety and well-being of its police officers.*

78 Stockton California has assigned multiple layers of responsibility for officer safety and wellbeing. First, Stockton's police chief has ultimate responsibility for the safety of police officers. Second, the Lieutenant in charge of Personnel & Training serves as the Department Safety Officer. Third, managers are directed to facilitate employee participation in safety measures while "seek[ing] to make frequent, informal contacts with both supervisors and employees on matters involving safety."

79 *See* Tyler & Blader, *supra* note 67.

80 The Birmingham Police Department's code directs the director of their police academy to develop career development opportunities, counseling, in-service training and other initiatives to be overseen by a career development panel. Such policies should be focused not only on transfers and promotions but also on skills and support necessary for the officer's continued development in his current position.

81 President's Task Force Report, *supra* note 1 (calling "for law enforcement to protect the dignity and human rights of all" as "Guardians" not "warriors;" protectors and champions of the Constitution).

82 Jason Sunshine & Tom R. Tyler , *The Role of Procedural Justice and Legitimacy in Shaping Public Support for Policing*, 37 L. & Soc'y Rev. 535 (Research suggests that "police can enhance their image in the eyes of the public, be objectively more effective in enforcing the law, and gain greater discretion in performing their regulatory duties [when they are viewed as more legitimate by the community] . . . [O]ver time, the police can best regulate public behavior by focusing on engaging the social values, such as legitimacy, that lead to self- regulation on the part of most of the public, most of the time. . . . Further, the efforts of the police to manage such problematic people and situations will be aided by cooperation from the public. Finally, when the police need discretionary authority, their use of such authority will be supported by the public. Hence, a procedural justice-based approach to regulation creates social order by engaging public cooperation with law and legal authority. Such cooperation is engaged when people in the communities being policed experience the police as exercising their authority fairly.").

83 *Id.*

84 *See* Tom Tyler, Phillip Atiba Goff & Robert J. MacCoun, *The Impact of Psychological Science on Policing in the United States: Procedural Justice, Legitimacy, and Effective Law Enforcement*, 16 Psychol. Sci. Pub. Int. 75 (2015). For instance, the New York Police Department has attributed a shift in department culture to the collection and effective use of performance indicators via its CompStat program. Mark H. Moore, David Thacher, Andrea Dodge & Tobias Moore, Police Executive Research Forum, Recognizing Value in Policing (2002). *See also* George Kelling, *Measuring what Matters: A New Way of Thinking about Crime and Public Order*, City J. (1992)

85 President's Task Force Report, *supra* note 1 (Recommendation 2.9).

86 *Id*. Performance measures can help administrators track morale within the organization, whether funds are being used efficiently, whether individual officers are headed for trouble, and a host of other barometers that indicate health or dysfunction in an organization. Performance indicators can also aid police executives in defending against claims of racial bias, patterns of abusive behavior, or failure to protect.

87 This principle aligns to Pillars One and Four of the Task Force's Final Report. Pillar One reads, "Trust between law enforcement agencies and the people they protect and serve is essential in a democracy. It is key to the stability of our communities, the integrity of our criminal justice system, and the safe and effective delivery of policing services." Pillar Four focuses on the importance of community policing as a guiding philosophy for all stakeholders. Community policing emphasizes working with neighborhood residents to co-produce public safety. Law enforcement agencies should develop and adopt policies and strategies that reinforce the importance of community engagement in managing public safety. Law enforcement agencies should also engage in multidisciplinary, community team approaches for planning, implementing, and responding to crisis situations with complex causal factors. President's Task Force Report, *supra* note 1.

88 *See* President's Task Force Report, *supra* note 1 (Recommendation 1.5. "Law enforcement agencies with limited resources may choose to focus positive non-enforcement activities in communities that have high rates of investigative and enforcement involvement with government agencies.").

89 The Milwaukee Police Department (MPD) replaced its "Rules, Regulations, and Responsibilities" with a values-based Code of Conduct designed with officer input. *See* Letter from Edward A. Flynn, Chief of Police, to The Board of the Fire and Police Commission (May 21, 2010), *available at* http://www.city.milwaukee.gov/ImageLibrary/Groups/city-FPC/agendas1/100603_PD_F.pdf More than one third of department members voluntarily participated in a values survey to identify core values most important to them and which values they believed the department should adopt. Department leadership analyzed the results of the survey, defined department core values, and now describes itself as a values-based agency. The department transitioned to the new system over a six-month transition period. *See* Letter from Edward A. Flynn, Chief of Police, to The Board of the Fire and Police Commission (Feb. 14, 2011), *available at* http://www.city.milwaukee.gov/ImageLibrary/Groups/cityFPC/agendas2/110217_UB_B.pdf. All members are guided by the MPD Code of Conduct, *see* http://county.milwaukee.gov/LawEnforcementCodeof9154.htm, which is founded on "six core values of competence, courage, integrity, leadership, respect and restraint," consistent with the "highest professional standards of policing." Milwaukee Police Department Code of Conduct, *available at* http://city.milwaukee.gov/ImageLibrary/Groups/mpdAuthors/PDFs/CodeofConductReadersSpreadComp.pdf. These core values are a road map for Milwaukee officers.

90 Elgin, Illinois has successfully run its Resident Officer Program (ROP) since 1991. The program provides certain officers with housing in the very neighborhoods they serve and protect. Resident officers enforce the law in their own neighborhoods and partner with residents to find solutions to neighborhood problems. Neighbors have their officers' cell phone numbers, which are displayed on plaques outside their city-owned or -rented homes. The ROP has since been adopted in other Illinois counties. *See, e.g.*, Jeff Kolkey & Georgette Braun, *Transform Rockford: Elgin Beats Back Crime with Resident Office Program, Community Policing*, Rockford Reg. Star (May 17, 2014), *available at* http://www.rrstar.com/article/20140517/NEWS/140519510; Resident Officer, DeKalb, Illinois http://www.cityofdekalb.com/296/Resident-Officer. In March 2015, the Minneapolis Police Chief initiated a "cops out of cars," program, designed to encourage officers to spend time out of their squad cars and have positive interactions with the community.

91 See Task Force action item 1.4.2: "Law enforcement agency leadership should examine opportunities to incorporate procedural justice into the internal discipline process, placing additional importance on values adherence rather than adherence to rules. Union leadership should be partners in this process." Action Item 1.5.1; "In order to achieve external legitimacy, law enforcement agencies should involve the community in the process of developing and evaluating policies and procedures."

92 See Tom R. Tyler & Jonathan Jackson, *Popular Legitimacy and the Exercise of Legal Authority: Motivating Compliance, Cooperation, and Engagement*, 20 Psychol., Pub. Pol'y & L., 78 (2013).

93 President's Task Force Report, *supra* note 1 (Recommendation 1.7). Ideally, these surveys would be standardized across jurisdictions and employ accepted sampling protocols. The Fresno Police Department, in partnership with the Fresno Office of Independent Review, developed a community survey to measure community attitudes about local law enforcement and established a baseline and plan to administer the survey on an annual basis to monitor improvements or changes in perceptions. *See* https://www.fresno.gov/NR/rdonlyres/6BF09CD7-1CF7-454A-9F72-C410A375293F/13023/IPAFAQs.pdf (last visited Sept. 2014). The Milwaukee Sheriff's department solicits reflections from citizens who visit traffic court on their web page. *See*
http://county.milwaukee.gov/OfficeoftheSheriff7719/Customer-Satisfaction-Surveys.htm.

94 Some police departments solicit citizen reviews of encounters with officers by using *voluntary contact surveys*. Examples:
· Mount Olive Township Police Department http://www.mopd.org/survey.html; https://www.cityoflaurel.org/forms/laurel-police-department-community-survey ;
· City of Lafayette, Louisiana Police Department https://www.surveymonkey.com/r/?sm=cXFzC9z2Hy7vcqmfC3u-5WA%3D%3D ;
· City of Enfield, Connecticut Police Department https://app2.enfield.org;
· Philadelphia Smart Policing Initiative http://www.smartpolicinginitiative.com/sites/all/files/Community%20survey%20summary.pdf.

