AND JUSTICE FOR ALL

Understanding and Controlling Police Abuse of Force

Edited by:
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POLICE EXECUTIVE
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Foreword

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This foreword is written as the world starts to come to grips with a devastating earthquake that struck Japan in mid-January 1995. This tragedy is a profound reminder that even the most esteemed technologists cannot avert many of the crises that afflict mankind. But this natural disaster also reminds us of what modern technology *can* do: It can make the world a global village, where the dramas, pain and heroism of people half a world away and separated by language, ethnicity, culture, politics, and nationality enter our living rooms and our hearts.

Policing, too, is an enterprise that, for all its impressive technological aids, remains vulnerable to the irreducible human elements of conflicts between people in distressing circumstances. As the turn of the century draws near, advanced police departments may *train* their personnel in *virtual* reality settings, but the litany of human unkindness and misfortune that officers will continue to encounter and try to lessen every day will always remain *real* reality. Further, just as

with the Japanese earthquake, police officers may find themselves involved in crises that—through the wonders of satellite, cable and other communications breakthroughs—are beamed into the living rooms of people everywhere on our small planet. This is true of both policing's most heroic moments and its most shameful ones. If, perchance, someone were in a coma for the months in 1991 and 1992 during which the Rodney King ordeal was nightly news across the land, then he or she would be unlikely to escape the inevitable made-for-TV movies or other fictionalizations of the event. Police work makes good drama because it deals with life *in extremis*.

So policing remains an imperfect science, in which even the most dedicated and gifted practitioners could potentially become embroiled in controversy of their own or some unknown colleague's making. Policing is also a business about which, owing to years of detective novels, cop movies and television dramas, nearly every member of the public is, for better or worse, an

armchair expert. This is not to deny that, in a democracy, the public is unquestionably the boss, and government officials are the servants—and this is as things should be. But the public, the media and numerous powerful opinion-shapers would find some of their convenient assumptions about the police challenged by a greater familiarity with the facts. So, too, would some in our business of policing have to let go of cherished presumptions about the community if they were more familiar with the diverse people who make it up.

The work of the Police Executive Research Forum, in this book and in many of its other activities, has a central theme: bringing state-of-the-art knowledge to bear—candidly and without partisanship—on improving the effectiveness, efficiency, integrity, and public acceptability of police work. PERF's work is characterized also by the belief that pertinent ideas come from many sources and many fields of endeavor.

The disciplines from which this book's authors hail—policing, law, psychology, sociology, political science, public administration, criminal justice, criminology, international studies, statistics, corrections, anthropology, social work, and others—all have something to offer the progressive police administrator, his or her elected and appointed government superiors, and community leaders striving to protect and revitalize their neighborhoods. And all these disciplines may, as this impressive volume illustrates, contain some established wisdom and unconventional ideas that can help alleviate the particular problems of police abuse of force and the resultant police-community dysfunctions.

All too often, police use-of-force controversies are approached as skirmishes in interest group wars. Police managers, and especially rank-and-file representatives, insist the police are above reproach, while many others see the police as willfully acting contrary to the public interest, both during the incident at issue and in the follow-up investigation. Besides the officers and those against whom they have used force in these contested cases, another common victim is the truth.

Refreshingly, *And Justice for All* rejects the false choices between sentimental favorites and declares police use-of-force experiences frequently to be ones in which there are legitimate interests, deserving to be justly considered, on all sides. To

be sure, there are not always legitimate interests all around. There are clear-cut cases of police brutality of the most venal sort. Police administrators most of the time do the right thing by ostracizing such officers from the occupation. Sometimes the chiefs are hamstrung in terminating the employment of such officers because of legal and labor-management considerations that thwart the public interest. And occasionally, police executives are simply too timid or too unskilled to fulfill their obligations of office—incapable of removing officers or structural impediments to good, prudent police work. At the other end of the spectrum, there are certainly clear-cut cases of officers who behaved superbly, in accordance with the highest standards of competence and integrity, and in selfless devotion to the public welfare, yet still were falsely accused of misconduct by manipulative criminals or well-meaning but poorly informed community members.

But much more often than most partisans in most camps usually concede, the newsworthy police use-of-force encounters lie in a gray area in which there is both right and wrong, elements of excellence and ignorance, and opportunities to learn valuable lessons. If we are willing to heed these lessons, we can help avert future bloodshed, reputational and career damage, and other problems for all concerned.

We commend the thoughtful analyses and recommendations for research and action contained in this volume. They have been developed by distinguished students and practitioners of policing and community improvement under the editorship of two of the nation's most thoughtful, practical and tough-minded experts on the use of force by and against police.

If, as many predict, the 21st century will bring new and more daunting challenges of crime, fear and disorder to our communities, then our nation can ill afford strains that inhibit police and members of the public from forging trusting partnerships for public safety. Methods, such as those reported on the pages that follow, that help reduce conflict between police and the rest of the citizenry and strengthen their collective capacity and resolve to battle crime and related problems, deserve the attention of a wide audience.

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Introduction

William A. Geller
Hans Toch

These essays were commissioned by the Police Executive Research Forum (PERF) at the request of and with funding from the U.S. Justice Department's research arm, the National Institute of Justice, in the wake of the Rodney King beating by Los Angeles police officers in March 1991. To its credit, NIJ did not wait until the L.A. riot in 1992 to invest funds in learning more about the issues surrounding police use and abuse of force. Indeed, years before Rodney King's name became a household word, NIJ supported research on less-than-lethal weaponry to help the police subdue resistant individuals with minimal harm.

Less directly focused on use and misuse of force, but of potentially even greater long-term significance for understanding, preventing, and remediating abuse of force, has been NIJ's multi-year commitment to helping police and communities develop more effective tactics and strategies for safeguarding America's neighborhoods from crime, disorder, and fear. Central to these community policing and problem-oriented policing strategies is a set of values grounded in respect for the human rights and dignity of all people,

and an approach to continually improving police service that openly, critically, and constructively assesses police techniques and builds on strengths to overcome weaknesses. Not much has been done yet to apply the twin strategies of community engagement and problem-solving to the issues of actual and perceived police misuse of force.[1] But as American police and their service populations increasingly look for and find ways to work together respectfully to safeguard neighborhoods, it seems increasingly possible that they can also seek approaches to stemming abuse of force

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[1] An exception is peer review and peer assistance work, which began in Oakland, California nearly two decades before anyone coined the terms "community policing" and "problem-oriented policing" (Toch and Grant 1991). NIJ, recognizing the potential for community policing/POP to shape (and to be shaped by) police use of force decisions, assembled panels on police use of force and less-than-lethal police technology at an NIJ national conference on community policing held in Arlington, Virginia in August 1993. One of us (Geller) chaired that conference's panel on use of force.

that do justice to the legitimate interests on all sides.

Characteristic of NIJ's approach to complex problems, the Institute sought to lay a foundation for long-term, policy- and practice-relevant research on police use and abuse of force by first taking a reasonably comprehensive look at what is already known about the topic. NIJ assigned that task to PERF.[2] Besides that inventory, this volume also offers recommendations concerning how NIJ and other research funders may wisely invest in acquiring useful knowledge in the future. And we attempt to build on the information assembled for this volume as well as that absorbed in our professional work over the past several decades to recommend practical *action steps* that police, other government officials, and communities may take to prevent and correct police abuse of force.

Our recommendations for action to avert police excesses are framed with full awareness of the pressing need in neighborhoods throughout America for good, proactive, highly motivated, courageous police work to address crime, disorder and fear problems. The methods advocated, if properly understood and implemented, should not throw the "baby" of effective policing out with the "bath water" of brutality. We reject, both in principle and from our experience, the notion that to be more effective at protecting the community the police need to brutalize some of its members.

I. STRUCTURE OF THIS VOLUME AND OVERVIEW OF THE CHAPTERS

Particular essays will be of more interest (and will be more accessible) to different audiences, so we devote most of the rest of this introductory essay to providing a brief overview so that readers may go directly to the topics of greatest interest (the detailed table of contents may also prove helpful). While this volume is intended for

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[2] NIJ also issued a grant jointly to the Police Foundation and the International Association of Chiefs of Police. Their mission was to survey a representative national sample of police and sheriffs' departments concerning the nature and prevalence of police use and misuse of force. Their survey was also to address the patterns of case decisions made by administrative review units (see Pate and Fridell 1993).

reference on key topics and not primarily as a primer to be read sequentially cover to cover, there is a general logic to the flow of the essays: from definitions of police abuse of force; to explorations of the causes or correlates of its use; to a review of the methodological challenges that impede answering the basic question, "How much police abuse of force is there?"; to considerations of abusive police work's impact on the public at large and communities of color in particular; to discussions of the formal and informal control mechanisms within and outside of police departments that our contributors find promising for preventing and correcting police abuse of force. The penultimate essay then briefly steps back from the American scene to consider how police abuse of force and its control in other nations may instruct analysis and action in the United States. The final essay draws on both the contributions to this volume and our own diverse work to suggest research and action that might responsibly be taken by the various groups vitally interested in police use and abuse of force.

Somewhat more detail about the landscape traversed by the essays that follow will help readers go most directly to the ground that interests them.

A. What Do We Mean by "Police Abuse of Force," Why Does It Happen and How Often?

As Herman Goldstein argued in addressing NIJ's 1993 national conference on community policing, progress in framing police strategy and tactics requires the architects of change and the public at large to "confront the complexity" of the police role and the problems police are asked to ameliorate (Goldstein 1993). In *Chapter 1*, Carl Klockars sets the tone for this volume by honoring the complexity of the problem of misuse of force. We cannot hope to do much about the problem when we are vague about its definition, he argues. Defining our object of concern is not as simple as one might expect, because definitions have different uses and consequences. A definition of abuse of force or excessive force that permits us to fire or indict an officer must describe a tangible transgression of real consequence. Behavior that calls for reeducative efforts must be differently (and more generously) framed. Most importantly, we must be able to

define a difference between exemplary conduct and behavior that, while not grossly deficient, could be improved. Professionalism is a process that calls for continuing personal development over time. Additional essays that tackle definitional issues are those by Worden, Adams, Locke, Fyfe, and Cheh.

In *Chapter 2*, Robert Worden offers an overview of theoretical issues that relate to the causes of police abuse. The author favors a multidisciplinary perspective and variegated approaches to the study of police use of force. He draws on a wealth of information to help us think about which officers in which departments may be most prone to misuse force, under which circumstances, and why. (Chapter 4 addresses many of these issues as well.) Chapter 2 also undertakes a fresh analysis of data from one of the leading observational studies of police work (the Police Services Study, which covered several diverse jurisdictions). Worden's conclusions, expressed in terms accessible to practitioners but with supporting statistics that researchers will find particularly interesting, confirm some prior learning and challenge some of our conventional wisdom. This essay shows that there is much to be learned about policing and police use of force.

Ken Adams, in *Chapter 3*, suggests some reasons for these deficits in our knowledge. One needs to have data to describe the problem of police abuse of force and to map its prevalence. In the wake of the Rodney King incident, policymakers became concerned about the need to estimate the extent to which police brutality occurs. This question proved difficult to answer because information systems in use by police departments were in deplorably primitive states and because no useful national information system exists at all. Surveys have fallen short of proving helpful. They have yielded noncomparable estimates of different police problems in different localities in which studies have been conducted. (Bayley's essay confirms that this problem exists globally.) Adams' review of the data sources that might be tapped to study the prevalence of police use and misuse of force will prove helpful to researchers and to police administrators seeking to conduct in-house studies or to facilitate analysis by others.

Being able to track variations in the frequency of police abuse of force over time and across jurisdictions can offer important insights for the control of police abuses. But data on such trends and patterns which paint a favorable picture of a given department may avail little in the face of a scandalous incident. In the rough and tumble world of public opinion and politics, a box of favorable statistics can pale in the glare of one alarming, cataclysmic episode. Such a cataclysmic case—the police beating of Rodney King—prompted the investigation of the LAPD by the Christopher Commission in 1991. In *Chapter 4,* Hans Toch deals with the key question raised by the Christopher Commission: whether there are officers who are predisposed to use excessive force, and who invite conflicts with citizens—and, if so, what to do about them. The Commission was concerned with attitudes and motives that predispose officers to violence, and with the tacit support such officers receive from peers and superiors (such issues are also addressed in the essays by Locke, Lester, and Fyfe in this volume). Chapter 4 describes evolving encounters between officers and citizens that escalate into violent conflicts. Situational, psychological and organizational variables are seen to combine to produce police abuse (Worden's essay also conducts this type of analysis). Toch expresses caution about some aspects of the Christopher Commission's analysis, and he draws on his work since the 1960s on officer "peer retraining" to propose opportunities for continued progress in guiding officers' judgments about when and how to use force.

B. Violence, Prejudice and Public Opinion

The police abuse of force issue is inextricably linked to broader issues relating to race and crime. Crimes are disproportionately committed in poor neighborhoods. Poor neighborhoods are in turn disproportionately inhabited by persons of color, mostly African Americans and Latinos. Such minority groups are, therefore, overrepresented among victims and perpetrators of offenses to which police respond and are overrepresented among those who are arrested and convicted of crimes. As Michael Tonry (1995) notes in a recent volume titled *Malign Neglect,* to the extent that police officers, prosecutors, judges or others in the nation's criminal justice systems are prejudiced, this overrepresentation of blacks and Latinos among suspects, arrestees and convicts may unjustly be enhanced.

Regardless of actual exposure to criminal justice interventions (order maintenance efforts, arrests, prosecutions, convictions, sentencing, parole supervision, etc.), detectable racist *attitudes* amongst any criminal justice workers almost certainly will prompt widespread assumptions that discriminatory *practices* prevail. But even if criminal justice systems operate dispassionately and their workers are models of respect and civility for fellow human beings, members of the public—including persons of color—are faced with the indisputable fact that minority group members are heavily sanctioned and punished in America. Other than through anecdotal evidence, minority groups and other segments of the public typically have no way of knowing whether and how often prejudice enters the equation, causing police officers (among others) to selectively arrest or otherwise intervene in the lives of persons of color.

Like other societal institutions, most of this nation's criminal justice systems give the *appearance* of being influenced by racism, and this impression gains credence from incidents—such as that of Rodney King—in which persons of color are manhandled and abused while being arrested. Even when arrests are seen to be evenhandedly made, one can believe that different suspects, wanted for similar offenses, are dealt with in different fashion. Moreover, in the process of investigating crimes, police stop and question people who they believe resemble suspected offenders, many of whom will be innocent of the wrongdoing of which they are suspected.[3] Being stopped and questioned by police is an unpleasant and demeaning experience at best. Even when officers are respectful and polite (which they may not be), they can unwittingly generate more work for themselves by alienating young people who otherwise might take a more positive view of the community's adult authority figures.

Consequently, it is not surprising that many people of color resent the police and learn to suspect the motives of officers who work in their communities. Such negative feelings may coexist with other resentments, including the belief that the police are neglecting minority communities. While some ghetto inhabitants may regard themselves as harassed by officers, others may see the police as insufficiently concerned about their safety or the quality of their lives. Many, as criminologist Norval Morris observed decades ago, have the worst of both worlds, feeling that "[w]e hate the police, and we need more police." We mean no slight here to ethical and fairminded police. Nor do we overlook the substantial progress that has been made in integrating the ranks of American policing in the past two decades and in sensitizing police to the moral, strategic, and tactical importance of treating all people—friend and foe alike—with basic respect. Yet, the police as individuals, police departments, and policing as an American institution remain vulnerable to the broader pressures that lead to continuing problems of racism in our society.

As part of the larger culture, police are pushed and stretched by it. Thus, whites who stereotype offenders as minorities, and conceive of a "thin blue line" between their suburban or urban bastions and invading hordes of inner-city residents, can exert pressures on police to take actions that persons of color justifiably regard as racist. And fearful residents of suburbs or interstitial neighborhoods may define concerns (that police and others express) about suspects' civil rights as police partiality to the interests of undeserving malefactors.

Such segments of opinion that are inspired by racist sentiments enter into perceptions of the police use and abuse of force and can create polarizations of perspective. Perspectives are further affected by media coverage of crime and policing, which is in turn shaped by concerns of segments of the public. Such are the issues addressed by Chapters 5 and 6 of this book, which deal with public opinion, prejudice and policing.

In *Chapter 5*, Timothy Flanagan and Michael Vaughn discuss trends in public opinion, address the impact of cataclysmic events (such as the Rodney King incident) on public opinion, and examine the media's shaping of prevailing perspectives. They note the divergence of views among segments of the public and, together with Lester's essay on police officers' attitudes, present an interesting portrait of the values that have

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[3] Consider the scenario presented in Klockars' essay concerning officers who, looking for two African American men with a concealed shotgun in a public housing neighborhood, stop the wrong people and subject them to a "prone-out" search.

shaped public policy on controlling police misconduct in America.

Next, Hubert Locke deals directly with the appearance and reality of racism and its relationship to police use of force. *Chapter 6* reviews evidence relating to whether prejudice enters into use of excessive force. While most of the social science studies do not suggest that abuse of force is *systematically* an expression of racism, a handful may support opposite conclusions. For instance, Locke calls attention to Worden's analysis, in this volume, of the Police Services Study's observational data. Worden found that, after controlling for all other available variables, the suspect's race still carries some explanatory power in patterns of police abuse of force. Worden and Locke are careful to point out that this evidence is consistent with explanations *other than* racial hatred (e.g., the officers may be overreacting out of fear of persons of color rather than animus towards them). Still, Worden's analysis presents important, heretofore unavailable, data. Locke, as Toch and Lester do in their essays for this volume, calls for better research on the precise impact of ethnically-discriminatory attitudes by officers.

Prejudice exists among officers, as it does among Americans of all occupations, and police need information about the ways in which prejudice can contaminate the decisions and actions of officers. Police and community leaders also need information about ways in which the appearance of racism can be reduced among white customers of police services so that when police attempt to work in a customer-oriented fashion, they are not pressured into racially discriminatory conduct. In the final analysis, Locke suggests, it may be less productive to debate and research endlessly whether police prejudice contributes to criminal justice systems' racial disproportions than simply to press forward with policy, training, supervisory and other interventions that seem to be proving helpful in reducing police-civilian friction regardless of the race of the individuals involved.

C. Reducing the Prevalence of Abuse of Force

The remaining chapters of the book (other than Bayley's penultimate contribution) deal with the question of how police, other government officials, and consumers of police services can address the problem of use of excessive force.

In *Chapter 7*, Doug and Joan Grant explore the assumption that misconduct can be reduced by screening out police candidates who are predisposed toward violence or corruption. Some administrators rely on screening to try to flag individuals who are psychologically disturbed or otherwise impaired. The evidence that undergirds reliance on screening instruments is to date disappointing, and this suggests to the authors of the chapter that other strategies must be used to promote professional conduct. One such course of action places reliance on the socialization of recruits and on efforts to mobilize constructive peer influence during their probationary periods.[4]

James Fyfe also deals with the socialization of recruits during their training. In *Chapter 8*, he reviews models of academy training and defines parameters of strategies that can effectively upgrade police violence-reduction expertise without impeding police crime-fighting capacity. One attribute of successful training discussed in this chapter is that of *realism*, which is enhanced by using localized incident-based scenarios and avoiding messages that inspire fear and/or promote over-aggressivity. Another strategy of training can involve reliance on the expertise of officers who have learned to avoid the use of unnecessary force. The propositions offered in Chapter 8 have been field-tested by the police in Dade County, Florida (with Fyfe's technical assistance) for several years. This empirical grounding lends great credence to Fyfe's (and some of Klockars') recommendations that departments benchmark their officers who are most adept at making responsible use-of-force decisions and build these officers' knowledge into training and supervision. Toch's and Kelling and Kliesmet's chapters also bolster Fyfe's and Klockars' focus on the importance of tapping officers' experience in preventing and responding to misuse of force.

It would likely be futile to try to fashion training or supervisory interventions without a rich appreciation of the opinions, fears and concerns that officers hold about use and abuse of

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[4] In recommending harnessing the power of peer influence, the Grants' views are particularly consonant with those expressed elsewhere in this volume by Klockars, Toch, Fyfe, and Kelling and Kliesmet.

force. And such an approach would manifest a lack of respect for officers that almost certainly would alienate them from reform efforts. In *Chapter 9*, David Lester studies officer opinion and attitudes concerning use and abuse of force. Such studies are few, but their importance is underlined by the question of whether prejudice can and does affect behavior. Moreover, attitudes about force can become normative and can exert group-based influence. Police are highly dependent on one another for backup and support, which produces loyalty between partners and group solidarity. This group cohesion is often referred to by students of policing as "police subculture." This subculture may prescribe a "code of silence" against administrative or external efforts to control behavior through negative sanctions.

But solidarity can also be a positive force, if it is mobilized on behalf of professional values, through participatory interventions. George Kelling and Bob Kliesmet address this theme in *Chapter 10*, which centers on the potential role of unions in controlling the use of force. Unions have to defend officers against arbitrary exercises of administrative authority. But unions also have a stake in the professionalization of policing, and in involvement of rank-and-file officers in the enactment of policies and procedures. In principle, these divergent concerns of police unions are reconcilable through efforts to promote collaborative solutions to the problem of abuse of force. The authors readily acknowledge that to date American police unions generally have not played a constructive role in studying and upgrading policing strategies and tactics,[5] but they find cause for optimism in August Vollmer's tenure as police chief in Berkeley, California. There, during weekly officer meetings that the participants termed the "Friday Crab Club," rank-and-file cops (albeit many with college educations) reviewed, critiqued, and made practical suggestions to improve one anothers' decisionmaking and tactics, including in the use of force. Kelling and Klies-

met thus conclude that officers can become involved in formulating policies relating to the use of force, can participate in administrative reviews (see also Kerstetter's essay), and can take a hand in training and retraining programs. By emphasizing that rank-and-file officers have a treasure trove of experience and knowledge about skillfully using and averting the use of force, Kelling and Kliesmet echo central themes in Toch's, Klockars' and Fyfe's essays.

Where peer and supervisory guidance and training does not succeed in preventing controversial uses of force, sometimes a complaint is filed with local government officials, including the police department. Three models of administrative investigation and adjudication of such complaints are compared in *Chapter 11* by Doug Perez and William Ker Muir. The models vary according to the nature and extent of civilian involvement in complaint intake, investigation, adjudication, and quality control over the entire process. Each model appears to have advantages and disadvantages. Among the criteria that must be used to evaluate officer review systems are those of comprehensiveness and efficacy. On these dimensions, Perez and Muir find that completely external civilian review of police is undesirable. Their reason is that the available evidence shows such investigations and adjudications to be "softer" on police misconduct than are internal review systems (see Klockars' essay as well).

But what is done to evaluate complaints about police misconduct must also be credible to the public, and has to be accepted by officers as fair and impartial. Irrespective of what a department does to control misbehavior, it must be seen by citizens as a serious effort and by officers as accommodating the complexity of situations in which they make decisions under pressure (see Fyfe's discussion, on these pages, of the "split-second syndrome"). One thoughtful police chief (under whose able executive directorship of PERF this book was conceived) has written that officers must see the process as manifesting consistency and fairness. He defines "*consistency* as holding everyone equally accountable for unacceptable behavior." And "*fairness*," he offers, "means understanding the circumstances that contributed to the behavior, while applying the consequences in a way that reflects this understanding" (Stephens 1994: 21). To meet the objectives of an

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[5] As a step in this direction, Kelling and Kliesmet conceived, planned, and conducted the first-ever national police union conference on community policing. It was sponsored by the International Union of Police Associations, AFL-CIO, of which Kliesmet is the president, and was held in Milwaukee in 1993.

administrative review mechanism that is investiga-tively strong and credible to the public and police alike, Perez and Muir propose a hybrid review system which takes advantage of the best ele-ments of both internal and external review (see also Bayley's chapter).

The pursuit of fairness to *all* the parties interested in complaints about police use of force is the subject of Wayne Kerstetter's provocative essay—and, indeed, the central theme of the entire volume. In *Chapter 12*, he draws on a growing body of knowledge about the circum-stances under which people feel respect for the law and legal institutions. Kerstetter then pro-poses an unprecedented application of this learn-ing to the police field, and specifically to the consideration of changes in police complaint review procedures. The principal change is to show respect, in a variety of tangible ways, for complainants' legitimate interests in having their concerns really *heard* by complaint adjudicators. "Really listening" does not necessarily mean that a higher percentage of complaints will be sus-tained than occurs now, but evidence Kerstetter adduces suggests that it can make a profound difference in complainant satisfaction with the fairness of the adjudication process. When complainants feel they were given a "fair shake," there can be a positive ripple effect on future police-citizen encounters and on public opinion and litigation concerning police use of force. By identifying a set of principles that will help police and local government officials devise complaint processing that is seen as fair by the majority of both complainants and accused officers, Kerstetter may be laying the foundation for a significant set of experiments by police in the years ahead.

A theme running throughout this volume is that the most desirable ways to control police use of force (and to help officers aspire to excellence in decisionmaking) are officer self-control, peer influence and assistance, supervision, administra-tive policy and training, administrative discipline and rewards, and the informal pressures of public opinion. But for those circumstances in which such methods don't avert police abuses or don't suffice to compensate a person subjected to abuse, the last resorts typically are civil and criminal law suits. In *Chapter 13*, Mary Cheh explores the ways in which such law suits have been used and their probable impact on police use and abuse of force. She also suggests ways in which these

backup mechanisms of control can be strength-ened for the times when they are needed. Cheh's contribution to this volume will be of special interest to police legal advisors, the police defense bar, municipal corporation counsel, and legal representatives of those who allege mistreatment by the police.

D. An International Perspective

Comparative studies have much to teach American criminal justice practitioners and schol-ars, and David Bayley, in *Chapter 14*, harnesses his considerable knowledge of several other nations' policing systems to provide a glimpse of police brutality and control mechanisms outside the United States.

For instance, he describes the British Police Complaints Authority (PCA), which has a three-tiered system consisting of "informal conciliation by the police in minor complaints, passive review by the PCA of moderately serious complaints, and active intrusion by the PCA into the investigation of a few cases that attract widespread public attention" (for additional discussion of the British system, see Reiner 1992: 484-85). This approach may provide a real-world model that approximates the review system elements advocated in the chapters by Perez and Muir and Kerstetter.

Bayley also suggests the importance of reliable centralized reporting systems—in the United States and abroad—to capture the nature and frequency of police misuse of force. Again, he finds (this time in Australia) a potentially generalizable model: The police in Victoria state have experimented with a recording system that captures not only the number of incidents in which excessive force was applied by officers but also the extent of harm caused to the recipient of the force. Strictly internal review systems for considering citizen complaints against the police are no more credible to the public overseas than in the United States, Bayley reports. Such ap-proaches, he opines, are hopelessly ill-conceived: "It is as if crime reports had to be made by victims to the criminals."

E. Summary of Recommendations for Re-search and Action

In the final essay (*Chapter 15*), we summa-rize highlights of the recommendations for further

research and action made by the preceding essays and add some other suggestions derived from our own research and work over the years with police and others interested in averting police abuse of force. Reading this chapter is no substitute for sampling the richness of detail and lines of argumentation offered by the 14 essays that precede it. But those in a hurry may find some value in beginning this book at the end.

Every contributor to this volume was asked not only to review literature pertinent to his or her assigned topic but to suggest future research and action steps. Thus, the reader will find even in our early definitional and methodological essays a very practical focus on what can and should be done to reduce the problems inherent in police use of too much force too often. As with our concluding essay, these chapter-by-chapter action recommendations draw both on the authors' appraisal of the existing literature (as in any field, the literature is more ample on some topics than others) and on their own expertise in the field.

Thus, some of the recommendations in this volume are supportable by evidence that the ideas have worked "on the ground." Other recommendations are rooted more in theory and expert opinion—opinion which, in many cases, developed while working with, and within, police organizations. Many of these recommendations will be familiar to readers knowledgeable about police administration and reform over the years. This is as expected, for our central assignment from NIJ was to collect and summarize in one compendium the highlights of what is known about and recommended to ameliorate police abuse of force. Other suggestions for developing a richer understanding of police abuse of force and for fielding control mechanisms are more novel. If the presentation of *any* of the ideas—original or second-hand—in this volume helps practitioners and others stem officers' misuse of force, in a fashion that *also* improves their will and skill for protecting the public from crime, disorder, and fear, then the trees felled to make this book will not have died in vain.

II.   LIMITATIONS ON THE SCOPE OF THIS VOLUME

As much as we have sought comprehensiveness in addressing police abuse of force issues, practical considerations of time and resources

dictated that several topics not be addressed as fully as would be desirable. For instance, there is much more to say about training, as Fyfe acknowledges in his essay on the topic, than could possibly be captured in one essay. We commend to the reader the bodies of work on conflict management training (including such approaches as "verbal judo"), cultural diversity training, and martial arts tactics designed to help officers control resistant subjects with minimal force (for discussions of such topics and references to much of the literature, see Geller and Scott 1992). Chapter 15 also provides some recommendations for training on cultural awareness and conflict management.

Some topics are barely touched in this volume, primarily because they are given extensive treatment in other, readily available, publications. A prime example is the area of less-than-lethal weaponry for police. The National Institute of Justice's technology assessment program has provided national leadership in identifying and evaluating the tactical usefulness of such promising new[6] tools as pepper spray (more formally, "oleoresin capsicum"). Although no essay is devoted to technology, one of us (Geller) has been actively involved in advising and learning from the Justice Department about research and development on less-than-lethal weaponry, and we draw on that experience to address the topic briefly in our concluding chapter.

A topic not addressed on these pages is the police use of force in suppressing riots or other forms of collective violence. The literature on police is replete with the findings of riot study commissions (the most recent being the Webster Commission inquiry after the 1992 Los Angeles insurrection).[7] Such inquiries, as with all the literature on the topic of police use of force, are of widely varying quality, but many of the reports contain useful portraits of the mutual escalation of

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[6] Pepper spray is new for police, and its use against human beings is new in this country. U.S. mail carriers have had the spray strapped on their mail bags to fend off hostile dogs for more than two decades (Geller and Scott 1992).

[7] Geller and Scott (1992: 14) list 11 major local, state or federal riot study commissions convened in the United States over the 65 years from 1917 through 1982.

force between police and angry citizens, as well as the excesses of some on the police side. The commission reports are also valuable sources to mine for research and action ideas.

III. ...AND JUSTICE FOR ALL

The suggestion that a police use of force has been excessive typically triggers a "zero sum game"—somebody (the police or the complainant) must lose for the other to win. The possibility of a "win-win" scenario, in which the legitimate concerns of *all* interested persons are acknowledged and dealt with *justly*, probably seems fanciful to most police and community leaders. To us it seems feasible (but difficult), and this volume attempts to suggest why.

Who cares about police abuse of force? Around any given controversial episode the communities of interest are many and diverse: the individual civilian and officer participants in the violent encounter, their friends and families; representatives of groups who particularly trust or distrust the police; the community at large; police managers and their legal, strategic and tactical advisors; rank-and-file officers and their bargaining agents and lawyers; civil liberties groups; police oversight officials (police boards, misconduct review panels, etc.); crime victims' advocates; elected and appointed officials; the news media; and others.

Between the covers of this volume are chapters designed to speak to the concerns of most if not all of these stakeholders in the problem of police misuse of force. Essay after essay acknowledges that there are legitimate concerns on the part of every one of these interest groups. These essays are neither partisan attacks on nor defenses of the police. In tone and substance, these are efforts at problem-solving—seeking to clarify what is known and what still needs to be learned to better understand, prevent, and remediate police abuse of force. We are not looking for villains. It is neither political correctness nor co-optation that dissuades us from adopting a tone in this volume that is particularly critical of police or their critics. We just do not believe that blame-assessing is conducive to enlisting the support of the key interest groups with the capacity to help ameliorate police abuse of force. In the words of a Japanese corporate philosophy enunciated in a recent film, our orientation in this book is to "fix

the problem, not the blame."

We cannot hope to "fix" it if we don't understand it in its complexity. Minimally, that understanding must be built on consideration of how the problem looks from many diverse perspectives. The contributors to this volume bring a rich diversity of talents and perspectives to their assigned topics. Among them are scholars (criminologists, criminal justice professors, social psychologists, lawyers, and public administration specialists), former police managers, a police union leader, men and women of different races and ethnicities, civilian oversight agency administrators and analysts, civil liberties advocates, police litigation expert witnesses, and media commentators. They represent constituencies that often do not sit down and talk civilly with one another, especially about topics as sensitive as police abuse of force.

We also had the benefit early in this project, when we were considering which chapter topics to include, of advice from an esteemed group of leaders in the civil rights, civil liberties, police (management and labor), municipal governance, victims' rights, academic, and legal communities. This group included:

Chief Steven Bishop of the Kansas City, Missouri Police Department

Alvin L. Brooks, President of Kansas City's Ad Hoc Group Against Crime

Chief Gerald A. Cooper of the Evanston, Illinois Police Department and formerly legal counsel to the Chicago Police Department

John Dineen, then-President of the Fraternal Order of Police Lodge 7 (Chicago)

Director Terrance W. Gainer of the Illinois State Police

Joseph E. Gardner, then-interim Executive Director of Operation PUSH

Ira Glasser, Executive Director of the American Civil Liberties Union

Harvey Grossman, Legal Director of the American Civil Liberties Union of Illinois

Captain David Hall, formerly with the San Diego Police Department and now staff member with the California Commission on Police Officer Standards and Training (P.O.S.T.)

Chief Clarence Harmon of the St. Louis Metropolitan Police Department

Chief Beverly J. Harvard of the Atlanta Police Department

Jeffrey L. Hesser, Chief of the Training Division of the Federal Law Enforcement Training Center in Glynco, Georgia

John Klein, former Assistant Deputy Superintendent of the Chicago Police Department and General Counsel to that agency's Superintendent

Robert B. Kliesmet, President of the International Union of Police Associations, AFL-CIO, and past President of the police union in Milwaukee (who eventually became co-author of one of our essays)

George Latimer, then-Dean of the Hamline University Law School, former Mayor of St. Paul, Minnesota, and currently a senior counselor to the Secretary of Housing and Urban Development

Reverend Joseph Lowery, President of the Southern Christian Leadership Conference

Albert Maule, partner in the law firm of Hopkins and Sutter and President of the Chicago Police Board

Michael Meyers, Executive Director of the New York Civil Rights Coalition and former Assistant Director of the national N.A.A.C.P.

Professor Norval Morris of the University of Chicago Law School

Chief Dennis E. Nowicki of the Charlotte, North Carolina Police Department

Wesley A. C. Pomeroy, Executive Director of the Independent Review Panel (a police oversight body in Miami, Florida), founding member of the International Association for Civilian Oversight of Law Enforcement, former staff director of the Detroit Police Department's civilian oversight agency, and former Police Chief in Berkeley, California

Captain Louis Quijas of the Kansas City, Missouri Police Department and a founding member of the Hispanic-American Police Command Officers Association

Charles F. Rinkevitch, Director of the Federal Law Enforcement Training Center

Chief Norman H. Stamper of the Seattle Police Department and former Assistant Chief of the San Diego Police Department

Gary W. Sykes, Director of the Southwestern Law Enforcement Institute in Richardson, Texas; and

Robert Wasserman, Chief of Staff to Diretor Lee P. Brown of the Office of National Drug Control Policy; and Research Fellow in the

Program in Criminal Justice Policy and Management of Harvard University's Kennedy School of Government.

Their input helped us a great deal; our output, naturally, is our own responsibility and does not necessarily represent an official position of any of the organizations our advisors so ably lead, of the Police Executive Research Forum, or of the State University of New York. Nor do the views expressed on these pages necessarily reflect the views of the National Institute of Justice or the U.S. Department of Justice, whose generous support made this work possible.

1

A Theory of Excessive Force and Its Control

Carl B. Klockars

"In sum, the frequently heard talk about the lawful use of force by police is practically meaningless and, because no one knows what is meant by it, so is all the talk about minimum force. Whatever vestigial significance attaches to the term 'lawful' use of force is confined to the obvious and unnecessary rule that police officers may not commit crimes of violence. Otherwise, however, the expectation that they may and will use force is left entirely undefined. In fact, the only instructions any policeman ever receives in this respect consist of sermonizing that he should be humane and circumspect, and that he must not desist from what he has undertaken merely because its accomplishment may call for coercive means. We might add, at this point, that the entire debate about the troublesome problem of police brutality will not move beyond its present impasse and the desire to eliminate it will remain an impotent conceit, until

this point is fully grasped and unequivocally admitted. In fact, our expectation that policemen will use force, coupled by our refusals to state clearly what we mean by it (aside from sanctimonious homilies) smacks of more than a bit of perversity" (Bittner 1975a, first published 1970).

What point is it that Bittner insisted must be "fully grasped and unequivocally admitted" in order to move the debate over police brutality "beyond its present impasse" and convert the desire to eliminate brutality to something more than an "impotent conceit"? Simply put, it is that no one knows what excessive force is. If that point is true, and I believe it is as true today as it was when Bittner made it two decades ago, it follows that all the talk of wanting to reduce or eliminate it is largely meaningless.

This essay seeks, with considerable guidance from Bittner's pioneering work in *Functions*, to define precisely what is, has been, and should be meant by police use of "excessive force" and

explore the consequences and implications of those definitions for mechanisms appropriate to its control. Needless to say, if no one knows what excessive force is, it also follows that empirical research that accurately measures it or its reduction is non-existent. This theoretical effort is a necessary first step toward changing that situation.

I. TOWARD A DEFINITION OF EXCESSIVE FORCE

What defines police, what distinguishes them from other citizens, is that we give them the very general right to use coercive force[1] as they see the situations they attend to call for it.[2] They are in

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[1] Throughout this essay, "force" and "coercive force" are used interchangeably. Both terms should be understood to mean the application of physical strength for coercive purposes. It includes occasions when the use of that strength is multiplied or amplified by weapons. "Force" is distinct from "authority", "power", and "persuasion" and does *not* include verbal or non-verbal threats, pleadings, warnings, or commands, all of which are of a wholly different order of sociological means of domination and control. For emphasis, a police officer displaying a snarling police canine, pounding a baton on a suspect's car hood, or brandishing the electric arc of a stun gun during a confession is not an example of force. They are coercive threats, a variety of persuasion. They, unlike force, appeal in one form or another to the will of the person being coerced. In and of itself, force makes no such appeal, although the person on whom it is applied, as well as others, may reflect on its use and alter behavior in response to it (see Arendt 1973; Klockars 1985).

[2] This approach to the definition of the police role follows Egon Bittner's systematic destruction of all norm-derivative approaches to defining the police in *The Functions of the Police in Modern Society* (1975a). Such definitions seek to define the police role by reference to the ends they are supposed to achieve. The most popular of such defective definitions finds police to be an agency of law enforcement. In *Functions* Bittner defines police as a "mechanism for the distribution of non-negotiably coercive force deployed in accord with an intuitive grasp of situational exigencies" (1975a: 46). In "Florence Nightingale in Pursuit of Willie Sutton: A Theory of Police" (1974: 40) he observes that while force is the core of the police role *the skill of policing consists in finding ways to avoid its use.* In Klockars (1985: 12) "police" is defined as

this respect like other professionals (e.g., doctors) to whom we give special rights to do things (e.g., cut people open, give them dangerous drugs, examine their private parts, etc.) that we permit no other persons to do. Moreover, the police freedom to use force is far broader and more varied than the physician's freedom to use medicine to fight disease. The police need not invoke "the law" to use force, though they may decide to use force to invoke "the law"; they need not obtain the consent of a complainant nor the person on whom it is used to use it; there are few, if any, occasions on which anyone has a legal right to resist police use of force, even if police use it improperly; and it is rare that police use of force is actually ever reviewed or evaluated by anyone.

The enormous range of the legitimate authority of the police to use force is, of course, at the heart of the problem of defining and controlling its excessive use. At present, three of the major mechanisms that appear to do so are: 1. *criminal law*—which says an officer's use of force shall not be so excessive as to constitute a crime; 2. *civil liability*—which says an officer's use of force shall not cause such an injury to a person that the person or heirs should be awarded compensation for the officer's misconduct; and 3. *fear of scandal*—which says that an officer's behavior shall not be of such nature as to embarrass his employer. As each of these mechanisms for controlling excessive force by police embodies a form of definition of it, some comment is appropriate on each.

A. Criminal Law and Excessive Force

With rare exceptions, the force used routinely and regularly by police to take suspects into custody, restrain belligerents, handcuff, use, or discharge lethal or non-lethal weapons at persons, as well as threats to use such force would constitute criminal offenses were they done by persons who were not police. Although the typical state law makes all of these activities criminal for all citizens, it normally exempts police officers from them by a specific exemption in the definition of

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"institutions or individuals given the general right to use coercive force by the state within the state's domestic territory."

the particular offense or a general disclaimer to the effect that none of these laws "shall apply to any law enforcement officer or his agent while acting in the lawful performance of his duty" (e.g., Del. Code, Title 11, s. 542).

Such exemptions, in whatever form they are written, should not be understood to mean that police officers cannot be found guilty of murder, manslaughter, offensive touching, assault, battery, terroristic threatening and other criminal acts while on duty. They can. However, what must be demonstrated, and in a criminal prosecution demonstrated beyond a reasonable doubt and to a moral certainty, is that the commission of the alleged offense by the police officer cannot be justified by reference to a legitimate performance of the officer's duty. In practice, such laws tend to be applied to police officers only when they are clearly off duty (for example, when they assault a spouse in a domestic argument), though even under such circumstances fellow officers are likely to attempt to handle such offenses informally, if it is possible to do so without scandal (see Cheh in this volume, in the section subheaded "Why so few prosecutions?").

Beyond those laws that expose police officers to criminal liability in the same way they do other citizens (*if* the officer cannot demonstrate a reasonable relationship between his acts and his duty), most states and the federal government also subject police officers and other public officials to laws that provide criminal penalties for intentional abuse of office. The federal law—Title 18 of the U.S. Code, section 242; "Criminal Liability for Deprivation of Civil Rights"—provides for a penalty of up to $1,000 fine and one year imprisonment or, if death results, imprisonment up to life for any person who,

> "under color of law, statute, ordinance, regulation or custom wilfully subjects any inhabitant of any state, Territory, or District to the deprivation of any right, privileges, or immunities secured or protected by the Constitution or laws of the United States."

While it is by no means unusual for arrestees to express an interest in filing criminal charges against arresting officers, court commissioners, magistrates, and justices tend to regard such complaints with suspicion. In many jurisdictions they are prohibited from accepting such criminal complaints against police officers unless they have first passed review by a prosecutor. These are not the only obstacles to employing the criminal law as a mechanism for controlling excessive force. There is also the superior credibility that is likely to attach to a police officer's account of an incident as opposed to that of an accused criminal, the reluctance of witness officers to testify against fellow officers, and the public's unwillingness to punish police with penalties normally reserved for criminals (see Geller and Scott 1992: 292-95).