"Rather than asking for global opinions of the police, as with community surveys, contact surveys ask respondents to assess specific behaviors of police officers during a particular encounter . . . ." Robert C. Davis et al., Striving for Excellence: A Guidebook for Implementing Standardized Performance Measures for Law Enforcement Agencies 12, *available at* http://www.calea.org/sites/default/files/Guidebook.pdf.

The Chicago Police Department, in partnership with the University of Illinois at Chicago, began piloting "Respect-Stat," which regularly surveys people who have had interactions with the police to assess their satisfaction with the encounter. Feedback from the RespectStat survey allows police executives to assess how districts in their jurisdictions and their agencies overall are doing in their interactions with the community." Dennis P. Rosenbaum, Procedural Justice in American Policing: The Police-Community Interaction Survey (Mar. 22, 2014), *available at* http://www.ipr.northwestern.edu/workshops/past-workshops/chicago-procedural-justice/docs/session-6-Rosenbaum.pdf.

95 President's Task Force Report, *supra* note 1 (Action Item 4.5.1).

96 *See* President's Task Force Report, *supra* note 1 (Recommendation 4.2).

97 The Minneapolis Police Department formally rewards officers and units who "positive[ly] impact . . . individual[s] or [the] community and the Department" for "having demonstrated compassion to those in need by providing understanding, empathy and confidence . . . [and] altruism while attending to the needs of a specific community or individual above and beyond the call of duty." (The Distinguished Service Award) Minneapolis also formally rewards officers for "performance resulting in improved operations, outstanding community service, or substantial savings in organizational costs" (Chief's Award of Merit (certificate of recognition and a purple uniform bar)). *See* http://www.ci.minneapolis.mn.us/police/policy/mpdpolicy_2-300_2-300.

98 *See* Police Accountability Task Force, Recommendations for Reform: Restoring Trust between the Chicago Police and the Communities They Serve (Apr. 2016).

99 *See* Carol Dweck, *Mindsets and Human Nature: Promoting Change in the Middle East, the Schoolyard, the Racial Divide, and Willpower*, 67 Am. Psychologist 614 (2012),

100 See Tom R. Tyler, *supra* note 64; Nicole E. Hass et al., *Explaining Officer Compliance: The Importance of Procedural Justice and Trust Inside a Police Organization*, 15 Criminology & Crim. Just. 442 (2015).

101 The IDP process involves identifying employee goals and developing action steps to reach them. The IDP makes the assessment process a collaboration between the employee and his or her direct supervisor. The employee and supervisor address achievable training needs and career plans that align with agency values. The IDP helps employees feel more invested and rewarded by continuously measuring improvement in job performance and creating a framework for realizing future career goals. IDPs facilitate ongoing discussions between supervisors and employees to enhance professional growth.

The IDP instrument is usually a structured document that is personalized to fit the needs and goals of the employee. IDPs can be adjusted to address short-term goals related to employees' current work and position or long-term career goals. Supervisors should determine each employee's goals and "areas for growth," and track employee development based on individual growth plans.

102 Steven L. Blader, *What Determines People's Fairness Judgments?: Identification and Outcome Influence Procedural Justice Evaluations Under Uncertainty*, 43 J. Experimental Soc. Psychol., 986 (2007).

103 Milwaukee PD created "The Source," http://www.milwaukeepolicenews.com/#menu=home-page, a website devoted to providing community members with accurate and up-to-date information about police activity, including crime statistics, commentary on news coverage, and stories that informed community members about the department and its officers. This policy aligns with recommendation 3.5 of the President's Task Force: Law enforcement agencies should adopt model policies and best practices for technology-based community engagement that increases community trust and access. *See* President's Task Force Report, *supra* note 1.

104 Both Birmingham and Fort Worth have instituted CPAs to improve the public's perception of police and to increase community understanding of police practices and procedures.

105 The Minneapolis PD posts its policies and procedures in HTML format on its website, including its performance evaluation criteria. For the general policies, *see* http://www.ci.minneapolis.mn.us/police/policy/index.htm. For the performance evaluation, *see* http://www.ci.minneapolis.mn.us/police/policy/mpdpolicy_2-200_2-200. Milwaukee PD also posts its Code of Conduct and Standard Operating Procedures on its website. *See* http://city.milwaukee.gov/Directory/police/About-MPD/Code-of-Conduct.htm#.VyOGY2OCzzI.

106 Stephan D. Mastrofski, *Policing for People*, Ideas in Am. Policing at 7 (Mar. 1999), *available at* https://www.scribd.com/document/111421194/Mastrofski-1999-Policing-for-People. During a pilot project in the early 2000s, the NYPD teamed with the Vera Institute of Justice to produce monthly indices of satisfaction with police encounters in each of the NYPD's 76 precincts. Vera Institute of Justice & The Lieberman Research Group, Neighborhood Satisfaction Survey: Final Report (2003).

107 Steven L. Blader & Tom R. Tyler, *A Four-Component Model of Procedural Justice: Defining the Meaning of a "Fair" Process*, 29 Personality & Soc. Psychol. Bull., 747 (2003).

108 The Minneapolis PD instituted policies designed to incentivize supervisors to take ownership of their officers' behavior in high-stakes encounters. For example, MPD requires that a supervisor approve of all vehicle chases, respond to the scene, and generate a preliminary report on the appropriateness of the chase. MPD also requires that a supervisor must respond to a scene when deadly force is threatened or an injured person requires medical treatment.

109 Currently, the debate around BWCs emphasizes their role in investigations of negative officer behavior, to the expense of their potential to record good policing that would otherwise go unrewarded in the evaluation process.

110 *Examples of 911 dispatcher training programs:*
- The National Emergency Number Association (NENA) has developed standards and various training programs for emergency communications agencies. *NENA Education Program Overview*, NENA.org, http://www.nena.org/?EducationOverview (last visited Nov. 28, 2015). States vary in the certification and training required for 911 dispatchers; some require certification by the state's POST organization. For example, California requires dispatchers to complete the Public Safety Dispatchers' Basic Course, which has a minimum hourly requirement of 120 hours, covering 14 different topics, including an introduction to law and the criminal justice system, interpersonal communication skills, and guidelines for responding to different types of situations. Cal. Comm'n on Peace Officer Standards and Trainings, Training Specifications for the Public Safety Dispatchers' Basic Course (2011). The California POST training emphasizes the importance of "respectful" communication, with training on "strategies for deflecting verbal abuse" and techniques for "calming a caller in crisis," including "calm direct instruction," "diffusion," "reassurance," and "active listening," as well as techniques for effectively communicating with persons who are, for example, abrasive, frustrated, frightened, under the influence of drugs or alcohol, mentally incapacitated, or suicidal. In addition, dispatchers receive training on how to determine the appropriate first responder, prioritize information relayed to the radio dispatcher, and explain department procedures and policies to the public. *Id.* at 100-2, 103-3, 104-2, 104-3.
- The Stockton and Oakland police departments have provided both sworn officers and 911 dispatchers with procedural justice training adapted from the Chicago Police Department curriculum. Daniela Gilbert et al., Cal. Partnership for Safe Cmtys., Procedural Justice and Police Legitimacy: Using Training as a Foundation for Strengthening Community-Police Relationships, 10.
- In the United Kingdom, both police officers and dispatchers receive training in the principles of the National Decision-Making Model, a process that requires officers to gather information, assess the threat to develop a strategy, consider what legal powers are available, identify their options, take action, and review the outcome. Dispatchers are trained in assessing emotionally or mentally disturbed persons in order to decide whether to dispatch armed or unarmed officers. As described by Chief Constable Higgins of the Scotland Police, dispatchers "go through a series of questions to establish the mental state [and] the vulnerability of the person that the police are going to go and deal with." Police Executive Research Forum, Critical Issues in Policing Series, Re-Engineering Training on Police Use of Force 48 (Aug. 2015).