Successful criminal prosecutions of police officers for the use of excessive force are extremely rare. Petrillo (1990) reports, for example, that the San Diego County District Attorney's Office absolved San Diego police officers of any criminal liability in all of the 190 officer-involved shootings that occurred from January 1, 1985 through December 20, 1990. Similarly, criminal charges were filed in only one of 477 shooting incidents in which deputies of the Los Angeles County Sheriff's Office were involved (Katz 1991). Kobler (1975a) estimates that in the 1970's criminal prosecutions were initiated in only one out of every 500 cases of shootings by police (see also Waegel 1984a; Hubler 1991; Levitt 1991; and Blumberg 1989: 458-59). While these studies of the use of the criminal law have examined only the use of the criminal law to control deadly force, it is likely that the rates at which the criminal law is used to control nondeadly force are even lower. However, even if the rates for the use of the criminal law to control non-deadly force are roughly equivalent to those for deadly force, the criminal law is unlikely to have anything but the most marginal influence on controlling police use of excessive force in the line of duty.[3]

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[3] Despite the fact that criminal prosecutions of officers for the use of excessive force are extremely rare, it is common practice for internal affairs investigations of excessive force complaints to proceed under rules of criminal evidence collection. Under such conditions officers are accorded a range of rights that are not available in administrative review. If the net effect of the presence of the threat of criminal prosecution is to impede the discovery of facts in such investigations, a mechanism for the early waiver of that threat—a decision to waive criminal prosecution—may

B. Civil Liability and Excessive Force

While criminal prosecutions of police officers for use of excessive force in the line of duty are rare and convictions rarer still, civil actions against police for use of excessive force are common.[4] From the point of view of persons alleging injury, they are preferable to criminal action for several reasons:

1. proof need only be offered at a level of the "preponderance of evidence" rather than "beyond a reasonable doubt";

2. there is a substantial economic incentive for attorneys and their clients to pursue such suits;

3. initiation of such suits may not be prevented and need not pass prior review by police, prosecutors, magistrates, grand juries or other traditional gatekeepers of the criminal process;

4. rights of discovery, including the capacity to compel possibly culpable testimony from the defendant, are far more generous than in criminal actions;

5. the plaintiff and the plaintiff's attorney are free to choose the form and forum in which the action is brought; and

6. the cost of defending oneself against such an action is so high and the risk of a devastatingly high damage award is substantial enough to make financial settlements of even marginally credible civil suits a reasonable defense alternative.

Police officers are exposed to civil liability for the use of excessive force in a variety of forms and forums. Three federal statutes — sections 1983, 1985, and 1981 of Title 42 of the U.S. Code — each create police liability in a slightly different manner. Section 1983 creates civil lia-

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be one of the most powerful investigative devices.

[4] Although there is no reliable national count of the number of suits against police, according to a survey by McCoy (1987), the majority of police chiefs of agencies serving populations of 100,000 or more report not only that they have been sued but expect to be sued in the future. These same chiefs report that the most common claim made in suits against them and/or their agencies is excessive force.

bility that is virtually identical to the criminal liability described above in Title 18, section 242. Section 1985 provides liability for conspiring to interfere with civil rights. For example, if two officers decide to beat an arrestee, they can be held liable separately under section 1983 and for conspiring to do so under section 1985. In addition, section 1981 imposes liability for interference with the exercise of certain specific civil rights, but does not, as 1983 and 1985 do, limit that liability to persons acting under the color of law. Thus it includes, but is not limited to public officials acting in the line of duty.

Civil actions may also be brought against police under a variety of state laws. They include private wrongs alleged in tort actions as well as actions brought under state civil rights laws. Such laws are similar to the above mentioned federal laws that allow claims for deprivation of rights guaranteed by the state or federal constitution. For a variety of tactical reasons, including more liberal discovery rules, explicit provision for attorney's fees, more expeditious resolution and, often, trial venues preferable to those offered in state courts, Federal section 1983/1985 actions are the most frequently chosen vehicles for seeking civil redress for alleged police use of excessive force (see Cheh, this volume).

Although civil actions offer plaintiffs numerous advantages not available in criminal actions, civil actions also offer police defendants two major defenses and a powerful tactical device that are not available in criminal actions. The first is qualified immunity. Police officers enjoy immunity from liability in most state tort actions (but not in section 1983 actions) if it can be demonstrated that the officer was performing a discretionary act. If, for example, an agency leaves to officers the choice of the type of non-lethal force an officer may use to restrain a resistant suspect, the officer enjoys immunity from state tort liability for that decision.

A second, allied defense, available in both state tort actions and section 1983 cases offers individual police officers but not police agencies immunity from liability if it can be demonstrated that the officer was acting "within the scope of employment." In determining whether an act falls "within the scope of employment" the court will "consider whether the act in question is of a kind he was hired to perform, whether the act occurred within the authorized time and space, and whether

the employee was motivated, at least in part, by the desire to serve his employer" (*Stanfield v. Laccoarce*, 284 Or. 651 [1978] quoted in del Carmen 1991: 58).

Third and finally, there is a tactic available to police that is widely used to thwart civil actions in cases alleging excessive force. It is standard police practice to arrest and charge any person on whom significant force is used with one or more criminal offenses, typically resisting arrest, disorderly conduct, assault or assault and battery on a police officer, plus whatever offense the person may have been involved in that prompted police attention. The U.S. Supreme Court in *Town of Newton v. Rumery*, 480 U.S. 386 (1987), has held that, if the agreement is voluntary, police agencies may negotiate the dismissal of the criminal charges in exchange for a release of the agency and/or officers from civil liability (Kreimer 1988).

Before May 15, 1989 the definition of excessive force that most federal appeals courts applied in section 1983 actions derived from the 1973 Second Circuit Court of Appeals decision in *Johnson v. Glick*, 481 F.2d 1028 (2nd. Cir.), *cert. denied*, 414 U.S. 1033 (1973). The *Glick* decision established four criteria to be considered before a plaintiff could obtain redress for abuse of force in a section 1983 suit:

"1. the need for the application of force;
2. the relationship between the need and the amount of force used;
3. the extent of injury inflicted; and
4. whether the force was applied in a good faith effort to maintain or restore discipline or maliciously and sadistically for the very purpose of causing harm."

In the decision that overturned *Glick* — *Graham v. Connor*, 490 U.S. 386 (1989) — the Supreme Court found that the *Glick* standard, based on substantive due process, ultimately embodied a "shocks the conscience" standard. For force to be excessive under *Glick* it not only has to produce severe or substantial bodily injury but also must be the product of malicious or sadistic action by police. In *Graham* the court replaced the *Glick* "shocks the conscience" standard with a standard based on "reasonableness" under the Fourth Amendment. Inasmuch as the Fourth Amendment guarantees citizens the right "to be secure in their persons...against unreasonable sei-

zures," the Court declared that henceforth a Fourth Amendment standard for whether force was excessive would apply. The "objective reasonableness" of a police officer's use of force would be "judged from the perspective of a reasonable officer on the scene rather than with the 20/20 vision of hindsight."

Graham appears to make it easier for plaintiffs to challenge excessive force in that it abandons the necessity to demonstrate that the use of force was maliciously or sadistically employed for the purpose of causing harm. However, at least one Circuit Court has found no grounds for a violation of Section 1983 when no serious physical injury occurred. In that case, a

> "deputy sheriff was escorting the plaintiff from Florida to Texas to stand trial when the plaintiff escaped from his custody. When Deputy Sheriff Kennard found the plaintiff he 'handcuffed him, pressed his service revolver against Wisniewski's mouth, and told Wisniewski to open his teeth or Kennard would blow them out. Kennard had the hammer on his service revolver pulled back. In addition, the defendant allegedly threw the defendant by his hair into a truck and punched him in the stomach three times'" (*Wisniewski v. Kennard*, 901 F. 2d 1276 [5th Cir.], *cert. denied*, 111 S. Ct. 309 [1990]).

Likewise a Texas Federal district court found no section 1983 liability when an

> "off duty officer dressed in a bathing suit and wielding a pistol stopped [the plaintiff] for speeding. When the plaintiff tried to escape, the officer shot and hit the plaintiff's car. After commandeering a truck, the officer was able to block the plaintiff's escape and pulled him out of his car at gunpoint" (*Palmer v. Williamson*, 717 F. Supp. 1218 [W.D. Tex. 1989]). (Both cases above are quoted from Brown [1991, 1285].)

Even under the *Graham* standard of "objective reasonableness" section 1983 actions apparently still require that the injury sustained by the plaintiff and the actual amount of excessive force

used rise to some unspecified status of a "serious" violation of constitutional proportions. In the words of a leading expert on police civil liability,

> "Mere word, threats, a push, a shove, temporary inconvenience, or even a single punch in the face does not necessarily constitute a civil rights violation. Nor does Section 1983 apply to cases of false testimony, simple negligence, or name calling...though the use of excessive force to compel a suspect to confess constitutes a clear and serious violation of a constitutional right" (del Carmen 1991: 39).

C. Fear of Scandal and Excessive Force

It is obvious from the above discussion that police can engage in all sorts of objectionable behavior without transgressing criminal or civil definitions of excessive force. If one adds to the problems of legal definition, the related obstacles imposed by qualified immunity, necessary standards of proof, juror sympathy for police and hostility to criminals, and the availability of arrangements that permit police to drop criminal charges in exchange for releases from civil liability, it remains the fact, as Bittner maintained in 1970, that all "the frequently heard talk about the lawful use of force by police is practically meaningless." And, of course, since severe financial judgments sometimes follow such meaningless talk, police agencies are quite concerned with it, even if they are understandably unsure about what to do about it.[5]

There is, however, a definition and a mechanism beyond the criminal and civil law that may also exert some influence on police use of force. It is the fear of the charge of brutality and the scandal such a charge may inspire. Because police depend to one degree or another on commu-

nity support and their wages and budgets are the product of negotiations with politicians who are elected to represent those communities, police are sensitive to their public image and normally seek to avoid incidents that might damage it.

What citizens mean by "police brutality" differs substantially from the concept of "excessive force" (see generally, Flanagan and Vaughn, this volume; and Worden, this volume). What citizens commonly understand by "police brutality" is any behavior that in their judgment treats them with less than the full rights and dignity owed to citizens in a democratic society. According to Reiss (1968a) popular conceptions of brutality include:

> "1. The use of profane and abusive language
> 2. Commands to move on or get home
> 3. Stopping and questioning them on the street or searching them and their cars
> 4. Threats to use force if not obeyed
> 5. Prodding with a nightstick or approaching with a pistol
> 6. The actual use of physical force or violence itself."

It is hardly necessary to point out that while every one of the above behaviors can be abusive of the rights or dignity of a citizen of a democratic society under certain circumstances, under other circumstances each and every one may be wholly appropriate and necessary police behavior. The real difficulty is, however, that in many circumstances police behavior is *both* abusive of the rights or dignity of citizens *and* necessary and appropriate police conduct.[6]

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[5] In a nationwide survey of police agencies conducted in the late summer and early fall of 1990 (seven months *prior* to the Rodney King incident), concern with civil liability was identified, after changes in the law, as the factor most often responsible for initiating police research. In the same survey it was also discovered that 65 percent of the 477 agencies responding to the survey were engaged in revising their agency force policies (Klockars and Harver, 1992).

[6] For those who are uncomfortable with the thought that police behavior can be perfectly wrong and right simultaneously (i.e., abusive of the rights or dignity of citizens and necessary and appropriate police conduct), an everyday example may prove helpful:

An officer receives a radio call that two black males armed with sawed-off shotguns are in the vicinity of a particular address in a public housing project preparing to "rip-off" a local drug dealer. They are, according to the dispatcher, in their twenties and wearing long coats. The officer receiving the call is a block away from the address and as he turns the corner toward the address sees two men fitting their description walking toward him. He stops his car, exits it and standing behind it with his pistol drawn and pointing at the two

There is no definition of "excessive force" that automatically renders it a form of "brutality" and goes on to escalate it to the status of a scandal. There are many cases of excessive force that satisfy a "shocks the conscience" standard and prompt internal investigations, civil suits, settlements, damage awards, and officer discipline and dismissals but do not become scandals. Scandals require not only an incident of excessive force but an incident of dramatic excessive force with features to it that merit publicity and sustain press and popular interest.

While it is certainly true that police are interested in avoiding such scandals, it should be remembered that the extent to which an excessive-force scandal damages the reputation of and erodes community and political support for any specific police agency depends on the role that scandal plays in forming the overall image of that agency. The unfavorable press brought by a scandal is always read or viewed alongside what-

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men, orders them to halt. They do, but start complaining of police harassment. The officer, still standing behind his car, calls for backup. The suspects continue complaining and the officer, unwilling to come out from behind the cover of his vehicle but fearful that the suspects might try to run, orders them, at gunpoint, to lie face down on the ground and keep their hands away from their bodies. Still protesting, they comply.

Once they comply and are lying face down on the ground, the officer leaves the cover of his vehicle and approaches them, gun still drawn. A back-up car arrives and the officer driving that vehicle stops, exits with his pistol drawn, and walks up to the officer and the suspects. After a brief explanation of the situation, the back-up officer holsters his weapon and begins a pat-down search of the two suspects who are still lying face down on the ground. He finds no weapons of any kind on either of them. Both are residents of the neighborhood. The complainant in the call did not disclose her identity.

This type of indignity is part of the price one pays for living in neighborhoods in which crime and violence are rampant. The police have no choice but to exact it. The best a police officer can do to attempt to reconcile this dilemma is to apologize profusely after the encounter, attempt to explain why what he did was necessary, and offer to call a supervisor to the scene. If none of these efforts works to satisfy the victim that his victimization was necessary and he files a complaint, the best the victim can hope for is another expression of apology.

ever favorable publicity that same police agency is and has been able to generate. While some excessive force scandals may rise to proportions serious enough to bring down a chief, many police agencies and police chiefs have large enough treasuries of good will and achievement to weather even fairly major scandals.

At present, meeting these three standards with respect to the use of excessive force—avoiding punishment under the criminal law, escaping the costs of civil liability, and averting public scandal—are all that is expected of police and all that police, in practice, expect of themselves. It should be obvious from the above review that none of these standards is sufficiently high for the kind of policing necessary in a modern democratic society. We would not find the behavior of a physician, lawyer, engineer, teacher, or any other professional acceptable merely because it was not criminal, civilly liable, or scandalous and it is preposterous that we continue to do so for police.

D. Excessive Force—Beyond Crimes, Civil Penalties, and Scandals

These three standards defining excessive use of force form the impasse beyond which it is necessary to move to make any practical progress in controlling the excessive use of force by police. If policing is to move beyond these three standards, it must go to the same source where every other profession finds standards: within the skills of policing itself, as exemplified in the work of its most highly skilled practitioners. The proper standard by which "excessive force" should be defined, therefore, is not crime, scandal, "objective unreasonableness," or "conscience shocking" behavior. Force certainly need not result in serious physical or mental injury to be deemed excessive. Moreover, it need not (and usually will not) be the product of malicious or sadistic behavior. It can spring from good intentions as well as bad, mistakes and misreading, lack of experience, overconfidence, momentary inattention, physical or mental fatigue, experimentation, inadequate or improper training, prejudice, passion, an urge to do justice or demonstrate bravery, misplaced trust, boredom, illness, a specific incompetence, or a hundred other factors that might influence an officer to behave in a particular situation in a less than expert way. *"Excessive force" should be*

defined as the use of any more force than a highly skilled police officer would find necessary to use in that particular situation.

Properly understood, this definition and conception of excessive force imposes the highest possible standard on the conduct of police. It leads to findings of excessive force far more frequently than any other reasonable definition and does so in many instances where criminal, civil, lay, and even less than expert police understandings would find no excess whatsoever. Consider two simple examples:

Case I

An officer responds to a report of domestic disturbance called in by a neighbor of the warring couple. He knocks on the door of the apartment in which he can hear a loud argument proceeding. A man, smelling strongly of alcohol, answers the door with the greeting, "What the fuck do you want?" In response, the officer explains that he has received a complaint about the noise. The man steps back from the doorway, leaving the door open, and points to a woman in the room saying, "If there is a problem, it's that nigger bitch's fault!" Infuriated by the remark, the woman, drunk or high, grabs a cast iron ashtray and charges at the man who jumps behind the officer for cover. The officer draws his baton and knocks the ashtray out of the charging woman's hand, breaking a bone in her thumb as he does so. Upon seeing "his woman" struck by the officer, the man becomes outraged, and, from behind, knocks the officer to the floor with a roundhouse right. On the floor and dazed from the blow, the officer looks up to see that the woman has retrieved the baton he dropped when the man knocked him to the floor. She strikes the officer once on the hip and as she brings her arm back for a second blow the officer draws his pistol, screams for her to stop, and shoots her in the stomach as she brings her arm down with another blow. He then points the pistol at the man who backs off and is held at gunpoint until an ambulance and reinforcements arrive.

Case II

A call is received that a group of teenage boys have built a clubhouse on public property which they use to drink and carouse. It is also reported that they have guns at the site. Two officers in separate vehicles respond to the call, the second of whom elects to bring a shotgun to the wooded site. They find two male teens in homosexual intercourse inside the plywood shack. The officers are both amused and disgusted by their discovery and order both boys to get dressed, watching them as they do. As soon as the boys are dressed and stand up, one officer moves forward to handcuff them. Terrified, both boys break for the door of the clubhouse. The first officer grabs one boy as he passes him, forces him to the ground, and proceeds to handcuff him. The second boy gets by the first officer, but the second officer knocks him to the ground with a blow to the ribs with the barrel of the shotgun.

Why, under the "highly-skilled-police-officer" standard, are both of the above scenarios examples of excessive force? In the first case every forceful act of the officer, from knocking the ashtray from the rushing woman's hand to shooting her in the stomach was an act of self defense. Moreover, in each use of force it is doubtful that a lesser degree of force would have been effective. The problem with the way the officer handled the call is that he attempted to handle a domestic disturbance complaint by himself. No skilled officer would attempt to do so. Had he waited to handle the call until a second officer arrived, it is likely that no one would have been injured and very little if any force would have been needed. It is no defense of the officer's behavior to contend that perhaps no second officer was immediately available to support him in handling the call. He ought to have waited no matter how long it took for a second officer to get free to assist him. His failure to wait for a second officer not only resulted in an avoidable use of force but injury to himself, death to another, felony criminal charges to a third person, and, depending on whether the case against the man goes to court, whether the officer needs medical

treatment for his injury, and whether the officer is placed on inactive status pending the outcome of the investigation of the shooting, anywhere between a week and one month of police time consumed in investigation, paperwork, processing, and prosecution.

In Case II the excessive force springs directly from the second officer's error in electing to carry a shotgun to the scene of the incident. There are occasions when bringing a shotgun to a complaint is advisable, but they are very rare. This is because carrying a shotgun severely compromises the officer's ability to use minimal and intermediate levels of force. An officer with a shotgun in his hands is of almost no help in grabbing, restraining or handcuffing; is seriously compromised in any apprehension that involves a foot pursuit; and, for all practical purposes, surrenders the option to use a baton. Given the nature of the complaint, the choice to bring a shotgun was a mistake because it limited the officer carrying it to using a degree of force that was too severe under the circumstances.

The officer's error in carrying the shotgun is further exacerbated by his choice to use it as an impact weapon. Doing so risks the possibility of an accidental discharge. A skilled police officer who had placed himself in that predicament would have let the boy run by. Even grabbing him with one hand while holding the shotgun in the other would risk a fight in which the officer was limited to the use of one hand. Such a fight could well escalate to a struggle over the shotgun or the officer's service revolver. The escaped boy's accomplice probably would identify him under questioning and, even if he refused to do so, it would not be difficult to determine his identity and take him into custody at a later time.

While skilled police work would have greatly reduced the degree or eliminated altogether the use of force in both of these incidents, it is doubtful that either would prompt meaningful criticism in the overwhelming majority of police agencies in the United States. Neither case, for example, would qualify as an excessive or unnecessary use of force under the classification criteria adopted in the major studies by Black and Reiss,[7] and Os-

trom, Parks, and Whitaker.[8] Likewise, both

"1. If the policeman assaulted a citizen and then failed to make an arrest; proper use involves an arrest.
2. If the citizen being arrested did not by word or deed, resist the policeman; force should be used only if it is necessary to make the arrest.
3. If the policeman, even though there was resistance to the arrest, could easily have restrained the citizen in other ways.
4. If a large number of policemen were present and could have assisted in subduing the citizen in the station, in booking, and in interrogation rooms.
5. If the offender was handcuffed and made no attempt to flee or offer violent resistance.
6. If the citizen resisted arrest, but the use of force continued even after the citizen was subdued."

While Reiss's approach to defining "unnecessary force" falls far short of what we advance as an appropriate definition, two of Reiss's criteria—numbers 1 and 2—appear to this author to be specifically defective. As to the first criterion, use of force on a citizen need not involve an arrest (see the example in note 7, of the two black males suspected of carrying sawed-off shotguns, which involves an assault and, quite appropriately, no arrest). It is routine for police to use force on mentally or physically ill persons who resist necessary medical attention. Arresting such people who lack *mens rea* is probably illegal and possibly unjust, though it is frequently done to protect officers against civil liability. Concerning Reiss's second criterion, while resistance by "deed" sometimes but by no means always justifies the use of force, it is hard to imagine a case in which mere resistance by "word," unaccompanied by any passive or active resistant act or deed, would do so.

Finally, as I discuss below, defining precisely the amount and nature of force that must to be used to qualify as a recordable instance of force is a tricky practical problem. A push or shove, scuffle, pin, wrench, press, grab, tackle, come along, or lock hold all qualify as uses of force under my definition and, under certain circumstances, can be excessive. In Reiss's study, he limited his selection of cases of unnecessary force to instances when a "policeman struck the citizen with his hands, fist, feet, or body, or where he used a weapon of some kind, such as a nightstick or pistol."

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[7] Reiss (1968a) employed six standards to define unnecessary force:

[8] According to Worden (in this volume) observers

would qualify as a proper use of force if one applied the escalation-deescalation-ladder type analyses that seek to define proper and excessive uses of force by balancing levels of resistance or aggression against levels of severity of force (Desmedt 1984; Connor and Summers 1988; Americans for Effective Law Enforcement 1988; Clede and Parsons 1987; Connor 1991; Graves and Connor 1992; Geller and Scott 1992: 308-13).[9] Such analyses are routinely included in modern police agency force policies and structure much of what is taught about the appropriate or inappropriate use of force in police academies.

Because the definition we propose for excessive force is fundamentally different from previous legal, popular, research, or police conceptions,[10] we should like to offer, in concluding this section, five separate and distinct arguments for it,

each of which can be stated quite briefly.

The first argument is ontological. It maintains simply that in any definition which employs the concept of "necessary," whatever is alleged to be necessary should be, in fact, necessary. Force that a highly skilled police officer would not find necessary to employ in a given situation is not necessary force.[11]

The second argument is personal. It asks individual citizens of a democratic society to reflect on how they would want to be treated by the police that they employ with their taxpayer dollars. Would they be personally willing to accept a use of police force *on themselves* that was any greater than a highly skilled police officer would find necessary to use? Only a masochist could logically opt for a less demanding standard.

The third argument is professional. It maintains that in policing, as is the case with every other profession, the standards for proper and improper conduct of practitioners must be set in terms of the skilled practice of that profession.

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were instructed in the Ostrom, Parks, and Whitaker study to classify force as unnecessary or excessive in instances where the observer judged that the officer was "kicking ass."

[9] The defect in ladder type analyses which approve escalation and deescalation of levels of officer use of force in correspondence to levels of citizen resistance is that such analyses lack a long enough temporal dimension and are totally silent on crucial strategic and tactical issues that in the majority of cases structure the situation in ways that will ultimately promote or reduce the possibility that force may be used. As long as force incidents are treated narrowly as "split-second decisions" they will leave little room or time or sympathetic sentiment for efforts to reduce the use of excessive force by police. Consider in this vein Bayley and Garofalo's conclusion, after some 2,000 hours of field observations of evening shift NYPD patrol officers: "anticipating problems before they arise is probably more important in avoiding unnecessary and injurious use of force than being clever after the encounters begin" (1989: 20; see also Scharf and Binder 1983; Fyfe 1989a; and Geller and Scott 1992: 323-35).

[10] James J. Fyfe's work in Miami-Dade (Fyfe 1988b), as well as some of his early work in New York City, is premised on mobilizing police expertise in the reduction of the use of force. It is highly consistent with the conception of excessive force and prospects for its control advanced in this paper. We are, however, far less sanguine than Fyfe (see, e.g., Fyfe 1986; Skolnick and Fyfe 1992: 200-205) about the value of enlarging the role of civil liability as an excessive-force control mechanism.

[11] In a review of an earlier draft of this essay, a colleague whose contributions to the study of police use of excessive force are enormous, warned that the "highly-skilled-police-officer" standard for identifying excessive force would prove to be a point of contention in this essay. He phrased the challenge to this standard nicely with the question: "What other profession uses its *stars* as the yardstick for detecting malpractice?"

The answer to this question is, of course, that no profession does so and neither, of course, should police. This essay, I should like to make perfectly clear, advances no such argument. The problem of defining a level of police use of force that can be judged "malpractice" is quite a different problem from that of defining "excessive force." Identifying "malpractice" requires a standard of minimally acceptable behavior. That standard must be set so low that any behavior less than that minimum merits punishment. The criminal and civil law have already done, in my opinion, a quite adequate job at that.

By contrast, defining excessive force by the highly skilled police officer standard is based on a vision of what policing at its best might be. It is a vision based upon the premise that the skill of policing consists in finding ways to minimize the use of force. It does not seek to punish officers or agencies who fall short of that standard but to encourage aspiration to it and raise it whenever possible. That is, I think, the role of *stars* in any profession.

We would not find the behavior of a physician, lawyer, engineer, or any other professional acceptable merely because it was not criminal, civilly liable, or scandalous. It is equally foolish to maintain that all one should require of a physician, lawyer, engineer, or police officer is the behavior of a "reasonable man."

The fourth argument is administrative. It maintains that if police administrators wish to keep police officers in their employ from use of force behavior that is criminal, civilly liable, or scandalous, the way to do so is to develop and require a standard for officer performance that is so far above those minimal standards that, for all practical purposes, police officers and police agencies need not be concerned with them.

The fifth and final argument appeals to utility. The above discussion illustrates that all sorts of learned and well-meaning people, including judges, lawyers, researchers, citizens, police officers, and police administrators have formed, explicitly or implicitly, conceptions and definitions of excessive force. Our rejection of their conceptions as too crude and suggestion of a definition based on the standard of a highly skilled police officer are driven by a concern for utility. The usefulness of any definition of excessive force must be measured by its potential to help control it. All of the previous definitions of excessive force were developed within systems that sought to define police use of excessive force in such a way that police officers or police agencies could be punished for it, criminally, civilly, politically, or administratively. The ambition to punish police use of excessive force stimulated definitions of it that were limited to egregious examples and ignored the ordinary use of excessive force that occurs regularly as a consequence of unskilled police practice.

There was a time when it was valuable to establish the rate at which police officers engaged in aggravated assault, decided to "kick ass," behaved in ways that shocked the conscience, provoked scandal, incurred civil liability, or conducted themselves in unreasonably violent ways. Mechanisms to punish such behaviors are already in place and, despite their defects, to one degree or another, have been for many years. It is doubtful that the capacity of such mechanisms to control extreme cases of excessive force can be meaningfully increased.[12]

Today, describing such extreme incidents, establishing their rates and discovering conditions under which they occur have little theoretical or practical implications for efforts that might reduce the police use of excessive force. It is time to move on to a new definition of excessive force, a new generation of study of it, and new mechanisms through which it might be controlled.

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[12] *According to every measuring device we presently have available, occasions on which police use excessive force (as we have historically understood the term) are so rare that any true changes in the frequency with which excessive force is used are likely to be indistinguishable from random variations. The average officer in the Los Angeles Police Department, a department in which police brutality is alleged to be nearly rampant (Skolnick and Fyfe 1993: 12-14) provokes a complaint of excessive force about once every 12 years.* Admittedly, LAPD procedures for receiving complaints may discourage some people from reporting them, but the LAPD rate is barely distinguishable from that of Atlanta, San Francisco, Seattle, or Baltimore County and requires powerful magnification to see it at all. In fact, the frequency of complaints of excessive force in almost every major U.S. police agency is so tiny that it only becomes visible at all when expressed in multipliers such as the number of complaints *per thousand officers per year* (see also Pate and Fridell 1993).

An alternative approach to trying to discover a level of use of (traditionally defined) excessive force which might be reduced by some type of intervention is to begin by identifying a group of "high rate" offenders. The problem is that there are actually very few of them and the frequency with which citizens accuse them of using excessive force is not particularly high. In fact, according to the Christopher Commission (Independent Commission on the Los Angeles Police Department 1991: 37), the officer with the highest rate of complaints against him in the entire 8,450 officer LAPD, a rate *twice as high* as the officers in second place, was an officer with a rate of *just over three complaints per year.*

There is not enough excessive force around for us to learn if any effort to reduce it failed or succeeded. In the wake of Rodney King, this is neither the prevailing popular nor academic definition of the "problem" of excessive force. I believe, however, it is exactly the problem and that stating it in this fashion suggests the only real solution. In order to reduce excessive force, we must first discover (or "create"—through setting higher standards) a great deal more of it.

II. CONTROLLING EXCESSIVE FORCE: AN ADMINISTRATIVE AGENDA

Once one defines excessive force as more force than a highly skilled police officer would find necessary to use in a given situation, it is possible to configure an administrative apparatus that is specifically designed to respond to that definition. Such an administrative apparatus would work differently from a mechanism designed to discover and control criminal misconduct, unreasonable violence, or behavior which risks civil liability or scandal. The design and comments we offer are based on two years of development and experimentation with just such a system in one police agency. It is premature to claim that the specific administrative apparatus we designed or an administrative approach of the type we describe below will be effective in reducing excessive force. That is an empirical question. However, given that such systems seek to control a level of excessive force that previous systems did not even acknowledge to exist, the effort holds considerable promise. Below we attempt to identify what appear to be some necessary components of a genuine excessive force control apparatus, highlighting potential obstacles to successful implementation and emphasizing how such a system differs from conventional excessive force control mechanisms.

It is convenient to think of any administrative control mechanism as composed of two parts: the first—a policy, goal, or objective; the second—an organizational apparatus through which to realize it. The control mechanism we outline is composed of a policy that requires police officers to work in ways that minimize the use of force and an administrative arrangement that encourages them to do so.

A. Force Policy

A comprehensive statement of policy on police use of force can be stated in a dozen words: *Police officers shall work in ways that minimize the use of force.*[13] The difficulty is not in declar

ing such a statement to be agency policy, but in getting police administrators to believe that such a policy is important and to take it seriously. At top administrative levels such a policy is likely to face a variety of practical obstacles. The most important of them is probably the absence of any serious pressure for it. While there is pressure to control criminal, civilly liable, or potentially scandalous officer conduct, the kind of excessive force that results from unskilled policing typically goes unnoticed, is not likely to stimulate complaints, and, if it does, such complaints can be rather readily diffused and dismissed. The people who are most likely to be victims of excessive force are persons who are the least likely to complain about it and least likely to be believed if they do. In short, excessive force of the kind that regularly occurs as a consequence of unskilled police work is not normally understood to be a "problem" in police agencies, and moving to address it must compete with an array of everyday demands, concerns, and pressures that for top police administrators present real and pressing problems.

This is not to suggest that top police administrators cannot be persuaded that a policy which seeks to raise officer performance to skilled levels in the use of force is desirable. It simply emphasizes that adopting a policy that discovers excessive force in officer behavior that was previously regarded as acceptable may require substantial and persistent efforts at persuasion. Such efforts may succeed with innovative and imaginative chiefs on the sheer merits of the arguments, but it is probably the case that timing those arguments to be offered in the wake of an egregious excessive force scandal and/or civil judgment against the agency will enhance the probability of their reception (see Sherman and Bouza 1991a, 1991b). The case for prevention is ironclad, but in the real world wheels must often wait for grease until they squeak.

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[13] While we maintain that a comprehensive police agency force policy can be expressed in an even dozen words, we realize the word "policy" means different things in different contexts. We use it to mean the general standard that guides relevant conduct in an agency and from which subordinate rules and procedures are ultimately derived. The policy we propose would, for example, be a predicate for "defense of life" shooting rules and rather strict vehicle pursuit regulations.

B. The Technology of Controlling Excessive Force

Assuming that a police agency commits itself to seeing to it that its officers work in ways that minimize the use of force, what must it do to realize such a policy? At minimum, it must do three things: monitor the use of force, evaluate the skill with which it is used, and educate officers in its skilled use.

1. Monitoring the Use of Force

It is not possible to control the use of excessive force unless one knows when it occurs. Because the question of whether or not a use of force is excessive cannot be determined without review of the circumstances of its use, any police agency that seeks to control the use of excessive force should, ideally, collect information on *every* occasion on which force of any kind or degree is used. The decision to collect this information involves answering three highly consequential questions: 1. What should constitute a reportable use of force? 2. What information should such a report contain? and 3. Who should be made responsible for preparing such a report?

a. Defining a Reportable Use of Force

While many use-of-force incidents, such as those that cause death or bodily injury or involve the use of police equipment such as firearms, batons, chemical irritants, stun devices, and attack dogs should obviously be reported, the overwhelming majority of occasions of police use of force inflict little or no physical injury on the person on whom they are used. Police use very low levels of force in almost every custodial arrest. Grasping a person by the arm or shoulder, grabbing a shirt or a belt to hold a suspect, twisting arms to apply handcuffs, tightening handcuffs until they fit, and pressing a head down to protect it in the course sitting an arrestee in the back seat of a vehicle all constitute uses of force. The same is true of the use of force in accident and rescue situations, restraining friends and family of victims, steadying and transporting the sick, the injured, the infirm, and the delirious, and controlling crowds. Although on all of these occasions police use force, it is simply impractical to require a report of such uses.

At the same time it must be said that every one of the above-mentioned, low-level uses of force can be done in a manner or under circumstances that a skilled police officer would find excessive. It is possible to choke a person with a twisted shirt, strain a back or break a rib with a hard enough pull on a belt, twist arms into a handcuff position in a manner that dislocates shoulders, tighten handcuffs to severely painful, punitive levels (producing problems such as carpal tunnel syndrome), and force heads down so firmly that they hit knees. Although it is an empirical contention for which there is no hard evidence, the vast majority of occasions on which police use excessive force are likely to be instances of low levels of use of it, if for no other reason than the vast majority of all police uses of force are of low levels.

We know of no wholly satisfactory way to solve the problem of requiring the report of potentially excessive uses of low-level force without paralyzing police by requiring the report of all such uses. Tentatively, and fully subject to revision based on research, we propose two rules to govern when a low level use of force that does not produce injury should be reported: 1. whenever anyone gives any indication or suggestion of any dissatisfaction with the officer's use of force, or 2. any occasion on which any officer involved in the incident believes for any reason that a use-of-force report would be desirable. Both rules are, admittedly, imperfect but certainly extend the scope of force monitoring beyond monitoring limited to instances causing injury.

b. Describing a Use-of-Force Incident

The second major question that must be answered in monitoring the use of force is what information such a report should contain. Police are skilled at writing accounts of incidents of many types, and accounts of use of force need not differ markedly from reports of the type police are accustomed to preparing. A report of a use of force should be taken as seriously and with about as much detail as a report of a routine traffic accident. It should contain standard information about date, time, and place the use of force occurred; names and addresses of all persons who witnessed or were involved in the incident; a detailed description of the type and amount of force used; a description of the incident and relevant

events that led up to and followed it; and a description of the injuries sustained by any and all parties. In preparing the account of the incident, all witnesses, including the officer and the person on whom force was used, should be interviewed for their version of the incident and, should they wish to offer explanations or rationales for acting as they did, these should be included in the report.

c. Responsibility for Preparing the Use of Force Report

Having said this much about what a use of force report should contain, we may now move to the question of who should prepare it. It is not uncommon to find police agencies that require the officer involved in the use of force to submit the use of force report. For reasons ranging from the appearance of conflict of interest to the potential compromise of interviews with witnesses and the person on whom force was used, such a practice is unacceptable.

An alternative approach would involve assigning responsibility for the preparation of all use-of-force reports to an independent, internal affairs investigator. While doing so is advisable in incidents where criminal or civil action against the officer or agency may be anticipated (shootings, force incidents resulting in death, disfigurement, or severe injury), occasions of low-level use of force do not require the special skills and independence of an internal affairs investigator. Assigning the responsibility for routine use of force review to internal affairs would be likely to provoke an understandably defensive posture in police officers and, at the same time, entitle them to invoke a range of defenses and due process guarantees to which they would be entitled in any internal affairs investigation.

No such rights arise for officers in routine supervisory review of their conduct, and for that reason particularly, police supervisors should be charged with the responsibility of producing use-of-force reports as a routine supervisory responsibility. Immediate supervisors are also the preferred choice because they know the officers who work for them and are usually skilled, experienced police officers themselves. Assigning supervisors responsibility for preparing use of force reports also has a third advantage: it offers an extra incentive for supervisors to encourage their

officers to work in ways that minimize the use of force. Doing so will save the supervisor from the work of preparing a report on it.

2. Evaluating Police Skill

From the point of view of controlling the excessive use of force, it is pointless to report a use of force without evaluating it. There are, of course, many options for evaluation. Particularly in the wake of scandal and in efforts to reform many agencies have adopted some form of outside, civilian review (Walker and Bumphus 1991; American Civil Liberties Union 1991; Perez and Muir in this volume). Historically, U.S. police have resisted outside review of their conduct on the grounds that "civilians" just do not understand what police work requires. They are right, in the same way a physician would be right in insisting that a layman would not have the knowledge to properly evaluate skilled medical practice. The problem with outsider review of either police or medical practice is not that lay persons would demand too much of police or physicians but that they do not possess the kind of knowledge of options and alternatives that would permit them to demand more (Kerstetter 1985; Perez and Muir 1992 in this volume). The only ones who have the detailed knowledge necessary to distinguish good policing from that which is merely not criminal, civilly liable, or scandalous are highly skilled police officers.

The breakthrough in controlling excessive use of force by police will come about only when skilled officers are willing to apply their knowledge and expertise to identifying uses of excessive force and specifying alternatives that would minimize its use. That must be the engine of any second-generation effort to control the use of excessive force. Three obstacles stand in the way of getting them to do so. The first is "the code," the usually unspoken agreement among police officers which calls upon them to go to extreme lengths to protect one another from punishment (Muir 1977, Chapter 11). The second is the "CYA" syndrome. Endemic in police agencies, it calls upon all police to constantly "cover your ass"—behave in ways that will not expose them to criticism. The third is the view, widely held among line officers and among many supervisors, that the "good" supervisor is the one who will "back up" an officer when he makes a mistake.

Under such conditions supervisors—skilled, experienced, police officers—will prove resistant to offering the kind of evaluation of the use of excessive force that is necessary to reduce it.

Each of these obstacles springs from a single source: the fundamentally punitive orientation of the quasi-military administrative apparatus of U.S. police agencies. From the point of view of working police officers the administrative structure of the agencies that employ them is little more than a collection of hundreds and in some cases thousands of rules and regulations the violation of which can lead to their punishment (see Kelling and Kliesmet, this volume). Under such conditions it is not merely likely that "the code" and "CYA" flourish, it is inevitable. It is also inevitable that under such conditions supervisors do not supervise. Rather, they "discipline" or, if they are "good" supervisors, gain the loyalty and support of those who work for them by covering for them when they run afoul of those rules.

In the face of the occupational culture and punitive administrative environment of police agencies, under what conditions might police supervisors become willing to apply their skills and knowledge to the identification of excessive force and teach alternatives to it? Some supervisors, for reasons ranging from their own lack of skill, to opposition to reducing the use of force on people who they believe deserve it, to categorical refusal to second guess the field decisions of a fellow police officer, will refuse to do so under virtually any conditions and resist actively or passively. Others may be made willing to apply their skills and knowledge under three conditions. They are:

1. They be clearly and specifically required to do so.
2. They be held accountable for doing so by having their evaluation of each use of force incident reviewed by persons who are equally expert.
3. They be permitted to offer their evaluation under circumstances in which the normal punitive and disciplinary orientation of police administration is suspended.

A force review process that meets the above requirements might operate as follows: After preparing a use-of-force report, the supervisor responsible for preparing it is required to reach one of three conclusions: 1. the use of force was necessary and appropriate; 2. the use of force was legitimate, but an alternative approach might have made it unnecessary; or 3. the use of force may constitute a violation of agency policy—refer to internal affairs. After the first line supervisor completes the use of force report and makes an evaluation, it is passed up the chain of command. In small agencies it may be passed directly to the chief. In larger agencies, if, for example, a line supervisor of the rank of sergeant prepares the report, the report should be reviewed by a lieutenant and, after that, by a captain. Both of them in order should also be required to reach one of the evaluative conclusions. In reaching their evaluations each of them is not only evaluating the conduct of the officer involved in the use of force but the evaluation of the previous supervisor. A supervisor can "cover" for an officer, fail to find that an officer worked in a manner that did not serve to minimize the use of force, but that supervisor does so in peril of his own reputation as a supervisor before his superiors. The idea is to mobilize the same sentiments on the part of police supervisors that exist among judges who do not want to have their decisions overruled by judges in a higher court.

It must be emphasized that such a mechanism will work only if the person at the top of the review ladder is prepared to mobilize the "highly skilled officer" standard defining excessive force and thus set expectations that supervisors lower in the chain of command do the same. While there are certain disadvantages to a centralized, hierarchical command structure, the capacity of such a structure to articulate a uniform, agency-wide standard of officer conduct is one of its great strengths. It is precisely what gives police chief executives the capacity to exercise real leadership (Goldstein 1977; Reiss 1985; Napper 1985).[14]

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[14] An alternative to hierarchical review process would be one composed of peers, similar, perhaps, to the strategy devised by Toch, Grant and Galvin (1975). The *Agents-of-Change* confidential, peer-review strategy managed one essential element of mobilizing police skill—a non-punitive educational environment. However, it did so at a cost of displacing supervisory responsibility for teaching police skill, placing that burden upon peers who compete for the same scarce rewards a police agency has to offer, and sacrificing agency control and review of the substance of that

After the review process is complete, and it should normally be completed within 48 hours of the use of force incident, the use of force report and evaluation by three supervisors should be returned to the officer. A finding that the use of force was necessary and appropriate requires no further comment, but a letter complimenting the officer for handling the incident with a high level of police skill would not be out of order. A reference to internal affairs will inform an officer that the incident is under further investigation and punishment of some form may follow pending its outcome. But a finding that the officer's behavior was legitimate (i.e., that it did not constitute criminal, civil, or scandalous misconduct) but an alternative approach might have made it unnecessary, should prompt an occasion in which a senior, skilled and experienced police officer explains to a fellow officer in detail how that officer might have conducted himself in a way that might have avoided the need to use force or minimized its actual use. No discipline or punishment should follow such an advisory session, but supervisors must make clear that the officer will be expected to work in ways that minimize the use of force in the future.

3. Educating Police Officers in the Skills of Minimizing the Use of Force

It is the conclusion of our analysis of the concept of excessive force and the consequences that spring from alternative constructions of it that *only* from such instruction, from skilled supervisors taking seriously their obligation to supervise and to teach the skills of good police work, will real progress be made in controlling excessive use of force by police.

To some unknown degree such teaching does already take place in many police agencies. It is done by some field training officers, by some senior police officers who mentor young officers, and by some skilled supervisors. When it happens it happens for the most part *sub rosa* because identifying publicly a use of excessive force triggers almost automatically an assumption on the part of someone that it should be punished. Willful, malicious, sadistic, conscience-shocking, unreasonable uses of force certainly should be.