111 *Examples of situation-specific response guidelines:*

- In addition to providing dispatchers with procedural justice training, Stockton and Oakland are currently working to incorporate procedural justice-based protocols into dispatch "to reflect greater respect, listening, fair decision-making and trust or goodwill toward residents." Stockton, for example, is modifying its protocol for responding to traumatic neighborhood incidents "so procedural justice is intentionally woven into the department's response to such incidents," while Oakland is developing a protocol "specifically for its community resource officers." Daniela Gilbert et al., *supra* note 110, at 12.

- Fort Worth and Minneapolis provide guidelines for responding to persons with disabilities and limited English proficiency (LEP); the latter requires call takers to transfer LEP callers to interpreters and to dispatch a bilingual officer, if available. Fort Worth Police Department General orders 206.02; Minneapolis Police Department Policy & Procedure Manual 7-1000.

- The Fort Worth police manual provides guidance for officers on the use of de-escalation tactics and referral to dispute resolution services or civil mediation in responding to certain kinds of calls, including disturbances, landlord and tenant disputes, and child custody matters. Fort Worth Police Department General orders 328.01, 328.02, 328.03, 328.07 Police manual guidelines should provide guidance to dispatchers in identifying these kinds of situations, notifying officers before they arrive on the scene, and contacting other services that may be appropriate.

- The Fort Worth, Stockton, and Birmingham police manuals set out procedures for inquiring about and responding to persons with mental illness. For example, Fort Worth requires the notification of a field supervisor and the dispatch of at least two officers. The guidelines encourage officers to "gather as much information about the subject as is available prior to approaching the person," to "use extreme caution . . . and avoid using any words such as demented or crazy," to take subjects to the hospital when there is a risk of harm and refer them to services where appropriate. *Id.* at 330.01. CIT programs provide a model for responding to mental health related calls. The Minneapolis, Pittsburgh, and Gary police have adopted CIT training, and Texas's law enforcement training standards include a module on CIT. Gary has a direct non-emergency number for CIT responders. For a description of the CIT model, guidance documents, and information on CIT programs nationwide, *see CIT Center: A Resource for CIT Programs Across the Country*, CIT.memphis.edu, http://cit.memphis.edu/ (last visited Nov. 28, 2015). *See also* President's Task Force Report, *supra* note 1 at 56 (calling for POSTs to make CIT a part of officer training).

- Police departments in other major cities also have specific guidelines for responding to individuals who may be mentally ill or suffering from substance abuse, usually by dispatching a CIT officer or other specialized mental health team. *See, e.g.*, Chicago Police Department Special Order S04-20-01; Seattle Police Department Manual 16.110-POL; Cincinnati Police Department Procedure Manual 12.110; Los Angeles Police Department Manual 260. For example, Seattle Police Department policy specifies that communications staff "shall dispatch at least one CIT-certified officer to each call that appears to involve a subject in behavioral crisis" and requires that officers encountering any subject in behavioral crisis "shall make every reasonable effort to request the assistance of CIT-certified officers." Seattle Police Department Manual 16.110-POL-5. The policy also offers detailed guidance about providing voluntary referrals to mental health professionals. In addition, the policy calls for the Seattle Police Department to collect data in order to evaluate the CIT program and "ensure that communications procedures are effective in appropriately identifying people in behavioral crisis." *Id.* at 16.110-POL-13.

- Some police departments have dispatch procedures for immediately contacting community outreach groups who work in partnership with police in responding to violent incidents like shootings. For example, as part of the Project Safe Neighborhoods activities undertaken by the Salinas Police Department, the director of the Second Chance Family and Youth Services receives calls directly from the County Dispatch Unit informing him of shooting incidents. The director then sends two "violence interrupters/outreach workers" to go to the scene of the incident to talk to family and friends, gather information about the cause of the shooting, and begin providing various kinds of assistance, such as referrals to crisis intervention services. Annemarie Conroy et al., *Implementing a Comprehensive Smart on Crime Strategy*, U.S. Att'ys' Bull., March 2015, at 22, 38-39.

112 *See* Richard R. Johnson, *Suspect Mental Disorder and Police Use of Force*, 38 Crim. Just. & Behavior 127, 130-31 (2011) (discussing prior scholarly studies finding that a subject's resistance and possession of a weapon are the greatest predictors of police use of force).

113 For example, in a recent report by the Police Executive Research Forum, police chiefs pointed to the need for 911 dispatchers to identify and inform officers about situations that could be an attempted "suicide by cop," citing an example from New Richmond, Ohio where a police officer used this information to de-escalate the situation and avoid deadly force while backup arrived. Police Executive Research Forum, *supra* note 110 at 8, 56. In addition, many authorities have pointed to the shooting of Tamir Rice to emphasize the need for 911 dispatchers to communicate to officers whether the 911 caller reporting a gun suspects that the weapon is not real. *See id.* at 13.

114 The Minnesota Department of Public Safety's "alert file" called Keeping Our Police Officers Safe (KOPS) immediately alerts officers of unsafe situations—for instance, situations involving weapons or a suicidal person—when encountering a vehicle or person involved in a recent incident. The standard Criminal Justice Information (CJIS) queries that check person or vehicle files also hits on KOPS alerts. Subject to supervisor approval, officers can relay a message for entry into the KOPS system in order to alert fellow officers. The KOPS message is accompanied by the caveat, "For officer safety purpose only, this is not a warrant." Minneapolis Police Department Policy & Procedure Manual 7-118.

115 The National 911 Program, an initiative of the Department of Transportation, and the Federal Communications Commission have advocated for police departments to upgrade to Next Generation 911 (NG911), which links 911 call centers to IP-based networks, pinpoints the real-time location of 911 callers, enables call centers facing high call volumes in emergencies to transfer or reroute calls, and supports voice, text, data and video communication. *See Next Generation 911 (NG911)*, 911.gov, http://www.911.gov/911-issues/standards.html (last visited Nov. 28, 2015) (providing information about NG911, including funding opportunities and a 2014 progress report of the transition to NG911, state by state); Tom Wheeler, *The 911 System Isn't Ready for the iPhone Era*, N.Y. Times, Nov. 23, 2015, http://www.nytimes.com/2015/11/23/opinion/the-911-system-isnt-ready-for-the-iphone-era.html (discussing the benefits of NG911).

116 For a description and evaluation of DPR systems field-tested by the National Institute of Justice in three cities in 1980, see J. T. McEwen et al., Nat'l Inst. of Just., Evaluation of the Differential Police Response Field Test (1986). *See also Differential Police Response*, Telemasp Bull., Aug.-Sept. 2001 (surveying Texas police departments' DPR strategies); John Buntin, *Milwaukee Police Give 911 a Facelift*, Governing, Oct. 2012, http://www.governing.com/topics/public-justice-safety/gov-milwaukee-police-911-facelift.html (describing Milwaukee's DPR strategy).

117 William Spelman & Dale K. Brown, Nat'l Inst. of Just., Calling the Police: Citizen Reporting of Serious Crime (1984); Nat'l Inst. of Just., *supra* note 116.

118 *Examples of differentiated response and non-emergency call systems:*
- Minneapolis offers a Tele-Serve message machine, accessible via a direct dial number and the 911 call center, for non-emergency calls. The Minneapolis police manual specifies that Tele-Serve Unit call takers have the option to send a police response for reports that meet certain criteria, such as offenses in progress or situations where life or property is endangered. Since dispatchers screen calls, the Minneapolis police manual advises that once a squad is sent on a report call, "officers should take the report and not refer the caller to Tele-Serve." Minneapolis Police Department Policy & Procedure Manual 7-103.01. Furthermore, the manual requires that officers "respond without delay to calls for police service unless otherwise directed by proper authority. Emergency calls for service shall take precedence. However, all dispatched calls shall be answered as soon as possible consistent with departmental procedures." *Id.* at 5-106.1. In addition, when officers are not able to handle a citizen's complaint, "they should, if circumstances permit, give directions for obtaining such assistance or initiate the necessary notifications themselves." *Id.* at 7-106.
- Many major cities have implemented 311 systems to field complaints and non-emergency calls for service. For example, New York City's 311 system enables citizens to call, text, send pictures or videos, or go to the online 311 system, which is available in many languages. In addition, New York City provides public data on 311 service requests—including the complaint type, location, responding agency, and closing time—and data on 911 calls, with average response times broken down by incident type—that is, critical, serious, and non-critical. *311 Service Requests from 2010 to Present,* NYC Open Data, https://nycopendata.socrata.com/Social-Services/311-Service-Requests-from-2010-to-Present/erm2-nwe9 (last visited Nov. 28, 2015); *911 End-to-End Response Time*, NYC Analytics, http://www.nyc.gov/html/911reporting/html/reports/end-to-end.shtml (last visited Nov. 28, 2015).

119 Tom R. Tyler, Why People Obey, *supra* note 63.

120 Tom R. Tyler, A Psychological Perspective on the Legitimacy of Authorities and Institutions, in The Psychology of Legitimacy: Emerging Perspectives on Ideology, Justice, and Intergroup Relations 416–36 (2001).

121 *Terry v. Ohio*, 392 U.S. 1, 20 (1968).

122 Empirical data bears out this proposition. A study of New York City's stop and frisk policy found that a suspect was arrested in only 5.37 percent of all stops during the period analyzed, and 6.26 percent of stops resulted in summonses. Expert Report of Jeffrey Fagan at 63, *Floyd v. City of New York*, No. 08 Civ. 1034 (S.D.N.Y. 2008). Only .15 percent of stops resulted in the seizure of a gun, .94 percent resulted in the seizure of a weapon, and 1.75 percent resulted in the seizure of contraband. *Id.* at 64.

123 Indeed, Professor Fagan's findings reveal wide racial disparities in the use and outcomes of stop and frisks in New York City. *Id.* at 30–48. Similar disparities were noted in Boston. Jeffrey Fagan, Anthony A. Braga, Rod K. Brunson, & April Pattavina, *Stops and Stares: Street Stops, Surveillance and Race in the New Policing*, 51–53 (Columbia Law School Public Law & Legal Theory Working Paper Group Paper No. 14-479, August 24, 2015)

124 Waiter and Tuch, Race and Policing in America: Conflict and Reform (2006)

125 *See*, *e.g.*, *Bailey v. City of Philadelphia*, No. 10-5952 (E.D. Pa. 2010) (ACLU lawsuit against the Philadelphia Police Department concerning their stop and frisk policies); *United States v. City of Seattle*, No. 12-CV-1282 (W.D. Wash. 2012) (Department of Justice investigation into Seattle's stop and frisk policies); *Floyd v. City of New York*, No. 08 Civ. 1034 (S.D.N.Y. 2008) (lawsuit against the NYPD concerning their stop and frisk policy).

126 In *Terry v. Ohio*, the Supreme Court held that investigatory stops require reasonable suspicion that the individual is committing or has committed a crime. *Terry*, 392 U.S. at 20–22. Reasonable suspicion is a more exacting standard than a mere hunch but less stringent than that of probable cause. *Id.* at 27. The Supreme Court has also held that the scope and duration of investigatory stops must be limited to the purpose of investigating the circumstances that justify the stop. *Florida v. Royer*, 460 U.S. 491, 500 (1983); *Rodriguez v. United States*, 135 S.Ct. 1609, 1612 (2015).

In theory, officers can base reasonable suspicion on a wide variety of factors relating to the suspect, their surroundings, or other information the officer possesses (such as a description of a suspect of a known offense). In practice, however, not all bases of suspicion are created equal. Behavioral cues differ from non-behavioral cues both in the likelihood that they will lead to successful stops and in their use in forming the basis for stopping individuals of different races. Because non-behavioral cues are less individualized and are subject to impermissible or incorrect inferences based solely on a person's appearance, they are less likely to constitute legally justifiable reasonable suspicion and less likely to uncover actual instances of criminal misconduct. Furthermore, research has shown that officers are significantly more likely to form suspicion based on non-behavioral cues—such as an individual's appearance, race, or location—for black suspects versus white suspects. Geoffrey P. Alpert, John M. MacDonald, and Roger G. Dunham, *Police Suspicion and Discretionary Decision Making During Citizen Stops*, 43 Criminology 407 (2005). Whether conscious or unconscious factors are to blame for the differential reliance on behavioral versus non-behavioral cues when applied to suspects of different races, these statistical effects represent serious procedural justice concerns. As such, departmental policy should reflect a commitment to predicating reasonable suspicion on the more reliable behavioral cues.

127 Petty violations and serious criminal offenses are to be differentiated by the extent to which they pose a threat to public safety. Petty crimes are crimes or violations that do not pose a serious, immediate threat to public safety. Examples of petty crimes include low-level, "quality-of-life" offenses such as possession of small amounts of illegal drugs for personal consumption, public urination, panhandling, and public consumption of alcohol. Criminal law responses to these violations are primarily aimed at reducing visible signs of neighborhood disarray and maintaining public order. Serious crimes are criminal offenses that pose a distinct threat to public safety. Examples of serious crimes include crimes of violence against another person, robbery, and the distribution of large quantities of drugs. These criminal offenses entail concrete harms that extend beyond the suspect and the maintenance of public order. In establishing a

hierarchy of law enforcement priorities, the Department should take into account the extent to which the conduct in question poses an identifiable, imminent threat to the suspect, the public, and/or law enforcement and should consider whether the risk is sufficient to justify the incursion into the suspect's privacy posed by the investigatory stop.

128 Investigatory stops can be thought of as existing on a continuum. On one end exist stops like Officer McFadden's of John Terry, involving a highly individualized evaluation of a constellation of facts and behaviors that gave the officer substantial reasonable suspicion to believe that Terry was about to commit a particular, serious crime and may have been armed. On the other end exist administratively mandated regimes of investigatory stops (or stops and frisks) that target individuals based on weak, de-individualized criteria and are often characterized by low rates of successful stops (*e.g.* stops resulting in the seizure of contraband or the discovery of illegal activity). This spectrum can be conceived of as progressing from individualized to programmatic. Tracey L. Meares, *Programming Errors: Understanding the Constitutionality of Stop-and-Frisk as a Program, Not an Incident*, 82 U. Chi. L. Rev. 1, 162–63 (2015). The further toward this latter end of the spectrum a stop or a policy of stops becomes, the greater a series of concerns become. First, the less individualized and more programmatic a stop is, the less likely it is to rest on a robust, convincing basis for reasonable suspicion. As a result, the stop may be constitutionally deficient, resting on a justification that would not withstand Fourth Amendment scrutiny. Stops with a flimsy basis for suspicion are also less likely to successfully uncover actual criminal activity or contraband. *See* Expert Report of Jeffrey Fagan at 63, *supra* note 122. Furthermore, the less individualized and more programmatic a stop is, the deeper are the procedural justice concerns it involves. On the individual level, stops based on less individualized and vaguer criteria for suspicion may lead a suspect to believe that he or she is not being treated fairly or that the law is not being applied neutrally to them. In the aggregate, suspects and the wider community may come to view the programmatic use of investigatory stops as evidence of institutionalized mistrust. *See, e.g.*, Tom R. Tyler, Jeffrey Fagan, & Amanda Geller, *Street Stops and Police Legitimacy: Teachable Moments in Young Urban Men's Legal Socialization*, 11 J. Empirical L. Stud. 751 (2014); Jennifer Fratello, Andrés F. Rengifo, & Jennifer Trone, Vera Institute of Justice, Coming of Age with Stop and Frisk: Experiences, Self-Perceptions, and Public Safety Implications (2013). Such perceptions can have very real consequences for the legitimacy that policing agencies enjoy and should therefore be taken seriously. For these reasons, officers should endeavor to ensure that the use of investigatory stops remains at the individualized end of the spectrum.