However, the just outrage that such violence provokes has had the effect of suppressing the identification, discussion, and development of alternatives to everyday uses of excessive force that are often the product of nothing more malevolent than a lack of skill. The irony in defining excessive force at a point which merits punishment is that all sorts of unnecessary force will be deemed acceptable up to that point and police behavior will continue to flirt with legal liability and scandal. As long as that lack of skill is denied, tolerated, hidden, or otherwise removed from administrative control in sympathetic efforts to shield well-meaning officers from punishment, no real progress will be made in controlling the police use of excessive force.

Not all uses of excessive force by police should be punished. Understanding excessive force in the way we have argued that it should be understood, most uses of excessive force should not be punished, any more than should all mistakes in diagnosis or unsuccessful treatment by doctors. Every trial lawyer of experience has lost cases that a more skilled attorney might have won. Engineers continually develop approaches to solving problems that reveal defects in previously accepted engineering strategies and render them unacceptable. Progress in medicine, law, and engineering and the development of skilled physicians, lawyers, and engineers have occurred largely when their mistakes are identified by fellow professionals of the highest skills and are reviewed candidly, and when efforts are made to avoid them in the future. Progress will come in control of excessive force when the same can be said of police.

III. CONTROLLING EXCESSIVE FORCE: A RESEARCH AGENDA

The case we have offered for defining excessive force as more force than a highly skilled police officer would find necessary to use in a particular situation is predicated on a number of empirical assumptions. In this section we should like to make some of those assumptions explicit and suggest how research might address and test them.

The first and most general assumption is that police skill of a kind that could reduce the level of force in police-citizen encounters exists or can be brought into existence. If, for example, there

education.

were no difference between the amount of force highly skilled police officers could find minimally necessary to use to handle situations and the amount of force that reasonable layman could find minimally necessary, or if skilled police officers found it necessary to use more force than a reasonable laymen, much of the rationale for the definition of excessive force in terms of skilled policing would collapse.

Research designs probing this general assumption might invite a panel of highly skilled police officers to propose force-minimizing solutions to a series of field scenarios and compare their solutions to those of a panel of laymen and, perhaps, a panel of new police recruits. Analysis of differences in proposed solutions between groups, if any, might lead not only to the establishment of the quantitative empirical existence of police skill but also to the discovery of some components of it.

A second general assumption in the argument we offer is that the amount of excessive force that can be discovered by applying a highly skilled officer standard is or can be great enough to warrant efforts at reduction. Although we have argued to the contrary, it is possible that the overwhelming majority of uses of excessive force are of the egregious type that merit serious punishment, and low level excessive force is so rare that it does not warrant administrative attempts to control it.

This assumption calls for research that attempts to measure excessive force which ranges from the egregiously excessive to that which is merely less than a highly skilled police officer would find necessary. A design to measure excessive force in this way might involve a collaborative effort with a police agency in which panels of skilled police officers were invited to review all use of force reports in the agency and asked to propose how a highly skilled police officer might have handled the situation in a way that would have minimized the use of force.

A third assumption governing the approach we propose toward understanding excessive force is that there is a value to reducing it. In all things police, moral assumptions have a way of creeping into analyses and posing as fixed elements of reality. We confess that a moral and political belief in the value of reducing the amount of force used by police drives our interest in reducing it. It would, however, be a great mis-

take to believe that everyone, or even almost everyone shares the same moral and political assumption.[15] Is there anything to be said to the police officer who, privately and off the record, confesses that "that asshole brought it on himself and got what he deserved?" Is there anything to be said to a public that is often sympathetic to the police "kicking ass"? (See Flanagan and Vaughn, this volume.)

In the face of such contrary conviction both moral and political arguments for minimizing the use of force may find tough going. However, when neither a moral nor political commitment to policing that seeks to minimize the use of force is persuasive, a sheer economic analysis of the costs of excessive force might well prevail. Consider a final example:

> Shortly before midnight two officers report to a complaint by a woman who alleges that she has been assaulted by her husband. Upon their arrival the woman explains to the two deputies that her husband who is very large (6' 1", 230+ lbs.) has pushed her. She also states that all she wants to do is leave the house and take her six-month-old baby with her. As she is telling the officers her story, they can hear her husband bellowing profanities from an upstairs bedroom.
>
> Both deputies walk upstairs to the bedroom and knock on the door. Hearing no response they open it, find the man in bed and talking on the telephone. They ask him to come downstairs so they can talk to him. He tells them, "Get the fuck out of my house!" and orders them to leave because they do not have a warrant.
>
> The officers try to explain that his wife merely wants to leave the house

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[15] In one of Joseph Wambaugh's books, a police protagonist reflects that "[p]olice brutality is what any red-blooded male would do in the same situation." This reflection is, I suspect, highly accurate. It is also why we have progressively taken the right to use coercive force from the hands of private citizens and entrusted it to a specialized institution skilled in minimizing its use.

with the baby and is not interested in pressing assault charges, but the man continues to yell so loud that it is not clear that he hears the officers. From his yelling the deputies learn that he believes his wife has been out with another man and has just returned to the house with a "hickey" on her neck as physical evidence of her infidelity. He adds to his string of profane insults and protestations that he is not Rodney King and it would take more than two cops to take him.

Three additional officers arrive at the scene as does the man's sister. About ten minutes have elapsed since conversation with the man began and no progress whatsoever has been made in calming him or getting him to stop yelling. His sister comes into the room and tries to persuade him to let his wife leave with the baby. He refuses and an officer informs him he is under arrest and directs him to place his hands behind his back. He refuses and a fight between the man and four deputies ensues that lasts between five and ten minutes. The man is struck once in the ribs with a baton, a blow that seems to anger rather than subdue him. In the course of the fight the man's father arrives and, the man, while fighting, complains to his father that the police had beat him with a billy club. His father attempts to urge his son to stop resisting his arrest. The man is finally subdued, handcuffed arms and legs, and taken into custody. He is arrested for assault on his wife and four police officers. The rib injury to the man proved minor. One police officer had his watch broken in the fight, a second strained his back, and a third got a hairline fracture in his foot when the man stepped on it. The broken watch was the officer's personal loss. The officer with the back injury was off duty for three days, collecting workman's compensation.

A supervisor, taking statements from all witnesses to this incident, heard from the man's sister that the police did not give her brother enough time to settle

down, let his wife take the baby, and let her leave the house. His father also added that he did not want to make any trouble for the police or his son, but he too thought that they could have let him blow off more steam. The supervisor explained that they had taken at least ten minutes trying to do so.

The "asshole" may in fact have brought this use of force on himself and may under some calculus have "got what he deserved." However, giving it to him at taxpayer expense was, and we suspect often is, a very costly proposition. While the officers involved may have had their fill of this crude and angry man after ten minutes of listening to his profane insults and ranting, the taxpayers who pay police salaries would have been far better served, financially, had they listened for ten hours. It took more police time than that to arrest, transport, and prepare the paperwork to process the arrestee and deliver him to court. It took them another five hours to complete the full use-of-force reports. An additional 30 hours were lost again to medical attention and injury leave for the officers who were hurt. Add to the cost of that lost time the cost of holding the man in custody before making bail or, if he was unable to make bail, holding him until trial. To that figure add the cost of some period of probation or, costlier still, incarceration.

It is well within the empirical capabilities of modern social science to estimate the financial cost of tolerating less than highly skilled police use of force. Alternatively, if highly skilled police work does not already exist, such an analysis might help to bring it into being.

IV. AN OVERVIEW

We entrust to police a capacity we give to no other institution in domestic society: a general right to use coercive force to resolve problems that may require its use. The problems they attend to are highly varied and they must, of necessity, be granted extremely wide discretion in deciding if and when and how much force is appropriate to use in any given situation.

The risk that this dangerous monopoly on the general right to use coercive force will be abused and corrupted is enormous and has been realized repeatedly. But while much of the history of po-

lice in this country and elsewhere is distinguished by brutality and abuse, no modern society has discovered an acceptable alternative. It is unlikely that there is one.

The efforts to control the abuse of force by police have, to date, consisted largely of employing devices—the criminal and civil law, scandal, and the quasi-military administrative order—which sought to reduce the abuse of force by threats to punish it. Use of these devices to control the use of force by police required the development of a definition of excessive force that set a standard of acceptable use of force so low that any use of force not meeting that standard warranted punishment.

The criminal and civil law, scandal, and the quasi-military administrative order succeeded in providing a technology for controlling the most egregious abuses of the police monopoly of the general right to use coercive force. However, that technology of punitive control offers disincentives to both individual police officers and police agencies to raise in any way the standard by which excessive use of force by police might be identified. Resistance to raising standards for the use of force is at the root of "the code," the ethic of "CYA," line-officer distrust of administration, and administrative antipathy to the press and public. It is a nearly sacred tenet of police organizational culture. Police officers and police agencies respect and perpetuate it out of rational self defense. To put it bluntly—What foolish police officer or police agency would wish to enlarge the scope of behavior for which they may be punished?

As long as the concept of excessive force serves to identify a level of force beneath which punishment is threatened, none of this will change. Such a conception of excessive force limits both what police may be asked to impose on themselves and what society is prepared to impose on its police.

To move beyond this impasse requires a fundamental reconstruction of the idea of excessive force. That restructuring must make it possible to discover and discuss the use of excessive force freed from the threat or fear of punishment. The reconstruction proposed in this paper advances a concept of excessive force based on police skill. It finds "excessive" any force that a police officer of the highest skill might find a way to avoid.

There are a variety of virtues to reconceptual-

izing the idea of excessive force in this way. The most important is that it makes possible the collegial discussion of excessive force removed from threats to punish it. In doing so it breaks the silence required by "the code," undermines the need for CYA, and enables skilled supervisors to supervise. At the same time that it makes excessive force a matter of collegial discussion and professional opinion, it invites research. It welcomes inquiry into what the skill of policing might consist of and how that skill might be measured, organized, enhanced, and taught.

2

The "Causes" of Police Brutality: Theory and Evidence on Police Use of Force

Robert E. Worden

Social scientific theories and evidence concerning police behavior, and particularly research on the factors that contribute to—or "cause"—police brutality, can provide insights into the promise (and pitfalls) of governmental, administrative, managerial, and policy reforms. Indeed, every serious prescription for controlling police brutality rests at least implicitly on some theory of police behavior.[1] Fortunately, over the past 25 years social scientists have given considerable attention to some forms of police behavior, and scholars have made some headway in developing theories that account, at least in part, for these behaviors. The use of officers' authority to make arrests has been analyzed in a number of studies, as has the use of *deadly* force, and a substantial (but still inadequate) body of empiri-

cal evidence has accumulated. Unfortunately, very little social scientific evidence has accumulated on the use and abuse of nonlethal force, and little effort seems to have been made to consider whether the theories applied to other forms of behavior apply equally well (or at all) to the use of nonlethal force.[2]

This chapter seeks to connect theories of police behavior with new evidence on the use of force by police. First, I briefly review the theories of police behavior, along with the evidence that bears on those theories, drawing principally from empirical analyses of arrest and of deadly force. I then review the handful of studies that have examined the use of nonlethal force, and evaluate the data—collected through in-person

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[1] However, the converse—that every theory has implications for reform—is *not* true.

[2] See, for example, Sherman (1980b), whose discussion of violence by police focuses almost exclusively on the use of deadly force.

observation of police officers—on which most of these analyses are based. I then turn to the new empirical evidence on the use of force, which is also based on an analysis of observational data. I conclude by discussing whether and how further research might contribute to the development of theory and to the deliberation about reform.

I. THEORIES OF POLICE BEHAVIOR

Existing research on police behavior reflects the diverse training and backgrounds of those who study the police—sociologists, political scientists, psychologists, and others. Even so, much of this research can be subsumed within three explanatory rubrics: sociological, psychological, and organizational.

A. Sociological Theory

One prominent sociological approach to understanding the behavior of police officers is based on the premise that police behavior is influenced by the social dynamics of police-citizen encounters. For example, Donald Black's sociological theory of law holds that the "quantity of law" is influenced by the social attributes of concerned parties—victims and suspects, or plaintiffs and defendants, as well as the agents of social control themselves (see especially Black 1976).[3] According to this theory, police officers are least likely to take legal or other coercive action against lower status persons—especially the poor, and racial and ethnic minorities—whose accusers are also of low status, but more likely to take such action against lower-status persons whose accusers are of higher status (Black 1980: ch. 1). Somewhat more generally, this line of inquiry has directed analytical attention to the structural characteristics of the situations in which officers and citizens interact: the social class, race, and gender of complainants, and their dispositional preferences—i.e., whether they want offenders arrested, or prefer that offenders not be arrested; the social class, race, age, gender, sobriety, and demeanor of suspects; the seriousness of the offense (if any); the nature of the

relationships between complainants and suspects; the visibility of the encounters (whether they transpire in public or private locations, and whether bystanders are present); the numbers of officers at the scene; and the character of the neighborhoods in which encounters take place. From this theoretical perspective, these "situational" factors (Sherman 1980a) are the cues on which officers form judgments about how incidents should be "handled" (Berk and Loseke 1980-81). Perhaps the most comprehensive and succinct statement of this explanatory approach is Bittner's, who posited that "the role of the police is best understood as a mechanism for the distribution of non-negotiably coercive force *employed in accordance with the dictates of an intuitive grasp of situational exigencies*" (Bittner 1970: 46).

Most empirical research that is grounded in this theory has examined the use of arrest powers (e.g., Black 1971; Lundman 1974; Smith and Visher 1981; also see Sherman 1980a: 77-85). This research has consistently shown that arrest is influenced by the demeanor of suspects—arrest is more likely if the suspect is antagonistic or disrespectful to police (but cf. Klinger 1992, 1994; also see Lundman 1994, and Worden and Shepard 1994)—and by the preferences of complainants (if any)—arrest is more likely if complainants wish to press charges, and less likely if complainants express a preference for informal dispositions. This research has also produced somewhat inconsistent results. For example, some analyses indicate that nonwhite suspects are more likely than white suspects are to be arrested (Lundman 1974; Smith and Visher 1981), while others show that the relationship between race and arrest is either null (Berk and Loseke 1980-81; Worden and Pollitz 1984; Smith and Klein 1984; Worden 1989) or spurious—that black suspects are more likely to be arrested because they are more likely to be disrespectful, and that race has no independent effect (Black 1971; Sykes and Clark 1975; but cf. Black 1980: ch. 5; Smith, Visher, and Davidson 1984).[4] Overall, research of this genre has demonstrated that officers' arrest decisions are influenced by situational factors; but it also shows that at least half

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[3] Black holds that the quantity of law can be conceived as a continuous variable, but quantitative research on police has with few exceptions conceived and measured it as a dichotomy.

[4] I return to the issue of race below, when I review studies of the use of nonlethal force. Also see Locke (in this volume).

of the variation in arrest remains unexplained by this theoretical perspective.

Research on the use of deadly force has dwelt on one hypothesis that is quite compatible with this theory, namely that minorities are more likely to be shot (or shot at) by police. The empirical evidence confirms that minorities are, in fact, overrepresented among the human targets at which police shoot, relative to their numbers in city populations, but it also indicates that minorities are overrepresented among those whose actions precipitate the use of deadly force by police (e.g., Milton, et al. 1977; Fyfe 1980a, 1981b; Blumberg 1981; Geller and Karales 1981b; Alpert 1989; see generally, Geller and Scott 1992). Insofar as this alternative explanation for the racial disparities is captured in the available data (e.g., on felony arrests), this hypothesis—that minorities are more likely to be the objects of police deadly force merely because of their race—has, then, received support in only a few analyses (Meyer 1980, Geller and Karales 1981a: 123-25, Fyfe 1982).

B. Psychological Theory

A second approach to understanding the behavior of police officers is psychological. This approach highlights variation among officers in their behavioral predispositions, variation that is obscured by the sociological approach. This perspective directs attention to the outlooks and personality characteristics that presumably produce different responses to similar situations by different officers. This perspective also underlies many propositions (or suppositions) about behavioral differences related to officers' race, gender, and educational background, inasmuch as black officers, female officers, and college-educated officers are supposed to have outlooks that differ from their white, male, less-educated colleagues, and these differences in attitude are presumed to manifest themselves in officers' behavioral patterns. Hypotheses that specify a linkage between attitudes and behavior have intuitive appeal, but social psychological research has shown that people's behavior is often inconsistent with their attitudes; one review of this research concluded that "in most cases investigated, attitudes and behaviors are related to an extent that ranges from small to moderate in degree" (Schuman and Johnson 1976: 168).

This theory (or some version thereof) is

reflected in portions of the report by the Christopher Commission (Independent Commission on the Los Angeles Police Department 1991), which identified a small group of "problem officers" who were disproportionately involved in incidents in which force was either used or allegedly misused. In its discussion of problem officers, the commission reported its findings, from a survey of Los Angeles Police Department (LAPD) officers, that "a significant percentage...agreed with the statement that 'an officer is justified in administering physical punishment to a suspect who has committed a heinous crime' (4.9 percent) or 'to a suspect with a bad or uncooperative attitude' (4.6 percent)" (p. 34). The commission could not link officers' survey responses with departmental data on uses of force or on personnel complaints, and it acknowledged that "the precise size and identity of this problem group cannot be specified (at least without significant further investigation)" (p. 38). However, the commission rejected the alternative explanation that officers' assignments (to active, high-crime areas or to specialized units) produced these skewed distributions of use of force involvement. While the commission focused on what management could and should do after-the-fact, once these problem officers were identified, it implicitly presumed that the outlooks or personalities of these officers are at the root of their seemingly distinctive behavioral patterns.[5]

One more specific hypothesis might be that officers who are predisposed to use force have "authoritarian" personalities (Balch 1972, and more generally, Adorno, et al. 1950). Research on the personality characteristics of police has been concerned primarily with whether officers are psychologically homogeneous and, moreover, different as a group from the general public. These efforts to establish a modal (and pathological) "police personality" have proven no better than inconclusive (Balch 1972, cf. Lefkowitz 1975). Moreover, such analysis is misguided if one seeks to account for behavioral variation among officers. As Toch (in this volume) suggests, these findings do not refute the proposition that those officers who score high on indices of

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[5] See Toch (in this volume) for a more thorough assessment both of the commission's analysis of problem officers and of violence-prone officers more generally.

authoritarianism are also those who use force with unusual frequency. Unless research examines officers' authoritarianism or other personality traits as characteristics that vary among officers, then these concepts will be of no value in explaining officers' use of force.

The richest discussions of psychological hypotheses about police behavior can be found in studies that have constructed four-fold typologies of police officers (White 1972, Muir 1977, Broderick 1977, Brown 1981), each typology based on two (or in one case, three) attitudinal dimensions. For example, William Muir (1977) classifies officers according to their outlooks on human nature and their moral attitudes toward coercive authority. Although these four studies together define 16 categories of officers, a careful comparison of the types of officers described in these studies shows that five composite types can be isolated (Worden forthcoming). These types do appear to differ in their propensities to use force.

One type of officer, for which I have borrowed White's (1972) label of the "tough cop," is perhaps the most likely to use force improperly. Tough cops are cynical, in the sense that they presume that people are motivated by narrow self-interest. They conceive the role of police in terms of crime control, focusing especially on "serious" crime, and they see themselves as a negative force in people's lives. They believe that the citizenry is hostile toward police, and they identify with the police culture. They believe that experience and common sense are the best guides in dealing with the realities of the street, and that "curbstone justice" is sometimes appropriate and effective.

By contrast, "problem-solvers" (also White's term) have what Muir (1977) calls a "tragic" perspective: they recognize that people's actions are influenced by complex sets of physical, economic, and social circumstances, and not simple self-interest. They conceive the role of police as one of "offering assistance in solving whatever kind of problem...[their clientele] face" (White 1972: 72), and thus they see themselves as a positive force. They are skeptical of traditional police methods, as they are unable to reconcile the use of coercive measures with their moral codes. This type of officer is probably the least likely to use force improperly (or at all).

The descriptions of these and the other types of officers (Worden forthcoming) suggest that, if

there are officers with pronounced propensities to use force, they share several outlooks that distinguish them from other officers.[6] Officers who are the most likely to use force could be expected to (a) conceive the police role in narrow terms, limited to crime-fighting and law enforcement, (b) believe that this role is more effectively carried out when officers may use force at their discretion, and (c) regard the citizenry as unappreciative at best and hostile and abusive at worst.[7]

Much of the evidence that supports psychological hypotheses about police behavior is impressionistic, based on limited and/or unsystematic observation of officers. The few efforts to systematically test these hypotheses have produced little or no support. Brown's (1981: ch. 9) analysis, based on officers' responses to hypothetical scenarios, indicates that—as hypothesized—there is more variation across than

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[6] The other types are "professionals," "clean-beat crime-fighters," and "avoiders" (see Worden, forthcoming):

> "Professionals...are...willing to use coercive means to achieve desirable ends, but they use it with a keen sense of when, and in what proportion, it is necessary. ... [T]hey believe that...the application of the law should be tempered by a sensitive appreciation of its consequences, justifying the enforcement of the law in terms of helping people. ...[T]hese officers are neither overly aggressive on the street nor resentful of legal restrictions on their authority."

> "Clean-beat crime-fighters...stress the law enforcement function of the police. ...[T]hey justify uniform (non-selective) enforcement in terms of its deterrent effect." They are very energetic and aggressive on the street, although they lack the street sense of the tough cop.

> "Avoiders...[are] unable to cope with the characteristic exigencies of police work. ...[T]hey prefer to do as little police work as possible, only that amount of work necessary to meet the minimum expectations of supervisors; otherwise, they adopt what has elsewhere been called a 'lay-low-and-don't-make-waves' approach to policing."

[7] Also see Lester (in this volume).

within categories of officers in the ways that they handle common incidents (such as family disputes and drunk driving), but it also shows that officers' behavior is affected by the organizational context in which they work; behavior is not a simple extension of attitudes, as organizational and other social forces can attenuate the impact of attitudes on behavior. Snipes and Mastrofski (1990) undertook a small-scale examination of hypotheses derived from Muir's framework, by conducting in-depth interviews with and observations of nine officers in one department; they found little consistency between officers' attitudes and behaviors, and little consistency in each officer's behavior from one incident to the next. My own analyses (Worden 1989) indicate that officers' attitudes are only weakly related to their discretionary choices—in the initiation and disposition of traffic stops, in the initiation of field interrogations, and in the disposition of disputes. The results of these studies certainly do not constitute evidence sufficient to reject psychological hypotheses, however, and none of these studies examined the use of force. But these findings suggest that the connections between officers' attitudes and behavior are probably more complex (and perhaps more tenuous) than many have supposed.

A larger body of evidence has accumulated on the relationship of officers' behavior to their background and characteristics—race, gender, length of police service, and especially education. Officers' educational background has been the subject of a number of studies, and although this research has shown that education bears no more than a weak relationship to officers' attitudes (e.g., Weiner 1974, Miller and Fry 1976, Hudzik 1978, Worden 1990) and no relationship to the use of deadly force (Sherman and Blumberg 1981), it also indicates that college-educated officers generate fewer citizen complaints (Cohen and Chaiken 1972, Cascio 1977). The reason for this difference is not clear (but see Worden 1990: 589).

Similarly, the most systematic comparison of male and female officers shows small or no differences in attitudes other than job satisfaction (Worden 1993). Other research reveals some behavioral differences—in the frequency with which men and women initiate encounters and make arrests—but on most behavioral dimensions the differences are nil (Bloch and Anderson 1974, Sherman 1975, cf. Grennan 1987). One

study of the effects of officers' race on behavior (Friedrich 1977: 307-319) found that black officers patrol more aggressively, initiate more contacts with citizens, are more likely to make arrests, and more frequently adopt a neutral "manner" toward citizens of either race. Other research has found that black officers are more likely than white officers are to use deadly force, either on-duty (Geller and Karales 1981a, 1981b) or on- *and* off-duty (Fyfe 1981a); but these differences in the use of deadly force can be attributed to black officers' duty assignments and to where they choose to live (also see Blumberg 1982). Finally, analyses of officers' length of service indicate that less experienced officers are more active, in that they patrol more aggressively and initiate more contacts with citizens, and that they are more likely to make arrests, to write crime reports (Friedrich 1977: 280-290, Worden 1989), and to use deadly force (Blumberg 1982, cf. Alpert 1989).

C. Organizational Theory

Some approaches to understanding the behavior of police officers emphasize features of the organizations in which officers work. A theory that highlights organizational properties as influences on police behavior would seem to hold the greatest potential as a guide for police reform, since organizational factors are more readily manipulated than are the demeanors of suspects or the outlooks of officers. Unfortunately, organizational analyses of police are seldom undertaken, probably because of the expense and difficulty of collecting comparable data on multiple police agencies, and thus organizational theories of police behavior are not well supported by empirical evidence.

One theory emphasizes the influence on police officers' behavior of the formal organizational structure, especially the system of incentives and disincentives and the content and application of rules and regulations. The principal statement of this approach is Wilson's (1968), whose exploratory research formed the basis for the delineation of three organizational styles of policing—the legalistic, watchman, and service styles—and for hypotheses that these styles can be attributed to the orientations of chiefs, which influence officers' behavior through the medium of organizational structure. While Wilson acknowledges that the capacity of police adminis-

trators to shape officers' behavior is constrained by the nature of police tasks, he seems to see the glass of managerial influence as half (or partly) full rather than half (or partly) empty. Wilson's study has more to say about the use of the law than about the use of physical force; however, it suggests that improper force is more likely to be used by officers in watchman style departments, usually in response to perceived disrespect for police authority. Some research has tested hypotheses derived from Wilson's framework (Gardiner 1969, Wilson and Boland 1978, Smith 1984) with results that are generally supportive, but only Friedrich (1980), whose study I discuss below, tested hypotheses about the use of force.

Some research on the use of deadly force has shown rather convincingly that administrative controls can have salutary effects on the frequency with which officers use their firearms. Policies that set clear boundaries around the use of deadly force and that provide for effective enforcement (by, say, establishing review procedures) have reduced the number of shootings (Fyfe 1979b, 1982; Meyer 1980; Sherman 1983), especially the more discretionary or "elective" shootings (Fyfe 1988a: 184-87). Whether such controls are, by themselves, equally effective in controlling the use of nonlethal force is an open question in the sense that no study has produced an empirical answer. But there is good reason to be skeptical; the use of deadly force is a more visible act—or, more precisely, an act with more visible outcomes—which probably makes this form of behavior more susceptible to administrative controls.

Another theory emphasizes the limitations of formal structure in directing and controlling the behavior of patrol officers and the importance of the informal organization or peer group, i.e., the police culture. According to this perspective, the formal, more obtrusive controls on police—rewards and punishments, rules, regulations, and SOPs—extend to the more observable and, for the most part, more mundane aspects of police work, such as the use of equipment, report writing, and officers' appearance (Manning 1977, Brown 1981, more generally see Prottas 1978). At the same time, the application of unobtrusive controls on police, in the form of socialization and training, is governed by the work group. Analyses of the socialization process are quite scarce, but the available evidence indicates that new officers learn the police craft on the job (not

in the academy) from more senior officers, especially their field training officers or FTOs (Van Maanen 1974, Fielding 1988). Rookies are quickly led to believe that their academy experience was merely a rite of passage, that the training they received there is irrelevant to the realities of policing, and that they will learn what they need to know on the street. Thus, according to this line of argument, the police culture is not only the primary reference group for officers but also the principal mechanism of organizational control (to the extent that control is exerted at all) over the substantive exercise of police discretion.

One must be careful not to confuse what has been called the police culture with the cultures of police organizations. "The" police culture is an occupational culture, consisting of outlooks and norms that are commonly found among patrol officers in police agencies. This culture emphasizes the danger and unpredictability of the work environment, the consequent dependence of officers on each other for assistance and protection, officers' autonomy in handling situations, and the need to assert and maintain one's authority (Westley 1970, Skolnick 1975, Brown 1981, Manning 1989). The police culture does not prescribe the substance of officers' working styles so much as it serves to protect officers from administrative scrutiny and sanction and to insulate them from administrative pressures for change (Reuss-Ianni 1983); thus it allows officers the latitude to develop and practice their own styles.[8] These cultural elements can, presumably,

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[8] Brown (1981) makes the argument that one of the core themes of the police culture is individualism, and Fielding (1988) maintains that some officers ostensibly go along with the dominant value system but "once confident of their place, and ability to use the necessary justifying rhetoric in relation to their own complex of values, officers begin to move in and through the culture to secure their own ends" (p. 185). However, many other (less convincing) accounts of the police culture tend to highlight the forces that have homogenizing effects, both on officers' outlooks and on their behavioral patterns; little attention is given to the differing interpretations of and conformity with the norms of the culture. For example, Hunt (1985) describes the effects of peers on individual officers' conceptions of proper force and their justifications for the use of force, and while she also observes that some "violence-prone" officers repeatedly "exceed

be found among patrol officers in all or most police agencies.

One may find variation in the *organizational* cultures of police departments, even while one finds consistency in the elements of the *occupational* culture. Wilson maintains that the administration of police departments produces differing styles both directly, by shaping the calculus on which officers' choices are based, and indirectly, by cultivating a "shared outlook or ethos that provides for [officers] a common definition of the situations they are likely to encounter and that to the outsider gives to the organization its distinctive character or 'feel'" (1968: 139). Officers in both legalistic and watchman departments might subscribe to a norm of loyalty, but according to Wilson's analysis, they would differ in their beliefs about the nature of the police role and about the proper use of police authority. Brown (1981) disputes this argument, finding officers with very different individual styles within each of the three departments he studied. These arguments can perhaps be reconciled, inasmuch as any organization that is differentiated by task and authority might well develop multiple subcultures (Reuss-Ianni 1983; Worden and Mastrofski 1989; Jermier, et al. 1991), and even where multiple subcultures exist among patrol officers, one may predominate. Unfortunately, the distinction between the occupational culture of police and the organizational cultures of police departments is seldom made; most previous research has attended to the former but ignored the latter.

The report of the Christopher Commission makes reference to both of these theories. The commission identified LAPD's "assertive style of law enforcement" as a reason for "aggressive confrontations with the public" (Independent Commission on the LAPD 1991: 97), and traced this style of policing to a "'professional' organizational culture" that has been cultivated by LAPD administration through training and the incentive structure. Officers in the LAPD are rewarded for hard-nosed enforcement that is likely to (occasionally) produce arrests and (often) bring police into conflict with citizens. The commission further found that the adminis-

tration of the LAPD fails to discourage the improper use of force, in that (a) the complaint intake process discourages citizens from filing complaints, (b) many complaints that are filed are not substantiated as a result of inadequate resources and procedures for investigating complaints, and (c) the sanctions imposed on officers against whom complaints have been substantiated have been too light, both as a deterrent and as a message that such behavior is inappropriate. Like Wilson (1968), then, the commission concluded that the LAPD's incentive structure influences officers' behavior directly, and that there is a link between the (formal) administrative structure and the (informal) organizational culture. The implications for administrative practice are fairly straightforward: reduce the incentives for hard-nosed enforcement and increase the sanctions for the improper use of force.[9]

But the commission also acknowledged the limitations on the formal structure in controlling police conduct, reporting that "perhaps the greatest single barrier to the effective investigation and adjudication of complaints is the officers' unwritten 'code of silence,' [which] consists of one simple rule: an officer does not provide adverse information against a fellow officer" (p. 168). From this conclusion one cannot easily draw practical implications, and the commission's recommendations do not address this "barrier." Since this culture originates to a significant degree in the nature of the work itself, and is not unique to LAPD or even to policing (see Gouldner 1954), it is not likely to be altered by traditional organizational reforms (Van Maanen 1974, Toch 1979).

This analysis of the LAPD is instructive, to be sure, but it suffers all the limitations of a case study. Indeed, the LAPD depicted in the Christopher Commission report (circa 1991) may repre-

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working notions of normal force" and are "not effectively held in check by routine means of peer control" (p. 336), her analysis does not allow for officers who use less than "normal" force.

[9] Such a shift in expectations and incentives could perhaps be effected with the adoption of community policing, which the commission recommended. That such a model of policing—and of police administration—would reduce the incidence of improper force is itself a largely untested (albeit plausible) hypothesis. For a theoretically-rich and illuminating study that offers some support for this proposition, as well as a sobering account of the likely obstacles to implementing this model, see Guyot (1991); also see Goldstein (1987).

sent an extreme and unrepresentative case, where formal and informal organizational forces tend to reinforce one another in producing an aggressive style of policing and an elevated probability of the use of force. Most American police departments are smaller, less bureaucratic, and appear to be less insulated from the communities they serve;[10] as a result, the formal expectations in such departments might be less clearly crime-control oriented, and the potentially restraining influence of administrative controls might be greater. Any characterization of the problem of police brutality must take this variation among departments into account. So, too, must *research* on police brutality, because if large departments can be structured to simulate the relevant conditions that prevail in smaller departments, there is much to be learned by studying small and medium-sized police departments.

Internally, one might expect that in smaller police departments, which typically have fewer levels of hierarchy, administrators could more closely monitor and supervise street-level performance by taking advantage of the less distorted information that flows through the shorter formal channels of communication, and of the greater information that flows through the wider informal channels of communication (Whitaker 1983). In principle, managers in smaller agencies could more directly and hence effectively communicate their priorities and expectations to street-level personnel. In addition, since they need not rely so heavily on statistical summaries of individual performance, managers can base their evaluations of officers' performance on a richer and probably more accurate base of information; consequently, patterns of (problematic) behavior are likely to be more readily detectable, and the incentive system need not emphasize quantifiable, enforcement-related activities at the expense of the more qualitative aspects of police performance. Brown's (1981) analysis, even while it led him to conclude that the police culture is more important than formal organizational structure in shaping the exercise of police discretion, also confirms the expectation that administrative controls are more palpable in smaller departments, where Brown found that officers are more reluctant to

take the risk of administrative sanction that they would run by practicing an aggressive style of patrol. Furthermore, insofar as work groups are more stable in smaller departments, immediate supervisors could be expected to more frequently and effectively play an instrumental role in the development of subordinate officers' judgment and moral outlooks (see Muir 1977).

Externally, one might expect that smaller agencies would be subject to closer oversight both by the public and by its representatives. Insofar as smaller municipalities are more homogeneous and their residents are in greater agreement about the delivery of police services, public officials have less latitude in setting policy and priorities (Wilson 1968). Citizens in smaller municipalities also might take a more active part in local affairs (Dahl 1967), so that municipal officials might better apprehend citizens' preferences regarding municipal services. Moreover, if in smaller municipalities public officials — including councillors, mayors, and city managers — play more active roles in policymaking and oversight (Mastrofski 1988), then one might expect that the direction of administrative influence in their police departments would be more toward restraint and less toward aggressive enforcement, inasmuch as aggressive policing could be expected to generate political friction from which the department is not insulated.

II. THEORY AND RESEARCH ON THE USE OF FORCE

As Reiss (1968a) points out, "what citizens mean by police brutality covers the full range of police practices," including the use of abusive language and seemingly unjustified field interrogations; but "the nub of the police-brutality issue seems to lie in police use of physical force." Of course, some of the problems with which police deal may require the use of force, and under many of these circumstances the line between proper and improper force is a rather fuzzy one; where force is necessary, judgments must be made about the *amount* of force that is reasonable. Whenever judgments must be made, some misjudgments are probably inevitable; such cases of *excessive* force involve the use of more force than is reasonably necessary. Other cases of improper force, however, involve the use of force where *none* is necessary; these are instances of *unnecessary* force. Reiss (1968a) focused mostly

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[10] About half of all local police agencies employ fewer than 10 full-time sworn officers (Reeves 1993: 9).

on such cases of gratuitous violence by police; he explains:

"A physical assault on a citizen was judged to be 'improper' or 'unnecessary' only if force was used in one or more of the following ways:

■ If a policeman physically assaulted a citizen and then failed to make an arrest; proper use involves an arrest.

■ If the citizen being arrested did not, by word or deed, resist the policeman; force should be used only if it is necessary to make the arrest.

■ If the policeman, even though there was resistance to the arrest, could easily have restrained the citizen in other ways.

■ If a large number of policemen were present and could have assisted in subduing the citizen in the station, in lock-up, and in the interrogation rooms.

■ If an offender was handcuffed and made no attempt to flee or offer violent resistance.

■ If the citizen resisted arrest, but the use of force continued even after the citizen was subdued."

It may be important, for both theoretical and policy purposes, to distinguish between the use of *excessive* force and the use of *unnecessary* force. Although this distinction rests on overt and thus observable behavior, it is admittedly an elusive one, inasmuch as officers not only respond to situations but also help to create them; sometimes, officers' choices early in police-citizen encounters can contribute to the emergence of circumstances that require the use of force (Binder and Scharf 1980, Bayley 1986; also see Klockars, in this volume). Insofar as these two forms of behavior can be distinguished, we may find that they are sufficiently different phenomena that each of them is influenced by a different set of situational, individual, and organizational factors. We may also find that interventions intended to reduce excessive force, such as (re)training officers, have little effect on the incidence of unnecessary force, and, conversely, that other interventions, such as disincentives, have a greater effect on unnecessary force than on excessive force (but cf. Fyfe, in this volume).

Most empirical research on the use of nonle-

thal force by police is based on data collected through the observation of officers on patrol. Generally, observation of police enables one to collect data on forms of behavior that cannot be reliably measured based on other sources. These are the forms of behavior that are least visible, such as field stops or the resolution of disputes, and that often result in no official record. Observation also enables one to collect data on the setting in which police action takes place; even when such information is contained in officers' reports, it is frequently incomplete or of dubious validity. Analyses of observational data make unique contributions to our understanding of police use of force, since observation by independent observers enables one to enumerate, describe, and analyze instances in which force is used, whether or not they result in citizen complaints or departmental disciplinary actions. Like survey data on victimizations, which uncover the "dark figure" of unreported crime, observational data on police behavior reveal unreported instances of police use of force (see Adams, in this volume).

Observational data are not without shortcomings, as they may be biased as a result of "reactivity"—that is, officers might refrain from the use of force in some instances due only to the presence of observers. But efforts to assess the bias introduced by reactivity suggest that the validity of observational data, in general, is quite high (Mastrofski and Parks 1990); moreover, evidence shows that the relationships between some forms of police behavior and other variables (such as characteristics of the situation) are unaffected by reactivity (Worden 1989: fn 8). As Reiss (1971b: 24) observes, "...it is sociologically naive to assume that for many events the presence or participation of the observer is more controlling than other factors in the situation." More specifically, based on the results of one observational study (to be discussed below), Reiss maintains that "...the use of force by the police is situationally determined by other participants in the situation and by the officer's involvement in it, to such a degree that one must conclude the observer's presence had no effect" (Reiss, 1971b: 24, also see Reiss 1968a, 1968b). At a minimum, the bias in observational data is almost certainly no greater, and probably less, than that in archival data.

The first large-scale observational study of police was undertaken by Black and Reiss (1967)

for the President's Commission on Law Enforcement and Administration of Justice. This research was conducted during the summer of 1966 in Boston, Chicago, and Washington, D.C. Observers accompanied patrol officers on sampled shifts in selected high-crime precincts. "In the data collection, emphasis was placed upon gaining detailed descriptions of police and citizen *behavior*.... The social and demographic characteristics of the participants as well as a detailed description of the settings and qualities of the encounters were also obtained" (Black and Reiss 1967: 15; emphasis in original).

Reiss (1968a, 1971a) applied a sociological approach to police brutality in analyzing these data. He describes the incidents in which officers used undue force in the following terms:

> "Seventy-eight percent of all instances where force was used unduly took place in police-controlled settings, such as the patrol car, the precinct station, or public places (primarily streets). Almost all victims of force were characterized as suspects or offenders. They were young, lower-class males from any racial or ethnic group. Furthermore, most encounters were devoid of witnesses who would support the offender. In general, persons officers regarded as being in a deviant offender role or who defied what the officer defines as his authority were the most likely victims of undue force. Thirty-nine percent openly defied authority by challenging the legitimacy of the police to exercise that authority, 9 percent physically resisted arrest, and 32 percent were persons in deviant offender roles, such as drunks, homosexuals, or addicts" (Reiss 1971a: 147-149).

Reiss also points out, however, that "many instances where the citizen behaved antagonistically toward the police officer and many encounters with deviants did not involve uncivil conduct or misuse of force by the police" (1971a: 149), and, more generally, that police-citizen encounters do not follow a rule of reciprocity in incivility—"whenever incivility occurs in an encounter, the chances are only 1 in 6 that the other party will reciprocate with incivility" (1971a: 144).

In a 1980 article, Robert Friedrich reviewed the problems with then-existing research on police use of force and outlined three approaches to explaining police use of force—"individual," "situational" and "organizational"—that correspond to the theories discussed above. From each approach, he pointed out, one can derive a number of specific hypotheses about the use of force; using the Black-Reiss data, Friedrich tested some of those hypotheses to produce what was at that time the most thorough and sophisticated analysis of the phenomenon.

Friedrich found, first, that physical force was used only infrequently by police, and that the use of excessive force was still less frequent. Force was used in 5.1 percent of the 1,565 encounters that involved suspected offenders (and in only one of the remaining 3,826 incidents that involved no suspects). "Excessive" force was used in 1.8 percent of the encounters with suspects, or in no more than 29 incidents.[11]

Friedrich further found that situational, individual and organizational hypotheses were with few exceptions unsupported by the data. Bivariate and multivariate analyses showed that characteristics of the police-citizen encounters bore the strongest relationship to the use of force, which was more likely if the suspect was antagonistic, agitated, intoxicated, or lower-class, if the offense was a felony, and if other citizens or officers were present. Be that as it may, situational characteristics together had no more than modest explanatory power. The characteristics of officers—their length of service, attitudes toward the job, race, and (among white officers) attitudes toward blacks—accounted for little of the (limited) variation in the use of force. Differences across departments were of marginal significance and, moreover, did not conform to Friedrich's expectations. The incidence of the use of force overall, and of improper force particularly, was (as Friedrich hypothesized) somewhat lower in the "professional" department (Chicago) than in

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[11] Reiss's (1968a) analysis of the same data reports that force was used improperly in 37 cases. Friedrich's analysis rests on the characterizations of the coders, who "examined pertinent passages of the observation reports to determine if physical force had been used and if it was justified in terms of self-defense or the need to make an arrest," while Reiss "had an expert panel decide whether or not force on the order of an aggravated assault was used" (1980: fn. 12; also see Reiss, 1968a).

the "traditional" department (Boston); but the incidence of force, and especially of improper force, was (contrary to Friedrich's hypotheses) lowest in the "transitional" department (Washington).[12]

Other analyses of the use of nonlethal force tend to corroborate Friedrich's findings. Analyses of other observational data have shown that force is used infrequently. Sykes and Brent (1980, 1983) analyzed sequences of interactions between officers and citizens, and they concluded that officers "regulate" or control their interactions with citizens primarily by asking questions or making accusations, and secondarily by issuing commands; they found that "coercive regulation [including threats as well as the actual use of force] is rare" (1980: 195). Bayley and Garofalo (1989), who conducted a smaller-scale observational study under the auspices of the New York State Commission on Criminal Justice and the Use of Force, found that even in encounters that qualified as "potentially violent mobilizations," police used force in only 8 percent, and that the force "consisted almost exclusively of grabbing and restraining" (p. 7) (see also Adams, this volume).