129 Chris L. Gibson, Samuel Walker, Wesley G. Jennings, & J. Mitchell Miller, *The Impact of Traffic Stops on Calling the Police for Help*, 20 Crim Just. Pol'y Rev. 139 (2009).

130 Jacinta M. Gau, *Consent Searches as a Threat to Procedural Justice and Police Legitimacy: An Analysis of Consent Requests During Traffic Stops*, 24 Crim. Just. Pol'y Rev., 759 (2012); *see also* Robin S. Engel, *Citizens' Perceptions of Distributive and Procedural Injustice During Traffic Stops with Police*, 42 J. of Research in Crime & Delinq. 445 (2005).

131 Charles Epp, et al., Pulled Over: How Traffic Stops Define Race and Citizenship 126–33 (2014).

132 Traffic stops differ from investigatory stops in that they are based on probable cause that a traffic violation has occurred. *Delaware v. Prouse*, 440 U.S. 648, 659 (1979); *Pennsylvania v. Mimms*, 434 U.S. 106, 109 (1977); *Whren v. United States*, 517 U.S. 806, 810 (1996); *Maryland v. Wilson*, 519 U.S. 408, 413 (1997). In the vehicle stop context, however, the probable cause requirement does not prevent such stops from being used in a quasi-investigatory stop manner, with all the attendant procedural justice and legitimacy concerns. Because traffic laws are so minutely regulated, nearly any driver could potentially be found to be in violation of some traffic regulation at a given time. Such violations should not be used to stop drivers as a means to investigate a car and its occupants for a criminal offense that an officer does not possess probable cause to believe is occurring or has occurred.

133 As a matter of constitutional law, consensual encounters and searches are considered voluntary and therefore are not subject to the suspicion or warrant requirements of the Fourth Amendment. *Florida v. Bostick*, 501 U.S. 429, 434 (1991). Nevertheless, they present great risks to perceptions of procedural justice and legitimacy. The majority of searches that occur during traffic stops are conducted on the basis of driver consent. Gau, *supra* note 130 at 762. Requests for consent to search may appear discriminatory or non-neutral if the person feels that they have been profiled or unfairly targeted. They are less likely than searches based on probable cause or reasonable suspicion to reveal evidence of criminal

wrongdoing. Obtaining consent after informing a person of their right to refuse consent gives that person a voice in the process.

This safeguard is not adequate to prevent all negative consequences of consent searches. Officers should therefore consider requesting consent to search only in situations in which they have articulable, reasonable suspicion to believe that they will find evidence of a serious crime or of material or circumstances that pose a threat to public safety. This will allow officers to balance the benefits of conducting a voluntary consent search against the risk of damaging trust and legitimacy.

134 The Supreme Court has recognized the permissibility of roadblock-style traffic stops for several purposes. *See Michigan Dept. of State Police v. Sitz*, 496 U.S. 444 (1990) (drunk driving); *Illinois v. Lidster*, 540 U.S. 419 (2004) (investigation of recent hit-and-run); *United States v. Martinez-Fuerte* (1976) (illegal immigration).

135 Cambridge Review Committee, *supra* note 32at 22 (June 15, 2010).

136 Such trainings have been disseminated in connection with the National Initiative for Building Community Trust and Justice and are available to all jurisdictions free of charge. A recently published, peer-reviewed study found that the procedural justice portion of the training increased officer support for all of the procedural justice dimensions included in the experiment. As the authors describe, "post-training, officers were more likely to endorse the importance of giving members of the public a voice, granting them dignity and respect, demonstrating neutrality, and (with the least enthusiasm) trusting them to do the right thing. All of the effects of training were strong, with standardized effect sizes ranging from 1.2 to 1.6. Longer-term, officers who had attended the procedural justice work-shop continued to be more supportive of three of the four procedural justice principles introduced in training; the effect of training on trust was not statistically significant." Wesley G. Skogan, Maarten Van Craen & Cari Hennessy, *Training police for procedural Justice*, 11 J. Experimental. Criminology 319 (2014).

137 The Las Vegas police department has seen a substantial decrease in officer use of force incidents after emphasizing de-escalation in policy and training. Mike Blasky, *Federal Report: Las Vegas Police Shootings Down, Department Reforms Up*, Las Vegas Rev. J (May 21, 2014), http://www.reviewjournal.com/news/las-vegas/federal-report-las-vegas-police-shootings-down-department-reforms.

138 Research shows that the public confers legitimacy only on those whom they believe are acting in procedurally just ways, outlined in Pillar 1, "Building Trust & Legitimacy," of the President's Task Force on 21st Century Policing. *See* President's Task Force Report, *supra* note 1, at 10.

139 *Id.*

140 The Philadelphia Police Department's policies similarly emphasize that an officer's goal is "[to] always attempt to de-escalate any situation where force may be necessary [and] [i]n the event force becomes unavoidable, *to use only the minimal amount of force necessary* . . . ." Use of Force −Involving the Discharge of Firearms, Phil. Police Dep't (Sep. 18, 2015), http://www.phillypolice.com/assets/directives/PPD-Directive-10.1.pdf (emphasis in original). The Philadelphia Police Department's policies also stress that once a threat is overcome or an individual is in custody, "it is an officer's responsibility to de-escalate and immediately address any injuries the suspect may have sustained." *Id.*

141 The Seattle Police Department's de-escalation policy includes many of these de-escalation tactics. 8.100 −De-Escalation, Seattle Police Dep't (Sep. 1, 2015), http://www.seattle.gov/police-manual/title-8---use-of-force/8100---de-escalation.

142 *See, e.g.*, *Allen v. Muskogee*, 119 F.3d 837 841 (10th Cir. 1997). A city's failure to properly train its officers to deal with "armed emotionally upset persons" may be grounds for imposing liability on the city. *Id.* at 845.

143 Several police departments' policies — including those of the Philadelphia Police Department and the Seattle Police Department — note that officers should be mindful of varying reasons, such as those listed here, why an individual might be unable to comply with officer instructions. *See* 8.100 −De-Escalation, Seattle Police Dep't (Sep. 1, 2015),

http://www.seattle.gov/police-manual/title-8---use-of-force/8100---de-escalation; Use of Less Lethal Force: the Electronic Control Weapon, Phil. Police. Dep't (Sep. 18, 2015), http://www.phillypolice.com/assets/directives/ PPD-Directive-10.3.pdf.

144 *See* President's Task Force Report, *supra* note 1, at 10.

145 The Fresno Police Department ensures that its training unit is directly involved in reviewing every officer-involved shooting. *See* Police Executive Research Forum, An Integrated Approach to De-Escalation and Minimizing Use of Force, 23 (Aug. 2012), *available at* http://www.calea.org/sites/default/files/PERF%20UOF%20De-Escalation_v5.pdf.

146 The Fresno Police Department cites the force-option simulator as its most effective procedural justice training tool. *Id.* Action Item 5.1.1 of the President's Task Force report recommends training programs that use scenario-based training. *See* President's Task Force Report, *supra* note 1, at 52.

147 Pillar 5 of the President Task Force Final Report recommends officer training on recognizing signs of mental illness and substance abuse. *See id.* at 56-57.

148 "Policies should include, at a minimum, annual training that includes shoot/don't shoot scenarios and the use of less than lethal technologies." *Id.* at 21. Oakland's Deputy Chief attributes the police department's significant reduction of use of force incidents to a major paradigm shift in their training design. For years, the department's scenario-based training asked officers to react to a threat, and then assessed officers on how they escalated the force. Now, the officers must determine for themselves whether a threat exists, and may be evaluated on whether he or she properly escalates or de-escalates the force. This threat assessment step requires skill and experience that should be developed as early as possible in an officer's career. *See* Matt Apuzzo, *Police Rethink Longstanding Tradition on Using Force*, N.Y. Times (May 4, 2015), http://www.nytimes.com/2015/05/05/us/police-start-to-reconsider-longstanding-rules-on-using-force.html.