Croft (1985) analyzed reports of the use of force filed by officers in the Rochester, N.Y., Police Department from 1973 through 1979, along with a comparison sample of arrests in which no force was used. Like Friedrich's, Croft's analysis indicates that the use of force was infrequent — 2,397 reported uses of force, and 123,491 arrests over the period — and that it was typically prompted by citizens' actions — threatening or attacking officers and/or other citizens, or attempting to flee. Croft's analysis also suggests that many of the citizens against whom force was used were antagonistic and/or uncooperative, either verbally abusing officers or disobeying officers' commands.[13] Neither gender

nor race bore the expected relationship to the use of force. Furthermore, Croft found that some officers were much more likely to use force than others were, even after controlling for officers' "hazard status," or the risk of "being exposed to police-citizen incidents having a potential for use of force" (p. 160); 119 of 430 officers selected for analysis were classified as "high force" officers, who used force in 6.1 percent or more of the arrests they made. However, "high force" officers could not, for the most part, be distinguished from "low force" officers in terms of their background characteristics; officers' use of force was related only to their age and length of service, and was unrelated to their gender, race, education, prior military service, or civil service test ranking. Neither did the two groups differ in their arrest productivity or in their numbers of citizen complaints, internally-initiated complaints, or disciplinary charges. Thus, this analysis of official police records yields results that mirror those based on observational research.

III. ANALYSIS OF THE POLICE SERVICES STUDY DATA

Data collected for the Police Services Study (PSS) afford another opportunity to analyze police use of force based on in-person observations. The PSS was funded by the National Science Foundation and conducted by Elinor Ostrom, Roger B. Parks, and Gordon P. Whitaker. The study was designed to examine the impact of institutional arrangements on the delivery of police services. The second phase of the PSS provided for the collection of various kinds of data about 24 police departments in three metropolitan areas (Rochester, N.Y.; St. Louis, Mo.; and Tampa-St. Petersburg, Fla.); attention focused particularly on 60 neighborhoods served by those departments. During the summer of 1977, trained observers accompanied patrol officers on 900 patrol shifts, 15 in each of the 60 neighborhoods. Observers recorded information about 5,688 police-citizen encounters in field notes and later coded that information on a standardized form; in many cases, narrative accounts of the encounters were also prepared.

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[12] These expectations were based largely on Wilson's (1968) analysis of police styles and the organizational contexts with which they are associated. In the light of more recent research, especially Brown's (1981), it should be clear that these expectations are faulty. For many years, the Los Angeles Police Department was regarded as the epitome of police professionalism; elements of that professionalism, we now realize, may make the use of force *more* likely.

[13] Her analysis also shows that when citizens in

these incidents verbally abused or disobeyed officers, officers typically responded by issuing a command, whereupon citizens attacked the officers.

In addition, the observed officers (and samples of other officers) were surveyed. These data form the principal basis for the analyses reported below.

Compared with the Black-Reiss data and other observational data, the PSS data are broader and deeper. The Black-Reiss study focused on high-crime precincts in three major cities. The departments included in the PSS range in size from one with only 13 officers to one with over 2,000, serving municipalities whose populations range from 6,000 to almost 500,000. Within jurisdictions, neighborhoods were selected with explicit reference to racial composition and wealth to ensure that different types of neighborhoods were represented. The departments and neighborhoods provide a rough cross-section of organizational arrangements and residential service conditions for urban policing in the United States. Thus, the PSS data provide a much firmer basis for generalizing about police practices in American metropolitan areas (and not only in urban, high-crime areas).

A. The Use of Force

While they were observed for the PSS, officers used no more than reasonable force to restrain or move a citizen in 37 encounters.[14] In 23 encounters, officers used force that the observer judged to be unnecessary or excessive;[15] in three of those, officers hit or swung at citizens with a weapon.[16] This analysis will focus on these two categories of behavior, i.e., the use of reasonable force, and the use of improper (i.e., unnecessary or excessive) force. It should be

obvious already that the use of force was uncommon, and the use of improper force was rare as a proportion of police-citizen encounters. According to the coded data, reasonable force was used in less than one percent of the encounters, and improper force was used in less than one-half of one percent; in encounters with suspects, who one would presume to be the most likely targets of police force, reasonable force was used in 2.3 percent, and improper force in 1.3 percent. Even so, incidents in which improper force was used represent a substantial proportion of the incidents in which any force (reasonable or improper) was used (Adams, in this volume).

This trichotomization of officers' behavior—no force, reasonable force, improper force—for present analytic purposes should be recognized for what it is: a simplification. Officers' use of force can be conceived (if not precisely measured) along a continuum, say from minimal force to extreme (even deadly) force; these differences of degree are largely lost in this trichotomy. Moreover, this conceptualization of officers' behavior also obscures differences in the use of improper force, but the PSS data do not permit one to reliably differentiate the use of excessive force from the use of unnecessary force.[17]

Table 1 displays the characteristics of encounters in which reasonable force was used, encounters in which improper force was used, and for reference, all encounters, and all encounters that involved suspected offenders (other than traffic violators). To illustrate, 3.7 percent of all 5,688 encounters involved a violent crime, and 16.8 percent involved a nonviolent crime; 5.8 percent of the 1,528 encounters with (nontraffic) suspects involved a violent crime, and 9.8 percent involved a nonviolent crime. These data indicate that most encounters in which force is used do not take place in seclusion: most transpired (in public locations, and in three-quarters a number

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[14] According to a PSS memorandum (coding update number 3, dated 29 May 1977), this category encompasses "instances where the officer is attempting to make a citizen come with him, or is attempting to separate citizens who are fighting, or similar acts. The sense here is that the officer is restraining or moving the citizen without the intent to beat the citizen."

[15] The aforementioned PSS coding memo specifies that this code should be used "for instances where the officer is 'kicking ass'."

[16] A gun was *drawn* by one or more officers in each of 53 encounters, and in one of those the gun was fired (albeit at a rattlesnake); another type of weapon was drawn in 33 encounters.

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[17] The coded data provide little information about the temporal sequences of events. For example, the data indicate whether the citizen fought with the officer and whether the officer(s) used improper force, but they do not indicate whether the force preceded the citizen's resistance or continued after the resistance ceased—a case of unnecessary force—or the force was more than that required to subdue the citizen—a case of excessive force.

Table 1
Characteristics of Encounters

	All Encounters	Encounters with Suspects*	Reasonable Force Used	Improper Force Used
Type of Problem				
Violent crime	3.7	5.8	21.6	21.7
Nonviolent crime	16.8	9.8	16.2	13.0
Suspicious circumstances	10.0	23.8	13.5	13.0
Interpersonal conflict	8.6	20.8	24.3	13.0
Dependent person	4.8	4.9	5.4	17.4
Morals offense	1.4	3.7	2.7	0.0
Public nuisance	9.1	20.8	10.8	13.0
Traffic	22.6	--	5.4	0.0
Medical problem	1.8	0.1	0.0	0.0
Assistance	8.8	3.9	0.0	0.0
Information	6.3	0.7	0.0	0.0
Internal operations	4.4	3.8	0.0	8.7
Other/miscellaneous	1.7	2.0	0.0	0.0
Car chase	0.9	0.5	2.7	13.0
Location				
Street, sidewalk, parking lot	57.2	55.4	59.5	34.8
Public/commercial bldg.	8.4	7.3	10.8	17.4
Private residence	29.4	30.4	24.3	39.1
Other	5.0	6.9	5.4	8.7
Bystanders				
None	52.3	48.2	24.3	17.4
1-3	29.9	26.1	2.7	8.7
4-10	13.9	18.7	37.8	30.4
More than 10	3.8	7.0	35.1	43.5
Other Officers				
None	62.3	44.5	10.8	4.3
One	23.7	32.0	29.7	17.4
2-5	13.0	21.4	46.1	34.8
More than 5	1.0	2.1	13.5	43.5
Supervisor(s) present	9.9	15.8	35.1	60.9
N	5,688	1,528	37	23

* excluding those suspected only of traffic violations

of bystanders were looking on.[18] All but a small fraction of the encounters in which force was

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[18] The location shown in Table 1 is the location at which the encounter began (or at which the observed officer entered). The coded data provide for up to three changes in the location of the encounter, e.g., from inside a house to the front porch, to the squad car, and to the police station. However, these data do not enable one to determine the point (and thus the location) at which the officer(s) used force. The location changed at least once in 26 of the 37 encounters in which reasonable force was used, in 15 to the squad car and in 11 to the police station or jail; both logic and the narrative data suggest that these changes accompanied arrests. The location changed at least once in 13 of the 23 encounters in which improper force was used, in four to the squad car and in seven to the police station or jail. In at least two of these the impropriety consisted of "throwing" suspects into police cars, and in one other it involved excessive force in searching an arrestee at a jail. Otherwise, it appears that improper force was not observed in these locations.

Table 2
Characteristics of Citizens

	All Citizens	Suspects only*	Reasonable Force Used	Improper Force Used
Role				
Suspect	33.0	100	94.9	73.1
Victim	28.3	--	0.0	3.8
Sick/injured person	1.4	--	2.6	7.7
Subject of concern	1.3	--`	0.0	7.7
Person requesting service	13.8	--	2.6	0.0
Witness/person with information	18.4	--	0.0	3.8
Other	3.8	--	0.0	3.8
Race				
White	65.3	53.6	35.9	50.0
Black	32.0	43.4	64.1	50.0
Other	2.1	1.9	0.0	0.0
Mixed	0.6	1.2	0.0	0.0
Gender				
Male	59.8	75.6	84.6	72.0
Female	33.9	18.6	15.4	28.0
Mixed	6.3	5.8	0.0	0.0
Age				
Under 18	16.1	30.9	17.9	19.2
19-35	41.9	45.4	53.8	53.8
Over 35	38.7	20.2	28.2	26.9
Mixed	3.3	3.5	0.0	0.0
Sobriety				
Sober	89.7	77.8	42.1	48.0
Drinking/using	6.1	12.8	15.8	8.0
Drunk/stoned	4.2	9.4	42.1	44.0
Mental Disorder	1.3	2.1	12.8	16.7
Weapon				
None in possession	98.8	96.4	84.6	76.9
Possessed gun	0.4	1.1	5.1	3.8
Possessed knife	0.8	2.5	10.3	19.2
Tried to use	0.1	0.2	2.6	7.7
Demeanor				
Detached	1.5	4.3	10.3	3.8
Hostile, antagonistic	1.8	5.0	23.1	46.2
Other	96.6	90.7	66.7	50.0
Fought with officer	0.3	0.9	17.9	57.7
N	8,666	1,819	39	26

* excluding those suspected only of traffic violations

used also involved one or more officers other than the observed officer, and a substantial fraction also attracted a supervisor to the scene. Force was used disproportionately in those encounters that involved violent crimes, and in those that involved automobile pursuits; but most encounters in which force was used—reasonably or improperly—involved neither of these events. It might be added that none of the encounters in which force was used originated as a suspicion stop or police-initiated field interrogation; indeed,

few of these encounters were initiated by officers. If the use of force is a byproduct of police aggressiveness, then it would seem not to be a *direct* outgrowth of an "aggressive" style of patrol that involves frequently stopping suspicious persons or vehicles (Wilson and Boland 1978; Whitaker, Phillips, and Worden 1984); it might nevertheless be a consequence of an overly assertive or confrontational posture vis-a-vis citizens in any of a number of different contexts.

Table 2 displays the characteristics of the

Table 3
Characteristics of Officers

	All Officers	Reasonable Force Used	Improper Force Used
<u>Race</u>			
White	88.4	83.8	88.9
Black	10.4	13.5	5.6
Other	1.1	2.7	5.6
<u>Gender</u>			
Male	93.6	100	100
Female	6.4	0.0	0.0
<u>Mean Age</u>	30.5	30.5	29.5
<u>Mean Length of Service</u>	6.1	6.2	5.7
<u>Education</u>			
No college degree	68.3	56.8	72.2
Associate's degree	15.8	18.9	16.7
Bachelor's degree	15.9	24.3	11.1
<u>Should quiet family disputes</u>			
No	7.2	5.7	11.1
Yes	92.8	94.3	88.9
<u>Should handle public nuisances</u>			
No	61.6	77.1	83.5
Yes	38.4	22.9	16.7
<u>Should not handle personal problems</u>			
Strongly agree	8.0	13.5	11.1
Agree	24.1	29.7	44.4
Disagree	57.0	51.4	44.4
Strongly disagree	10.9	5.4	0.0
<u>Fewer restrictions on use of force</u>			
Strongly agree	12.4	16.2	27.8
Agree	30.2	35.1	38.9
Disagree	45.7	40.5	33.3
Strongly disagree	11.6	8.1	0.0
<u>Only officers can judge use of force</u>			
Strongly agree	16.8	16.2	11.1
Agree	30.1	37.8	55.6
Disagree	47.9	43.2	33.3
Strongly disagree	5.2	2.7	0.0
<u>Most citizens respect police</u>			
Strongly agree	6.3	2.7	0.0
Agree	69.9	62.2	55.6
Disagree	19.6	29.7	38.9
Strongly disagree	4.2	5.4	5.6
<u>Citizens likely to abuse police</u>			
Strongly agree	11.6	29.7	22.2
Agree	34.7	29.7	55.6
Disagree	47.5	32.4	22.2
Strongly disagree	6.2	8.1	0.0
N	1,069	37	18

citizens against whom force was used, citizens against whom improper force was used, and for reference, all citizens who were involved in observed encounters and all citizens who were initially regarded as suspected offenders. Most citizens against whom the police used force were suspects. That the police used force against some citizens whom observers coded as sick or injured, or as the subjects of concern,[19] might seem curious; but further analysis, of both the coded data and the narrative data, shows that about half of those were citizens who appeared to

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[19] "Subjects of concern" might include, for example, juveniles or drunks—people who could not be expected to care for themselves.

have mental disorders. About half of the citizens against whom force was used showed evidence of drinking or drug use, and most of those were drunk. Nearly half of the citizens against whom improper force was used displayed a hostile or antagonistic demeanor,[20] more than half of them fought with the officer, and one-fifth of them had a weapon. Most of the citizens were adult men, and two-thirds of the adults were young adults; half were black.[21]

Table 3 displays the characteristics of officers who used force, officers who used improper force, and for reference, all surveyed officers with a rank below sergeant.[22] In general (and taking into account the small numbers of officers on which some of the percentages are based), the officers who used force (reasonably or improperly) resemble the larger sample of officers in their race, gender, length of service, and educational background; most were white, all were men, their average length of service was about six years, and most had no college degree. Somewhat greater differences can be found along attitudinal dimensions. Most of the officers who used force agreed that police "should help to quiet family disputes when they get out of hand," but most also indicated that police should *not* "handle cases involving public nuisances, such as barking dogs or burning rubbish"; a majority agreed with the statement that "police should not have to handle calls that involve social or per-

sonal problems where no crime is involved." Two-thirds of the officers who used improper force, and half of those who used force, agreed that "if police officers in tough neighborhoods had fewer restrictions on their use of force, many of the serious crime problems in those neighborhoods would be greatly reduced"; similar proportions agreed that "when a police officer is accused of using too much force, only other officers are qualified to judge such a case." Almost half of the officers who used improper force, and one-third of those who used force, disagreed with the statement that "most people in this community respect police officers"; three-quarters of the former and over half of the latter agreed that "the likelihood of a police officer being abused by citizens in this community is very high."

B. The Effects of Situational Characteristics

The data presented thus far are useful primarily for describing the incidents in which force was used: Table 1 displays for encounters in which force was used, the percentages with specified characteristics. Table 2 displays for citizens against whom force was used, the percentages with specified characteristics. Tables 4 and 5 lend themselves more to the identification of encounter-level correlates of the use of force.

Table 4 breaks down the use of force by the characteristics of encounters; it displays for encounters with specified characteristics, the percentages in which force was used. The more illuminating set of figures is probably that for encounters with suspects, which are those in which the use of force is most likely in the first place. This analysis indicates that the use of reasonable force and the use of improper force (a) are more likely in encounters that involve violent crimes than in those that involve other kinds of problems, (b) are more likely in encounters that involve automobile pursuits than in those that do not, (c) are more likely in encounters with at least four bystanders, and still more likely in encounters that involve 10 or more bystanders, and (d) are more likely in encounters in which more than one officer is involved, and much more likely in encounters in which at least five officers are involved.

Table 5 breaks down the use of force by the characteristics of citizens; it displays for citizens with specified characteristics the percentages

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[20] Each citizen's demeanor was coded at three points in time: at the beginning of the encounter, during the encounter, and at the end of the encounter. This analysis conservatively uses the citizen's demeanor at the beginning of the encounter, lest we confuse antagonistic behavior that prompts the use of force with antagonistic behavior prompted by the use of force.

[21] A small number of the "citizens" coded by observers were actually groups of citizens; if the group was not homogeneous with respect to race, gender, or age, it was coded as "mixed."

[22] In some encounters, the officer who was designated as the "primary" or observed officer, and for whom survey data could be connected to coded observations, was not among those who used force. Thus, the figures in Table 3 for officers who used force are based on only the primary officers who were observed to use force, and exclude other officers who used force in the observers' presence.

Table 4
Use of Force by Characteristics of Encounters

| | All Encounters | | Encounters with Suspects* | |
	Reasonable Force Used	Improper Force Used	Reasonable Force Used	Improper Force Used
Type of Problem				
Violent crime	3.8	2.4	9.1	5.7
Nonviolent crime	0.6	0.3	4.0	1.3
Suspicious circumstances	0.5	0.9	1.4	0.6
Interpersonal conflict	1.8	0.6	2.8	0.9
Dependent person	0.7	1.5	1.3	1.3
Morals offense	1.2	0.0	1.8	0.0
Public nuisance	0.8	0.0	1.3	0.0
Traffic	0.2	0.2	---	---
Medical problem	0.0	0.0	0.0	0.0
Assistance	0.0	0.0	0.0	0.0
Information	0.0	0.0	0.0	0.0
Internal operations	0.0	0.8	0.0	1.7
Other/miscellaneous	0.0	0.0	0.0	0.0
Car chase	2.0	5.9	12.5	12.5
No car chase	0.6	0.4	2.2	0.9
Location				
Street, sidewalk, parking lot	0.7	0.2	2.4	0.5
Public/commercial bldg.	0.8	0.8	3.6	2.7
Private residence	0.5	0.5	1.7	1.3
Other	1.3	1.3	2.9	1.4
Bystanders				
None	0.3	0.1	0.8	0.4
1-3	0.1	0.1	0.3	0.3
4-10	1.8	0.9	4.9	1.1
More than 10	6.0	4.6	12.3	6.6
Other Officers				
None	0.1	0.0	0.4	0.1
One	0.8	0.3	2.0	0.4
2-5	2.3	1.1	5.2	0.9
More than 5	8.6	17.2	12.5	25.0
Supervisor(s) present	2.3	2.5	4.6	4.1

* excluding those suspected only of traffic violations

against whom force was used. Once again, the more illuminating set of figures is probably that for suspects. This bivariate analysis indicates that the use of reasonable force and the use of improper force (a) are somewhat more likely if the citizen is black, male, and over 18; (b) are more likely if the citizen exhibits signs of drunkenness or mental disorder; (c) are more likely if the citizen has a weapon, and still more likely if the citizen attempts to use a weapon; and (d) are more likely if the citizen is hostile or antagonis-

tic, and especially if the citizen fights with the officer(s).

Tables 4 and 5 show only bivariate associations; they do not enable one to isolate the independent effects of individual variables, nor do they form the basis for an assessment of the explanatory power of these sets of variables. For example, the citizen's race and demeanor are both related to the use of force. Some previous research has found that the citizen's race and demeanor are both related to arrest, but that when

Table 5
Use of Force by Characteristics of Citizens

| | All Citizens (N=8666) | | Suspects Only* (N=1819) | |
	Reasonable Force Used	Improper Force Used	Reasonable Force Used	Improper Force Used
Role				
Suspect	1.3	0.7	1.9	0.9
Victim	0.0	0.0	---	---
Sick/injured person	0.8	1.7	---	---
Subject of concern	0.0	1.8	---	---
Person requesting service	0.1	0.0	---	---
Witness/person with information	0.0	0.1	---	---
Other	0.0	0.0	---	---
Race				
White	0.2	0.2	1.2	0.7
Black	0.9	0.5	2.9	1.1
Other	0.0	0.0	0.0	0.0
Mixed	0.0	0.0	0.0	0.0
Gender				
Male	0.6	0.3	2.2	1.0
Female	0.2	0.2	1.5	0.6
Mixed	0.0	0.0	0.0	0.0
Age				
Under 18	0.5	0.4	1.3	0.2
19-35	0.6	0.4	2.3	1.1
Over 35	0.3	0.2	2.5	1.6
Mixed	0.0	0.0	0.0	0.0
Sobriety				
Sober	0.2	0.2	1.1	0.4
Drinking/using	1.2	0.4	2.7	0.4
Drunk/stoned	4.4	3.0	7.8	4.8
Mental Disorder				
No evidence of disorder	0.4	0.2	1.8	0.7
Evidence of disorder	4.5	3.6	10.8	2.7
Weapon				
None in possession	0.4	0.2	1.7	0.7
Possessed gun	5.6	2.8	10.0	5.0
Possessed knife	5.7	7.1	8.9	6.7
Tried to use	20.0	40.0	25.0	25.0
Demeanor				
Detached	3.0	0.8	5.1	1.3
Hostile, antagonistic	5.7	7.6	9.9	11.0
Other	0.3	0.2	1.3	0.3
Fought with officer	28.0	60.0	41.2	47.1

* excluding those suspected only of traffic violations

one statistically controls for the effect of demeanor, race has no effect.   A multivariate analysis, using suspects as the units of analysis, permits one to impose statistical controls and thus to estimate the independent effects of these variables, summarized in the form of regression coefficients, and it also provides an estimate of the extent to which these variables together account for the use of force.

The results of a multinomial logit analysis

Table 6
The Effects of Situational Factors
on the Use of Force

Variable (mode)	Reasonable force			Improper force		
	Coefficient	Pr(Y|x=[])	Change	Coefficient	Pr(Y|x=[])	Change
Violent crime (0)	1.555*	.01777[1]	.01394	2.436*	.00076[1]	.00009
Nonviolent crime (0)	1.108**	.01150[1]	.00767	-1.582	.00001[1]	.00005
Car chase (0)	1.271	.01341[1]	.00958	4.640*	.00692[1]	.00685
Street, sidewalk, parking lot (1)	0.335	.00274[0]	-.00109	0.928	.00003[0]	-.00004
Public/commercial bldg. (0)	0.397	.00568[1]	.00185	2.144	.00006[1]	.00051
Police station/car (0)	-14.191	.00000[1]	-.00383	-11.096	.00000[1]	-.00007
Number of bystanders (0)	0.034*	.00396[1]	.00013	0.004	.00007[1]	.00000
		.00453[5]	.00070		.00007[5]	.00000
		.00636[15]	.00253		.00007[15]	.00000
Number of other officers (0)	0.141	.00440[1]	.00057	0.293**	.00009[1]	.00002
		.00771[5]	.00388		.00029[5]	.00022
		.01547[10]	.01164		.00126[10]	.00119
Supervisor(s) present (0)	-0.785	.00175[1]	-.00208	0.821	.00015[1]	.00009
Citizen black (0)	1.265*	.01342[1]	.00959	2.133*	.00057[1]	.00050
Citizen male (1)	1.549*	.00082[0]	-.00301	3.440*	.00000[0]	-.00007
Citizen 19-35 (1)	0.711	.00188[0]	-.00195	1.034	.00002[0]	-.00004
Citizen over 35 (0)	0.692	.00761[1]	.00378	1.381	.00027[1]	.00020
Citizen drunk/stoned (0)	1.453*	.01615[1]	.01232	1.992*	.00049[1]	.00042
Citizen mentally disordered (0)	1.479**	.01658[1]	.01275	-0.226	.00005[1]	-.00001
Citizen possessed weapon (0)	0.990	.01023[1]	.00640	1.600	.00033[1]	.00027
Citizen used weapon (0)	-4.295*	.00052[1]	-.00378	-5.238	.00000[1]	-.00007
Citizen hostile, antagonistic (0)	1.280*	.01361[1]	.00978	2.795*	.00110[1]	.00103
Citizen fought with officer (0)	5.501*	.45310[1]	.44927	7.595*	.06531[1]	.06524

* p<.05, two-tailed test
** p<.10, two-tailed test

are shown in Table 6.[23] This analysis produces two sets of coefficients; one set reflects the estimated effects of the variables on the use of reasonable force, and the other reflects the esti-

mated effects of the variables on the use of improper force. The statistical significance of each coefficient indicates the confidence that one can have in rejecting the null hypothesis that the variable has no effect. Otherwise, however, the coefficients have no intuitive interpretation. Thus the table also presents for each variable (X) the estimated probability that force will be used, i.e., Pr(Y), given that X has the value shown in brackets, and given that all of the other variables have their modal values. The last column shows the estimated change in the probability given that X changes from its modal value to the value in brackets.

Several variables have (statistically) significant effects both on the use of reasonable force and on the use of improper force. Either reasonable or improper force is more likely in incidents that involve violent crimes, and against suspects who are male, black, drunk, or antagonistic, or who physically resist the police. Physical resistance has by far the greatest effect on the use of force. But even when the effects of physical resistance are statistically controlled, suspects' demeanor has significant effects on the use of force. And even when the effects of physical resistance and of demeanor are statistically controlled, suspects' race has significant effects

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[23] Since I have conceived the use of force as a nominal variable with three categories, I have estimated the parameters of a multinomial logit model, which is the "standard method" (Aldrich and Nelson 1984: 37-40) for analyzing a polytomous, unordered dependent variable. As an alternative, one could operationalize the use of force — reasonable and/or improper force — as a dichotomy and apply other multivariate techniques, including the widely used Ordinary Least Squares (OLS) regression; this is the analytic approach that Friedrich (1980) used. In the PSS data, when regression equations for reasonable force and improper force, respectively, are estimated using OLS, some but not all of the findings are congruent with the multinomial logit results. Binomial logit results are largely — but not entirely — consistent with the multinomial logit results. Since OLS regression is not appropriate for dichotomous dependent variables (Hanushek and Jackson 1977: ch. 7; Aldrich and Nelson 1984: ch. 1; and, more generally, King 1989), there is good reason to prefer the logit results. Also see Brehm and Gates (1992) for a discussion of alternative techniques and applications to the Black-Reiss data.

on the use of force. That officers are more likely to use even reasonable force against blacks might suggest that officers are, on average, more likely to adopt a penal or coercive approach to black suspects than they are to white suspects.[24] For example,

> "Shortly after midnight we received a call of disturbance and [the observed officer] proceeded to the scene without delay. We were the first to arrive and noticed two older women and a man standing on the south side of the street and a large group of younger women standing on a porch on the north side of the street. There was no disturbance upon arrival. [The observed officer] pulled up by the smaller group of people and asked them if they had called the police. They said that they had not. The [officer] apparently assumed (correctly) that the man in the group was the source of trouble, for he told the man that someone had called the police about a disturbance and that it would be necessary for them to go inside. The man (black, 30) said that there was no problem and stood his ground. At this point another [officer] and a friend of the man walked up to our car. [The observed officer] said that whether there was a problem or not they would have to get off the street. One of the women (the mans [sic] mother) told him to go inside but the man began muttering about how no one was going to tell him what to do. It was then that I realized that he was very drunk. [The observed officer] said that if the man didn't get off the street and the police got another call to come out he would be arrested. The man didn't like this at all and began raving about how there was no problem and about how the police were just trying to hassle him. The friend pleaded with the man to come inside but the man would not move and continued his muttering. [The observed

officer] got out of the car and placed himself very near the man. He began saying something about not going anywhere and [the officer] told the man that he was under arrest. [The second officer] helped handcuff the man who was being very uncooperative. His friend told him that he was ignorant and asked the [officer] if he could go to the station with them. [The officer] said yes. They placed the man in the back seat of our car and we drove to the station, all the while being accussed [sic] of harassment and racism. The man threatened to kill us and [the officer] said he would have his chance when we got to the station. When we arrived [the officer] took him out of the car but the man started pulling away. [The second officer] grabbed him by the hair and [the observed officer] said that he had originally planned to let the man go when they got to the station but since the man was being such an ass he was going to book him."

In this case, the officer's actions early in the encounter—ordering the man to get off the street, and then confronting and challenging him—were, arguably, precipitous and ill-advised, making it all the more likely that force would later need to be used.

Several additional variables have statistically significant effects on the use of reasonable force, but *not* on the use of improper force.[25] The likelihood that reasonable force will be used rises with the number of bystanders. The use of reasonable force is also more likely if the encounter involves a nonviolent crime, and if there is some evidence that the citizen has a mental disorder. Curiously, the use of reasonable force is *less* likely if the citizen uses a weapon.

The effect of bystanders, and perhaps even of mental disorder, may reflect some officers' judgment that such encounters are best handled with dispatch. For example,

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[24] Black (1980: ch. 5) comes to a similar conclusion based on his analysis of dispute resolution by police using the Black-Reiss data.

[25] This is not the same as saying that for each of these variables the two coefficients are significantly different from one another; to the contrary, in each case the confidence intervals for the two coefficients overlap.

"We were on routine patrol when flagged down by an [officer] waving a flashlight. He was out of breath from chasing a 'mental', a black woman about 22 years old. We noticed an ambulence [sic] in the parking lot of an apartment complex, and [the observed officer] decided to check it out. The first officer explained that the young woman had been drinking heavily and had put her head through a plate glass window, sustaining minor (but bloody) injuries. Her mother had called both the police and the ambulence because the woman had a history of drinking and mental disorder and might abuse her two children. When the police arrived, the woman ran away, covering about two blocks before the police and her mother caught her. When we arrived, the woman was having a heated discussion with her mother about whether or not she should go to the hospital. A third [officer] arrived. Two National Ambulence attendants were also trying to persuade the woman to go along. She became more and more distraught, and began yelling and cursing the attendants and officers. Lights began appearing in apartment windows, and several people began filtering out toward the confrontation. The woman kept screaming, 'Momma, you done me wrong.' Suddenly, [the observed officer] and the first [officer] grabbed the woman by the arms and began dragging her, kicking and screaming, to the ambulence. She was rather large, and put up a good struggle. The third [officer] and an attendant each had to grab a leg. They threw her on a stretcher. [The observed officer] sat on her legs while the other two officers held her arms and the attendants tied her hands and feet to the stretcher. She cursed and spit at the officers. [The observed officer] bounced on her legs and grinned. (She was wearing a bathrobe and underwear, and the bathrobe lost its effectiveness in the struggle. [The observed officer] mocked the woman, saying that her spit was 100 proof. The mildest epithet used was 'Get your white ass offa me, mother-fucker.' An attendant put a pillow over her face to keep her from spitting.) * * * In reflecting on the case as we patrolled, the [observed officer] mentioned that he had stopped even though there were two officers on the scene because both were young and sometimes indecisive. He said that the officers let the situation drag on too long, that people were beginning to come out of their apartments, and that he had to act...."

This officer apparently believed that the encounter was better resolved before a large crowd formed and the dynamics of the encounter were thereby altered (as Muir [1977: ch. 7] illustrates in his discussion of "the crowd scene").

Two variables have statistically significant effects on the use of improper force, but not on the use of reasonable force. Improper force is more likely if the encounter involves a car chase, even controlling for physical resistance by the suspect. One reason may be that pursuits are emotionally and physiologically intense experiences that are *sometimes*—i.e., in some cases and/or for some officers—"catalytic" (see Toch, in this volume); one would do well to remember that most pursuits do not conclude with the use of excessive or unnecessary force. Another reason may be that suspects' flight is another form of disrespect for police authority, as is a hostile or antagonistic demeanor, which (sometimes) prompts officers to (unduly) assert their authority. Either explanation could account for the following:

"At about 18:05, we were sitting in the car in a parking lot on the corner of B and LK talking to a patrol supervisor, when a Lilliput [a pseudonym for another municipality] police car went by chasing a motorcycle. Both the patrol car and the supervisor took off after the bike, which had turned onto LK Avenue. We chased him down LK to S, where he turned right and onto LT and back into Lilliput. By the time a Lilliput car and our car stopped him, two other Lilliput cars and another Metro [also a pseudonym] car had arrived. Two Lilliput officers and a Lilliput detective jumped out of their cars, tackled the suspect, roughed him up a bit,

and handcuffed him. * * * The suspect was frisked and loaded into the back of a Lilliput patrol car."

The likelihood of improper force also rises with the number of officers at the scene. This finding, too, is open to (at least) two interpretations (Friedrich 1977: 93). One is that an officer is more likely to use improper force when other officers are there to provide physical and social psychological reinforcements. Another is that incidents in which improper force is used are also those to which other officers come (or are summoned); according to this interpretation, the presence of other officers is an effect rather than a cause. Unfortunately, the analysis does not permit one to eliminate either interpretation.

In some respects these results parallel Friedrich's, who found that "police use of force depends primarily on two factors: how the offender behaves and whether or not other citizens and police are present" (1980: 95). In particular, Friedrich's results show that the use of force is affected by the citizen's demeanor and sobriety. This analysis of the PSS data corroborates these findings: drunkenness, a hostile demeanor, and especially physical resistance all make the use of force more likely. But Friedrich's analysis indicated that the use of force is unaffected by other characteristics of citizens, such as race and gender. The results of this analysis indicate that the use of force *is* affected by race as well as by gender.[26]

The explanatory power of situational factors can be assessed in terms of the success of the model in "predicting" the use-of-force outcomes of these encounters; the proportion of cases that are correctly classified can be compared with the proportion that one could correctly classify based on knowledge only of the frequencies of the outcomes. Given that the use of force is so uncommon, however, predictions based only on the frequencies would be quite accurate. Indeed, one could correctly classify over 97 percent of the cases if one predicted that force was *never*

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[26] The OLS results indicate that race has a statistically significant effect on the use of reasonable force but not on the use of improper force. Perhaps the discrepancy between the results of the logit analysis and those of Friedrich's analysis are methodological artifacts.

used; if one randomly classified cases to reproduce the frequencies, one could correctly classify 94.6 percent. So overall, the model would seem to have little room for improvement in predictive success—no more than a 5.7 percent improvement over random classification. In fact, the model's predictions correctly classify 97.7 percent of the cases, a 3.3 percent improvement over chance. A fairer assessment of the model, perhaps, is its success in classifying cases in which force was used; random classification would result, on average, in 2 percent correct (one of 49 cases), while the model yields 24.5 percent correct. Furthermore, this analysis also suggests that, together, these situational factors better predict the use of improper force than they do the use of reasonable force. Five of 35 cases (14 percent) are correctly classified as those in which reasonable force was used, while seven of 14 cases (50 percent) are correctly classified as those in which improper force was used.

C. The Effects of Officers' Characteristics

Table 7 breaks down the use of force by the characteristics of officers; it displays for officers with specified characteristics, the percentages who used force. (Table 3 displays for officers who used force, the percentages with specified characteristics.) This bivariate analysis indicates that black officers and officers with college degrees are somewhat more likely to use force, but also that black officers and officers with bachelor's degrees are somewhat less likely to use improper force. The analysis also indicates that the two forms of force bear modest relationships to officers' attitudes. Officers who conceive their role in narrow terms, by excluding public nuisances and personal problems, are somewhat more likely to use force. Officers who believe that force is effective, and officers who believe that the use of force should be regulated by police themselves, are somewhat more likely to use force. Finally, officers whose views of citizens are negative—who believe that citizens do not respect and are likely to abuse police—are somewhat more likely to use force. However, judging from the percentage differences alone, these relationships are as weak as they are consistent with expectations.

Multivariate analyses, using officers as the units of analysis, form a better basis for assessing

Table 7
Use of Force by Characteristics of Officers

	Reasonable Force Used	Improper Force Used	N
Race			
White	3.3	1.7	948
Black	4.5	0.9	112
Other	8.3	8.3	12
Gender			
Male	3.7	1.8	1003
Female	0.0	0.0	69
Length of Service			
Less than 1 year	0.0	0.0	20
1 to 3 years	3.7	2.1	326
4 to 8 years	3.8	1.7	476
More than 8 years	2.8	1.2	250
Education			
No college degree	2.9	1.8	733
Associate's degree	4.1	1.8	169
Bachelor's degree	5.3	1.2	171
Should quiet family disputes			
No	2.6	2.6	76
Yes	3.4	1.6	974
Should handle public nuisances			
No	4.2	2.4	638
Yes	2.0	0.8	397
Should not handle personal problems			
Strongly agree	5.9	2.4	85
Agree	4.3	3.1	257
Disagree	3.1	1.3	608
Strongly disagree	1.7	0.0	116
Fewer restrictions on use of force			
Strongly agree	4.5	3.8	133
Agree	4.0	2.2	323
Disagree	3.1	1.2	489
Strongly disagree	2.4	0.0	124
Only officers judge use of force			
Strongly agree	3.3	1.1	180
Agree	4.3	3.1	322
Disagree	3.1	1.2	512
Strongly disagree	1.8	0.0	56
Most citizens respect police			
Strongly agree	1.5	0.0	67
Agree	3.1	1.3	747
Disagree	5.3	3.3	209
Strongly disagree	4.4	2.2	45
Citizens likely to abuse police			
Strongly agree	8.9	3.2	124
Agree	3.0	2.7	371
Disagree	2.4	0.8	508
Strongly disagree	4.5	0.0	66

the impacts of officers' characteristics on their use of force. For such an analysis, one may measure officers' use of force as counts — the numbers of occasions on which each officer was observed to use reasonable force and improper force, respectively — or as a dichotomies — whether or not each officer was observed using reasonable force and improper force, respectively. As it turns out, the results are very much the same regardless of the measure and the statistical technique used.[27] Since OLS coefficients are

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[27] The two measures of officers' use of force differ very little from one another, inasmuch as no officer was observed to use excessive force more than once, and only seven officers were observed to use reasonable force more than once (five used it twice and two

more intuitively interpretable than logit or Poisson regression coefficients, Table 8 displays the results of two OLS regression analyses, one of the use of reasonable force and the other of the use of improper force.

Only three variables (other than the amount of time for which officers were observed) have significant effects on one or both forms of force. First, officers' attitudes toward citizens—i.e., citizens' respect for police and the perceived likelihood that officers would be abused by citizens—have significant effects both on officers' use of reasonable force and on their use of improper force;[28] officers with more negative attitudes toward citizens are more likely to use force, reasonably or unreasonably. Second, officers' attitudes toward the use of force have a marginally significant effect on their use of improper force (at the .10 level with a one-tailed test); officers with more positive attitudes toward the use of force tend to use force improperly with greater frequency.[29] Third, the effect of officers' education on their use of reasonable force is statistically significant (at the .07 level in the OLS regression and at the .05 level in the Poisson regression); in particular, officers with bachelor's degrees are more likely to use reasonable force.

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used it on three occasions). Moreover, the estimation of model coefficients hinges neither on the measure nor on the statistical technique that is used. When the use of force is measured as an event count, both OLS regression and Poisson regression (see Inn and Wheeler 1977; and more generally, King 1989) yield comparable results; when the use of force is measured as a dichotomy, binomial logit yields results that are congruent with the OLS and Poisson regressions.

[28] This variable is an index formed by summing officers' responses to the two questionnaire items. Neither of the items by itself achieves statistical significance in separate OLS analyses, although both are significant (one at .07 and the other at .03) in the Poisson regression.

[29] This, too, is an index formed by summing officers' responses to the questionnaire items about the use of force in "tough neighborhoods" and about who (if anyone) besides police are qualified to judge allegations of improper force. In a separate analysis, the former item achieves this same marginal level of statistical significance, and the effect of the latter is insignificant.

Overall, then, officers' characteristics contribute very little to an explanation of the use of reasonable or improper force in these data. In OLS analyses, these variables explain hardly any of the variation—less than 3 to 4 percent—in officers' uses of force. (In logit analyses, this set of variables has practically no predictive power; all of the officers were classified as having not used force.) Furthermore, one might suspect that even these modest relationships are partially or entirely spurious, inasmuch as officers who are assigned to the more active, violent, socially disorganized police districts, in which the use of force is more frequently necessary, might as a result have more negative attitudes toward citizens; those officers might also be those with less seniority, and thus younger, less experienced, and more highly educated. When officers' characteristics are included with situational factors in an analysis using suspects as the units of analysis, only one of these three variables—officers' attitudes toward citizens—has a statistically significant effect, and only on the use of reasonable force. Psychological hypotheses about officers' use of force find some, but not much, support in these analyses of the PSS data.

D. The Effects of Organizational Characteristics

As one might expect, given the infrequency with which force was used in the observed encounters, the incidence of force varies very little across the 24 departments. In 11 departments there were no observed uses of force; in each of five other departments there was only one observed case of reasonable force; and in each of another five departments observers recorded two or three uses of force. In each of the remaining three departments, observers recorded 10, 16, and 19 incidents in which force was used, respectively. These raw numbers are potentially misleading, however, as these three departments were not only the largest departments but also those in which the largest numbers of shifts were observed. Taking into account the varying amount of observation across departments as well as the frequency with which officers in the respective departments encounter suspected offenders, one finds, for example, that the incidence of improper force in three smaller departments equals or exceeds that in the largest departments. But even when the use of force is

Table 8
The Effects of Officers' Characteristics
on their Use of Force
OLS Estimates

	Reasonable force	Improper force
Constant	.199	.138
Race (black=1)	.003	-.015
Gender (female=1)	-.079	-.044
Associate's degree	.058	.003
Bachelor's degree	.078**	-.011
Length of service	.003	-.001
Role orientation	.007	-.010
Attitude toward force	.000	.010***
Attitude toward citizens	-.045*	-.017*
Time observed (in 100s of mins)	.061**	.001
R^2	.037	.031

N=463

*   p<.05, two-tailed test
**   p<.10, two-tailed test
*** p<.10, one-tailed test

standardized across departments for the duration of observation, these estimates of the use of force as an *organizational* property rest on a narrow foundation of data collection; in the smaller departments, observation extended over only 15 to 30 shifts, or 120 to about 250 hours.

Rather than use the departments as the units of analysis, one can include the theoretically relevant characteristics of the departments with situational factors in the same model, using suspects as the units of analysis. This approach has the advantage of controlling for the frequency with which officers in different departments confront the kinds of situations in which force is more likely. Three characteristics of the departments, which are featured in organizational theory, can be measured with PSS data.

First, the bureaucratization of the departments can be measured in terms of their size (the number of full-time employees), their levels of hierarchy or vertical differentiation (the number of separate ranks), their degree of specialization (the number of separate units, such as traffic, juvenile, etc.), and the extent to which the departments are civilianized. These characteristics can be analyzed as individual variables, or they can be combined to form a single index of bureaucra-

tization.[30] In either case, bureaucratization is conceived as a continuum, rather than as a dichotomy (or as a synonym for organization).