149 President's Task Force Report, *supra* note 1, at 26.

150 The Richmond Police Department cites the shift from siloed training to integrated use-of-force and de-escalation training as a contributing factor to decreasing use of force incidents.

151 National Law Enforcement Officers Memorial Fund, Causes of Law Enforcement Death, *available at* http://www. nleomf.org/facts/officer-fatalities-data/causes.html?referrer=https://www.google.com/; *See also* Cynthia Lum & George Fachner, Police Pursuits in an Age of Innovation And Reform, International Association of Chiefs of Police 7 (Sept. 2008) [hereinafter IACP Report].

152 471 U.S. 1 (2005). *See also* IACP Report, *supra* note 151; Police Executive Research Forum, *supra* note110 at 55.

153 IACP Report, *supra* note 151, at 4.

154 Policies should include specific environmental factors for officers to weigh in determining whether to pursue, *e.g.*, amount of traffic, type of car, whether firearms have been discharged since the suspect(s) entered the vehicle, or whether implicit bias might be impacting an officer's decision on whether to pursue.

155 *See* Christy Mallory, Amira Hasenbush, Brad Sears, The Williams Institute, Discrimination and Harassment by Law Enforcement Officers in the LGBT Community (Mar. 2015).

156 Definitions borrowed from the Human Rights Campaign and from the Spectrum Center at the University of Michigan. *See* http://www.hrc.org/resources/sexual-orientation-and-gender-identity-terminology-and-definitions; https:// internationalspectrum.umich.edu/life/definitions.

157 Chicago Police Department General Order G02-01-03, Interactions with Transgender, Intersex, and Gender Non-conforming (TIGN) Individuals (effective Jan. 1, 2016).

158 *See* District of Columbia Metropolitan Police General Order 501.02, Handling Interactions with Transgender Individuals.

159 *See id.*

160 Bay Area Rapid Transit Police Department Policy 403, Interactions with Individuals Identifying as Transgender (adopted June 17, 2015).

161 *See* District of Columbia Metropolitan Police General Order 501.02, Handling Interactions with Transgender Individuals.

162 *See* Press Release, Atlanta Police Adopt New Transgender Interaction Policies (Oct. 9, 2014).

163 Pew Research Center, Modern Immigration Wave Brings 59 Million to U.S., Driving Population Growth and Change Through 2065 (Sept. 28, 2015), *available at* http://www.pewhispanic.org/2015/09/28/chapter-5-u-s-foreign-born-population-trends/#fn-23157-24 (measuring the "foreign born" population – that is, individuals who did not acquire US citizenship at birth)

164 Walter Ewing, Daniel E. Martinez, & Ruben G. Rumbaut, American Immigration Council, The Criminalization of Immigrant Communities in the United States (July 2015), *available at* http://www.immigrationpolicy.org/sites/default/files/docs/the_criminalization_of_immigration_in_the_united_states_final.pdf

165 Office of Community Oriented Policing Services & Vera Institute of Justice, How to Serve Diverse Communities 6 (Caitlin Gokey & Susan Shah, eds., 2016)

166 Matthew Lysakowski, Albert Antony Pearsall III, & Jill Pope, Office of Community Oriented Policing Services, Policing in New Immigrant Communities 4 (2009).

167 Jens Manuel Krogstad, Jeffrey S. Passel & D'Vera Cohn, Pew Research Center, *5 Facts About Illegal Immigration in the U.S.*, (Nov. 19, 2015), *available at* http://www.pewresearch.org/fact-tank/2015/11/19/5-facts-about-illegal-immigration-in-the-u-s/

168 Wesley Skogan, *Policing Immigrant Communities in the United States*,13 Immigr. Crime & Just. 189, 191-92 (2009).

169 President's Task Force Report, *supra* note 1, at 18.

170 *See id.*; *see also* Major City Chiefs Immigration Committee, Recommendations for Enforcement of Immigration Laws by Local Police Agencies 5-6 (June 2006).

171 *See, e.g.*, Ben Bradford, *Policing and Social Identity: Procedural Justice, Inclusion and Cooperation Between Police and Public*, 24 Policing & Society 23 (2012) ("For respondents who felt that they were citizens of another country, the perceived fairness of the police was strongly associated with the extent to which they also felt that they belonged in London and Britain, but for those who felt that they were UK citizens, the link between police fairness and this aspect of social identity was weaker, although still present. . . . For [non-citizens], police behavior appeared to be strongly identity relevant, possibly because having multiple cognate identities meant that they were more sensitive to the way police officers treated them (or the ways they imagined officers would treat them). This might indicate some level of uncertainty or anxiety about their status and inclusion . . . . The experience of police fairness was linked with feeling that they "belonged," and this feeling of inclusion encouraged a sense that they would cooperate with officers. . . . Modes of policing and security provision that stigmatize and exclude certain social groups . . . are therefore pernicious for reasons

other than the raw injustices upon which they are premised."). *See also* Ben Bradford, Elise Sergeant, Kristina Murphy & Jonathan Jackson, *A Leap of Faith? Trust in the Police Among Immigrants in England and Wales*, 57 Brit. J. Criminology 381(2015).

172 Major City Chiefs Immigration Committee, *supra* note 170, at 7

173 *Id.* at 8

174 East Haven Police Department Policies & Procedures, No. 428.2.

175 Linda M. Williams, *Beyond Enforcement: Welcomeness, Local Law Enforcement, and Immigrants*, 75 Pub. Admin. Rev. 433, 434-35 (noting that those with positive experiences "learn the habits and ways of thinking of full citizens," while those with negative experiences "feel reinforced in their perceptions of their own marginality and government's lack of responsiveness").

176 Skogan, *supra* note 168, at 191-92

177 *See id.* at 194

178 Lysakowski et. al., *supra* note 166, at 11.

179 *Id.*

180 Partnering with existing organizations serving immigrant communities is widely recommended as an outreach method. *See, e.g.*, Williams, *supra* note 175 at 437; Office of Community Oriented Policing Services & Vera Institute of Justice, *supra* note 165, at 30-32. Both faith-based organizations and organizations providing social services have offered police valuable opportunities to connect with immigrant community members with whom they may not otherwise have been able to make contact. Existing community organizations may also provide valuable cultural insight for police that will improve the effectiveness of outreach. For example, a police department may find that, contrary to expectation, women are heads of household in certain immigrant communities within their jurisdiction, and should thus be a major focus of the department's outreach efforts. *See id.* at 15.

181 A basic understanding of cultural norms can be essential to building relationships and trust in immigrant communities. Although such a training's content will vary based on the context and needs of the department, suggested content would include:
· Misconceptions of immigrant populations and of police from the perspective of these populations;
· Current information and trends related to working with immigrants in the community; and
· "Open group discussions on past experiences, lessons learned, and best practices for working with immigrant communities." *Id*. at 19.
In some cases, a basic language skills component may also be appropriate, as well as a discussion of best practices for working with a language barrier, both in casual and high-intensity situations.

182 *See* Tyler & Huo, *supra* note 11 at 141-62.

183 *See, e.g.*, Rich Morin & Renee Stepler, Pew Research Center, The Racial Confidence Gap in Police Performance (Sept. 29, 2016), *available at* http://www.pewsocialtrends.org/2016/09/29/the-racial-confidence-gap-in-police-performance/-fn-22079-2 ("Confidence in local police is considerably lower among blacks. Just 14% of blacks say they have a lot of confidence in their local police, and 41% say they have some confidence. By comparison, about four-in-ten whites (42%) say they have a lot of confidence in their local police, and another 39% say they have some confidence. Among Hispanics, 31% say they have a lot of confidence, and another 48% say they have some confidence in their police.")