Second, the priority that the chiefs of the departments place on law enforcement and crime-fighting can be gleaned from in-depth interviews with the chiefs and with other high-ranking police administrators. Respondents' answers to one or more of three questions in these interviews provide some clues to their priorities:

"(1) Would you characterize the department's emphasis as being one of primarily providing service to residents, as primarily trying to suppress crime, or as something in between?
(2) Are there any specific departmental policies regarding patrol style or emphasis?
(3) What kinds of reports do you [does the chief] get on day-to-day operations

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[30] This index is the sum of the standardized variables. Smith's (1984) analysis of the PSS data is based on an index of bureaucratization that was formed in a similar fashion (but using a somewhat different set of variables).

of your patrol officers? (Probes: What things get brought to the chief's attention immediately? What kinds of indicators does the chief think are important regarding patrol?)"

On the basis of these interview data, three departments appear to have a decidedly "legalistic" or "professional" orientation (Wilson 1968), in the sense that their chiefs place primary emphasis on fighting crime. One chief, for example, told the PSS interviewer that

"the department's first priority was the suppression and prevention of crime, and its second priority was responding to calls for service. The respondent felt that the department receives many trivial or 'bullshit' calls for service.... The department does what it can to respond to all calls, but such calls as these take low priority."

Furthermore, administrators in that department monitored patrol officers' performance through time sheets, filled out by each officer,

"indicating how much time he spent on a variety of activities and various production measures: hours on patrol, hours traffic control, hours accident investigation, hours special duty, hours court, hours office duty, hours writing reports, hours approved overtime, sick leave, number of field interrogation reports filed, number of miscellaneous investigations conducted, number of complaints investigated, number of accidents investigated, number of non-traffic arrests, number of traffic arrests, number of accident arrests, number of warrant arrests, number of juvenile arrests, number of warnings issued."

This chief's express priority on crime-fighting was reinforced by the department's information system.

Predictably, perhaps, not all chiefs' answers revealed an unambiguous and well-ordered set of priorities. Of course, some chiefs may have been reluctant to tell interviewers that, in effect, "service" was secondary to suppressing crime; they may have shared the orientation, but not the

candor, of other chiefs whose departments have been coded as legalistic. But it is equally or more likely that ambiguous answers reflected truly ambiguous priorities. For better or worse, police administrators typically are not compelled to establish clear priorities among the multiple and sometimes competing goals and functions of the police; the LAPD under Chief Daryl Gates may have been exceptional in the clarity of its priorities. Be that as it may, priorities can be communicated, even unwittingly, in the form of activity report categories, the criteria for evaluation, the reasons for sanctions, orders, memoranda, and the like. The PSS interviews with police administrators do not suffice to measure priorities established in these ways, but the measure based on these data certainly represents an improvement over those available for previous research (e.g., Friedrich 1980).[31]

Third, survey data on patrol officers in each department can be aggregated to measure some features of the informal cultures of the departments. Besides the observed officers, all or a sample of the other officers in each department were included in the survey.[32] Their responses to seven questionnaire items, described above for the analysis of officers, reveal wide variation in the collective attitudes of the departments. For example, the proportions of respondents who agreed that police should not have to handle

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[31] It is also nearer the mark of police "professionalism" than are indicators of officers' educational achievement (cf. Smith 1984).

[32] Because the survey was intended to collect information relevant to the 60 study neighborhoods, selection procedures generally identified would-be respondents who had responsibilities in those areas — for patrol, supervision, or administration. In the six largest departments, samples of officers and supervisors assigned to those areas were selected, in addition to command staff; in the smaller departments, all officers, supervisors, and command staff were selected. In two departments, samples of all officers were selected, regardless of their assignments to study neighborhoods or to other areas. Overall, of the 1,435 officers selected, two refused to be interviewed, eight could not be contacted, and eight others were not interviewed for unidentified reasons. Aggregated responses in each department are based only on respondents with a rank below sergeant, i.e., those whose primary responsibility is patrol, and who are most likely to use force or have occasion to use force.

social or personal problems ranged from 6.3 percent in one department to 62.5 percent in another. The proportion of respondents who agreed that fewer restrictions on the use of force would reduce the serious crime problems in tough neighborhoods ranged from 14.3 percent in one department to 69.2 percent in another.

When these variables—bureaucratization, the priority placed on crime-fighting, and the collective attitudes of patrol officers—are added to situational factors in analyses of the use of force, the estimated effect of one organizational characteristic achieves statistical significance: the likelihood that reasonable force will be used increases with the bureaucratization of the department (see Table 9).[33] The effect of bureaucratization on the use of improper force does not achieve a customary level of statistical significance (although it too has a positive sign), and the estimated effects of the other organizational variables are negligible. The inclusion of organizational factors modestly improves the explanatory power of the model: 28.6 percent of the cases in which force was used are classified correctly, compared with 24.5 percent correctly classified based only on the situational factors.

It would seem, then, that compared with officers in more bureaucratized departments, officers in less bureaucratized departments either are less likely to use force when it would be justified, seeking instead to handle problems in other ways, or are less likely to take actions early in an encounter that make it more probable that force will be necessary later in an encounter. These results may thus offer some support for the

proposition that in smaller, less bureaucratic departments, administrators can more effectively monitor the performance of officers, and perhaps that supervision can more frequently extend to the development of subordinates' judgment. These are long inferential leaps, to be sure, but they are consistent with the quantitative results.

These conclusions find some additional support in the interviews with administrators. The chief of one department pointed out that his "is a small enough department to allow [him] to read each crime report every day or two." When asked about the reports that are used to get a feel for day-to-day operations, another chief, whose department was relatively small (with 27 full-time patrol officers),

"pointed out that he does have the daily activity sheets that comes [sic] in to rely on. But his further comments indicate that he relies at least as heavily on other means of keeping tabs on day-to-day operations. Just listening to the radio, he said, is a good way to tell how things are going. And he pointed out that he can tell by the tone of voice of the officers, the way they are answering calls, whether there is anything wrong, and he said that listening to the men talking around the department is also a good way to keep track of daily operations. He emphasized that not anyone can do this; one has to know the individual officer's personality to be able to tell if the person is quieter than usual."

Needless to say, the chiefs of larger departments are scarcely in a position to take advantage of these sources of information. Larger, more bureaucratic agencies tend to rely on quantitative measures of performance, both of individuals and of the agency as a whole, and the less quantifiable aspects of police performance may thus receive too little attention. Indeed, the chief of one larger department (with 381 full-time patrol officers) "mentioned that a big problem in law enforcement was an overwhelming concern for statistical measures of performance, such as arrest rates, clearance rates, crime rates. [The chief] indicated that many of the statistics are misleading, but that nearly all professional departments use them, people come to expect their use, and it is difficult to come up with other more meaning

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[33] The results presented in Table 9 are based on a model that omits measures of the collective attitudes of patrol officers, none of whose effects achieve statistical significance; results are available from the author.

The values of bureaucratization on which predicted probabilities are calculated are not modal values, but rather scale values that correspond to hypothetical departments that are more or less bureaucratized: 1.13 is the scale score for a department with 6 ranks, 10 separate divisions, and 200 employees, 25 percent of whom are civilians; -1.97 is the score for a (less bureaucratic) department with 4 ranks, 6 divisions, and 70 employees, 20 percent of whom are civilians; 3.38 is the score for a (more bureaucratic) department with 7 ranks, 12 divisions, and 800 employees, 25 percent of whom are civilians.

Table 9
The Effects of Organizational Factors
on the Use of Force

	Reasonable force			Improper force		
Variable (mode)	Coefficient	Pr(Y|x=[])	Change	Coefficient	Pr(Y|x=[])	Change
Violent crime (0)	1.503*	.01541[1]	.01194	2.579*	.00033[1]	.00030
Nonviolent crime (0)	1.127**	.01063[1]	.00716	-1.816	>.00001[1]	-.00003
Car chase (0)	1.662	.01791[1]	.01444	5.567*	.00643[1]	.00640
Street, sidewalk, parking lot (1)	0.339	.00248[0]	-.00099	1.586	.00001[0]	-.00002
Public/commercial bldg. (0)	0.391	.00365[1]	.00018	2.863**	.00009[1]	.00006
Police station/car (0)	-15.956	.00000[1]	-.00347	-12.562	.00000[1]	-.00003
Number of bystanders (0)	0.030*	.00358[1]	.00011	0.010	.00003[1]	.00000
		.00403[5]	.00056		.00003[5]	.00000
		.00543[15]	.00196		.00003[15]	.00000
Number of other officers (0)	0.065	.00370[1]	.00023	0.231	.00003[1]	.00000
		.00480[5]	.00133		.00008[5]	.00005
		.00663[10]	.00316		.00025[10]	.00022
Supervisor(s) present (0)	-0.454	.00221[1]	-.00126	1.485	.00011[1]	.00008
Citizen black (0)	1.043*	.00978[1]	.00631	2.370*	.00027[1]	.00024
Citizen male (1)	1.577*	.00072[0]	-.00275	4.275*	.00000[0]	-.00003
Citizen 19-35 (1)	0.733	.00167[0]	-.00180	0.543	.00001[0]	-.00002
Citizen over 35 (0)	0.555	.00291[1]	-.00056	0.732	.00003[1]	.00000
Citizen drunk/stoned (0)	1.514*	.01558[1]	.01211	2.134*	.00021[1]	.00018
Citizen mentally disordered (0)	1.243***	.01193[1]	.00846	-0.268	.00002[1]	-.00001
Citizen possessed weapon (0)	1.272**	.01227[1]	.00880	1.859**	.00016[1]	.00013
Citizen used weapon (0)	-19.302	.00000[1]	-.00347	-20.517	.00000[1]	-.00003
Citizen hostile, antagonistic (0)	1.257*	.01208[1]	.00861	3.303*	.00068[1]	.00065
Citizen fought with officer(0)	20.521	.95369[1]	.95022	22.425	.04631[1]	.04628
Legalistic department (0)	-16.435	.00000[1]	-.00347	-14.635	.00000[1]	-.00003
Bureaucratization (a)	0.166*	.00208[b]	-.00139	0.220***	.00001[b]	-.00002
		.00503[c]	.00156		.00004[c]	.00001

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*    p<.05, two-tailed test
**   p<.10, two-tailed test
***  p<.10, one-tailed test
a = 1.13 (see footnote 33)
b = -1.97 (see footnote 33)
c = 3.38 (see footnote 33)
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ful comparative measures of police performance."

Quantitative indicators of performance are useful primarily for measuring officers' productivity in enforcement; they reveal little about officers' performance of other police tasks, or even about some aspects of their enforcement activities, such as the judiciousness with which they use force. Police administrators are not blind to this problem. But as the Christopher Commission's analysis suggests, a higher incidence of the use of force may be one consequence of relying too heavily on such performance measures. A decentralized administrative structure, which would permit mid-level managers to monitor officers' performance through a more complete range of information channels, might enable the subunits of a large department to capture some of the managerial advantages of smaller departments (see Brown 1981: ch. 10; Whitaker 1983). An explicit and vigorous commitment to addressing the problems of the community, as the community defines them, might also be a step in the right direction, insofar as it underscores both the multiplicity of the functions that police perform, and the legitimacy of citizen preferences in shaping police policy.

IV. CONCLUSIONS

Analyses of both the Black-Reiss data and the PSS data, as well as of other data, show that physical force is infrequently used by the police, and that improper force is still less frequently used. Is police brutality, then, "rare"? The incidence of the use of improper force is rare in the sense that aircraft fatalities are rare: it is infrequent relative to the large volume of interactions between police and citizens, just as deaths in aircraft accidents are infrequent relative to the large number of passenger-miles flown. That these events are rare does not, of course, mean that no effort need be devoted to making them still more rare. Both types of events are almost certainly inevitable to some degree, so long as neither officers nor pilots are recruited from the ranks of philosopher-kings. But as we extend

our understanding of how best to structure and regulate human behavior, we may expect that the frequency of either event can be further reduced.

Analyses of the Black-Reiss data and the PSS data also show that to some extent, the use and abuse of force by police are influenced by characteristics of the situations in which officers and citizens interact. Of course, it would be very surprising indeed to find that the use of force is distributed randomly across police-citizen encounters; that officers are more likely to use force, say, against suspects who offer physical resistance is hardly startling. That officers are more likely to use force—and especially improper force—against suspects who are inebriated or antagonistic (other things being equal) is—if not unexpected—cause for concern. That officers are more likely to use improper force against black suspects (other things being equal) is cause for grave concern. Unfortunately, although these results form the basis for causal inferences, they are open to different interpretations. For example, one might interpret the effect of race simply as the behavioral manifestation of hostile police attitudes toward African-Americans. A somewhat different interpretation was offered by one chief of police (in a private communication with the author), who thought that some of his officers were especially fearful of black suspects; the unstated implication, I take it, is that those officers might either use force preemptively (and unnecessarily) or act (unwittingly) in such a way that provokes resistance to which they must respond with force. These different interpretations, moreover, would seem to have different implications for the form and likely efficacy of managerial interventions. In general, a sociological approach to *explaining* police use of force may not suffice for *understanding* the use of force.[34] Further research on the dynamics of police-citizen encounters in which force is used, with a view toward how those dynamics may be affected by—and the ways in which officers interpret—specific situational factors, could improve our understanding of these results (Wor-

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[34] Black (1976: 7) points out that his theory of the behavior of law "predicts and explains...without regard to the individual as such.... It neither assumes nor implies that he is, for instance, rational, goal directed, pleasure seeking, or pain avoiding.... It has nothing to do with how an individual experiences reality."

den 1989; Mastrofski and Parks 1990).

Neither this analysis nor previous analyses demonstrate that officers' characteristics or attitudes have a substantively (rather than merely statistically) significant effect on the use of force. Such results are consistent with the negative results of recruit screening (Grant and Grant, in this volume). Even so, this analysis does offer some—albeit weak—support for psychological hypotheses, and perhaps the most prudent conclusion at this juncture is that, if officers' propensities to use force are affected by their backgrounds and beliefs, then those effects are probably *contingent* on other factors—such as the characteristics of the situations in which officers interact with citizens and the characteristics of the organizations in which officers work—and the effects may be interactive rather than additive—that is, officers' propensities to use force may be affected by a constellation of outlooks rather than by each outlook independent of others. For example, the officers who are most likely to use and abuse force might be those who define the police role exclusively in terms of crime-fighting *and* who are inclined to bend or break rules that regulate their authority in order *to* bring about outcomes that they consider desirable *and* whose (formal and informal) training has provided them with few alternatives to the use of force; such officers might be more likely to use force *if* they work in (more) bureaucratic agencies that emphasize hard-nosed enforcement, *and* that measure and reward performance accordingly. Put more succinctly, officers' attitudes and personality characteristics may bear a systematic but complex relationship to their use of force.

Research on these questions should be designed to capture these complexities. Previous observational studies have not been so designed. For both the Black-Reiss and PSS studies, the units of sample selection (within precincts and neighborhoods, respectively) were shifts. Active or busy shifts were oversampled in order to maximize the number of police-citizen encounters that observers could record. For the Black-Reiss study, 589 officers were observed for one or more shifts; the average period of observation per officer was two-and-one-half shifts (Friedrich 1977). For the PSS, 522 officers were observed; more than half of the officers were observed for only one shift, only 60 officers were observed for as much as 24 hours (or about three shifts), and

only 24 for as much as 32 hours.[35] But if the use of force is infrequent, and if the distribution of the incidence of force across officers is skewed, then officers should serve as the units for sample selection. Officers who use force most frequently could be oversampled; the sampling frame could be stratified according to the numbers of (sustained or unsustained) citizen complaints, arrests for resisting arrest, use of force reports, or other departmental indicators (including the reports of other officers—see Bayley and Garofalo 1989). The balance of the sample would be composed of other officers with similar assignments, and officers would be weighted for analysis. If observation were extended to include debriefing officers about individual encounters, to obtain data on the decision rules by which they choose courses of action (Mastrofski and Parks 1990, Worden and Brandl 1990), and if these observations were complemented by a well-conceived survey instrument, then one might conduct a relatively powerful test of psychological hypotheses.

Finally, this analysis provides modest support for an organizational explanation of police brutality. It suggests that elements of formal organizational structure affect the incidence with which force is used. It does not, however, suggest that this effect is a simple product of restrictive policies, in terms of which discussions of administrative controls are too frequently cast. The theory on which this analysis is based, and the structural variables that were conceptualized and measured, point toward more fundamental—and less easily altered—features of the organization. Future research should continue to explore the ways in which organizational forces affect the incidence with which officers use force, but it should cast a broad theoretical net, one that reaches beyond policy and procedure with respect to the use of force (and complaints about the use of force). Evidence on these propositions will accumulate slowly, because comparable data on the use of force in multiple departments will be difficult to find or very expensive to collect (see Adams, in this volume). But evidence will not accumulate at all unless research is guided by theory.

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[35] In fairness to the PSS, it should be noted that it was not designed for the purpose of analyzing police brutality.

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Measuring the Prevalence of Police Abuse of Force

Kenneth Adams

Outraged by the conduct of the Los Angeles Police Department in the 1991 Rodney King incident, critics of all persuasions are clamoring for reform in the face of what is perceived to be a major social problem in many locales. In circumstances such as these, social scientists often are called on to muster relevant empirical evidence to guide policy makers. A basic question calling for such evidence is "How prevalent is the use of excessive force by police?" The question is amenable to scientific investigation and, in principle, at least, can be answered without equivocation.

However, two challenges confront the social scientist who attempts to answer this question. The first challenge is cultivating a mode of discourse that illuminates the inherent methodological problems in studying police abuse of force, a difficult-to-define and hard-to-observe phenomenon. The second challenge is drawing conclusions that cannot be branded as gratuitous extrapolation from a handful of diverse studies, many of which are flawed and some of which are dated. These two challenges are taken up in this essay, which attempts to synthesize research findings that bear on the use of excessive force by police.

The essay is organized into three parts. The first part deals with conceptual and analytical problems in studying the use of excessive force. It looks at the problem of defining "excessive force," computing rates, and the influence of risk factors. The second part reviews the findings of empirical studies that bear on the prevalence of excessive force to see what we already know about how frequently the police employ it. The third part compares the advantages and disadvantages of different ways to research the extent of excessive force—official records, surveys of police and citizens, and field observation.

I. CONCEPTUAL AND ANALYTICAL ISSUES

A. The Importance of Defining Excessive Force

Expressions such as "police brutality," "excessive force," and "police violence" are emotionally-laden phrases that often reflect moral judgments intended to excite feelings of anger and frustration and sometimes to provoke reactions. The reason that these phrases are so powerful is, as Bittner (1980) points out, that a license to use

coercive force stands at the core of the police role. To call a police officer's use of force illegitimate is to challenge his or her occupational identity and to allege that a solemn trust between citizen and public servant has been violated. The strong emotional connotations of these expressions may lead us to overlook the fact that words and phrases often have very different meanings to different people. As Klockars, Locke, and other essayists have observed in this volume, many citizens, especially minority-group citizens, include verbal abuse under the definition of police brutality (President's Commission on Law Enforcement and Administration of Justice 1967a). Police, however, strongly take the opposite view, making it difficult or even impossible to have a meaningful dialogue on the topic.

The issue of how to define excessive force is not just one of semantics, nor is it exclusively a matter of public relations between police and citizens. Rather, definitions lie at the foundation of the scientific enterprise, influencing each step of the research process from operationalization through the interpretation of results.

In attempting to define excessive force we face a number of difficulties. Foremost, we need to recognize that in labeling force as excessive, we render a judgment that in a given set of circumstances police actions overstepped the bounds of necessity.[1] Judgments, however, may be subjective assertions incapable of being scientifically verified. Research may be unable to prove that force was excessive in a given situation, just as it may not prove that a painting by Monet is beautiful. When we all agree in our judgments, we are tempted to think these are the facts, but the ephemeral nature of such "facts" is quickly revealed as definitions of what is excessive (or of what is beautiful) change.

This is not to say that the prevalence of excessive force and other related questions cannot be researched or that science has nothing to contribute to the understanding of social problems. We can, for example, establish a set of rules and procedures by which to make judgments

of excessive force. In taking this approach, however, we confront two problems. First, we must agree on the relevant criteria for making judgments, and, second, we must agree on the application of these criteria to a given situation. The second problem tends to be more difficult, especially when the information needed to make judgments is incomplete or ambiguous. This problem is exacerbated in the study of excessive force because fairness moves us to judge events from the perspective of the police officer involved (especially in relation to perceptions of threat, options available, and likely outcomes of various courses of action), and placing oneself in another's shoes requires considerable speculation.

Courts and administrative bodies have had to wrestle with the definition of excessive force, and researchers might turn to them for help in formulating a definition.[2] The Supreme Court has ruled that the use of force at arrest must be "objectively reasonable" in view of all the "facts and circumstances of each particular case, including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether he is actively resisting arrest or attempting to evade arrest by flight" (*Graham v. Connor*, 490 U.S. 386, 1989). The Court went on to state that "the calculus of reasonableness must embody allowance for the fact that police officers are often forced to make split-second judgments—in circumstances that are tense, uncertain, and rapidly evolving—about the amount of force that is necessary in a particular situation."

Although researchers might find the objective reasonableness standard useful in studying the incidence of abusive force, the problem remains its application in ambiguous fact situations. At times, situations are clear-cut and unambiguous. In Illinois, for instance, a police officer recently was convicted of second degree murder for killing a young man after firing 14 times at the man's back. The shooting followed a minor scuffle that was precipitated by an attempted field interrogation, and, as one juror put it, "the main thing was he fired too many times and nobody else was in danger—not even him" (Rosenberry 1992: 1). But many situations involving allegations of

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[1] Defining excessive force in a way that makes a contribution to understanding and controlling it is not a simple matter; see additional efforts to fashion useful definitions in the chapters in this volume by Klockars, Fyfe, and Locke.

[2] Klockars', Fyfe's, and Cheh's essays in this volume discuss pertinent court cases.

excessive force fall in a gray, middle-zone, where fair and accurate judgments are hard to make. Even when a situation appears unambiguous to some, their view may not be shared by others, as the Rodney King case has shown.

An influential early definition of excessive force was offered by Reiss (1968a) in an observational study of police activities conducted for the President's Commission on Law Enforcement and Administration of Justice. He judged force to be improper or unnecessary under the following conditions: 1. If a police officer physically assaulted a citizen and then failed to make an arrest; 2. If the citizen did not, by word or deed, resist the police officer; 3. If the police officer, even though there was resistance to the arrest, could easily have restrained the citizen in other ways; 4. If a large number of police officers were present and could have assisted in subduing the citizen in the station, lockup and in the interrogation rooms; 5. If the subject was handcuffed and made no attempt to flee or offer violent resistance; and 6. If the citizen resisted arrest, but the use of force continued even after the citizen was subdued. Field researchers observed 37 instances that, in their judgment, involved improper use of force. The research team made efforts to ensure that their judgments were consistent (reliable). The criteria they used ostensibly relate well to the concept of excessive or unreasonable force (face validity) (but see Klockars' critique of these criteria in this volume). However, when a panel of experts reviewed the incidents, only 20 of the 37 were found to involve excessive or unnecessary force (President's Commission on Law Enforcement and Administration of Justice 1967b).

One might be tempted to ask Who is right—the field researchers or the panel of experts? The answer is important given that almost twice as many incidents were labeled as excessive force by one group as compared to the other. The question, however, may be impossible to answer because judgments, not facts, are at issue. The same problem may be presented by opposite jury decisions in cases presenting virtually identical fact patterns. We need not review all the ways in which excessive force can be defined or measured in order to conclude that it is impossible for researchers to provide an unequivocal count of the number of times excessive force occurs by police. The count always will depend on how judgments are made, with differences in criteria or procedure being highly consequential. Furthermore, applications of definitions to incidents always will be open to challenge.

B. Dealing With Error

In attempting to measure the extent of excessive force, researchers must eventually confront the problems that derive from errors of measurement. Courts and administrative tribunals try to be scrupulously fair in making judgments, given the high stakes for police officers and citizens caught up in allegations of excessive force, and they employ numerous procedures designed to reduce the chances of factual errors and mistakes in judgment. This might lead us to conclude that court and administrative records are the best source of data on excessive force. From the social scientist's point of view, however, this is not the case. More will be said on the research uses of court records later. Here, we note that scientists, unlike judges, are not charged with finding persons as blameworthy or subject to sanction.

Social scientists have different purposes in mind, and thus may take different approaches to identifying instances of excessive force—once they have settled on a suitable definition. Much depends on the research question being asked. A researcher's interest, unlike that of a judge, may extend well beyond the immediate situation. For example, if a researcher's primary interest is in comparing groups or geographic regions, it may suffice to say that a city or a police department has more or fewer cases of excessive force than another, even if it cannot be said precisely how many more or fewer. In this situation, the researcher pays less attention to the many nuances that factor into judgments in each instance of excessive force.

How a researcher identifies instances of excessive force also depends on how the findings are to be used and on how they will be interpreted by others. If the principal goal is to construct or test a scientific theory, then a wide variety of data, too filled with error for legal purposes, might be used, and primary attention will be given to how other scientists might interpret the findings. Reputations can be at stake when scientists make errors in theoretical analysis or the interpretation of findings, but few beyond

the community of scholars will take an interest. When researchers venture into the area of public policy analysis, or when their findings may be used for making public policy changes, they need to proceed differently because the implications of mistakes are broader and more significant. Thus, the scientist must consider what the real-world consequences might be if the findings are misinterpreted by scientists and non-scientists alike, or, even if interpreted correctly, are in error.

Research error can have various, sometimes serious effects—leading to departmental scandal, the denigration of officers' reputations, and strained police-community relations or to equally unjustified (but appreciated) enhancements of funding, training, and policies (compare Cordner 1985, on the role that research plays in shifting policy and practice in organizations). The real-world consequences of research error obligate researchers to discuss the strengths and weaknesses of their data, emphasize the proper interpretation of findings, and warn of possible misinterpretations, especially by those who may not appreciate fully how the scientist has approached a problem. This needs to be done, even at the risk of having the public and practitioners conclude that the researcher's findings are worthless in a practical sense.

Another point to be made is that researchers take a different view of error than do legal and administrative systems. Although scientists share an interest in minimizing error, they recognize that error will always be present in scientific investigations. For this reason, scientists do not subscribe to a policy of no error at any cost, and instead make decisions as to how much and what types of error can be tolerated. They also have developed many techniques for dealing with error that inevitably occurs, and many of these techniques can be of use in studying the extent of excessive force by police.

The simplest strategy is to identify the nature and source of error so that conclusions can be drawn as to its effects. If a measure is known to under count events, then we know the observed count is a minimum estimate. For example, if citizen complaints reliably under count events of excessive force, then the true number must be greater than the number of citizen complaints. Conversely, if a measure is known to over count events, we know that the true number must be less than that observed. These simple rules can

be used to advantage by the researcher. For example, if it is easier to count the use of force than the use of excessive force, we might use the more inclusive count to identify a maximum value for the more restricted count. Furthermore, if we can discern the degree of over counting or the amount of error, we are in an even better position to estimate the true count.

Another strategy for dealing with error is replication, which means that other scientists investigate the problem in the same way to see if they get the same results. This strategy works best at catching human errors that are easily avoidable (e.g., errors in addition, subtraction, etc.), but it is only occasionally useful at revealing the inherent limitations of data sources or research methods.

Another, more complex, technique is multiple indicators. This technique is based on a strategy of triangulation and is particularly useful when the concept being studied is hard to define. Several measurement techniques are used, each with different strengths and weaknesses that often will bias the data in different ways. If the analysis reveals that all the measures agree, then we can be more confident that measurement error has not influenced the conclusions of the study unduly. On the other hand, if the individual measures conflict in terms of their findings, then we need to be more cautious in presenting the conclusions of the research. The strategy is not unlike that used in economics, where multiple indicators are used to assess the economic condition of the country.

Hindelang (1974) used a strategy of multiple indicators to investigate the problem of counting crimes, a problem not unlike that of counting instances of excessive force. In the study, he addressed the fact that official crime statistics are subject to detection and reporting biases by comparing crime statistics collected by the FBI to those collected through victimization surveys. He asked: "If official statistics are subject to measurement error that leads to an under counting of crimes, what use, if any, can we make of these data in researching the nature and distribution of criminal activity?" Hindelang's conclusion was that, although official statistics seriously underestimated the amount of crime relative to victim reports, the rank ordering of cities in terms of levels of criminal activity was the same for both arrest statistics and victimization statistics.

Therefore, official statistics could be used to say that the crime rate was higher or lower in one place as compared to another, even though the exact number of crimes was in error.

In another use of the multiple indicators strategy, Sherman and Langworthy (1979) compared two measures of the number of persons killed by police—mortality statistics maintained by the National Center for Health Statistics and police department internal affairs records. Their analyses revealed that the two counts were substantially different for many cities. Given the · magnitude of some discrepancies and the fact that neither measure could be described as consistently over counting or under counting, they further concluded that issues of relative incidence, or the rank ordering of cities in terms of rates, could not be addressed reliably by either measure. However, they did conclude that either measure could be used in analyses directed at theoretical explanations of variations in homicide rates.

C. Use of Excessive Force Versus Excessive Use of Force

A partial solution to the problems of defining and identifying the *use of excessive force* is to expand our research efforts to include the *excessive use of force*. The suggestion involves more than a simple turn of a phrase; it calls for a redirection of focus, asking that we relinquish exclusive concern with situations in which police use too much force and broaden our view to include circumstances in which force is applied frequently. Using this strategy, we can sidestep the problem of defining what is excessive force, at least for some research purposes, and, in the process, acquire knowledge that bears on excessive force issues.

Two assumptions underlie this suggestion: First, governments should focus their policy concerns on reducing all types of force in police-citizen encounters. Violence may be a necessary occupational tool for police, but it is a hazard for officers and a tribulation for citizens; therefore, it is to be discouraged. The second assumption is that broader-based scientific knowledge is to be preferred over more narrowly focused knowledge, especially when the distinctions that constrict the scientific enterprise are difficult to operationalize and of doubtful theoretical significance.

Research that gauges police use of force,

whether excessive or not, has practical applications in the same way that tracking the mortality rates of hospitals is useful. When the mortality rate of a hospital exceeds a specified threshold, it is placed on a watch list and medical practices are scrutinized more closely. The watch list designation makes clear that a higher mortality rate may be due to a variety of factors, such as a large caseload of high-risk patients, so that questions of substandard care or of malpractice are not always at issue. Yet, the system is useful, because drawing attention to potential problems may result in medical services being improved.

Police departments, or even police officers, can be monitored and compared in terms of the frequency with which force is used against the public. As in comparing the mortality rates of hospitals, we must be careful not to infer from comparatively high rates that malevolence is at work, since a variety of factors, such as the nature and extent of criminal activity or the composition of the population, may legitimately explain observed differences (see Toch, this volume). Nonetheless, when the use of force exceeds the norm, we are alerted to the possibility of a problem.[3]

The strategy of examining officers who use force more frequently than the *average*—a distinctly lower standard than Klockars'—was used by the Christopher Commission report on the Los Angeles Police Department, which documented that a small group of officers used force with above average frequency (Independent Commission on the Los Angeles Police Department 1991). It is interesting to note that these officers received a large number of citizen complaints that did not necessarily involve use of force issues, suggesting the possibility that officers who are physically aggressive are associated with a wide variety of problems.

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[3] Klockars, in his provocative essay in this volume, urges that the use of force that falls short of *exemplary* police work merits administrative study and intervention. In particular, Klockars recommends that excessive force be defined as all force beyond that which a highly skilled officer would have employed. Clearly—and *intentionally*—this definition, by focusing on less than the best police practices, would sweep far more incidents into future studies of misuse of force.

As noted elsewhere in this volume by Worden, Toch and others, the interpretation of these findings is not a straightforward matter, because consideration needs to be given to such factors as the officer's work style and assignments. Some officers are more proactive in their crime control efforts, and self-initiated officer activities are more likely to arouse resentment and resistance among citizens (Reiss 1967). Some officers are assigned regularly to high-risk areas, where the proportion of violence-prone offenders is higher. However, its findings corroborated by a variety of indicators, the Commission concluded that officers who use force recurrently are a good place to start looking for officers who use excessive force. Toch (1975) also used this strategy to identify violence-prone police officers for an intervention program.

Further support for an association between frequent use of force and use of excessive force can be found in the President's Commission's observational data in three cities as reported by Friedrich (1980). The data indicate that the rank order of cities with respect to the use of force is the same as for excessive force. We should not make too much of this finding, given that only three observations are involved. Still, it suggests a possible relation between the use of force generally and the use of excessive force.

From a methodological point of view, it clearly is easier to count instances in which police use force than to count instances in which police use excessive force, especially if the counts are to be made on a regular basis. If we accurately identify all use-of-force events, all events that involve the excessive use of force necessarily have been included. If research could demonstrate that rates of force and rates of excessive force are reliably correlated, then a more convenient and more readily available measure (frequent or excessive use of force) can be used as a surrogate for a more difficult measure (use of excessive force).

From a theoretical perspective, we can question whether productive explanations and significant insights can be derived from studies that focus exclusively on excessive force. Most leading police researchers emphasize the transactional nature of police-citizen encounters (Bayley 1986; Binder and Scharf 1980; Toch, et al. 1975; Reiss 1967). Research in this tradition indicates that police and citizens may provoke violent

reactions from each other on the basis of perceived insults and challenges. At each step of a police-citizen encounter, both parties may act in ways that contribute to higher probabilities of violence. A focus on excessive force tends to emphasize the outcome of events, thereby obscuring the police officer's contribution to the transaction, especially in the initial stages of the encounter.[4] Furthermore, when an officer provokes a violent reaction from a suspect and then responds in kind, the police officer's use of force, even if not excessive, clearly can be seen as unnecessary (see also Klockars' and Fyfe's essays in this volume).

D. Computing Rates Based on Events and Persons (Participants)

The distinction between counting events and participants (and generating rates for events and persons) matters because a single event may involve multiple individuals, just as a single individual may be involved in multiple events. For example, two police officers may pull over a car with five drunken teenagers and use force on three of them. The encounter can be viewed as a single use-of-force event, as three citizens subject to the use of force, or as two police officers using force. Similarly, a police officer may receive 10 citizen complaints for excessive force, and we could count this situation in terms of one problem police officer or in terms of 10 allegations.

In analyzing event and participant tallies, when the numerator refers to individuals we can estimate the probability that a person will experience (if counting citizens) or use (if counting police officers) excessive force within a given time period. In this form, the data permit comparisons with the rates at which other types of events are experienced by people. This information can be especially helpful in making resource allocation decisions when planning interventions. In contrast, when the numerator counts *events*, we can estimate how often excessive force events will occur. These data can be especially useful for viewing excessive force events in the context

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[4] A similar argument can be made for studying events in which force could have been used but was avoided. This facilitates studying officers' contribution to averting violence (see Geller 1985a).

of other work activities of police (e.g., arrests).

In computing rates, the selection of a denominator also can provide information useful for different purposes. All other things being equal, as the population at risk grows larger, rates become smaller and vice versa. For example, rates of excessive force can be computed on the basis of the number of persons in the general population, the adult population, the arrest population, or the population of suspects against whom force of any kind is used. Rates might also be computed on the basis of the number of calls for service, police-citizen encounters, potentially violent police-citizen encounters, or arrests. In each case the population at risk is narrowed considerably, and rates become systematically higher assuming that the number of victims or forcible events does not change dramatically.

As a general rule, the denominator should portray as accurately as possible the population of events or persons that is at risk. A common problem is that the most desirable measure of the at-risk population is not readily available. For example, it may be useful to compute rates on the basis of potentially violent police-citizen encounters (see Fyfe, in this volume; Binder and Scharf 1980; and Scharf and Binder 1983), as some observational studies have done, but police departments do not routinely collect the kinds of information needed to make this distinction accurately. In this situation, a proxy measure, such as calls for service or arrests, will be used instead. Calls for service over count the population at risk because some calls have a negligible potential for conflict between police and citizens (e.g., assisting a sick or injured person, locating a missing person, canceled calls, false burglar alarms, escorting court witnesses, checking on abandoned vehicles). On the other hand, arrests will underestimate the population at risk given that police sometimes use force in situations where no arrest is made. In the former case (calls for service), the rate will be biased in a negative direction (low), while in the latter (arrests) the rate will be biased in a positive (high) direction.

Similar methodological difficulties can be encountered when the denominator is persons. Not all police officers have responsibilities that bring them into regular contact with citizens or with criminal suspects. Likewise, general population counts may include the very young and the very old as well as the institutionalized, groups

that are at negligible risk for becoming the subjects of police violence. In such cases, it is possible to exclude certain categories from counts of the at-risk population (e.g., excluding police officers having only administrative responsibilities or excluding certain types of calls for service), although sometimes this strategy proves to be a coarse method of adjustment.

In comparing rates, perhaps across groups or geographic regions, it is important that the numerators and denominators represent the same categories of things for each of the compared entities (group, region, etc.). Comparisons of statistics that are computed in the same manner go a long way towards minimizing problems of interpretation. The strategy, however, does not necessarily eliminate problems that stem from inaccurate specification of the at-risk population. For example, rates computed on the basis of total population figures will contain a substantial number of persons who are not at risk. When comparisons are made across geographic areas, the assumption is made that the proportion of the population not at risk is the same for both areas. The assumption can be hard to verify and may not be true if one city has a much larger institutionalized population or more children or more elderly than another. Similarly, one police force may be more top heavy in the number of administrative personnel than another and comparisons of rates based on the total size of the police force will not address the issue.

Ideally, the population of events or persons in the denominator should be narrowed to those that can be characterized as having a potential for violence. Sometimes the information can be obtained from published or unpublished sources, but in many cases the data needed to enumerate the at-risk population may not be available.

One might question the significance of problems in measuring the at-risk population, especially when viewed in relation to problems of measuring the variable of primary interest—use of excessive force. Several observational studies provide data that allow for a comparison of rates based on different definitions of the at-risk population (Bayley and Garofalo 1987; Reiss 1967; Fyfe 1988). The results of these studies indicate that differences in rates can be considerable. For example, Bayley and Garofalo (1989) report that a minority of police work tasks can be characterized as a "potentially violent mobilization,"

generously defined. According to their data, the incidence rate of police use of force based on potentially violent mobilizations is more than three times higher than a rate based on police calls for service.[5] In similar fashion, Reiss (1967) found that only a minority of citizens who have contact with the police can be described as criminal suspects. In terms of these data, an incidence rate of excessive force based on contacts with criminal suspects is almost eight times greater than a rate based on all citizens who come in contact with police.

On occasion, statistics are reported not as rates but as frequency counts. Some police department annual reports include tallies of events such as citizen complaints that bear on use of force issues. These frequency statistics clearly are problematic in making between-group comparisons, such as those between police departments or between geographic areas, since the size of the population at risk is likely to be different. The problem can be addressed by converting the frequency counts into rates—provided that the necessary data are available. The frequency counts themselves, however, may be useful in examining changes over time if the unit of observation remains the same. For example, we might note that an officer has five complaints one year and three the next, or that a certain section of town generated 50 complaints one year and 70 the next, or that a police department received 120 complaints one year and 100 the next. In making these comparisons over time, rate-based inferences can be made by assuming that the denominator is not a factor in comparisons because it remains constant. Thus, in comparing the number of complaints that a police department receives over time we might assume implicitly that, among other things, the number of police officers, the number of potentially violent police-citizen contacts, and the number of citizens living in the area have remained constant. In the short-run, such assumptions may be valid, but over the long term they become increasingly doubtful. Many such assumptions are amenable to empirical verification, but efforts along these lines often are lacking in the social science literature.

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[5] Calls for service were defined in terms of self-initiated field encounters, radio dispatched calls, and citizen-initiated field encounters.

E. Comparing Prevalence Rates Across Populations: Varying Risks Associated with Subpopulations, Locations, and Time of Occurrence

Worden (this volume) addresses at some length the relation of situational and organizational factors to excessive force. In this section, the influence that the distribution of risk factors across populations has on the comparison of rates is considered. Three general categories of risk factors will be discussed, factors relating to differences in subpopulations, location, and time.

Crude rates, or rates that examine the number of events in relation to a total population, can be misleading in making comparisons across police departments or groups of police officers. Such rates fail to account for important differences between the items being compared. For example, the rate at which police in St. Louis use force may be twice that of police in Salt Lake City, but the difference may be attributable to the proportion of violent offenders in the population. Across several locations, police may be operating faithfully under the same set of policies or procedures and yet have very different use of force rates. The general strategy for dealing with this problem is to analyze rates for specific subpopulations. This disaggregation strategy can be used to make more reasonable comparisons between cities or police departments or even individual officers— comparisons that are critical in understanding the distribution of excessive force. The procedure can also be used to identify or confirm the influence of unknown or suspected risk factors, information that is relevant to both public policy and theory.

In the computation of rates, populations often are disaggregated on the basis of such demographic characteristics as age, race, or gender. Analysis often shows these demographic variables to be important risk factors for social problems. For example, studies indicate that most use-of-force events involve young suspects. Croft and Austin (1987) find that between 64 percent and 72 percent of incidents involve suspects between 18 and 28 years of age. Rates computed on the basis of *general population* totals can misrepresent the use of force picture, since persons in this age category typically are less than 20 percent of the total population. The use of arrest population totals helps to solve this problem by identifying a

more appropriate at risk population, as discussed previously. However, the issue of whether the rate of conflict with police is higher for younger as compared to older *arrestees* can only be resolved by computing age-specific incidence rates based on the age distribution of the arrest population. Unfortunately, Croft and Austin were not able to investigate this issue directly. Similar comparisons among subpopulations of suspects or among subpopulations of police officers can be made on a variety of personal and demographic attributes.

The question of whether the rate of excessive force is higher among minorities is both sensitive and pressing (it merits discussion in several chapters in this volume, including Locke's and Worden's), and the available research is far from being determinative on the issue. Research conducted for the President's Commission in the 1960s indicates that white suspects experience higher rates of excessive force (Reiss 1967). In contrast, a recent Gallup (1991a) poll finds that non-whites are more likely to report that they have been physically mistreated by police (see Flanagan and Vaughn, this volume). Given the ever changing state of race relations and of police operations, one might be inclined to judge the more recent figures as more representative. However, the Reiss data were based on direct observations while the Gallup data are based on unsubstantiated reports by victims, and this difference in methodology may be a factor in the interpretation of findings. Yet, Worden's analysis (this volume), examining a different set of observational data than Reiss employed, lends some support to the perceptions identified in the Gallup poll.

In addition to race, the research literature suggests that low social class (Reiss 1967; Russell 1967), the presence of fellow officers (Reiss 1967; Croft and Austin 1987), alcohol use by suspect and officer (Reiss 1967; Fogel 1987), relative youthfulness of suspect and officer (Croft and Austin 1987; Bayley and Garofalo 1989), and relative inexperience of police officers (Bayley and Garofalo 1987) may be risk factors for excessive force. However, at this time the number of research studies is so small that few conclusions can be drawn (the latest and best effort to derive such conclusions is Worden's in this volume).

Geographic location is associated with rates of crime, and therefore we may suspect that a similar relation exists with rates of excessive force. The issue is an important one, since excessive force may be extremely high in ghetto areas and extremely low in suburban or business areas. Also, the fact an officer has a relatively high number of use-of-force reports may be related to the location or type of patrol assignments (Toch, this volume). On a smaller geographic scale, Reiss (1967) found that many incidents of excessive force occurred in patrol cars or police lock-ups, while another study for the President's Commission noted that in one police department the majority of excessive force complaints were received from jailed suspects (President's Commission on Law Enforcement and Administration of Justice 1967a: Field Study V). These observed locational differences may be confounded by differences in population composition, and this possibility needs to be taken into account in the interpretation of such findings.

Finally, we note that the geographic location of excessive force incidents may present measurement problems if many incidents take place in isolated or out-of-the-way locations where use of excessive force is more likely to go unobserved or unrecorded. The problem may not be insurmountable given that the use of force oftentimes takes place in the presence of citizen observers (Bayley and Garofalo 1989) and given that police often have an interest in documenting their use of force when an arrest is made or an injury results. As Fyfe observes (this volume), officers engaged in wilful abuse of force may take steps to conceal their activity that officers whose abuse of force stems from ineptness may not.

Time also may operate as a risk factor for excessive force given that crime data show that assaults are more likely to occur on weekends, from twilight to early morning hours, and during the summer months (LeBeau, et al. 1992). Similar temporal patterns have been observed for use-of-force reports, and these patterns, which can be reflected in shift assignments, may be critical in understanding individual differences among police officers in their use of force.

Observational research has been able to capitalize on ostensible risk factors for police use of force as a means for dealing with low base rate problems. Most observational researchers who have studied police use of force concentrate their efforts on observing night and weekend shifts in

high-crime areas. Furthermore, observational researchers often carry out their activities in the summer months, mostly for matters of convenience, but also because the use of force is expected to be more frequent. The strategy helps to solve a low-base-rate problem by biasing counts of excessive force upwards. If these counts are used to compute event- and person-based rates, it must be recognized that the rates apply more appropriately to high-risk circumstances. In this regard, observational studies will overestimate the extent of excessive force if the data are taken as generally representative of a city or police department.

II. HOW OFTEN IS (EXCESSIVE) FORCE USED?

In this section, the empirical research on the prevalence of police use of force is discussed. Two sets of findings are reviewed: those on the use of force generally and those on excessive force. The figures discussed here are those readily available from the research literature. A study recently completed by the Police Foundation as part of NIJ's series of studies on police abuse of force presents additional data on the prevalence of police use and abuse of force (see Pate and Fridell 1993). Worden (in this volume) presents new analysis of a previously collected data set, reporting the incidence of police use of both reasonable and excessive force. Additional statistics on citizen complaints or on use of force incidents may be available from individual police departments. Table 1 (at the end of this chapter) summarizes the findings of the research studies. As one can see, the number of studies is not large, reflecting a general lack of research on police use of force. For this reason, caution should be exercised in the interpretation of findings.

A. Use of Force

Several researchers have estimated the prevalence of police use of force without making a distinction as to whether force was appropriate or inappropriate. These data, since they represent all use of force incidents, can be used to identify upper limits for the prevalence of excessive force. Also, the information can be useful in developing a multiple indicators strategy to study problems of

police-citizen violence.

The data indicate that as many as six percent of arrests involve the use of force by police. The Christopher Commission estimated that one percent of arrests in Los Angeles involve force, a figure that is low in comparison with other research findings (Independent Commission on the Los Angeles Police Department 1991). Croft and Austin (1987) report that from 1984 to 1985 about five percent of arrests in Rochester and about four percent in Syracuse involved force.[6] In terms of rates, these data indicate that there are between 40 (Syracuse) and 50 (Rochester) use-of-force incidents for every thousand arrests. Observational research by Smith finds that six percent of arrests involve the use of force (see Croft and Austin 1987: C-36). When use-of-force reports are viewed in relation to calls for service, the proportion becomes extremely small. For example, the Rochester data indicate that an officer will use force in about two out of a thousand calls for service. As discussed previously, arrests represent a small portion of police activity, and officers and citizens are at higher risk for violence in arrest situations.

Observational studies typically focus on police-citizen contacts, especially on contacts that involve a potential for violence. These data suggest that as many as 10 percent of "potentially violent" police-citizen encounters involve police force. Friedrich (1966) finds that about five percent of encounters with potential offenders involve force. On the basis of the same data, Reiss (1987) estimates that about nine percent of offenders are handled with gross force. Bayley and Garofalo (1989) observed force used in about eight percent of potentially violent citizen encounters, while, in another study, Fyfe (1988) observed force used in 10 percent of such encounters.

When the use of force is viewed in relation to the number of police officers, a very different

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[6] In an earlier study, Croft (1985) found that an average of two percent of arrests in Rochester involved force. The researcher attributes the increase in the later study to better compliance by officers with use of force reporting practices. Thus, the Rochester data do not indicate a doubling of violent incidents, and we discuss the more recent figures since they can be assumed to be more reliable and representative.

picture emerges. The research indicates that the rate of violent incidents for a group of officers is much higher than comparable rates based on arrests or police-citizen encounters. Early statistics suggest that more than one quarter of police officers are involved in the use of force each year (Brooks 1965). More recent data by Croft and Austin (1987) indicate that force is used at a rate of between 111 and 312 incidents per 100 officers per year. These data also show that the amount of time an officer spends on the job and the number of arrests he or she makes are related to the number of times force is used. In Rochester, the use-of-force rate per 100 officers is three times that in Syracuse, but so is the arrest rate; and Rochester officers work almost twice as many patrol days.

Given that officers encounter many potentially violent situations in their work, relatively high yearly rates of force for groups of police officers can be anticipated. However, the significance of these figures should not be underestimated in terms of possible effects on an officer's attitudes and values. The data confirm that an individual officer is at much greater risk for violent encounters than an individual arrestee or citizen. This occupational reality, which is recognized by officers, no doubt shapes how they approach their work. Relative comparisons, however, can obscure the fact that the average officer only will use force from between one to three times a year.

The observational research suggests that police use of force occurs at least twice as often as suggested by official use-of-force reports. An interpretation of these findings is that the greater percentage of forcible events reported in observational studies can be attributed to an under counting bias in official records. While it is true that official records under count forcible events, this is not the complete story since observational studies are based on police-citizen encounters, which is a much larger universe of events than arrests. In comparison to percentages based on use-of-force reports and arrest counts, percentages derived from observational studies will be based on a bigger numerator (observed force) but also on a bigger denominator (police-citizen encounters). One study finds that about one out of six encounters with potential suspects leads to arrest (Bayley and Garofalo 1987). Generalizing from this finding, in order to find a doubling in the use

of force rates between official records and observational research, force had to be observed at a rate that is 12 times greater for police-citizen encounters than that reported for arrests. The available data certainly are too limited a basis for asserting the existence of such a general pattern, however.

How is it that the existing observational studies find more force actually being used than is captured by official records? A plausible answer, one that finds support in research findings, is that field observers count many more instances of low-level force than are recorded by police. For example, Bayley and Garofalo (1987: B-35) found that in 84 percent of forcible incidents the police officer grabbed, pushed, or restrained a citizen.[7] Furthermore, they observed only 10 injuries to citizens, nine of which were caused not by police officers but by other citizens. On the basis of their observations, they conclude that "violence, more accurately, conflict during patrol encounters was very rare" and that "most of the conflict was verbal" (*ibid.*: B-21). These findings and conclusions contrast sharply with data presented by Croft and Austin (1987) showing that from one-third to one-half of police use-of-force reports involve citizen injury. Thus, we can conclude that observational methods capture many more use of force events because they provide for a more generous definition of force than that used by police to trigger the filing of a use-of-force report. The issue of definitional thresholds, then, is an important one to keep in mind. It is not just that police do not file reports when force is used, they fail to file reports when minor force is used. If one is interested, however, in more serious violence, use-of-force reports offer a more convenient picture of prevalence than observational studies, and, perhaps, a more accurate one, given that observational studies rarely can compute rates by type of force or extent of injury.

In general, research indicates that the use of force by police is a relatively infrequent event. The infrequency of police force (e.g., in about 10 percent of potentially violent encounters) raises methodological issues typically associated with the study of low-base-rate events. It means that

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[7] Missing cases were excluded from the computation of statistics.

many observations need to be made in order to identify an adequate number of cases for analysis. The fact that police use-of-force rates are too low to make their study easy (see Klockars' proposed solution to this problem in his essay for this volume) does not, of course, mean that public policymakers and public opinion view current use-of-force rates as acceptable.

B. Excessive Force

Studies of excessive force have relied on three major data sources: citizen complaint records, observations of police behavior, and surveys of citizens. Data on citizen complaints are more plentiful, probably owing to the fact that many police departments maintain records on complaints. In contrast, surveys and observational studies that have inquired about the excessive use of force are few in number, probably because such projects can be expensive and time-consuming. Flanagan and Vaughn (this volume) provide additional discussion of public opinion surveys.

A pioneering study on police misconduct by Chevigny (1969) included data on citizen complaints. He found that complaints of excessive force constituted a substantial proportion of all complaints filed, and only a small proportion of complaints was substantiated. Chevigny's findings are important because legal staff not affiliated with the police attempted to corroborate the claims of citizens. As discussed in a later section, citizen complaints tend to under count instances of excessive force, and changes in complaint procedures can have dramatic influence on the number of complaints filed (see also Toch, this volume). Also, a low substantiation rate can be attributed to a number of factors such as the amount of investigative effort, a lack of citizen witnesses, and the possibility of frivolous complaints. For these reasons, complaint records are not, by themselves, a very accurate indicator of the number of excessive force events.

An early statistic cited by Brooks (1965) indicates that approximately one citizen complaint, of any nature, is filed for every 1,000 arrests. Both because that early finding may not be generalizable to more contemporary experience and because large agencies (the ones most often studied) make large numbers of arrests, Brooks' finding belies the fact that the number of complaints filed by citizens in many jurisdictions is

substantial. A survey of 36 large cities and police agencies found that a total of 26,510 complaints were filed in 1984, of which about one-quarter were based on the excessive use of force (New York City Police Department 1986). In Los Angeles alone, an average of more than 400 complaints over excessive force are made per year, with more than 200 additional complaints filed over the use of improper police tactics.

When we focus more closely on complaints of excessive force and the situations most likely to give rise to such complaints, we find, not surprisingly, that the complaint rate is considerably higher. For example, research by Croft and Austin (1987) indicates that between five and 10 percent of use of force incidents involve complaints about excessive use of force. These figures translate into rates of between 50 and 100 complaints per 1,000 use of force incidents, a complaint rate that is 50 to 100 times the rate of complaints for arrests generally.

Clearly, not all experiences of excessive force lead to complaints and not all complaints of excessive force are valid. That is, there is good reason to believe that complaints under count excessive force relative to the experiences of *citizens* or *suspects*, while there are good arguments to suggest that complaints over count the use of excessive force relative to experiences of *complainants*. Given that police complaint mechanisms generally are inconvenient and unattractive, it may be that victims of excessive force are less inclined to complain than they are to file unjustified complaints. If this were true, we would conclude that the total number of complaints is less than the total number of excessive force incidents, a conclusion with which many researchers and policy makers might agree. But suppose, for argument's sake, that for each unjustified complaint filed there is only one legitimate victim who did not make a complaint. In these circumstances, the total number of complaints would represent the total number of excessive force incidents, even though not all the complaints are valid. If this assumption has any merit, then the Croft and Austin data would suggest that as many as one in 10 incidents of force may be considered excessive. Observational research would suggest even higher rates. Under the same speculative assumption, data collected for the President's Crime Commission would indicate that about one in three instances of force

involves excessive force (as judged by researchers) or approximately one in six instances (when judged by a panel of police experts) (Friedrich 1980). The gaps in our knowledge are so large that we do not know whether the assumption on which these rates of abuse are based is valid. If the assumption is valid, then the available research findings suggest that use of excessive force may be a serious problem when viewed relative to the number of times force is used.

Some studies have expressed excessive force rates in terms of the number of officers employed by a department working specific types of assignments. A large scale study found that on average 10 complaints of excessive force are filed per 100 officers per year (New York City Police Department 1986). There is considerable variation in this rate, however. Croft and Austin (1987) report the annual rate of complaints for excessive force per 100 officers to be 21.3 in Rochester and 5.3 in Syracuse. As mentioned previously, legitimate factors having to do with exposure, such as number of arrests or days worked, can help to account for differences between groups. Yet, there is no doubting the fact that officers in some cities or departments are more besieged by citizen complaints relative to their peers elsewhere.

Looking at rates in terms of the experiences of citizens and suspects, observational data suggest that around 30 suspects out of a thousand (or around three percent) experience excessive force. This figure refers to all criminal suspects. If we were to narrow the scope to suspects against whom force is used, the rate would be considerably higher. A recent survey by Gallup (1991a) finds that five percent of citizen respondents, and nine percent of non-white respondents, say that they have been physically abused or mistreated by police. Winick (1987) also reported that five percent of respondents in a New York State survey said they had been mistreated by police in the last five years. However, four percent of the respondents experienced verbal abuse while only one percent reported physical abuse, so that the Gallup survey finds a much higher rate of physical abuse. The difference may be attributable to the fact that Gallup's figures represent lifetime experiences while Winick's figures cover five years. On the other hand, it may be that respondents in the Gallup poll did not interpret the question correctly and reported experiences of verbal abuse.

Gallup (1991a) also found that 20 percent of respondents, and 30 percent of non-white respondents, say that they know someone who has been physically abused by police. Once again, although Winick (1987) observed a comparable figure (17 percent for all respondents), the data contain a large number of reports for verbal abuse. In any event, both sets of findings confirm that knowledge of excessive force events or of police misconduct extends well beyond the actors involved. Furthermore, the fact that almost one in three non-white respondents claim to know someone who has been abused by police helps explain why police often face serious public relations and collaboration problems when policing non-white communities.

III. A COMPARISON OF RESEARCH METHODOLOGIES

In this section, the advantages and disadvantages of three types of research methodologies—official records, surveys and field observation—for studying issues of excessive force are compared.

A. Official Records

In approaching the study of police use of force, the first research strategy to come to mind is apt to be one based on official records. Records are maintained by nearly all governmental agencies, and a researcher who uses these records can capitalize on work done by agency personnel. For this reason, an analysis of official records is relatively inexpensive and convenient in comparison with other research strategies. Furthermore, official records typically generate large numbers of observations that are particularly useful in the study of relatively infrequent events, such as the use of excessive force by police.

Although there is not yet any useful national reporting system for officers' use of force (Geller and Scott 1992),[8] it is not uncommon to find a number of agencies collecting the same or compa-

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[8] In 1994 the long-awaited Federal Crime Bill became law, and it contains a provision for the establishment of a national reporting system. It is discussed later in this chapter and in Geller and Toch's concluding essay.

rable information in their official records (e.g., use of pepper spray or other nonlethal weapons). The wide availability of these records can facilitate comparisons across police departments, cities, or regions of the country. These records can also be used to make comparisons within a given agency between police officers or patrol areas. If one is interested in a relatively quick and inexpensive method for making comparisons across a large number of cases or across wide geographic areas, official records are a very attractive source of data. Partly for these reasons, a recent U.S. Department of Justice investigation relied on federal court records in a nationwide study of excessive force (DeParle 1992), and the Christopher Commission used Los Angeles Police Department records to estimate the number of officers using excessive force.

Official records can also be used for longitudinal analyses that examine changes over time within or between units of study (e.g., city, police department). These analyses can be particularly useful in studying the impact of policy changes or of larger scale social change. Finally, when several types of records are available on the same phenomenon, the records can be used as part of a multiple indicators research strategy.

Although there are many attractive reasons for using official records in research on excessive force, the strategy is not without limitations (see generally Geller and Scott 1992). Some concerns are based on practical issues of how the data are collected (e.g., concerns with the availability or allocation of resources). Other difficulties can only be addressed fully by changing the types of information collected or by standardizing record keeping systems.

Researchers attempting to use official records to study excessive force may find access difficult, given that the topic is a sensitive one that may embarrass the agency. In recent years, however, it has often been possible to work out satisfactory arrangements for access.[9] More significantly, the

quality of the data (e.g., accuracy, dependability, and coverage) hinges on how well the record keeping system operates. A variety of reporting biases as well as differences or changes in reporting methods can influence counts dramatically. Even relatively simple errors, such as miscounting or misclassifying information, can be a serious problem. For example, Fyfe (1988) and Geller and Scott (1992), studying tallies of civilians killed by police, have found large discrepancies between internal police agency counts and the tallies those same agencies forward to the FBI. Also, Croft and Austin (1987) report that the rate at which force was used in the Rochester police department doubled in a few years, an increase they attribute to better compliance by police in filing use-of-force reports. These problems are not necessarily catastrophic for researchers (the impact on police practitioners may be radically different, of course), provided that something can be learned about the nature and distribution of the errors.

A more significant problem is that of missing data or information that should be available in record keeping systems but is not. When data are missing, in whole or part, for a large proportion of cases, the issue is raised as to whether the information that is available accurately represents the phenomenon being studied. Although there are various statistical techniques for dealing with problems of missing data, the procedures involve assumptions that can be questioned. At some point, however, the number of missing cases becomes so large and the number of valid cases so low that reliable statistical analyses are impossible. Problems of missing data are compounded in comparative studies since the nature and extent of missing data will vary across agencies. However, problems of missing data, miscounting, and misclassification can be remedied to a large extent by conducting periodic audits of record keeping systems.

Even when information in agency records is meticulously collected, another difficulty often encountered is that the data may not be especially useful from a research point of view. Agencies maintain records for administrative and bureau-

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[9] It is worth considering, as more data are accumulated in the years ahead, whether the most open police departments (those which most readily furnish use- and abuse-of-force data to researchers) will appear to have more of a problem with force than agencies which are less willing to disclose data voluntarily. Such a phenomenon would present what

Bayley (this volume), discussing the relative openness of democratic nations in identifying police misconduct, terms "the paradox of openness."

cratic purposes and rarely have research in mind when establishing a record keeping system. This may severely limit the conclusions that can be drawn from statistical analysis. For example, Croft and Austin (1987) found that in Rochester, where the police department maintains computerized records on the use of force, the type of force used was described in 80 percent of incidents simply as "physical restraint". For many research purposes, this classification will not be especially informative.

Related problems occur when there is an interest in making comparisons between police departments or other units, and the available data are non-comparable (Geller and Scott 1992, discuss this problem in studying police uses of *deadly* force). Thus, when Croft and Austin (1987) themselves collected data on the type of force used by the Syracuse Police Department, they were able to classify incidents in more potentially useful terms based on specific acts, such as arm lock, mace, wrestling, grabbing, striking, and choking. According to this classification scheme, only 17 percent of incidents in Syracuse involved "simple restraint" or an arm lock. On the basis of these data, however, the authors could not draw any meaningful conclusions from a comparison of the Rochester and Syracuse police departments.

Finally, researchers may encounter situations where the data that are most useful and relevant to the question at hand simply are not available in official records. The problem can be addressed by having the agency include new information items to their record keeping systems, but in many cases this solution is not practical.

In an attempt to explore the potential uses of official records in studying police use of force, a brief survey was mailed to 13 police departments. The departments were not chosen randomly; rather they intentionally were selected to include a cross-section of medium to large police departments across the country. The survey requested information on 11 areas: weapons use, use of force records, civil litigation, citizen complaints, citizen injuries, police injuries, resisting arrest charges, total arrests for UCR Part I and Part II crimes, total arrests for violent crimes, weapons charges, and number of full-time police field officers. Initially, the plan was to compute a variety of rates, using different information in the numerator and denominator, to examine whether

consistent patterns emerge within and across police departments. However, when the data were received, it became clear that the plan of analysis would have to be abandoned. Problems of non-comparability and of missing and incomplete data were such that little meaningful analysis could be carried out on this small sample. This result underscores the importance of recommendations for a national data system on police use of force (see Geller and Scott 1992) and of the federal government's new obligation under the 1994 Violent Crime Control and Law Enforcement Act to devise such a system. The results of the survey are presented in Table 2 (at the end of this chapter). The findings are informative in that they characterize the types of records on the use of force that are maintained by the police.

These data confirm some of the findings of the recent survey on the police use of force carried out by the Police Foundation (Pate and Fridell 1993). That study, too, suffered from problems of noncomparability of data and other methodological difficulties (*Crime Control Digest* 1993). In particular, we find that nearly all police departments can provide statistics on the use of firearms in terms of how many times and under what circumstances weapons were discharged (but there are still comparability problems, as detailed by Geller and Scott 1992). However, these data are limited in their research use because police very rarely discharge their firearms, and in many departments accidental discharges and animal shootings account for almost all the reported firearms incidents. Likewise, nearly all police departments can furnish the number of citizen complaints, including those of excessive force, along with information on the disposition of the complaints. But there is tremendous variation in the number of excessive force complaints and, as we shall discuss later, a very significant portion of this variation can be accounted for by the local operation of grievance procedures.

Perhaps the survey results are most informative in terms of the types of information that are not available. For example, only four departments, or less than one-third, could provide statistics on citizen injuries that go beyond firearms-related injuries. More than half the departments were unable to provide any information on the number of citizen injuries. Similarly, almost half of the departments could not furnish statistics on the number of times police used force, and the

proportion rises to well over half when the focus shifts to injuries that did not result from police use of a weapon. In contrast, nearly all departments could provide statistics on the number of times police officers were assaulted and injured. This is testament to several influences: general concern about officer safety, workers' compensation considerations, and the aggressive collection of such data by the FBI.

In view of this situation, dramatic improvements in the types of information police departments collect on the use of force are needed if we are to understand the nature and scope of the problem of police abuse of force. Many police departments are unable to describe the basic parameters of the problem, such as the number of times citizens were injured by the police. In the absence of such basic information, it will be difficult to deal, either effectively or efficiently, with the problems surrounding police use of force. At this point, we turn to discuss some of the methodological issues associated with various types of official records.

1. Court Records

Litigation over police use of excessive force may involve criminal charges or civil claims and can take place in state or federal forums. Researchers have relatively easy access to court records, records that, for the most part, are maintained carefully. Detailed descriptions of events are available through transcripts, but this information tends not to be useful for research purposes because it is expensive to secure and laborious to analyze. An advantage of court records is that they provide, through a verdict, a definite classification of police use of force as appropriate or inappropriate (when a case is settled out of court there may not be a specific admission of fault, however, confounding such classification).

The most serious limitation of court records for studying the prevalence of excessive force is that only a very small proportion of cases is litigated. One need only consider the position of the litigants to realize that this is so. Litigation is an expensive proposition, and most citizens who are victims of police abuse cannot afford, in terms of time, money or other resources, to take their case to court. In a criminal case, the victim must convince the district attorney to file charges against the police, a daunting challenge given that

the defendant usually is a criminal suspect and that the prosecutor has a strong need to maintain cooperative relations with the police (Kobler 1975b). The evidentiary standards required for criminal conviction also contribute to making criminal prosecutions of police based on improper use of force rare (Cheh, this volume, discusses these matters in detail).

In civil claims of police abuse, lawyers may work on a contingency fee, pro bono, or court-appointed basis so that the victim need not have any money, helping to mitigate one impediment that victims face. However, the burden of proof, even though lower in civil than in criminal courts, is still sufficiently high so as to be a major factor in the lawyer's decision to file a claim, and serious problems relating to the credibility and character of the victim still exist. Lawyers working on a contingency basis will look for cases where there is a good probability of a big settlement or award. They tend to select only the most outrageous and clear cut cases of police abuse for litigation, ones where both the damages and corroborating evidence are great. Furthermore, police officers may counter file with civil claims that discourage victims from pursuing their claims by threatening to bankrupt the complainant and by sending a message that the battle is not to be won easily. Thus, the number of civil claims filed against police for excessive use of force vastly underestimates the incidence of police use or abuse of force.[10]

The Christopher Commission revealed the frequency with which claims (a prelude to filing lawsuits)[11] were filed concerning personal injury

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[10] This does not mean, of course, that civil litigation goes unnoticed by police agencies, the lawyers who defend and advise them, or the elected officials who can influence them. On civil litigation generally, see Cheh's chapter in this volume.

[11] A recent study by the Department of Justice illustrates some of the limitations of using lawsuits and related legal records to study police violence. The study examined "the number of police brutality complaints received by the Justice Department" over a six year period (DeParle 1992: A1). These complaints may serve as preludes to lawsuits brought by the Justice Department for civil rights violations (see Cheh, this volume). On releasing the results of the survey, the Justice Department said that "it was

or property damage resulting from the police use of force: Between 1986 and 1990 there were over 2,500 such claims, an average of 500 per year. The Commission also reported that during the same period an average of almost 17 claims per year resulted in settlements of more than $15,000 (Independent Commission on the Los Angeles Police Department 1991).

2. Citizen Complaint Records

Nearly all police departments have procedures by which citizens may lodge complaints against officers. In larger departments, specialized internal review units receive complaints and

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unable to draw any conclusions about when, where or why police officers engage in police misconduct" (DeParle 1992: A1). The shortcomings of this study are many: It did not include complaints brought to local prosecutors, police departments or review boards; the results were reported as raw frequencies of complaints, which does not take into account differences in risk factors such as the size of the police department or the number of arrests; important information regarding police training and use of force policies, along with important characteristics of the complainants (such as their race and extent of alleged harm), were not included in the study. The study found that the highest ranked city in the nation had an average of 35 complaints per year (that found their way to the U.S. Justice Department). In view of this low figure, a single aggressive lawyer could easily double the number of complaints sent to the Justice Department concerning any police department in the country!

More importantly, the study highlights our lack of knowledge regarding the prevalence of police violence, and it argues for increasing the accountability of police departments via better and more standardized information collection and reporting. When faced with a national crisis (the aftermath of the Rodney King beating), the federal government was incapable of describing the prevalence of police violence in any complete or meaningful way. In a later section, we shall see that many police departments are similarly incapable of describing the extent of police violence. These lamentable realities illustrate why there has been a growing, bi-partisan call over the past two decades for the development of a national reporting system for police violence, perhaps as an adjunct to the UCR crime statistics program (see discussion at the end of this chapter).

conduct investigations (West 1988; for discussion of different complaint systems, see Perez and Muir, this volume). In smaller departments, procedures tend to be more informal, with the chief or another high ranking officer typically dealing with complaints on an ad hoc basis. Complaints, as well as court records, clearly reflect the involved citizen's assessment that police use of force has exceeded acceptable limits. From this point of view, these statistics can be a useful tool for gauging the quality of police-community relations.

The complaint process has a major influence on the number of complaints received. To begin with, the process of filing complaints differs from that of filing court claims in important ways. Complaints are easier to file, and the screening process takes place after the charge is brought, rather than before as in court claims (e.g., a district attorney's review to decide whether to prosecute the accused officer). Also, administrative complaints often (but not always—Perez and Muir, this volume) are subject to more relaxed evidentiary standards than are claims in civil or criminal lawsuits. For these reasons, the number of citizen complaints is almost always greater than the number of court claims for a given police department.

Several early studies found that the police may use various strategies to discourage citizen complaints (President's Commission on Law Enforcement and Administration of Justice 1967b). Some of these strategies involve techniques of coercion and intimidation. Police may charge the complainant, who typically is a criminal suspect, with resisting arrest in an attempt to create a justification for the use of force. One study found that 35 percent of complainants were charged with resisting arrest (Hudson 1970), while a more recent study reports a figure of 25 percent (Wagner 1980). Police may negotiate with complainants, offering to drop the resisting arrest charges in exchange for not filing a complaint. Potential witnesses also may be charged with resisting arrest to impeach their credibility as impartial observers. Police also may warn complainants that criminal charges will be brought for filing a false report if the complaint is unsubstantiated, and they may follow through on this threat as regular practice. For example, in 1962 the Washington, D.C. Police Department brought criminal charges against 40 percent of those who

complained of police misconduct (President's Commission on Law Enforcement and Administration of Justice 1967a). At times, police even may require complainants to take a polygraph exam.

Some techniques that police use to discourage complaints are more subtle or less overtly intentional. Citizens may not know how to make complaints, and information on the complaint process may be difficult to come by. Moreover, citizens who file complaints may not be notified of the outcome.[12]

In view of this situation, we can expect the rate of complaints to vary considerably across cities or agencies as a function of how the complaint process operates. A recent study of the six largest police departments in the nation confirms that there is considerable variation in complaint rates. The data indicate that in 1986 the annual rate of complaints per 100 officers ranged from a low of 5.6 in Philadelphia to a high of 36.9 in Houston, almost a seven-fold difference (Pate and Hamilton 1991: 144). A broader study, covering more police departments, reveals even greater variation (New York City Police Department 1986). Between 1983 and 1984, the rate of complaints for excessive force per 100 officers ranged from low of 0.3 in Nassau Co., New York, to high of 21.3 in Chicago, more than a seventy-fold difference.[13] Pate and Fridell (1993), in a recent national survey, found that complaint rates varied across types of agencies. For instance, municipal agencies collectively averaged 4.8 excessive force complaints for every 100 sworn officers, while state agencies collectively averaged 1.6 complaints per 100 officers (both are annual figures and both may be subject to methodological errors, as noted earlier).

Changes in the rate of use of force com-

plaints from one year to the next for the same city also showed considerable variation in the NYPD study (1986). The complaint rate increased about 40 percent in Houston and dropped about 80 percent in Gainesville, Florida in one year. Less dramatic yearly changes were observed for other major cities across the country. The complaint rate increased around 15 percent for Columbus, New York, and Memphis, and dropped a similar proportion for Denver, Atlanta, and Seattle. Given that the specific reasons for differences in complaint rates were not investigated, it remains to be determined how much variation can be attributed to the manner in which complaint processes operate.

It also should be unsurprising that when police departments make the complaint process more open and receptive to citizens, the number of complaints increases dramatically. For example, an early study showed that the annual number of complaints of excessive force in New York City ranged from a low of 106 in 1956 to a high of 231 in 1962 (President's Commission on Law Enforcement and Administration of Justice 1967a; Brooks 1965). When the complaint reception unit moved to a more attractive building in 1965, the number of complaints doubled (Brooks 1965). Furthermore, when the complaint process was modified under threats of external review, 181 complaints were lodged in the first three months of 1966, making for an estimated annual total of over 700 complaints (President's Commission on Law Enforcement and Administration of Justice 1967a). Ostensible improvements in complaint procedures do not always work to increase the number of complaints. For example, when Great Britain instituted a Police Complaints Authority to oversee the disciplinary process, the rate of complaints for police excessive force dropped almost 25 percent, from 2.6 to 1.9 per 100 officers, in the first year of operation.

The nationwide trend has been for police departments to make it easier for citizens to lodge administrative complaints. A survey of 31 large cities indicates that 77 percent of police departments receive complaints at any police station, 84 percent receive complaints by any method (e.g., phone, mail, in person), 90 percent will investigate anonymous complaints, 81 percent do not require notarized statements from complainants and 77 percent do not prosecute for false complaints (New York City Police Department 1986).

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[12] See Kerstetter (this volume) on the contribution that keeping citizens informed can make to achieving a sense of "procedural justice" for complainants. For additional discussion of the obstacles citizens face to complaining about police use of force, see Independent Commission on the LAPD (1991) and Toch (this volume).

[13] Although the survey included 36 large cities or agencies, these comparisons are based on 26 cities for which complete data were available.

But a recent survey of police departments, mostly in larger cities and counties, revealed that only half of the departments distribute information on the complaint process and only half publish compliant statistics (West 1988). Furthermore, only two-fifths of respondents in a New York State poll were aware of the complaint procedures for making allegations of excessive force against police (Winick 1987; see also Flanagan and Vaughn, this volume).

Thus, there is good reason to believe that citizen complaints underestimate the number of instances in which citizens believe they have been the victims of excessive force. Two research findings give us some estimate of the degree to which citizen complaints may under count the actual prevalence of excessive force. Reiss (1967) observed 37 instances of excessive force (as judged by researchers), only one of which resulted in a citizen complaint. While these numbers are far too small to serve as a foundation for generalizations, if the pattern held it would suggest that the degree of under counting is very large—that 97 percent of excessive force incidents go unreported to the police by those aggrieved. These data, however, are 25 years old and may not accurately reflect the current situation. More recently, Winick (1987) found that one out of every three respondents who claimed to have been a victim of excessive force indicated that they filed a complaint over the incident—a 67 percent nonreporting rate.

A substantial difficulty in using complaint records to gauge the prevalence of excessive force is uncertainty concerning the proportion of claims that are legitimate. Some will argue that only a small percentage of complaints are substantiated, thereby proving that instances of excessive force are extremely rare. They also will argue that offenders make complaints frivolously or with the purpose of securing an edge in the plea bargaining process. On the other hand, it can be argued that police agencies are reluctant to discipline officers and do not take seriously their responsibility for investigating citizen complaints.

An examination of the dispositions of citizen complaints provides evidence to support both sides of the argument. The proportion of substantiated complaints is indeed low, generally not more than 10 percent, while the proportion of complaints not sustained is very large, typically around 70 percent (Wagner 1980; Fogel 1987;

Brooks 1965). The pattern has been observed both in the U.S. and abroad (Fogel 1987; Bayley, this volume). As an extreme example, the 1967 President's Commission identified a police department where not a single allegation of excessive force had been sustained out of 121 such complaints made over five years (President's Commission on Law Enforcement and the Administration of Justice 1967a). The most recent national survey found that, of 1,911 complaints adjudicated, under 13 percent were sustained (Pate and Fridell 1993).

Recent studies also show considerable variation across jurisdictions in the proportion of sustained complaints. A survey of 36 cities with populations of 250,000 or more reports that the percent of substantiated complaints ranges from a low of about 3 percent to a high of about 67 percent, with a median of about 24 percent (Heaphy 1978). Another survey of large cities in 1984 found that the percent of substantiated complaints ranged from a high of about 45 percent in Washington, D.C. and Kingston, North Carolina to a low of 0 percent in San Antonio and Milwaukee (New York City Police Department 1986). The proportion of unsubstantiated complaints ranged from a high of 100 percent in Milwaukee to a low of 0 percent in Memphis and Puerto Rico (*ibid.*).

A difficulty in interpreting disposition statistics is that the difference between sustained and unsustained declarations often hinges on the availability of a third-party witness. Furthermore, many exonerated and unfounded rulings are based on the testimony of a fellow police officer. In situations where there is no third-party witness, it is often impossible to reach agreement on what actually transpired between the officer and citizen. Clearly, it would be presumptuous to assume that most of these complaints are invented by disgruntled offenders who are unhappy because they were apprehended by the police, just as it would be presumptuous to assume that most of these complaints have a solid factual basis. Perhaps the best estimate as to how many complaints could be sustained with sufficient investigatory effort derives from a legal aid project by the New York Civil Liberties Union (Chevigny 1965). It was the experience of this project that 16 percent of all complaints, including complaints of excessive force, can be sustained in the sense that corroborating evidence for the complaint could be found.

In view of this figure, we cannot be optimistic about coming to a precise estimate of the number of instances of excessive force using citizen complaint records. Once again, however, we should mention that it may be possible to address issues of relative incidence with these records, and these records could prove useful in a multiple indicators strategy.

Finally, we should note that there is evidence (how compelling is a separate question) to suggest that a considerable number of complaints may be lacking merit. In Los Angeles, 38 percent of all complaints are declared "unfounded," meaning that non-involved citizens or police witnesses contradict the story of the complainant (Independent Commission on the Los Angeles Police Department 1991). A national survey indicates that the proportion of unfounded complaints ranged from a high of 57 percent in Nassau Co., N.Y., to a low of 0 percent in Kingston N.C., Puerto Rico, and Memphis. Similarly, in Great Britain almost half of the complaints against police are withdrawn by the complainant (Fogel 1987). It could be argued that "unfounded" decisions are influenced unduly by police officer witnesses who refuse to break the "code of silence." One might also argue that the British figure reflects the influence of coercion by police. In any case, the data are sufficiently ambiguous that more research is needed on the operation of police complaint procedures in order to make an informed judgment on the proper interpretation of complaint statistics (see also Perez and Muir, this volume).

3. Arrest Records

Arrest records are maintained by every police department and are frequently mined for research. In studies of police excessive force, these records have an important use in identifying the population at risk for the computation of rates. In addition, through arrest records specific rates can be computed on the basis of offense and offender characteristics (e.g., type of crime, age and gender of offender, geographic location).

In making comparisons across states, however, care must be taken to ensure that local definitions of crimes or local arrest charging practices do not unduly influence research findings. In part, this problem can be addressed by using Uniform Crime Report data, which provide a standardized format for the classification of arrests.

Anecdotal and observational evidence suggests that officers who use force frequently, and perhaps those who use excessive force, have relatively high rates of arrest (see also Worden, this volume). This relation, if confirmed by data, may provide a means for identifying violence-prone officers as well as a possible explanation of why some officers use force with too much enthusiasm. For example, it may be that officers who define their role as one of aggressive law enforcement show a propensity for field-initiated interrogations. During such encounters, these officers may provoke citizens with their combative posture, and they may take inordinate offense when citizens challenge their authority (see Toch, this volume).

Use-of-force incidents do not necessarily involve an arrest and not all arrest reports describe what force, if any, was used by the police; thus, arrest records tend to under count use-of-force situations. The President's Crime Commission observational study reported that arrests were not made in about 20 percent of use-of-force situations and in about 40 percent of situations where the force used by police was judged by researchers as excessive (Reiss 1967; Friedrich 1980). The second finding, however, is contaminated by the definition of excessive force, since the use of force without an arrest was always judged to be excessive (see also Worden's and Klockars' essays in this volume). Thus, early observational research confirms that arrest reports fail to capture a significant number of violent police-citizen conflicts. The extent to which these findings apply to contemporary police departments, is, however, questionable since the overall quality of arrest records probably has improved over time.

A related issue is how arrest records can be used in combination with other official records that bear on the use of excessive force as part of a multiple indicators strategy. A recent study by Croft and Austin (1987) found that 97 percent of all officially recorded use-of-force incidents involved an arrest. Given a situation like this, in which there is almost no reporting discrepancy between arrest reports and use-of-force reports, no independent information on the incidence of police-citizen violent encounters is to be gained by combining these two types of records, al-

though as a practical matter one source of information might be preferred over the other when generating tallies.

Finally, charges of resisting arrest merit special attention as an indicator of police-citizen conflict. Having already noted that many citizens who file complaints against the police are charged with resisting arrest, we here add that resisting arrest charges are filed in roughly 60 to 70 percent of the incidents captured by use-of-force reports (Croft and Austin 1987). Chevigny (1969), for one, explains such findings by arguing that resisting arrest charges are used by police to protect themselves in situations where questions may arise concerning illegitimate use of force. If Chevigny is correct, and a solid empirical relation could be established between resisting arrest charges and abusive or violent behavior by police, then it might be possible to use resisting arrest charges as a gross indicator of excessive use of force.[14] In fact, the overlap between resisting arrest charges and other gross indicators of excessive force, such as citizen complaints and use of force records, could be exploited in a multiple indicators strategy if it were discovered that each type of record reflects the use of excessive force by police in varying degrees and dimensions. At this point, however, there is insufficient information to make a judgment as to how these records could be used most productively in studies of excessive force.

4. Use-of-Force Reports

At various junctures, use of force records have been discussed in relation to other official records. Here, we note that these records can be used to describe violent acts both by police against citizens and by citizens against police. Also, use-of-force data often provide information on the type of force used (e.g., deadly and non-deadly). Most police departments require a report any time deadly force is used (Geller and Scott 1992; Pate and Fridell 1993), and many large departments require a report on any incident involving the use of force. Records on assaults

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[14] Reiss (1967) argues that resisting arrest is not used as a cover charge and can best be understood as occurring in situations where an officer's authority is threatened.

against police officers are maintained almost universally, and statistical summaries of this information are available from the FBI Uniform Crime Reports unit. These data should not be overlooked in pursuing a multiple indicators approach to the study of excessive force.

5. Injury Records

Police departments will maintain records on injuries to citizens and police, even if use-of-force records are not kept. The injury records of primary interest are those that describe interactions between police and criminal suspects. Injury records capture a subset of use-of-force events, situations in which the amount of force used was great or in which the consequences of using force were serious. These data can be particularly useful if one is interested in studying more serious use-of-force events, or if one subscribes to the position that "[n]ot every push or shove, even if it may later seem unnecessary" should be at issue in examining the use of excessive force (*Johnson v. Glick*, 481 F.2d 1033).

B. Survey Methods

Survey methods are one of the most popular tools of social scientists. Among the reasons are versatility and efficiency. Most survey methods are relatively inexpensive, generate a large number of observations, and easily cover wide geographic areas. When investigating issues of excessive force, these methods can be used to survey the police as well as the public, or to survey special at-risk populations, such as arrestees. Survey research holds considerable potential in studying excessive force, because the collection of information is tailored to the research question, and because some of the reporting biases of official records are avoided. As with official records, survey data can be used to estimate the rate of excessive force and to identify risk factors for police and citizens. Also, survey methods are much more convenient for generating lifetime prevalence rates.

Survey research methods typically involve the use of interviews (either face to face or by telephone) or questionnaires administered by mail or in person. The advantages and disadvantages of various survey methods have been discussed extensively in the research literature, so only a

brief overview of issues will be presented here.

Among the problems likely to be encountered in survey research on excessive force are the following: interpretation (words have multiple meanings or may be ambiguous), veracity (people may not tell the truth), non-cooperation (people may refuse to answer), social desirability (people may give answers they expect others want), recall (forgetting events, forgetting details of events, or getting details confused across multiple situations), and telescoping (bringing past events forward in time into the reference period of the question).

Interview techniques that involve face-to-face contact between the interviewer and respondent can be expensive and time consuming, but they allow for complex question formats (e.g., skip patterns). Also, the interviewer is available to clarify ambiguous questions and has an opportunity to gain the trust of the respondent by explaining the nature and purpose of the research project. However, interview effects, where the characteristics of the interviewer (e.g., age, race, gender, demeanor) influence responses can be an issue.

Telephones offer quick and convenient access to households spread across large geographic areas. However, the homeless and many low-income households are excluded by this method. Since evidence suggests that persons of lower social standing as well as drunks and vagrants are more likely to be victims of police misbehavior, telephone survey methods will tend to under count the incidence of excessive force. Questionnaires sent by mail probably are not practical for studying excessive police force, given the likelihood of low response rates and the related problem of selection bias.

In using survey methods to study police excessive force, there may be a need to address the problem of a low base rate in the sampling procedures. The base rate problem is perhaps not as acute in sampling police officers, who constitute an easily defined and easily accessible population, as it is in sampling civilian populations. Various sampling strategies could be used to overcome the base rate problem, including limiting study to high-risk populations (e.g., arrestees), or stratifying the sample in order to over sample high-risk populations (e.g., certain geographic areas). There also is the possibility of using network sampling techniques in which respondents are asked to identify other subjects who fit

the criteria for inclusion in the study (Czaja and Blair 1990).

1. Surveys of Police

Three basic types of questionnaire or survey instruments can be used with police officers: psychological tests, self-report instruments, and peer nomination or evaluation techniques (for additional discussion of officer opinion studies, see Lester's chapter in this volume).

a. Psychological Tests

The use of psychological tests to try to identify violence-prone police officers is a popular method that has been carried out in some places. Psychological testing of officers may be mandated at hiring and may be employed during an officer's tenure. In another essay, the limitations of psychological testing for the purposes of identifying officers who use excessive force are discussed in detail (Grant and Grant, this volume). Here, we note that most psychological tests try to measure the potential for violence, which is not the same information gained when measuring actual prevalence. Furthermore, to the extent that these diagnostic tests ask about past violent events, they overlap with self-report measures.

b. Self-Report Instruments

Research designs using self-report instruments that ask respondents to describe their criminal and delinquent behavior have been used widely in criminology. The widespread use of these methods to study law-violating behavior suggests that they also might be used to study police use of excessive force.