184 In describing the causes of the riots that swept the country in the summer of 1967, the Kerner Commission reported that "'[p]rior' incidents, which increased tensions and ultimately led to violence, were police actions in almost half the cases; police actions were 'final' incidents before the outbreak of violence in 12 of 24 surveyed disorders." Report of the National Advisory Commission on Civil Disorders 6 (Bantam Books 1968) (describing findings regarding 24 disorders in 23 cities that were surveyed by the Commission). Between January 12, 1968 and December 13, 1972 there were 4,052 urban uprisings in 960 cities, about 57 percent of them involving black residents responding to the "policing of ordinary, everyday activity" *See* Elizabeth Hinton, *The Forgotten Urban Rebellions and the True Origins of "Broken Windows"* 2 (working paper on file with author). In 1992, the acquittal of four police officers who had beaten Rodney G. King in an incident caught on amateur videotape sparked the "L.A. riots," *The L.A. Riots: 25 Years Later*, L.A. Times (Apr. 26, 2017), *available at* http://timelines.latimes.com/los-angeles-riots/, and New York City also saw an uprising that year following the police killing of a Washington Heights man, James Dao, *Angered by Police Killing, a Neighborhood Erupts*, N.Y. Times (July 7, 1982), *available at* http://www.nytimes.com/1992/07/07/nyregion/angered-by-police-killing-a-neighborhood-erupts.html?pagewanted=all. More recently, protests erupted in Ferguson, Missouri in 2014, after a grand jury declined to indict the officer who killed a young man named Michael Brown. *Ferguson Unrest, From Shooting to Nationwide Protests*, B.B.C. News (Aug. 10, 2015), *available at* http://www.bbc.com/news/world-us-canada-30193354. These protests "spawned the Black Lives Matter movement, [and] threw a spotlight on the way police departments across America treat black citizens . . . ." Abigail Hauslohner, *Three Years After Ferguson, the Same Old Concerns Rise in St. Louis Protests*, Wash. Post (Sept. 24, 2017), *available at* https://www.washingtonpost.com/national/three-years-after-ferguson-the-same-old-concerns-rise-in-st-louis-protests/2017/09/24/c54f1d4c-9eea-11e7-9c8d-cf053ff30921_story.html?utm_term=.c6b67dd28257.

185 This section draws heavily on Megan Quattlebaum, *Let's Get Real: Behavioral Realism, Implicit Bias, and the Reasonable Police Officer*, 14 Stan. J. C.R. & C.L. __ (forthcoming 2018), *available at* http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2821227.

186 This example is drawn from *Tactical Perception: Using the Science of Justice*, a training program for police officers that was developed by the Center for Policing Equity. Phillip Atiba Golf, PhD et al., *Tactical Perception: Using the Science of Justice (Facilitator Guide)* at 9 (unpublished training program).

187 One of the most prominent of the research efforts into such unintentional processes is Project Implicit, which was founded in 1998 by three scholars who shared a common interest in the study of "thoughts and feelings outside of conscious awareness and control." Project Implicit, https://implicit.harvard.edu/implicit/aboutus.html (last visited Aug. 22, 2016). Since that time, the organization has facilitated millions of Internet volunteers taking what is known as the Implicit Association Test (IAT), providing researchers with a rich set of data. Beth Azar, *IAT: Fad or Fabulous?*, 39 Monitor on Psychol. 44, 45 (2008). The Project Implicit dataset is the "most prominent" collection of IAT results, but many other social psychologists have also employed similar tests to gather data on reaction-time measures of implicit bias. Jerry Kang et al., *Implicit Bias in the Courtroom*, 59 UCLA L. Rev. 1124, 1130 n.14 (2012).

We highlight Project Implicit specifically and the IAT methodology more generally because they have received significant attention in the popular and legal press. It is true that the predictive capacity of the IAT has been the subject of academic debate. *Compare* Frederick L. Oswald et al., *Using the IAT to Predict Ethnic and Racial Discrimination: Small Effect Sizes of Unknown Societal Significance*, 108 J. Personality & Soc. Psychol. 562 (2015), *and* Hart Blanton et al., *Strong Claims and Weak Evidence: Reassessing the Predictive Validity of the IAT*, 94 J. Applied Psychol. 567 (2009), *with* Anthony G. Greenwald, Mahzarin R. Banaji, & Brian A. Nosek, *Statistically Small Effects of the Implicit Association Test Can Have Societally Large Effects*, 108 J. Personality & Soc. Psychol. 553 (2015). But other methodologies have demonstrated similar effects. *See, e.g.*, Tobias Brosch, Eyal Bar-David & Elizabeth A. Phelps, *Implicit Race Bias Decreases the Similarity of Neural Representations of Black and White Faces*, 24 Psychol. Sci. 160 (2013); B. Keith Payne et al., *An Inkblot for Attitudes: Affect Misattribution as Implicit Measurement*, 89 J. Personality & Soc. Psychol. 277 (2005). Thus, social psychologists' claims about how implicit bias works are not solely dependent upon Project Implicit or the IAT.

188 Jack Glaser, Suspect Race: Causes and Consequences of Racial Profiling 43 (2014).

189 Robert J. Smith, *Reducing Racially Disparate Policing Outcomes: Is Implicit Bias Training the Answer?*, 37 Haw. L. Rev. 295, 297-98 (2015) (citing Brian A. Nosek et al., *Pervasiveness and Correlates of Implicit Attitudes and Stereotypes*, 18 Eur. Rev. Soc. Psychol. 36, 52 (2007).

190 Jennifer Eberhardt, Phillip Atiba Goff, Valerie J. Purdie, & Paul G. Davies, *Seeing Black: Race, Crime, and Visual Processing*, 87 J. Personality & Soc. Psychol. 876, 878 (2004).

191 Eberhardt, et. al., *supra* note 190, at 876.

192 Epp, et. al., *supra* note 131, at 45. We have no reason to believe that police officers are immune from these implicit biases. Due to "the ubiquity of stereotypes, their at least occasional effect on police behavior is virtually inevitable despite the strong social norms against bias operating in contemporary law enforcement." Glaser, *supra* note 188, at 48. Indeed, the visual perception study described above was performed on police officers as well as students, and found similar results. *See* Joshua Correll et al., *Across the Thin Blue Line: Police Officers and Racial Bias in the Decision to Shoot*, 2 J. Personality & Soc. Psychol. 1006 (2007).

193 Glaser, *supra* note 188, at 55.

194 Josh Correll et al., *The Police Officer's Dilemma: Using Ethnicity to Disambiguate Potentially Threatening Individuals*, 83 J. Personality & Soc. Psychol. 1314, 1320 (2002).

195 John F. Dovidio, Tamar Saguy, Tessa V. West, & Samuel L. Gaertner, *Divergent Intergroup Perspectives, in* The Oxford Handbook of Intergroup Conflict (Linda R. Topp ed., 2012).

196 Thomas F. Pettigrew & Linda R. Tropp, *A Meta-Analytic Test of Intergroup Contact Theory*, 90 J. Personality & Soc. Psychol. 751 (2006).

197 Walter Stephan, *Intergroup Anxiety: Theory, Research, and Practice*, 18 Personality & Soc. Psychol. Rev. **239 (2014)**; Martijn Van Zomeren et al., *Testing the Limits of Tolerance: How Intergroup Anxiety Amplifies Negative and Offensive Responses to Out-Group-Initiated Contact*, 33 Personality and Soc. Psychol. Bull. 1686-1699 (2007).

198 Nurit Shnabel & Arie Nadler, *The Role of Agency and Morality in Reconciliation Processes: The Perspective of the Needs-Based Model*, 24 Current Directions in Psychol. Sci. 477 (2015).

199 Fagan & Tyler, *Legal Socialization of Children and Adolescents* 18 Soc. Just. Res. 217, 219 (2005). "Th[e] core argument underlying the legal socialization literature is that children develop an orientation toward law and legal authorities early in life, and that this early orientation shapes both adolescent- and adult-law-related behavior." *Id*. To put it another way, we are socialized early, and how we are socialized helps determine how likely we are to follow the law and to cooperate with authorities as both young people and as adults.

200 *Id*. at 220.