Among the most obvious problems of using self-report methods to study deviant behavior are non-cooperation, veracity, and social desirability. Will people—particularly police officers—admit to breaking the law or violating other rules when asked to do so by researchers? Early criminologists who used self-report methods were surprised at the willingness of people to admit to criminal behavior. Although it could be argued that police officers will be more sensitive than offenders to the consequences of their admissions, it would be interesting to explore, at least on a small scale, the use of self-report methodology with police.

One such study is currently being conducted in Ohio and Illinois with funding from the federal Bureau of Justice Statistics. In Illinois, the Illinois Criminal Justice Information Authority surveyed 1,200 sworn police officers (mostly rank-and-file) throughout the state.

We mentioned that the wording of questions can be problematic in survey research. This is likely to be a serious issue in self-report studies of police. Clearly, it would be absurd to ask a police officer whether he or she ever beat up a criminal suspect for the fun of it. Self-report items will have to be worded more diplomatically. One possible strategy would be to inquire about observations made of other police officers. For example, one might ask a police officer whether he or she has ever seen another officer use force that was unnecessary. Likewise, one could inquire about citizen perceptions and behaviors, for example, by asking about the number of encounters in which a suspect or citizen voiced complaints over the unnecessary use of force. Depending on the nature of the question, it may be possible to check official records to validate the self-report information. Also, in view of the sensitive nature of the questions being asked, it may be desirable to use randomized response techniques to encourage honest answers and to protect the identity of respondents.

In its ambitious statewide survey, the Illinois Criminal Justice Information Authority, among other questions, inquired about the respondents' career experience with excessive force. Illustrative questions included:

> "Have you personally observed a police officer who used considerably more force than necessary to apprehend a suspect (a) in the past 12 months? (b) anytime during your career?
>
> Have you personally observed a police officer fail to report an incident of excessive force by a fellow officer (a) in the past 12 months? (b) anytime during your career?
>
> Have you personally observed a police officer cover up an incident of excessive force by a fellow officer (a) in the past 12 months? (b) anytime during your career?" (Geller 1994).

Lester, in this volume, reviews studies of police officers' willingness to report colleagues for abusing force. In one such study, one-third of officers said they would report the "beating of a suspect" (Lester and Arcuri, forthcoming). Interestingly, Flanagan and Vaughn, in this volume, suggest that the public, as well, say they report to authorities only about one-third of police abuses of force.

Finally, rather than asking about behaviors, one might attempt to gauge attitudes, values, opinions, and judgments that ostensibly are related to the use of excessive force, although this use of survey methods would not be classified as self-report methodology (Lester, in this volume, discusses officer opinion research). The Christopher Commission did just this and was surprised to find that 30 percent of the officers surveyed agreed that "the use of excessive force is a serious problem facing the Department" (Independent Commission on the Los Angeles Police Department 1991: 34). A much smaller, but not inconsequential, percentage agreed that "an officer is justified in administering physical punishment to a suspect who has committed a heinous crime" (4.9 percent) or "to a suspect with a bad or uncooperative attitude" (4.6 percent) (*ibid.*). Lester (this volume) observes that a body of learning shows that after behaviors have changed (e.g., racial integration in housing, the workplace, or schools), attitudes are likely to change as well. By contrast, changing attitudes as a tactic for changing behavior is less likely to succeed. With this finding, Lester recommends that studying shifts in officer attitudes toward use and abuse of force might serve as a barometer of changes in the prevalence of officer use-of-force behaviors. A caveat is that people do not always act out their attitudes.[15]

A problem with survey strategies, especially with self-report strategies, may develop if they are used to make multiple assessments over time. If the information is used in ways that bring highly negative repercussions, respondents may alter their reporting behavior, and a change in reporting behavior might be interpreted as a drop in prevalence. Perhaps, then, the best use of these tech-

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[15] Toch and Lester, in their essays for this volume, discuss some of the psychological studies on the nexus between attitudes and actions.

niques would be in small-scale methodological studies aimed at clarifying reporting and other biases present in more readily available official records.

c. Peer Nomination

Police officers use a variety of techniques to justify as "normal" force that the public (or some segments of the public) might well consider to be excessive (Hunt 1985). While the police and the citizenry may differ in terms of where they draw the line that defines excessive force (see Flanagan and Vaughn, in this volume, on public opinion), police officers do recognize when their fellow officers exceed the bounds of occupationally defined propriety. These judgments are made with reference to peer-group norms, not legal or administrative norms, and officers will be viewed as brutal if they consistently use force that exceeds what police define as "normal" (Hunt 1985; also see Kelling and Kliesmet's discussion, in this volume, of the "Friday Crab Club" and Toch's essay in this volume on peer critiques and retraining).

These observations suggest that police officers might be enlisted to identify officers who are viewed as real or potential problems in terms of their use of force. As Jessie Brewer, a retired assistant chief in the Los Angeles Police Department, told the Christopher Commission, "We know who the bad guys are. Reputations become well known.... We know the ones who are getting into trouble more than anyone else" (Independent Commission on the Los Angeles Police Department 1991: 32).

Research indicates that police officers are relatively good judges of a fellow officer's performance. In a recent study, Bayley and Garofalo (1989) asked a group of officers to identify peers who are especially skilled at managing incidents involving conflict. They found that not only are officers willing to make such judgments, but also that there are observable differences in the work-related behaviors of officers identified as particularly skilled (see Klockars, in this volume, calling for an occupational commitment to identify and use such officers as benchmarks). Bayley and Garofalo's data indicate that judgments were not made on the basis of age, street experience, race, or gender, and that evaluations made by officers were consistent with departmental evaluations

made by supervisors. They concluded that "[p]olice rank and file respect colleagues who exhibit behavior police departments want to encourage.... It respects qualities that the public respects and would intuitively associate with the ability to minimize violence...." (*ibid.*: 17; see also Kelling and Kliesmet, this volume). Another study by Love (1981: 147) used techniques of peer nomination, peer ranking, and peer rating in relation to nine performance dimensions of work. The researcher concluded that officers "provide accurate and consistent performance information" and that "friendship among officers does not bias the accuracy of evaluations."

While police may be willing to identify the exceptional performers, this does not mean necessarily that they are willing to point a finger at problem officers. Much has been written about the "code of secrecy" among police and about informal methods of social control that are used to enforce group norms. Will police officers run the risk of being labeled "rat" by identifying officers with problems?

It seems that the answer to this question depends on how the information is solicited and, once received, what is done with it. The Kansas City Police Department experimented with a peer review panel as a method for dealing with officer misconduct (Broadaway 1974; Toch and Grant 1991: 286). The panel accepted self-referrals and referrals by other officers. It also reviewed on a regular basis the files of officers who accumulated a designated number of citizen complaints, arrests involving charges of interfering with an officer, firearms discharges, and assaults on an officer. The panel served as an alternative to the disciplinary process, emphasizing positive and corrective action rather than punishment, and its records were treated confidentially. One-fourth of the referrals came from fellow officers, suggesting that under the right conditions police will identify fellow officers who are viewed as potential problems. A considerably lengthier and more successful use of peer review and peer assistance was conducted some years earlier in Oakland, California, and has been discussed extensively in the literature (see, e.g., Toch and Grant 1991; Toch, this volume).

2. Citizen Surveys

Just as police might be surveyed, the same

methods can be used to ask citizens about their experiences with police officers who use force. In these surveys, the focus would be on direct involvement and observations in order to gauge the prevalence of excessive force, as well as on opinions and attitudes in order to better understand the public's perception of the problem. The data could be used to identify the risk characteristics of citizens, information which in turn could also be used to develop educational programs or other interventions targeted at the citizenry in hopes of reducing the incidence of excessive force. Two general models for designing citizen surveys could be drawn on—victim surveys and public opinion polls.

a. Victim Surveys

Criminal victimization surveys are conducted annually by the Census Bureau for the U.S. Department of Justice's Bureau of Justice Statistics. Such surveys, while costly, could provide relatively detailed and reliable information on the extent of excessive force at national or local levels. In fact, questions concerning police use of force could be incorporated into ongoing national victimization surveys at modest expense. (Presumably, this will be one of the options considered by the Justice Department's National Institute of Justice and Bureau of Justice Statistics as they contemplate how to fulfill the Attorney General's new mandate to establish a national data base on police use of excessive force.) More limited surveys, such as those covering specific cities, areas of cities, or even high-risk populations, could be conducted in response to more local concerns over police violence. Thus far, however, the cost of conducting criminal victimization surveys at the state or local level has proved prohibitive. Victimization surveys concerning police abuse of force could, potentially, be compared to actual reports, as is done with studies of the prevalence of crime generally, to determine the rate at which the public reports police mistreatment to authorities. Or, as some public opinion polls have done, respondents could simply be asked about their reporting practices or inclinations (see our earlier discussion under the heading "Self-Report Instruments"). If a valid reporting/nonreporting rate for publicly observed/experienced police abuse of force could be determined, it might support cautious estimation

of the prevalence of actual police abuse based on the number of reported abuses.

b. Public Opinion Polls

Public opinion polls, which are conducted by national firms on a regular basis, are particularly useful in tapping the views of citizens on social problems. In another essay, the various uses of public opinion polls are discussed more fully (Flanagan and Vaughn, this volume). Here, we note that, for the most part, public opinion polls do not delve into the details of events. For example, a Gallup poll conducted shortly after the Rodney King incident, asks "[h]as anyone in your household ever been physically mistreated or abused by the police?" Since many citizens include verbal abuse in their definition of police brutality, one might think more emphasis needs to be put on physical violence to be sure that the prevalence of excessive force is not overstated. Furthermore, the poll was conducted shortly after the Rodney King incident, which, viewed repeatedly on television by many, no doubt sensitized people to the issue. This heightened awareness may well have influenced the perception and recall of past events in a way that overestimates the prevalence of police misconduct (Flanagan and Vaughn, this volume).

Potential problems of question wording and recall error should not be underrated in polls on police use of force. Winick (1987) found that seven percent of those who claim to have witnessed or experienced excessive force state that deadly force was involved, a figure that is extremely high in relation to records of police shootings (Geller and Scott 1992). When these persons were re-interviewed and asked to provide more details, it was found that, while the display of firearms was involved, none of the incidents involved a shooting or police misuse of a weapon. Winick (1987) concluded that the highly charged nature of police-citizen conflict situations had led to recall distortion and telescoping of events. On the other hand, since the survey did not define "deadly force," it may be that respondents provided their own common sense definition of the term that spoke broadly to the potential for fatal harm.

Finally, we note that the Gallup poll question, as it was asked, provides a lifetime prevalence estimate that includes a mix of recent and

distant past events. This information may be useful in gauging the extent of a problem and in making resource allocation decisions, but lifetime prevalence data provide little useful information on the future probability that an individual will experience excessive force within a certain period of time. A straightforward model for capturing both recent and lifetime experiences is that employed by the Illinois Criminal Justice Information Authority (discussed above) to survey police officers; the researchers asked about observations during the past 12 months and during the respondents' careers.

C. Field Research

Field studies in which researchers follow police around (or sit with them in squad cars) and observe what they do have had a major impact on the study of policing. In fact, the field study conducted for the President's Crime Commission revolutionized our understanding of police work by showing that the "shoot 'em up cops-and-robbers" routine portrayed in the media is foreign to the experience of the typical police officer. In addition, the study highlighted problems of police-community relations and led to major reform efforts in this area.

Field research has a number of strengths. It provides detailed behavioral data that are not available through any other manner. It also is an excellent way to study sequences of events or interpersonal transactions. For example, Sykes and Brent (1980) were able to transcribe the verbal transactions between police officers and suspects and then analyze these data with sophisticated statistical techniques. In this regard, field research excels at capturing the nuances of behavior that often go unrecorded in other methods. While it may be possible to conduct similar analyses using interview techniques or official records, interviews often do not provide a sufficient number of cases for statistical analysis and official records usually do not contain sufficiently detailed information.

In studying violence between police and citizens, official records may bias descriptions in favor of the police officer's viewpoint, while interviews or surveys of citizens may contain information biased in favor of the aggrieved citizen's point of view. Observational research incorporates the perspective of a third impartial party—the researcher. Field observations, however, must be reliable and valid, requirements that present no small problem when deploying a research team throughout a city. Yet, the work by Reiss (1967) and by Bayley and Garofalo (1989) demonstrates that it is possible to systematize field observations in order to meet scientific standards for data collection. Worden (this volume) presents a detailed discussion on the value of observational studies for understanding police use and abuse of force and presents newly analyzed data from another historically important field study.

A limitation of field research is that it is not an economical method for studying infrequent events such as the excessive use of force. The "problem" is that police spend a lot of their time doing things that have almost no potential for the use of force. The President's Crime Commission study deployed 36 field observers for seven weeks to watch about 600 police officers. At the end of this effort, the researchers had observed a total of 5,360 police mobilizations, only 37 of which involved the improper use of force. Similarly, Bayley and Garofalo (1989) used six field observers to follow 62 police officers for several weeks and identified only 37 incidents in which police used force against a citizen. On the basis of their experience, they concluded that "[a]n enormous number of routine patrol shifts would have to be observed to accumulate a respectable number of use-of-force cases for thorough analysis" (Bayley and Garofalo 1989: 11).

In addition, observational studies tend to be restricted in both scope and scale and are not especially practical in making comparisons across geographic areas (compare Worden, this volume). Furthermore, observational methods are not especially practical if there is an interest in studying individual police officers. In the President's Crime Commission field study just described, only two police officers were observed to use improper force more than once (Reiss 1967).

In the previous section, we mentioned that observational strategies tend to concentrate on high-risk precincts, high-risk times of day, and high-risk seasons of the year when studying police use of force. These selection strategies create an upward bias in the computation of general event- and person-based rates.

Another issue for field research is that the presence of researchers may change the behaviors

of the police officers being observed. However, field researchers report that, in fact, nearly all police officers go about their business in seemingly normal fashion, especially after they have had a bit of time to become accustomed to the presence of the observer (Worden, this volume). Researchers who have used observational methods to study police use of force conclude, moreover, that it is very hard for an officer to change behaviors, especially if quick and decisive action must be taken and if habits are ingrained to the point of being reflexive.

The fact that police officers will violate rules or even break the law in front of field observers is often taken as proof that the presence of a researcher has no real effect on the officer's behavior. These arguments are valid up to a point, and they are convincing in that field observation is a viable research strategy for studying police use of force. However, it is difficult to know how a researcher's presence influences a police officer's behavior in terms of actions *not* taken. Presumably, observational strategies exhibit a negative bias that leads to an under counting of events. Strategies such as having the researcher remain as unobtrusive as possible and spend a fair amount of time in the presence of the subject can help to minimize the bias but probably will not eliminate it entirely. The question of the magnitude of the under counting effect is an issue that future research might address.

IV. THE NEW FEDERAL STATUTORY MANDATE FOR A NATIONAL REPORTING SYSTEM TO COLLECT AND PUBLISH DATA ON EXCESSIVE FORCE

In a recent development, the Violent Crime Control and Law Enforcement Act of 1994 directs the Attorney General to "acquire data about the use of excessive force by law enforcement officers" and further to "publish an annual summary of the data" (Violent Crime Control and Law Enforcement Act of 1994, Title XXI, Subtitle D, Sec. 210402). This legislation stands as the latest in a series of attempts by the federal government to gauge the extent of police abuse of force. In view of the limitations of previous efforts along this line—in particular, the criticisms lodged against the 1992 national survey of federal civil rights complaints and the 1993 nationwide survey of police complaint systems—the Attorney General would be well-advised to consider other data collection strategies, especially strategies that would yield data currently not in existence. Such data could provide the foundation for a genuinely useful, comprehensive, nationwide reporting system on police abuse of force.

How might the Attorney General best carry out her mandate to compile annual data on the excessive use of force by law enforcement officers? In keeping with themes developed in this essay, data collection should focus on the more general issue of police-citizen violence and should use multiple indicators, each describing a different facet of the problem. It would seem prudent to approach the task in two stages. In the short-run, statistics could be compiled on a limited number of police departments using existing data sources. In the longer term, however, serious consideration should be given to the collection of data that would provide a more complete picture by covering a greater number of police agencies and by providing information that currently is not available. A two-step approach of this sort could address the urgent need for information on police abuse of force while also providing sufficient time for the planning, testing and implementation of new data collection strategies.

In the near term, it is a manageable task to compile, for example, annual statistics on the 50 largest police departments in the United States, making use of existing records. For instance, citizen complaint records can be used to count alleged instances of excessive force (see Perez and Muir in this volume). *Indirect* measures of abuse of force might include tallies of charges filed for resisting arrest and assaulting a police officer. These are sometimes used as "cover charges" by officers to protect themselves against possible allegations of excessive force. Such charges may also provide a general indication of the level of violent conflict between police and citizens. In assembling these statistics, however, all arrests involving such charges should be tallied—not just arrests in which these are the most serious charges, as is the common practice. Finally, some police departments keep use-of-force records, and these too could be included in the survey.

This short-run strategy would, of course, have its limitations. It would suffer from problems of interpretation and comprehensiveness similar to those of previous survey efforts, partic-

ularly to the extent that the same data sources and information items are used. Police complaint records, for example, suffer from a variety of shortcomings that are discussed in this essay, although they do enjoy the virtue of being a widely available indicator of excessive force.

Short-run efforts also could lead to a better understanding of the excessive force problem and contribute to the development of an improved methodology for gauging its prevalence by tapping records that have yet to be used in research. If one considers the continuum of possible injury to citizens who are imperiled by police use of force, the most serious, and perhaps the most egregious, cases will be those in which the citizen requires medical treatment. It also is safe to say that when citizens in police custody are in need of medical attention, some record of treatment will be made, if only for the purpose of preventing lawsuits. Given that records on the delivery of medical treatment pursuant to an arrest exist in almost all police departments, the challenge is to access this information in a way that will illuminate issues of the excessive use of force.

An illustration of how police departments handle situations in which arrestees are in need of medical treatment might clarify how existing records could be used to generate statistics on police use of force. The Houston Police Department, for example, requires that an officer's "offense report" describe the cause, type and severity of all injuries sustained by a prisoner during the course of an arrest. If a prisoner must be transported by paramedics from the arrest scene to a hospital, the officer must contact the station sergeant and provide information for a report entitled "officer assigned to guard hospitalized prisoner." If the prisoner is admitted to the hospital, the officer must then notify the homicide division. At the detention facility, jail staff may refuse to accept a prisoner in need of medical treatment if the jail clinic cannot provide the necessary treatment. In such cases, a "prisoner's hospital report" is prepared and forwarded to the hospital along with the arrestee. If the jail personnel admit a prisoner who is in need of medical treatment, the jail clinic's medical records will detail the nature and extent of the injury and the treatment that was provided. Finally, unless the situation is life threatening, officers are instructed to transport all prisoners to a single county hospital. At the hospital, medical records are generated

in the form of an emergency room physician's report. Finally, for the majority of prisoners who are indigent, the county normally will be billed for medical treatment, in which case financial records are maintained at both the hospital and the county comptroller's office.

Thus, in Houston and many other jurisdictions, records on serious injuries incurred during arrest are maintained by three or four organizations—the city police department, the central jail facility, the county hospital and possibly the country comptroller's office—thereby providing different points at which statistics can be generated. This arrangement not only offers multiple opportunities for data collection, but also allows for cross-checking the reliability of information from a given source. A potential problem with accessing these records is that they may not be computerized. It may be possible to tally the records manually, however, depending on their number. With police "offense reports" and hospital and jail records, some portions of the records probably are entered into computerized systems, so that generating statistics on citizen injuries might be a matter of entering additional information into the automated systems. Regardless of the strategy for accessing these records, it is important to be able to identify instances in which injuries are inflicted on a citizen by a police officer as part of an *arrest*, since police officers become involved in—and generate records about—many situations in which a person's need for medical treatment is not the result of *police* use of force.

While a short-term data collection strategy is deployed to comply with the Attorney General's obligations under the 1994 statute, a long-range plan should be designed to overcome the limitations of existing data sources with regard to the completeness and quality of information. Serious consideration should be given to a variety of new data collection efforts, which could be carried out by local police agencies and sheriff's departments, by federal agencies and by independent researchers. A number of suggestions along these lines, such as household and jail surveys as well as standardized, universal reporting systems for police agencies—possibly as part of the National Incident-Based Reporting System (NIBRS)—are included in this essay. As with all large-scale initiatives that focus on delicate social issues, there are many practical concerns, particularly

economic and political ones, that must be taken into account. In view of the complexity of the task, it would seem advisable to put together a planning group comprising government officials, police administrators, police rank-and-file representatives, and criminal justice researchers. All four groups could speak productively to a variety of issues, such as the policy value of various statistics and analyses of those statistics. Government officials would bring special strengths in addressing political concerns. Police administrators can helpfully address practical aspects of agency reporting systems. Unionists can speak to the receptiveness of first-line officers and sergeants to the requirements of any new reporting system and such a system's relevance to improving police work. And criminal justice researchers can speak to important scientific issues, such as the reliability and validity of proposed data collection strategies. In the long run, then, it should be possible to generate annual reports at least as good as the reports on assaults against police officers that are now generated as part of the Uniform Crime Reporting system. To improve on the quality represented by these yearly "Law Enforcement Officers Killed and Assaulted" reports, one would need to conduct multivariate analyses of officer use of force so as to place the data on prevalence in the context of relevant demographic characteristics and relevant information about police and citizen activity (see Geller and Scott 1992) and Geller and Toch's concluding essay in this volume.

V. CONCLUSIONS

A number of methodological issues are involved in studying the prevalence of police use of excessive force. The definition of excessive force is problematic, and this situation requires that researchers, research subjects, and consumers of research understand clearly what is being studied. (Bayley, in this volume, helpfully explores methodological problems confronting the study of police abuse of force internationally.) The situation also requires researchers to be forthcoming about the limitations of their studies, and, in considering the implications of their findings, to explore conscientiously all plausible explanations. Problems of definition also hold consequences for the audiences at which research findings are directed. It is unlikely that in study-

ing the prevalence of excessive force a single numerical count will emerge as correct and as beyond challenge (consider, for example, the public disagreement between ostensible collaborators on the recent Police Foundation-International Association of Chiefs of Police study of police abuse of force—*Crime Control Digest* 1993). Thus, consumers of research findings must be sophisticated; they need to understand and scrutinize the process by which statistics are generated. Whatever national reporting system the federal government establishes pursuant to the mandate of the Violent Crime Control and Law Enforcement Act of 1994 certainly will require the same type of continual scrutiny and improvement if it is to be of service to American policing and the public.

With regard to the actual prevalence of excessive force, we can reach two conclusions. First, assessments of the magnitude of the problem depend on the type of data (official records, surveys, field observations) that are used and on how rates are computed. Second, regardless of how prevalence is measured, the use of force by police, whether excessive or not, is, from a statistician's point of view, an infrequent event. From a police department's or community's point of view, of course, one cataclysmic abuse of force can preempt addressing other crucial problems.

Official records always involve the presence of gatekeepers or intermediaries who decide that a given event qualifies for recording, and official data consistently show the lowest prevalence figures for use of excessive force. When the reporting intermediary is bypassed, as in survey or field methods, the prevalence figures are higher. However, the results of survey research are influenced by the behaviors of respondents: Citizens, suspects, or police officers must interpret survey questions properly, recall events accurately, and give answers candidly. By comparison, the results of field observations are influenced by the behaviors and judgments of researchers, but an advantage that the researcher holds is that the criteria for judgments are explicit and more consistently applied. While one may not agree with a researcher's criteria and judgments, at least one is more certain as to what one is disagreeing with.

The number of research studies on excessive force is few, although their general findings about prevalence are consistent. When the average citizen calls the police with a problem, the chan-

ces that force will be used by the police are minuscule. Most calls for service involve situations that have only the remotest potential for violence. Furthermore, even among situations having more than a trivial potential for violence, the probability that police will resort to force is low. When the focus of concern shifts from police-citizen encounters to the police officers themselves, however, the probability that an officer will use force during his or her career is considerable, and some individual officers will accumulate a fair amount of experience with the use of force. Finally, once the decision to use force is made by an officer, there is an appreciable chance that the force will be viewed as excessive and that the citizen or suspect will complain about the experience.

The fact that there are so few studies on police use of force, and even fewer on excessive force, argues for a concerted research effort to describe and understand the problem. At minimum, this research will have to deal with low base-rate problems through sampling procedures. For example, surveys of high-risk populations, such as arrestees or persons living in certain geographic areas, could be carried out on a regular basis. This information will provide an estimate of the prevalence of police-citizen conflict and will help us to understand the detection and reporting biases in official data. Also, modest field studies designed to understand how police-citizen conflicts become part of the official record could be carried out, again with the purpose of understanding how official records are generated.

In the long term, official records probably hold the most potential for studying problems of excessive force, because we could get to a point (with sufficient support from within the ranks of police and from political leadership) where these records are widely compiled on a routine basis. This, of course, is the challenge of the forthcoming national reporting system on police use of force discussed above. At present, there are manifold difficulties in using these records for research purposes, and a better understanding is needed of how various records relate to each other in both statistical and substantive ways. This line of research could be implemented relatively quickly. If official records, either singly or as a group, can be shown to be reliable and valid indicators of excessive force, the payoff

will be considerable for both social science and public policy.

We have suggested that a multiple indicators strategy in conjunction with a broadening of research perspective to include all violent events, rather than just excessive-force events, is the best way to proceed with research that seeks to tap the potential of official records. A multiple indicators strategy is especially appropriate to situations where concepts or phenomena are not easily defined. It also is a useful strategy when the chances of agreeing on a single best measure are not great. Even though a multiple indicators strategy may not yield precise numerical measures of excessive force events, useful relative comparisons, such as between cities, police departments, or individuals, may be quite feasible. For example, it is possible to identify cities where all types of force are used regularly, where complaints by citizens about abuses of police power are many, where lawsuits alleging excessive use of force are commonplace, and where serious injuries to police and citizens are numerous. In such cities, the probability that a serious problem of excessive force exists is relatively high. Even if there is some degree of error in assessing the problems of excessive force, the situation clearly is one that warrants attention.

There are steps that police administrators can take in the short run that will help to improve our understanding of the extent to which police use and abuse force. Many police departments do not routinely collect statistics on citizen injuries or on the circumstances of police-citizen violence. Given that the license to use force constitutes a powerful grant of trust from the citizenry to the police, minimum standards of accountability should be developed and implemented in police departments. Every police agency should be able to say how many citizens were hurt or injured in conflicts with police and how badly they were hurt,[16] and police officers should have to report to their supervisors each time they use force against a citizen. Such reporting systems exist in most departments of corrections, where officers are required to detail both major and minor uses of force. The operation of these reporting systems

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[16] Bayley, in this volume, reports that police in Victoria, Australia, are experimenting with a 12-point scale for documenting the degree of harm produced.

has not proved unreasonably cumbersome, given the relative infrequency with which force is used, and significant advantages in defending lawsuits have come from these reporting requirements. In the absence of local initiatives along these lines, the field will await the launching of the national reporting system required under the Violent Crime Control and Law Enforcement Act of 1994. Perhaps compliance with the reporting obligations set by the new program might be ensured by linking the provision of needed data in some fashion to federal support (Geller and Scott 1992: 44-49). Another option, which could be pursued in parallel with any national, government-sponsored reporting program, is to include requirements on citizen injury and police use-of-force records in national accreditation criteria. To the extent that police are not required to report violent encounters with citizens, or can successfully ignore such requirements, despite any threats of withholding federal grants that might be made by the agency or agencies implementing the Crime Act reporting program, other counting strategies, such as survey research, will have to be used on a regular basis if we are to understand the parameters of the police violence problem.

Finally, police administrators can improve the operation of complaint procedures to encourage more citizens who feel that they have been treated too roughly or hurt unnecessarily to come forward with their story. Although better complaint mechanisms may contribute only in minor ways to a fuller understanding of the use of force picture, basic notions of accountability in a democratic government require that citizens be given full access to grievance mechanisms. Then, once improvements are made in the amount and types of information on the use of force, either by adjusting existing record systems or by instituting new systems, administrators and researchers will be in a position to use this information on a regular basis. The firmness of our resolve to deal with police violence must start with a willingness to describe the problem in its various aspects, for it is very difficult to change that which is unknown.

Table 1: Summary of Research Findings on Police Use of Force
(Chronological Order by Data Period)

Author	Year(s) Studied	Place	Method	Unit of Observation	Total Number	Use of Force			Comments
						Number	Rate	Percent	
Brooks	1964	Detroit	Official records	Police-Citizen altercations				27% of police officers	
Brooks	1964	NYC	Official records	Citizen complaints	231 complaints		1.1 per 1,000 arrests		
Friedrich	1966 (7 weeks-summer)	3 cities	Observation	Police contact with potential offenders	1,600 encounters		31.6 per 1,000 suspects	5.1% encounters used force	26 observers watching 600 police officers
								1.8% encounters used excessive force	
Reiss	1966	3 cities	Observation	Police contact with potential offenders	1,394 suspects		41.9 per 1,000 white suspects	9% offenders handled with gross force	
							22.6 per 1,000 Black suspects		
				Police-citizen encounters	3,826 encounters		9.7 per 1,000 encounters	42% offenders treated with firm handling	
					10,564 citizens		4.2 excessive force incidents per 1,000 citizens		
							5.9 for whites 2.8 for Blacks		
Chevigny	1966-1967 (16 mo.)	NYC	Official records	Citizen complaints	441 complaints	164 assaults			17 assaults authenticated by corroborating evidence
Cruse and Robin	1976-1977 (6 mo. summer)	Miami	Observation	Police-citizen encounters	1,059 encounters			4% moderate or high threatening behavior	Observed 12 patrol officers
				Violent police-citizen encounters				13% any physical contact considered as aggressive (non-friendly)	

Table 1 (continued)

Author	Year(s) Studied	Place	Method	Unit of Observation	Total Number	Use of Force			Comments
						Number	Rate	Percent	
Smith (personal communication to Croft)	1977	24 cities	Observation	Arrests				6% of arrests	
NYC Police	1983 and 1984	26 police agencies	Official records	Citizen complaints	7,507 use of force complaints (1983)		10.2 use of force complaints per 100 officers		
					7,621 use of force complaints (1984)		10.3 use of force complaints per 100 officers		
Croft and Austin	1984-1985	Rochester (R) Syracuse (S)	Official records	Use of force reports	1,248 incidents (R)		40.3 incidents per 1,000 arrests (R)		4% of arrests (R)
					514 incidents (S)		50.6 incidents per 1,000 arrests (S)		5% of arrests (S)
					2,516 Officer involvements (R)		0.94 incidents per 1,000 calls for service (R)	0.19% calls for service (R)	
					2,156 Officer involvements (S)		0.94 incidents per 1,000 calls for service (S)	0.19% calls for service (S)	
							0.6 incidents per 1,000 officer patrol days (24 HR) worked per year (R)		
							0.5 incidents per 1,000 officer patrol days (24 HR) worked per year (S)		
							312 incidents per 100 officers per year (R)		

Table 1 (continued)

Author	Year(s) Studied	Place	Method	Unit of Observation	Total Number	Use of Force			Comments
						Number	Rate	Percent	
							111 incidents per 100 officers per year (S)		
				Citizen complaints	121 complaints use of force (R)		48.5 per 1,000 use of force incidents per year (R)	9.7% of all use of force incidents (R)	
				Citizen complaints	27 complaints use of force (S)		26.3 per 1,000 use of force incidents per year (S)	5.2% of all use of force incidents (S)	
							21.1 per 100 POs per year (R)		
							5.3 per 100 POs per year (S)		
							24.0 per 1,000 officer force involvements per year (R)	4.8% of all involvements (R)	
							18.0 per 1,000 officer force involvements per year (S)	3.8% of all involvements (S)	
Bayley and Garafolo	1986 summer	NYC	Observation	Potentially violent encounters	467 encounters	37 encounters use of force		7.9% force used by police	Force almost exclusively grabbing, restraining
Christopher Commission	January 1986 to December 1990	Los Angeles	Official records	Citizen complaints	8,274	2,167 (est.) excessive force	6.4 to 7.8 (est.) excessive force per 100 officers per year	24.7% excessive force	2% excessive force sustained; 4.8% improper practice sustained
						3,367 (est.) excessive force and improper tactics	10.2 to 12.1 (est.) excessive force and improper tactics per 100 officers per year	39.2% excessive force and improper tactics	

Table 1 (continued)

Author	Year(s) Studied	Place	Method	Unit of Observation	Total Number	Use of Force			Comments
						Number	Rate	Percent	
Christopher Commission	January 1987 to March 1990	Los Angeles	Official records	Use of force reports				1% of arrests (est.)	
Winick	1987	NY	Telephone survey	Households in 7 counties with major urban areas	1,000 households			5% household members victims of police misues of force in last 5 years	Sampling error is ± 3% 4% verbal 1% physical
								17% household members witnessed police misuse of force in last 5 years	
Fyfe	1988	Dade Co., FL	Observation	Potentially violent encounters	1,383 encounters			9.8% force used by police	Does not include display of weapon
Gallup	1991	Nationwide	Telephone survey	Households				5% respondents ever physically mistreated or abused	9% non-whites 5% of whites
								20% respondents knew someone physically mistreated or abused	30% non-whites 26% in big cities

Table 2: Survey of Records Relating to Police Use of Force, by Department

Legend: NA = Not Available; T = Total; C = Crime-Related; EF = Excessive Force; MT = Maltreatment

Police Department	Type of Record						Full-time Officers
	Weapon Discharge	Use of Force	Civil Litigation	Citizen Complaints	Citizen Injuries	Police Injuries	
A	NA	NA	385 T[a]	104 EF	4 fatal, gun 4 injured, gun	NA	535
B	203 T 80C	NA	94 T 0 EF	2,727 EF	NA	752	NA
C	99 T	80 gun 3 mace	105 T	160 EF	11 fatal, gun 33 injured, gun	301	5,501
D	54 C	NA	NA	136 MT	NA	74	1,284
E	7 T	31 hand 12 gun 7 baton	8 T 7 EF	17 EF	22 injured	36	2,143
F	60 T 8 C	30 hand 17 K-9 13 other	NA	96 EF	60 injured	202	1,192
G	8 T 1 C	NA	19 T 5 EF	30 EF	NA	NA	441
H	41 T 17 C	NA	142 T	106 EF	NA	112	1,141
I	100 T	46 hand 48 K-9	NA	59 EF	194 injured	413	777
J	13 T 3 C	2,995[b]	28 T 0 EF	95 EF	NA	146	438

[a] Total claims for general liability; includes claims filed by officers for personal property damages during an arrest.

[b] Includes all incidents in which any sort of force was used. Information on the type of force is not available.

Table 2 (continued)

Police Department	Type of Record						Full-time Officers
	Weapon Discharge	Use of Force	Civil Litigation	Citizen Complaints	Citizen Injuries	Police Injuries	
K	20 T	531	NA	88 EF	213 injured 3 fatal 4 serious 206 minor	119	518
L	61 C	NA	67 T 20 EF	80 EF	NA	528	992
M	232 T 210 C	158 Mace 110 TASER	NA	2,366 EF	28 fatal, gun	288	NA

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The "Violence-Prone" Police Officer

Hans Toch

The focus of this chapter is on the individual violence-prone police officer. We start by reviewing what the Christopher Commission had to say about candidates for this designation. We then go on to highlight different aspects of the problem, such as organizational pressures, peer group norms and personal motives of officers, and consider how such factors intersect. We end by discussing interventions that target the behavior of violence-involved officers.

The landmark report about police use of force (Independent Commission on the Los Angeles Police Department 1991) is a diversified document, but contains a targeted study: Data sources are invoked—self-reported uses of force, citizen complaints that allege improper use of force, and litigation that charges misuse of force—to pinpoint a group of "problem officers." The categorization rests on the fact that the officers had been overrepresented in statistics detailing their uses of force (or citizen perceptions of their use of force) in the past. The key fact is that of dramatic overrepresentation.

For example, "the Commission staff identified from the LAPD database the 44 officers with six or more allegations of excessive use of force or improper tactics for the period 1986 through 1990" (p. 39). The typical number of allegations (lodged against two out of three Los Angeles officers) was zero.

Combinations of such indices make inferences more reliable, in the same sense in which more smoke makes an observer more legitimately concerned about a fire. If more data are available one can also spread a greater net in nominating candidates. For instance,

"scrutiny would be appropriate for the 5 percent (or approximately 300) officers in the 1987-1991 use of force report database who account for 20 percent of those use of force reports.... An even larger group of officers would be identified by combining the databases containing personnel complaints, use of force reports, and officer involved shooting reports for recent years" (p. 40).

The strongest case can presumably be made if we combine multiple index behaviors and find extreme overrepresentation. The 44 officers referred to, for example,

"received an average of 7.6 allegations of excessive force or improper tactics compared to 0.6 for all officers reported to be using force; the top 44 received an average of 6.5 personnel complaint allegations of all other types, compared to an average of 1.9 for all officers reported to be using force; and the top 44 were involved in an average of 13 uses of force compared to 4.2 for all officers reported to be using force" (p. 40).

It is important, of course, to exclude the possibility that the officers have done what they have done for irrelevant or nonproblem-related reasons. The most obvious variable that could produce a spurious high-incidence-of-force officer (that is, one whose frequent use of force may not be problematic) is his or her assignment. Some officers may be faced with a profusion of situations requiring the lawful exercise of force. These situations may result from locally high rates of crime, or from a proliferation of suspects who assault police officers or physically resist legitimate arrests. An officer may also be highly productive and may initiate a larger-than-usual amount of enforcement activity. He may disrupt the felonious plans of many disgruntled (and complaint-prone) offenders.

The authors of the Los Angeles report consider such exonerating arguments and note that there are data available to counter them. They write that:

"misconduct is not established merely by the fact that an officer has many use of force reports, repeated personnel complaints, or even several shootings. It may be argued that active officers assigned to high-crime areas or specialized duties will appropriately use force more often, and may generate more complaints against them, than the 'average' officer. Yet, there are many 'productive' officers in high-crime areas who do not accumulate complaints, shootings,

and use of force reports in relatively large numbers. The extreme concentration of these data cannot be explained solely by officer assignments or arrest rates" (p. 38).

One can try to exclude extraneous variables by showing that they are just as prominent in the lives of officers who do not have recurrent problems. This need not mean, of course, that inhospitable circumstances have nothing to do with problem chronicity or are irrelevant to the use of excessive force. Given the same volatile situation (say, recalcitrant suspects), the force deployed may be more substantial or more indefensible among officers who demonstrate a low boiling point or have a penchant for engendering or escalating conflict than for officers who show greater equanimity or have more social skills. The situations may be catalytic for everyone, but more so for officers who respond to them with unseemly enthusiasm or lack of grace. High crime rates combined with promiscuous proactivity can lead to higher incident rates than those that would result from more judicious exercises of discretion, given high rates of crime.

The main assumption we make to start with is that officers who are involved in difficulties more frequently than we would expect based on the involvements of other (equivalent) officers contribute something to the difference between expected and observed frequencies. We assume that something in the officers' approach to their work makes a difference. Such officers would be said to manifest a *propensity* to use force, and one could predict that they would continue to manifest this propensity, given invariant conditions. Since this sort of prediction may have serious consequences, one does not lodge it casually or lightly. The lines one draws through statistical distributions must be conservatively drawn to cement the certitude of predictions to an exquisite degree. This protects officers from unfair and hasty prejudgments. However, it can also mislead observers who take numbers literally. Dan Rather, as an example, informed a national television audience that "investigations of Los Angeles police after the Rodney King incident reveal that few officers cross that thin blue line, but that those who do, do so repeatedly" (Rather 1992).

Mr. Rather may not have realized that the

number of problem officers varies with the way we select and nominate problem officers.[1] He also may not have recognized that the designation of some officers as problem officers does not permit us to label other officers as non-problem officers, even if (as in Los Angeles) problem officers account for a lion's share of the problem. Officers with low incident rates may have low-order problems, or few occasions to manifest problems. A continuum may extend from horrendous-problem officers through less-than-horrendous-problem officers, somewhat-problematic officers, to clearly nonproblem officers. Lines between gradations may also be differently drawn, yielding different sets of estimates.

Distributions of other deviant conduct that has been studied (such as criminal behavior) are often skewed by redoubtable individuals who account for disproportionate shares of a problem through disquieting frequency of offenses (Wolfgang, et al. 1972; Greenwood 1982; Wolfgang, et al. 1987). But the bulk of a deviance problem can still be accounted for by less stellar and reliable contributors who fall in the moderately habitual range (Chaiken and Chaiken 1984). These would be persons whose propensities are less reliably or redundantly manifest than those of extreme chronics, but are still appreciable, making predictions and classifications more difficult.

Whichever the case, chronic deviants are an element in the use-of-force picture, and must be accommodated in explanations. Locating problem officers tells us something about the shape of the problem. But once chronic deviants have been isolated, we have only started to talk about causation. We cannot say that the officers are the sum of our problem, nor that the origin of the officers' propensity necessarily is intra-psychic and personal. Some of the same officers in other settings might not be violence prone, and their behavior may be reinforced by the organization for which they work. This does not mean that we must concur with the lawyer of one of the officers involved in the Rodney King incident that "what happened out there was what these guys are taught, trained and expected to do by the L.A.P.D." (Quindlen 1992). While individual-

level variables may fall short of explaining an organization's excessive-use-of-force problem, contextual variables cannot fully explain an individual officer's actions, especially where the officer's behavior is unrepresentative, deviant, and extreme.

I. THE LOS ANGELES MODEL OF VIOLENCE-RELATED PROPENSITIES

Once we have isolated "problem officers" by looking at statistics, we expect to find that the officers have problematic values, motives, or attitudes that express themselves in situations in which they react violently. We expect such values, motives or attitudes to be held disproportionately by the problem officers, or to manifest themselves to a greater (and less desirable) degree among aggressive officers than among others.

The literature often deals with such presuppositions without fleshing out the details. The Christopher Commission, for example, posited an across-the-board connection between prejudice and use of force but did not specifically say that problem officers are prejudiced, nor that their uses of force are discriminatory acts.[2]

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[1] See Klockars, in this volume, who recommends that we nominate considerably more officers for force reduction training than current approaches do.

[2] The controversy about ethnic discrimination as a variable in the use of force by police (see the chapters in this volume by Locke and Worden) is continuing, and it is enduringly obdurate. A satisfactory resolution is unlikely because it is logistically difficult for police to pursue offenders without concentrating their efforts in areas where statistical disproportions of offenders and minority group members exist. Once police attention is focused on such areas, innocent inhabitants are bound to receive adverse treatment that is not received by citizens elsewhere, as the police try to establish their innocence or guilt. This experience is subjectively equivalent to being targeted as an object of prejudice, and the equivalence can be aggravated by indelicate approaches from inept officers.