201 *Police and Juvenile Offenders*, at 120-21, *available at* http://www.sagepub.com/upm-data/19435_Section_II.pdf. ("The majority of police encounters with juveniles are in response to minor offenses that involve an order maintenance function of law enforcement.").

202 Charles Puzzanchera, Office of Juvenile Justice & Delinquency Prevention, *Juvenile Arrests 2011* (Dec. 2013), *available at* http://www.ojjdp.gov/pubs/244476.pdf.

203 National Institute of Justice, *From Juvenile Delinquency to Young Adult Offending, available at* http://nij.gov/topics/crime/pages/delinquency-to-adult-offending.aspx ("This bell-shaped age trend, called the age-crime curve, is universal in Western populations. However, specific versions of the curve vary in significant ways.")

204 Richard J. Bonnie & Elizabeth S. Scott, *The Teenage Brain: Adolescent Brain Research and the Law*, Current Directions in Psychol. Sci. (2013).

205 National Institute of Justice, *From Juvenile Delinquency to Young Adult Offending, available at* http://nij.gov/topics/crime/pages/delinquency-to-adult-offending.aspx.

206 *See* Anthony Petrosino, Carolyn Turpin-Petrosino. & Sarah Guckenburg, *Formal System Processing of Juveniles: Effects on Delinquency*, Campbell Systematic Reviews (2010).

207 Christopher L. Aberson, *Positive Intergroup Contact, Negative Intergroup Contact, and Threat as Predictors of Cognitive and Affective Dimensions of Prejudice*, 18 Group Processes & Intergroup Rel. 743 (2015); Tuuli Anna Mähönen & Inga Jasinskaja-Lahti, *Ramifications of Positive and Negative Contact Experiences Among Remigrants from Russia to Finland*, 22 Cultural Diversity and Ethnic Minority Psychol. 247 (2016).

208 Fiona Kate Barlow, et al., *The contact caveat: Negative contact predicts increased prejudice more than positive contact predicts reduced prejudice*, 38 Personality & Soc. Psychol. Bull. 1629 (2012).

209 Fiona Kate Barlow, Winnifred R. Louis, & Miles Hewstone. *Rejected! Cognitions of Rejection and Intergroup Anxiety as Mediators of the Impact of Cross-group Friendships on Prejudice*, 48 British J. Soc. Psychol. 389 (2009).

210 Fagan & Tyler, *supra* note 199 at 223 ("[W]hen adolescents perceive[] . . . interaction quality as poor, they may develop weak ties toward law that might justify either lack of cooperation with legal actors or antisocial behavior.").

211 Jeffrey Fagan, Tom Tyler & Amanda Geller, *Street Stops and Police Legitimacy: Teachable Moments in Young Urban Men's Legal Socialization*, J. Empirical Legal Studies (2014).

212 Epp, et. al., *supra* note 131.

213 Fagan, Tyler & Geller, *supra* note 211.

214 *See* President's Task Force recommendation 4.7: "Communities need to affirm and recognize the voices of youth in community decision making, facilitate youth-led research and problem solving, and develop and fund youth leadership training and life skills through positive youth/police collaboration and interactions."; President's Task Force action item 4.5.2: "Law enforcement agencies should engage youth and communities in joint training with law enforcement, citizens academies, ride-alongs, problem solving teams, community action teams, and quality of life teams." This principle of youth involvement in co-producing safety should have particular force in the context of schools. *See* President's Task Fore action item 4.6.3: "Law enforcement agencies should work with schools to encourage the use of alternative strategies that involve youth in decision making, such as restorative justice, youth courts, and peer interventions."

215 *See* Kristina Murphy, Does Procedural Justice Matter to Youth? Comparing Adults' and Youths' Willingness to Collaborate with Police, 25 Policing & Soc'y 53 (2015). *See also* Fagan, Tyler & Geller, *supra* note 211.

216 Fagan & Tyler, *supra* note 199.

217 *See* President's Task Force recommendation 4.4: "Communities should support a culture and practice of policing that reflects the values of protection and promotion of the dignity of all, especially the most vulnerable."; President's Task Force action item 4.4.1: "Because offensive or harsh language can escalate a minor situation, law enforcement agencies should underscore the importance of language used and adopt policies directing officers to speak to individuals with respect."

218 A training curriculum, which was developed by Yale Law School professors Tracey Meares and Tom Tyler in collaboration with now-retired Chicago police Lieutenant Bruce Lipman and current Officer Al Ferreira, both of the Education and

Training Division, is available to all jurisdictions through the National Initiative for Building Community Trust and Justice free of charge. It teaches foundational concepts of procedural justice, and officers are able to practice procedurally just policing in role-play scenarios. [See the Model Policy on Investigatory and Traffic Stops for More Information.]

219 Models for how this might work already exist in other states. Law Enforcement Assisted Diversion (LEAD), a program that was developed in Seattle, Washington, for example, permits officers in the participating county to divert low-level drug and prostitution offenders into community-based treatment and support services—including housing, healthcare, job training, treatment and mental health support—instead of processing them through traditional criminal justice system avenues. While evaluations of the program are ongoing, early results suggest that LEAD saves money on criminal justice costs while reducing recidivism among participants. This is just one successful model that departments should investigate and consider adopting. *See* http://leadkingcounty.org/about/.

220 *See* President's Task Force action item 1.5.3: "Law enforcement agencies should create opportunities in school and communities for positive, non-enforcement interactions with police. Agencies should also publicize the beneficial outcomes and images of positive, trust-building partnerships and initiatives."; President's Task Force action item 4.7.1: "Communities and law enforcement agencies should restore and build trust between youth and police by creating programs and projects for positive, consistent, and persistent interaction between youth and police."

221 *See* President's Task Force recommendation 4.6: "Communities should adopt policies and programs that address the needs of children and youth most at risk for crime or violence and reduce aggressive law enforcement tactics that stigmatize youth and marginalize their participations in schools and communities."; President's Task Force action item 4.6.1: "Education and criminal justice agencies at all levels of government should work together to reform policies and procedures that push children into the juvenile justice system."; President's Task Force action item 4.6.2: "In order to keep youth in school and to keep them from criminal and violent behavior, law enforcement agencies should work with schools to encourage the creation of alternatives to student suspensions and expulsion through restorative justice, diversion, counseling, and family interventions."; President's Task Force action item 4.6.4: "Law enforcement agencies should work with schools to adopt an instructional approach to discipline that uses interventions or disciplinary consequences to help students develop new behavior skills and positive strategies to avoid conflict, redirect energy, and refocus on learning."; President's Task Force action item 4.6.5: "Law enforcement agencies should work with schools to develop and monitor school discipline policies with input and collaboration from school personnel, students, families, and community members. These policies should prohibit the use of corporal punishment and electronic control devices."; President's Task Force action item 4.6.6: "Law enforcement agencies should work with schools to create a continuum of developmentally appropriate and proportional consequences for addressing ongoing and escalating student misbehavior after all appropriate interventions have been attempted."; President's Task Force action item 4.6.8: "Law enforcement agencies and schools should establish memoranda of agreement for the placement of School Resource Officers that limit police involvement in student discipline."; President's Task Force action item 4.7.2: "Communities should develop community- and school-based evidence-based programs that mitigate punitive and authoritarian solutions to teen problems."

222 *S.R. v. Kenton County Sheriff's Office*, a lawsuit that has made national news, highlights the trauma that young people may experience when school discipline problems are treated similarly to adult criminal offenses. The lawsuit charges that a school resource office in Covington, Kentucky, handcuffed an 8-year-old boy and a 9-year-old girl, both of whom suffered from attention deficit hyperactivity disorder (ADHD), at their biceps and forced their hands behind their backs in response to school behavior problems that related to their disabilities. A video of the boy in handcuffs has circulated in the media. Jaeah Lee, *This Video Shows a Police Officer Handcuffing an 8-Year-Old Boy With a Mental Disorder*, MOTHER JONES (Aug. 3, 2015)