As far as prejudice is concerned, James Q. Wilson (1978: 64-65) points out that "No doubt many officers are prejudiced (indeed, one study indicates that the vast majority are) and this prejudice may make matters worse. But the crucial point is that large numbers of innocent Negroes would still be treated in (to them) unjust ways even if all policemen were entirely free of race prejudice so long as a disproportionate number of Negroes are lower class.... Among the consequences of this generalization will be continued police suspicion of blacks and continued Negro antagonism toward

The commission asserted that "attitudes of prejudice and intolerance are translated into unacceptable behavior in the field" (p. xii). The commission wrote that the prevalence of bias can be extrapolated from informal communications between field units, testimony about the problem by Los Angeles officers (including minority officers) and questionnaire responses by the agency's rank and file.

The commission concluded that "the nexus between racial and ethnic bias and the use of excessive force is sharply illustrated by the results of (the) survey recently taken by the LAPD of the attitudes of its sworn officers" (p. 69). However, the survey data were far from being conclusive. The key questionnaire item—"an officer's prejudice toward the suspect's race may lead to the use of excessive force"—yielded only 27.6 percent agreement, compared to 57 percent disagreement and 15 percent abstentions. In other words, the statement that posited only the *possibility* of a nexus between prejudice and behavior was still *rejected* by over half the respondents. A companion item "racial bias (prejudice) on the part of officers toward minority citizens currently exists and contributes to a negative interaction between police and the community," yielded almost identical results (p. 69). Such data at best make a case for the existence (and relevance) of prejudice, but they fall short of establishing the nexus to which the commission referred.

The commission linked the bias it thought could be documented to an enforcement-centered departmental philosophy, and saw the two as exercising a compounded effect. The commission concluded that:

"If combined with racial and ethnic bias, the Department's active style of policing creates a potentially grave problem. Because of the concentration of...crime in Los Angeles' minority communities, the Department's aggressive style—its self-described 'war on crime'—in some cases seems to become an attack on those communities at large. The communities, and all within them, become painted with the brush of latent criminality" (p. 74).

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the police."

The model that is implied in the above paragraph embodies the presumption that officers could be predisposed to over-aggressive policing if they felt encouraged by the crime-fighting thrust of an agency to express pre-existing discriminatory feelings, or if they were zealous crime-fighting activists who develop hostile sentiments toward denizens of high-crime-rate communities, who are disproportionately minority group members. The commission also pointed out that:

"Patrol officers are evaluated by statistical measures (for example, the number of calls handled and arrests made) and are rewarded for being 'hardnosed.' This style of policing produces results...but it does so at the risk of creating a siege ('we/they') mentality that alienates the officer from the community" (p. 98).

The propensity that is implied here does not require racial prejudice; it is that of an across-the-board aggressive, proactive, and peremptory approach to encounters with citizens that leads to escalations, and that can be motivated by the desire to garner as many crime-related contacts or arrests as possible. The commission noted that:

"LAPD officers are trained to command and to confront, not to communicate. Regardless of their training, officers who are expected to produce high citation and arrest statistics and low response times do not also have the time to explain their actions, to apologize when they make a mistake, or even to ask about problems in their neighborhood. They must write the citation or make the arrest and rush off to answer the next call as quickly as possible" (p. 104).

This hypothesized propensity to zealous activism makes it particularly unsurprising that—in the words of an assistant chief who testified before the commission—"the sergeants...know that some of these officers who do generate the most complaints are also the ones who make a lot of arrests and write a lot of tickets and so forth" (p. 32). It also explains the fact that the performance evaluation reports for

problem officers were largely found to be "very positive, documenting every complimentary comment received and expressing optimism about the officer's progress in the Department" (p. x).

We can see that the Christopher Commission's model is not very explicit in what it says about personal motives. There are no statements that help us to distinguish between the dispositions of prejudiced officers and non-prejudiced officers or the more extreme and lesser practitioners of violence, between officers who are personally predisposed toward violence, those who are shaped by organizational pressures, and those who fall in between. The model as developed leaves room for violence-prone officers to arise as in-house products or to be recruited ready-made and then protected by departmental policies, or to be a combined result of predispositions and reinforcements. The commission provided some examples, to be sure, of more-or-less "pure" dispositions, featuring legendary officers who habitually lost their cool. The commission also emphasized the desirability of greater attention at intake to the recruits' involvement in strings of civilian conflicts. It is safe to assume that the commission saw some problem officers as personally predisposed to violence, and felt that many other officers had preexisting personal motives fatefully reinforced by organizational rewards.

II. POLICE SOCIALIZATION

The role of the person-organization relationship highlighted in the Los Angeles situation is obviously a complicated one. The motives of violence-prone officers tend to be compatible with hard-nosed ("let's go get 'em") organizational goals, which makes the officers appear subservient to mandates from the organization. But legalistic agencies also have all sorts of non-hardnosed mandates (such as, "observe due process and earn community acceptance"), which are ignored by the aggressive officers. In other words, aggressive officers go out of their way to intersect with crime-fighting ends, and may pursue these ends selectively.

An emphasis on crime-fighting productivity makes it possible for non-proactive officers to be held in lower esteem by an agency than aggressive officers, until (as in Los Angeles) the latter become an embarrassment. When this occurs, the

agency can point to high-productivity, low-use-of-force officers to disclaim responsibility for the predations of problem officers.

In the interim, crime-fighting goals can shape the self-images and reputations of violence-prone officers. Aggressive officers can define themselves by differentiating themselves from low-productivity officers (lazy bums who don't do police work) or by downgrading due process concerns (those of administrators playing politics to garner popularity). Given this set of norms, susceptible non-proactive officers can be seduced to aspire to be more enforcement oriented, without drawing fine distinctions between types of enforcement orientation.

Such an influence on susceptible recruits is most likely to take place through informal socialization, which occurs as an adjunct to the formal socialization, which takes place through training. The academy can deliver double messages as well (see Fyfe, this volume), despite emphases in its curriculum on legality and human relations. A particularly insidious tendency is the practice among instructors in many training programs to regale recruits with unrepresentative war (or sea) stories which feature the use of violence (van Maanen 1973, 1974).

The most substantial impact on recruits is exercised by field training officers, who have been singled out for emphasis by the Christopher Commission. The training officer's impact in early on-the-job experience is reinforced by doubts about the relevance of classroom education to the "realities" of policing. "It was a common feeling," writes McNamara (1967), "that academy personnel must have never worked in field units" (p. 248). McNamara described consensus in the ranks of police departments on the premise that "efficient police work would be impossible if an officer were to follow the Rules and Procedures to the letter" (p. 241); the consensus he describes raises the question of how far outside the Rules and Procedures recruits are informally told they must work to accommodate the reality of street policing.

One stance officers who respond to subcultural norms can take is to assume that rule violations are inevitable. But this need not lead the officers to a career of "no-holds-barred" enforcement. Van Maanen (1974) has written that the average officer can evolve a "lay-low-and-don't-make-waves" strategy, which postulates that "the

best way in which he can stay out of trouble is to minimize the amount of work he pursues" (p. 108). Proactive policing can especially come to be avoided because (among other things) there is risk that one must use force that can be adjudged excessive. Van Maanen (1974) points out that "working hard increases the number of citizen contacts an officer may have.... Such encounters are strained interpersonally, troublesome legally, and almost always invite disrespect" (pp. 108-109). In the words of one officer quoted by van Maanen (1974), "either some civic-minded creep is going to get outraged and you'll wind up with a complaint in your file or the high and mighty in the department will come down on you for breaking some rules or something" (p. 108).

But in many enforcement-oriented agencies this kind of risk-aversive behavior may be less-than-fashionable, because in these departments crime fighting and proactivity are universally admired and heavily rewarded. A derivative problem can be engendered in such departments through deviance-monitoring and control (Perez and Muir, this volume). If a "gung-ho" agency is strongly proactive but also punishes over-aggressiveness in officers, it creates (as the officers see it) a Catch-22 (wrong-if-you-do, wrong-if-you-don't) dilemma, which translates into discordant norms ("go get 'em" but "be careful out there") in the locker room.

Rookies can be critiqued by their elders for demonstrating a "gung-ho" attitude or being "hot-doggish." On the other hand, the acceptance of young officers by their peers can hinge on their demonstrated willingness and capacity to engage in physical combat. Van Maanen (1974) notes that "while hot calls are relatively rare on a day-to-day basis, their occurrence signals a behavior test for the recruit. To pass, he must be willing to use his body as a weapon, to fight if necessary.... Through such events, a newcomer quickly makes a departmental reputation that will follow him throughout his career" (p. 94).

The criteria used to ascertain that an officer can be depended upon transcend his swift responses to back-up calls and extend to risk-taking behavior in other situations, such as to his readiness to get involved in physical encounters. Jennifer Hunt (1985) points out that "new officers...learn that they will earn the respect of their veteran coworkers not by observing legal niceties in using force, but by being 'aggressive' and

using whatever force is necessary in a given situation" (p. 318). In Hunt's view, "for a street cop, it is often a graver error to use too little force and develop a 'shaky' reputation than it is to use too much force and be told to calm down" (p. 321). Officers who are anxious for approval can assume that being accepted hinges on their proficiency in combat. For example, "women [who] are believed to be physically weak, naturally passive and emotionally vulnerable" (p. 318), may feel that

> "it becomes crucial for women officers to create or exploit opportunities to display their physical abilities in order to overcome sexual bias and obtain full acceptance from coworkers. As a result, [these] women rookies [may be] encouraged informally to act more aggressively and to display more machismo than male rookies" (p. 310).

Harris (1978), among others, points to an emphasis on an "ethic of masculinity" in police locker rooms. This ethic leads recruits to prize a man-of-action image, "with the emphasis both on the *man* of action and the man of *action*" (p. 288). Harris confirms Hunt's impression that "the recruit who did not manifest the man-of-action image was not as highly esteemed as his fellow-classmates, and he certainly was not accessible to the inner circles" (p. 289).

III. SOCIAL NORMS AND PERSONAL DYNAMICS

The need for a positive reputation, high self-esteem, and organizational approval combine to make it important to the officer that he encounter serious criminals on his beat. "To some degree," writes van Maanen (1974), "the anticipation of the 'hot call' allows for the crystallization of his personal identity as a policeman" (p. 94). Crime-related calls are deemed "real" (as opposed to required) work. Westley (1970), the dean of police experts, points out that such calls are rare but prized highlights of police work. He writes that "hours will go by with absolutely nothing happening, and then everything will break loose. They will start out with a shooting at such and such an address, a reported robbery at another, a family quarrel at a third. This is the action to

which the men look forward throughout the monotonous hours of driving up and down the streets" (p. 35).

Self-esteem and organizational approval can be derived simultaneously in encounters with consequential suspects. Live, crime-related calls can yield arrests (pinches), which are consensually salient criteria of productivity and indices of achievement. Arrests can lead to convictions, and, according to Westley (1970),

"a conviction reassures (the officer) of his own competence and at the same time of the worth of his job. It makes him feel that he is actually achieving something. It thus gives meaning to his life and his work. It provides for him a reassurance as to the correctness of his judgments" (p. 81).

But as Westley also notes, such calls can be psychological ends-in-themselves. They are high points in routines otherwise marked by monotony and nonprestige-yielding tasks, particularly for officers who are action-oriented or who have strong crime-fighting orientations.

Danger is often cited in surveys as a source of stress for officers (Kroes 1985). On the other hand, the prospect of danger and conflict (including a consequent need to exercise force) can acquire a positive—or at, worst, mixed—connotation. Van Maanen (1974) points out that "without danger as an omnipresent quality of the work setting, patrolmen would have little of the visceral pleasures that contribute to their evaluation of performing difficult, important, and challenging (if unappreciated) tasks" (p. 102).

Fear also enters into uses of excessive force. It sparks over-reactions in some situations in which needless force is employed (Kirkham 1976; International Association of Chiefs of Police 1990). Fear also inspires compensatory conduct to "prove" its nonexistence. Danger is titillating to some officers, because it assures them of worthy opponents and provides proving grounds for bravery. Dangerous situations are heavily over-represented in war stories told by officers to other officers (Toch 1993). Narratives of this kind can send the wrong message, particularly to officers who nurture self-doubt and a sense of inadequacy. Failure to exercise precautions —including elementary precautions, such as

calling for back-up when a situation requires it—can be motivated by the desire to demonstrate one's worth by charging into dangerous situations.

We have noted that the willingness and ability to handle physical conflict are requisites for peer acceptance for new officers, whose capabilities are untested. Officers with a strong need for peer approval can seek out encounters with potential for conflict whose resolution earns approval. In the absence of more legitimate opportunities, officers with strong need for approval may manufacture situations in which conflicts arise. Officers who feel inadequate can be hungry for challenges that furnish proof of adequacy to boost their level of self-esteem, and can assess their own responses to citizens in terms of group standards (or their perception of group standards) that yield measures of worth. The result can be that they engage in destructive demonstrations of bravery and toughness at the expense of citizens (Toch 1969).

Some such officers are especially prone to dispense street justice or to engage in punitive reactions against citizens who are designated "wise guys" or "assholes" (Westley 1951, 1970; van Maanen 1974, 1978). Van Maanen (1978) points out that dispensing street justice can be a convenient rationale for brutal officers. He notes that "the specific situated behavior of a citizen that is taken as a sign which leads to isolating, ignoring, teaching or castigating a given individual is no doubt quite different across patrolmen. Here, the police game continues as it does because, in part, the asshole label swallows up and hides whatever differences exist across patrolmen" (p. 234).

IV. DISPENSING STREET JUSTICE

The norm of street justice has to do with countering disrespect or lack of deference from citizens. Westley was among the first to point out that

"The officer thinks of himself not as an instrument of the government, but as a person in interaction with another person. He tends to feel that the derived power is in himself and that by withholding it he himself is doing the other person a favor. He therefore expects gratitude for his personal favor, gratitude

and acknowledgment of his own competence. The man who typifies the antithesis of both these reactions is the 'wise guy,' again a recurrent character in the drama of the police versus the public" (Westley 1970, p. 59).

The reason disrespect "justifies" the use of force for many officers is that disrespectful citizens are seen as defying the institutions the officer represents and as persisting in this defiance when the officer asserts his authority. In the words of van Maanen (1974: 119),

"In essence, the 'asshole' is one who refuses to accept (or, at least, remain silent for) the officer's definition of the situation. Hence, the person complains loudly, attempts to fight or flee, disagrees with the officer, does not listen, and generally, in the officer's eyes, makes a nuisance of himself.... From the patrolman's view, the asshole is one who makes his job more difficult, and such actions are not looked upon kindly. In fact, if the asshole persists in his actions and pays no heed to an officer's repeated warnings to 'shape-up,' he may find himself charged with considerably more than he first thought. Or, in the extreme case, he may be severely 'thumped' if the officer is so inclined. In the patrolman's world, such physical retaliation for the antics of an 'asshole' is justified according to the doctrine of 'street justice.' [T]his form of police action is designed to both punish the offender immediately and to reestablish the officer's control of the situation."

One problem is that the officer's person and his role are apt to be confused with each other, as they are when an arbitrary deployment of power is seen (by the officer, not by the citizen) as an assertion of legitimate authority. A second problem arises when the officer reacts under color of law to back up illegitimate demands. The President's Commission (1967b) quotes O.W. Wilson to the effect that "The officer...must remember that there is no law against making a policeman angry and that he cannot charge a man with offending him" (p. 181) or with "disturbing

the police," as one of Wilson's successor's as head of the Chicago Police, James O'Grady, malaproptly put it. Violations of Wilson's injunction can lead to exercises of excessive (or at least, avoidable) force where no crime at all has occurred. Conflicts with citizens often stem from field interrogations that are compounded by officer discourtesy, or occur in misdemeanor arrests that suspects view as being capricious (President's Commission 1967b; Reiss 1971a; Margarita 1980a). In turn, arrests can be solely or primarily precipitated by the citizen's expressed resentment and failure to pass the officers' "attitude test" (Hindelang 1976).

Some arrests are illegal and undiluted exercises of "street justice," in defiance of the President's Commission's (1967b) dictum that "if citizens show disrespect for an officer, such conduct alone, while reprehensible, does not justify making an arrest or taking other action" (p. 181). The most egregious transgressions against this rule occur where suspects are arrested for resisting arrests, where there are feeble or unconvincing grounds for the arrests that are being resisted. Charges of resisting arrest (or of assault on officers) are frequently filed to "cover" or try to justify exercises of force (Chevigny 1969). This practice is prevalent across agencies, and repeated filing of charges of resisting arrest can be a reliable indicator of excessive use of force by individual officers (Toch, et al. 1975).[3]

This fact creates a somewhat symbiotic and paradoxical relationship between productivity and uses of force, in which "officers do not merely transgress to make 'good pinches,' but make 'good pinches' to conceal transgressions" (Bittner 1978: 46). Repeated use of cover arrests by an officer can simultaneously (a) make uses of force by the officer implicitly legitimate, (b) convert the officer's victims into suspects—thus, low-credibil-

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[3] Using types of arrests to locate problem officers presupposes that police agencies have arrest data included in databases that identify arresting officers, so that officers can be credited with arrests. The same point holds if we wanted to study the relationship between police productivity and use of force. Police information systems, unfortunately, rarely include officer data with arrest data, because arrest data are viewed as measures of organizational productivity, while officer performance is assessed impressionistically.

ity complainants, and (c) add to the officer's record of quantifiable productivity.

A department that is very serious about controlling use of force by its officers may increase their propensity to make cover arrests. Egon Bittner (1978) observed that

> "it has been reported that in the New York Police Department, known for its stringently punitive discipline, officers who violate some official rules of deportment while dealing with citizens simply arrest potential complainants, knowing the complaints of persons charged with crimes are given no credence. Incongruously, while in New York the Police Department is much more likely to discipline an officer for brutalizing a citizen than elsewhere, it in fact rarely gets a chance to do it. For whenever there is a situation in which it is possible that an officer could have an infraction entered in his record, an infraction against an explicit regulation, he will redefine it into an instance of police work that is not regulated. Thus, while citizens everywhere run the risk of receiving a beating when they anger a policeman, in New York they run the added risk of being charged with a crime they did not commit simply because its officers must keep their records clean" (p. 45).

Some officers can become dispensers of street justice because they have limited verbal or interpersonal skills, which they "back up" with demands or assertions of authority. Officers also can invite the resistance to which they react by habitually treating citizens discourteously, provoking their expressions of resentment. A third variable is the officer's level of sensitivity to being affronted. Officers may tend to repeatedly take disagreements by citizens personally or react to them angrily. Such over-sensitivity to affronts can derive from an underlying sense of inadequacy or feelings of self-doubt (Toch 1969).[4]

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[4] Harris (1978) points out that overly sensitive officers may equate disrespect with aspersions on their manhood or masculinity. He notes that "it would seem

V. ATTITUDE CLUSTERS

Some street justice has a frustration-aggression or retaliatory flavor, which may express a strong sense of alienation among officers who are disaffected. Van Maanen (1978) writes that

> "Whether the officer responds by placing the handcuffs on the person's wrists such that they cut off circulation (and not incidentally cause intense, almost excruciating pain) or pushes a destitute soul through a shop window, these actions release some of the pent-up energies stored up over a period in which small but cumulative indignities are suffered by the police at the hands of the community elites, the courts, the politicians, the uncaught crooks, the press, and numerous others. The asshole stands, then, as a ready ersatz for those whom the police will never—short of a miracle—be in a position to directly encounter and confront" (p. 235).

Niederhoffer (1967), among others, has pointed to the existence of attitude clusters, such as cynicism, which can become accentuated in the course of doing police work. While some such evolving attitudes may exist, the consensus is that these do not add up to a violence-related "working personality" in officers (Tifft 1974; Chandler and Jones 1979; Wilt and Bannon 1976; Rafky, et al. 1976). Studies that have sought to isolate potentially compromising constellations of values (such as authoritarianism or closed-mindedness) among officers have yielded consistently negative findings (Grant and Grant, this volume). These findings do not negate the fact that *some* officers will score high on attitude scales or other measures that tap alienated conceptions or outlooks. But even high-scoring officers need not act on their philosophies in dealings with citizens across the board; at worst, they may on occasion let their

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that an officer would be less likely to react to disrespect personally if he feels secure with himself. Concomitantly, it would be those officers least secure in their masculine image who are prone to react violently to perceived threats to their masculinity" (pp. 290-291).

feelings show in individual incidents.

A similar point holds for officers who are prejudiced along ethnic or other lines. Verbal expressions of prejudice can be prevalent among officers who do not enact their prejudices through discriminatory dealings with citizens (Reiss 1971a). But this in turn does not mean that prejudice plays no role at all in citizen encounters: Prejudicial attitudes can sometimes translate into action by contaminating diagnoses of "wise guy" behavior or inviting resistances (to contemptuous approaches by officers) from citizens who are singled out for attention. Prejudiced officers may not *invariably* be violence-prone, but *when* they are, may express their prejudice in early stages of degenerating encounters.

VI. VIOLENCE-RELATED DISPOSITIONS

We started with the presumption that violence-prone officers can invite, or promote, conflicts with citizens. This means that the dispositions these officers bring to their work will tend to contaminate their relationships with some suspects and exacerbate the potential for conflict of some of their arrests. We know this to be so, but it is difficult to pinpoint the officers' characteristic violence-related dispositions and their manifestations in individual cases. We have noted that the effort to spell out personality characteristics or personal traits that suggest instability or pathology has not led to successful predictions (see Grant and Grant, this volume). One-to-one correlations between personality traits and officer misbehavior have not been established. Instead one infers that *some* traits contribute to *some* misbehavior of *some* officers in *some* situations. Equations that spell out such contributions may have to contain more than personality descriptions and characterizations of conduct. At minimum, a trait (such as instability) may have to occur within a situation (such as one that irritates the officer) to produce a state (such as rage or panic) that leads to overreaction.[5]

Such statements can be also made about efforts to find disproportionate representation of demographic subgroups among officers who are involved in misconduct. Though this approach is not psychological, sociologists (such as Sherman 1980) refer to it as "individual-level" research, because disproportions are attributed to special motives of subgroup members. Typically, the approach yields modest findings, such as (at best) low correlations, countered by no differences elsewhere, or even low correlations in opposite directions. This is the result one would expect if psychological dispositions are either imperfectly related to demographics or differently distributed in different demographically homogeneous samples.

The research does not tell us that psychological dispositions do not exist, nor that demographic subgroups are irrelevant. To illustrate this fact, consider two excerpts from an article in *Psychology Today* magazine (Meredith 1984: 26), which hypothesize demographically related psychological dispositions:

> "Many police psychologists say that youth is a major contributing factor to violence on a police force...most view it as a developmental phase.... Then they move into the adolescent phase. That's when they are the most dangerous to themselves and to citizens. This is the stage when you see them wearing mirrored sunglasses and trying to carry a .44 magnum with a six-inch barrel. They spend time at home in front of the mirror, just practicing how to look like police officers. If they survive that phase, after three to five years, they become good police officers.
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> The growing number of women on the force has also helped make alternative policing styles more acceptable. Once-hostile male partners have started noticing that women sometimes get results

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[5] Meredith (1984: 22), for example, quotes a psychologist who asserts that "there is a direct connection between prejudice and brutality." Meredith concludes that "one problem that leads to violence by police officers is alienation from the non-cop world" (*ibid.*) and reports that what "police psychologists try

to do is 'psychologically inoculate cops to the stressors endemic to the job'" (p. 24). One difficulty with this view is that stress can be proposed as an explanation that exculpates individual officers who use excessive force.

when they can't. Because of their limited physical strength, women often use words instead of force; they are usually better than male officers at offering sympathy to victims, male and female, an ability that makes questioning more productive; and their presence exerts a calming influence on violent people."

Such assertions seem at first glance hard to reconcile with the fact that studies portray younger officers as showing only a slight tendency to be more often involved in incidents (Croft 1985; Blumberg 1986, 1991; Shortreed 1989; Cohen and Chaiken 1972) or with research that shows weak or nonexistent gender effects on behavior (Greenwald 1976; Grennan 1987).[6] The answer is that statistically weak relationships can mask substantial subgroup differences. It is plausible that there are subgroups of young officers who manifest a "hot dog" syndrome that includes over-aggressive or inappropriate proactivity. This disaggregated propensity would yield a low negative correlation between age and use of force if the officers are few, if the propensity comes hand-in-hand with other violence-related dispositions in seasoned officers (such as increased cynicism or alienation), or if it is tempered by supervision or other organizational restraints. A failure to find strong relationships can disguise conflicting dispositions within a particular group. It is possible that many female officers have conflict-reduction skills that are effectively exercised, while others become involved in violence to gain the esteem of male colleagues. Demographics offer clues to dispositions, but these are mere clues until relevant disaggregation is effected.

Different subpopulation mixes (say, larger proportions of females) may also change the behavior of officers. Different settings (featuring different philosophies or sets of constraints) may affect levels of behavior such as hot doggishness.

Much research must be done before these sorts of interaction effects can be uncovered and explained. Strategies comparing some violence-involved officers with equivalent nonviolence-involved officers in comparable settings can help. Some disaggregating studies of this kind are already available in relation to use of lethal force (Geller 1985a; Binder 1983; Scharf and Binder 1983; Blumberg 1986) and similar sorts of research have been suggested for nonlethal force (Croft 1985; Renner and Gierach 1975).

VII. STUDYING POLICE-CITIZEN ENCOUNTERS

The type of literature that most directly faces the question of why violence-prone officers react violently is that which deals with incidents in which force is deployed. The "problem officer" by definition experiences degenerating incidents with frequency.[7] Incident-centered approaches can become person-centered approaches when we compile incidents over an officer's career and see the officer as a composite of the incidents in which he has been involved. We can then not only ask why the officer reacted as he did on particular occasions, but why he has repeatedly reacted in this way on several occasions. Based on a sample of incidents, we can discuss consistencies of behavior that express the officer's violence-related dispositions (Toch 1969).

Incident descriptions are available in complaints and arrest reports and can be secured by observation or through interviews. Incident-centered research has been perfected in unrelated approaches such as decision theory, transactional analysis, and symbolic interactionism that rest on

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[6] Age differences and sex differences appear more robust as new studies are done. The most recent data suggesting that younger officers are disproportionately involved in violence and that women are underrepresented are provided in a survey conducted by the Police Foundation and the International Association of Chiefs of Police with support from NIJ (Pate and Fridell 1993).

[7] The same holds true of "problem suspects." Police-citizen conflicts can be undiluted assaults on officers by civilians who have a propensity to overreact. A propensity of this kind is displayed though repeated assaultive behavior. A citizen who has a checkered dossier studded with pugilistic encounters must be suspected of being the prime initiator of any altercation with a problem-free officer. By the same token, "problem officers" in fateful encounters with "problem suspects" can produce messy escalations for which culpability may be shared. Where neither the citizen nor the officer has a past record of assaultiveness, hypotheses about the genesis of their incident must be advanced with caution.

the analytic dissection of citizen-officer contacts (Hudson 1970; Wiley and Hudik 1974; Sykes and Brent 1980; Sykes and Clark 1975).

Beyond illuminating academic debates, incident-centered approaches yield two benefits. The first is that they can show us *patterns* of encounters, which help us understand the involvements of problem officers and make contingent statements about officer behavior. The second advantage is that a step-by-step dissection of incidents reveals junctures that matter in the genesis of violence and tells us about the relative contribution of officer and citizen participants at each stage and about the judgments by the officer that contribute to his involvement in incidents. Such analysis is particularly critical in the design of training and retraining programs for violence-involved officers (see Fyfe, this volume).

The fact that a violence-prone officer is *repeatedly* involved in violence is not only a requisite of definition (as is the fact that one person cannot walk in single file) but is an attribute of individual prediction. When a person has never committed an act of violence, we cannot foretell whether he will commit one; if he has committed violence once, the probabilities that he will do so again are so low that the safest prediction is that he will not be violent again (Wenk, et al. 1972; Pollock 1990). After the fourth (or fifth) violent act, probabilities of recidivism become high. The safest prediction is then that the person will be violent again, unless he has appreciably aged, or has been somehow immobilized (PROMIS 1977). Such facts enter into assessments of "dangerousness" (Shah 1981) and are considered in risk-management decisions.

But repeat violence also permits contingent predictions (Monahan 1981b; Toch 1986) if persons who are violent act out in comparable ways under similar circumstances. Some repeatedly violent persons explode "all over the place," but most favor certain types of targets, are provoked by a small range of stimuli, and/or find themselves in similar situations when they become violent. Such consistency may be descriptively ascertainable or superficial or "phenotypic" (such as if an officer always assaults handcuffed suspects after a high-speed chase) or it may be more subtle and "genotypic" (as with an officer who reacts when he interprets some citizen behavior only *he* notices as an aspersion on his manhood).

Given contingent consistencies, we can make a useful prediction, which is that *given* a specifiable set of circumstances the person will be violent; or—putting it differently—*when* the person is violent, we expect certain conditions to obtain (Monahan 1981b; Toch 1986). Morris (1974) calls this kind of statement an "anamnestic prediction," and points out that one implication is that we can reduce the person's violence if we can keep him away from situations in which his violence occurs. Where we cannot control the person's environment, however, other options are available to us. One such option is that we can assist the person to gain insight into his pattern and help him discover or invent a different mode of response to situations in which he reacts violently. In a police context this approach has been used by peer review or action review panels in retraining violence-prone officers (Toch, Grant and Galvin 1975; Toch and Grant 1991; also see Kelling and Kliesmet, this volume). The approach differs from retraining generally in that it capitalizes on contingent consistency; it also relies on police peer influence, which has long been recognized as a potent way of affecting officer behavior (National Advisory Commission 1973).

Dissecting incidents into moves, stages, or decision points makes reviews more systematic (Toch 1969; Bayley 1986; Bayley and Garofalo 1989; Reiss 1980; Binder and Scharf 1980; Scharf and Binder 1983) and offers advantages in both reactive and proactive approaches. It permits us to assess an officer's skills in the gathering and use of information at each stage of an incident and to review the effectiveness of decisions the officer makes at each stage. The premise in an incident-centered analysis is that violence evolves cumulatively, with mistakes at early junctures fatefully foreclosing subsequent options. "To manage sequential choices," writes Reiss (1980: 128), "requires information about choices and their options and about opportunities to control the choices as they are made sequentially." Both violent incidents, and could-have-become-but-didn't-become violent incidents, can be examined through dissection (Binder and Scharf 1980; Bayley and Garofalo 1989). The effectiveness of decisions can be ascertained irrespective of violent or nonviolent outcome (Scharf and Binder 1983).

Training approaches (see Fyfe, this volume) can center on the information used by the officer

or the interaction with citizens at each stage of an incident, starting with entry into the situation. This is particularly critical with opening moves by officers which spark resentment in citizens, or with precategorizations of incidents by officers in which hasty conclusions are reached based on cursory reviews of selectively garnered data. This is important because violence-prone officers often get themselves "out on limbs" from which retreat has been effectively foreclosed at early stages of incidents, or they put citizens in positions in which the citizens' options are restricted (McNamara 1967). Such behavioral propensities of officers can be addressed in training through systematic review of degenerating encounters.

VIII. TARGETING INTERVENTIONS

Some approaches to police use of excessive force are broadly targeted, and do not presuppose that we know who the violence-involved officers are or why they become involved in violence. Lethal force, for example, can be curtailed by policies that sharply restrict the situations in which shooting is permissible (Uelman 1973; Fyfe 1978; Geller and Scott 1992). Recruit training can similarly affect violence levels by disseminating skills (such as communication or interpersonal skills) that enhance the competence of recruits (Geller 1982; Scharf and Binder 1983; Independent Commission 1991). Working with the field training officer who picks up the recruit when he leaves the academy is obviously also important. The FTO can be selected as a worthy role model, based on a record of dealings with citizens that have been invariably exemplary—the "highly skilled officer" posited by Klockars (this volume). Broader organizational interventions can also help: For instance, changing an agency's philosophy and its reward system to emphasize positive involvements with citizens can affect violence levels. A departmental reorientation toward community policing can expand the types of contacts that officers have with citizens, improve the attitude of citizens towards the police, and modify the attitudes of officers in a constructive way.

If we can identify and target violence-prone officers, we can try to directly reduce their propensities to behave violently. Retraining and counseling are in order when indications of problems have arisen. More serious options, such

as disciplinary dispositions and punishments, must target officers who use demonstrably excessive force. These strategies must be used without hesitancy, but they share a number of problems that are difficult to resolve. One problem is that it is hard to punish violence-involved officers without lowering morale among nonviolence-involved officers (Toch 1976). A prominent reason for this fact is the solidarity that officers manifest in the face of negative sanctions by superiors who are seen as "desk jockeys" (Reuss-Ianni 1983). Many officers also find the distinction between violence-involved and nonviolence-involved officers elusive. This happens despite the negative reputation that some violence-prone officers have in the locker room and despite the fact that officers show remarkable accuracy in ranking the interpersonal skills and violence potential of their peers (Bayley and Garofalo 1989; Love 1981).

One argument officers may use is that police encounters are invariably complex and ambiguous, making any officer's culpability in a given situation hard to ascertain. Uninvolved officers may feel threatened when a degenerating encounter is reviewed, because they suspect that the assignments of culpability are arbitrary. The officers may feel uncertain about the outcome of reviews of their involvements given the "judgment calls" they must make. Officers may also feel that adverse decisions insufficiently account for suspects' contributions to violence, and discourage police from taking forceful measures when their lives are endangered.

Such concerns must be addressed by supervisors in implementing interventions to the extent that this is possible (Perez and Muir, this volume). Specificity in the detailing of charges, and sharing of information about reviews of incidents, are essential. And one must keep in mind that to use nonpunitive interventions (such as retraining) is always preferable to using punitive interventions, to the degree circumstances permit. Lastly, the involvement of rank-and-file officers in the decisionmaking process—and in the intervention itself—can do much to allay suspicion and resentment (Renner and Gierach 1975; Vaughn 1981; Broadaway 1974; National Advisory Commission 1973; Moran 1978; McFarlane and Crosby 1976).

Where officers can suffer adverse consequences from disciplinary decisions, due process

observance is absolutely essential (National Advisory Committee 1973). Given the definition of "problem officers" as repeaters, one difficulty agencies face is that punitive actions based on the fact that officers have accumulated long strings of unsubstantiated charges (such as suggested by the Independent Commission 1991) may not meet this standard. Police departments must try to be consistent and uncompromising models of fairness in their dealings with *both* officers and citizens (also see Kerstetter, this volume). One could argue that this must be one aspect of a community-oriented philosophy conveyed to recruits and senior officers to preclude a "zero-sum" view of the interests of police and community, that is, for one party to "win" the other must "lose".

On the other hand, officers who engage in demonstrably unconscionable conduct must be reliably sanctioned under this philosophy on the grounds that they are a threat, *both* to the community and to their peers. A strong public response to such officers must be unequivocally supported within an agency, including by police unions (Kelling and Kliesmet, this volume). Resistance to disciplining violence-involved officers is misconceived: It wrongly implies an affinity between malefactors and the average officer; it suggests that offenders are offenders because they are officers, not despite the fact. If the police want citizens to know that brutality is aberrant, they must treat officer-offenders as aberrants. This calls for solidarity *against*, not *on behalf of* the violent officer.

Consensus related to merited punishment is a corollary of community relations. The malefactor is an enemy of community. Defending a bully against discipline on the basis that "there, but by the grace of God, go I," or "who knows whom they'll get next?" shortchanges the impact of the bully and makes his victims feel doubly unprotected. Citizens feel vulnerable where police ranks close in defense of violence-involved officers.

Lastly, it is essential that interventions should have a proactive as well as reactive emphasis. Citizens are entitled to feedback, to reduce fear of *in camera* whitewashing, and to differentiate circumstances in which complaints are warranted from those in which they are not. (Kerstetter, in this volume, adds that citizens' acceptance of adverse rulings on complaints will also improve with procedures that show greater respect for citizen input.) Officers must learn from past incidents to help fellow officers with problems. They must learn from reviews of the involvements of violence-prone officers what approaches or actions to avoid in dealing with citizens. They must also learn what approaches and actions merit their own concern when they observe them. Protecting malefactors (through silence) does not express concern. Concern can instead be expressed through informal peer pressure or counseling, or—if need be—through consultation with supervisors. The earlier such interventions occur the better for everyone, because timely support can help violence-involved officers to interrupt their destructive or self-destructive patterns. Where violent careers are thus interrupted, this can not only reduce harm to citizens in the community, but redirect officers to make valued contributions in the future.

5 Public Opinion About Police Abuse of Force

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I. THE POLICE AND THE PUBLIC

This chapter examines public opinion toward police use of excessive force. It discusses the ambivalent nature of police-citizen relations in light of the legitimate use of force by the police. The chapter analyzes the various levels of public attitudes toward the police, including public perception of use of excessive force by the police. The limitations in using opinion poll data to assess public attitudes on a sensitive issue like police use of force are discussed. We conclude that public attitudes toward the incidence of use of excessive force by police, and reaction to the phenomenon, are embedded within diverse and changing attitudes toward the police in American society. As such police agencies should aggressively attempt to shape positive public attitudes toward the police by hiring more women and minorities, implementing violence-reduction programs, instituting community-oriented and

problem-oriented policing, and fostering officers' understanding of and sensitivity toward the cultures of ethnic and racial minorities who historically have viewed the police with suspicion. These structural changes may lessen the incidence of police use of excessive force (and, not incidentally, contribute to more effective police efforts to protect communities). Moreover, combining these changes with a strategic campaign to educate the public, especially certain minority groups, about the realities of police work should help build constructive community relations and ameliorate negative public attitudes toward police use of legitimate force.

As part of the most visible institution of government, police officers learn that force is fundamental to police work (Bittner 1975b). Westley (1953) posits that officers use and justify violence through occupational rationalization, that is, as a critical component of the police function (Misner 1972). The police bring to every encoun-

ter the possibility that compulsion may be necessary to meet their objectives. Just as the police view themselves as performing their tasks through violent means, public views of police are shaped by the potential use of violence. Citizens perceive the police as friend and enemy, much like the police perception of the citizenry (van Maanen 1978; Wiley and Hudik 1974). Westley (1970: 90) says that police contacts in general "are friendly on the surface but contain an undercurrent of mutual distrust." Niederhoffer (1967: 1) wrote that "at one moment the police officer is a hero, the next a monster"; "to people in trouble he is a savior"; "to criminal suspects he is a demon." The police are loved and admired, but at the same time, hated and feared. This relationship places the police in a difficult situation, because "to the law-abiding citizen who needs him, the officer must be all-powerful and all-loving. To the law-abiding citizen who commits a violation, the officer is an unloving persecutor" (Bonifacio 1991: 29-30). Police agencies have frequently aggravated the problem of public ambivalence by becoming more militaristic, reactive, and secretive (Reiss 1968a, 1971a).

In his landmark study, Reiss (1971a) identified proactive and reactive police mobilization. Proactive policing occurs when the police "on their own discretion or initiative, intervene in the lives of citizens of their environment"; reactive policing occurs "when discretion or initiative for mobilizing the police lies with citizens or organizations" (Reiss 1974: 682). Because motorized patrol is highly institutionalized in the United States, the police have been—and remain—primarily reactive in that they respond to citizen calls for service instead of initiating contact with citizens (Reiss 1974). Reiss (1971a) found that 87 percent of police-citizen encounters involved police responding to citizen calls for service.

While recognizing the need for patrol's deterrent function, the President's Commission on Law Enforcement and Administration of Justice (1967b) said the police should focus on building community relationships. Over the course of the last two decades, police agencies have attempted to become proactive through community, neighborhood, and problem-oriented policing. Aware of the misunderstanding, alienation, and aloofness reactive policing strategies fostered, many police agencies have begun to implement reforms de-

signed to promote police-community cooperation and even collaboration (Skolnick and Bayley 1986; Goldstein 1990).

Although some ambiguity surrounds the concepts of problem-oriented, community, or neighborhood policing (Goldstein 1993), it is clear that the new policing strategy involves participation from the entire community (Strecher 1991; Williams and Wagoner 1992). The new perspective involves structural changes in police attitudes, organization, and subculture as well as changes in the community (Toch and Grant 1991; Vaughn 1992). The hope is that once community leaders are able to provide input into police operations, community solutions, and community-police activities, citizens will see the police in a more positive light. As citizens understand that they have a direct role in policing, the traditional barriers in police-community relations should begin to break down. Moreover, this new approach to policing understands that the circumstances under which police-citizen encounters occur influence the police view of the public and the public's view of the police (Smith and Hawkins 1973). It is designed to defuse hostility before it erupts into civil unrest through police understanding of the cultural, ethnic, and racial traditions of the community. The image in the public eye of police brutality and excessive use of force may be partially determined by the extent of citizen contacts and the level of citizen-police cooperation in the community (Meredith 1984).

II. THE CONTEXT OF ATTITUDES TO-WARD POLICE USE OF FORCE

Public attitudes toward the criminal justice system and law enforcement are diverse and multidimensional. Public opinion regarding the excessive use of force by police exists within a broader set of attitudes toward the police (McIntyre 1967; O'Brien 1978). These attitudes have been studied extensively over the last quarter century, so it is possible to discern *trends* in attitudes toward the police. In addition, some of the *correlates* of attitudes toward the police are well-established in the opinion research literature. Knowledge of trends and patterns in attitudes toward the police helps to put opinions about police abuse of force in perspective.

A great deal of research on attitudes toward the police was conducted during the latter half of

the 1960s and the early 1970s (Scaglion and Condon 1980; Thornton 1975; White and Menke 1978). This activity was encouraged by prestigious groups such as the President's Commission on Law Enforcement and Administration of Justice (1967b and 1967c) and the National Advisory Commission on Civil Disorders (1968). The latter group, known as the Kerner Commission, inferred a direct link between police-citizen discord and the urban riots of the late 1960s. The Crime Commission, appointed by President Lyndon Johnson, highlighted the critical role of police-citizen cooperation in determining the effectiveness of the police in fighting crime (see, e.g., Reiss 1967). This view of the collaborative relationship between the police and the public was stressed throughout the Crime Commission's *Task Force Report: The Police* and is the philosophical foundation for today's community policing efforts (Trojanowicz and Bucqueroux 1990).

A number of useful summaries of research on attitudes toward the police exist (see for example, Decker 1981; Garofalo 1977; the reviews cited in Sullivan, et al. 1987; Thomas and Hyman 1977).[1] Research on this topic has used a wide variety of measurement techniques. The earliest conceptualizations of attitudes toward the police were measures of "support" for the police and "satisfaction" with police services. Survey researchers asked respondents to report the extent to which they "supported"[2] or "approved" of the work of their local police department, state police, or federal law enforcement agencies. Support for the police department was frequently personified in questions about the chief of police. Satisfaction with police services was measured by questions ranging from response time for calls for service to the courtesy with which police dispatchers handled phone calls.

More recently, researchers have expanded the focus of attitudes toward the police to include measures of "confidence" in the police (Flanagan

1988). Confidence has been measured in many different ways, but the most common approach has been to ask citizens about their confidence in the local police to *prevent* crimes, to *solve* crimes, and/or to bring suspects to justice. Alternatively, surveys have asked whether the police agency is "doing all that it can do" to fight crime or whether the department should be "doing more to fight crime."

In addition to these measures of the *efficacy* of police efforts, studies of public confidence in the police have examined citizens' views as to the integrity of the police. The "integrity dimension" of confidence in the police includes citizen perceptions and attitudes about police corruption, fairness, and evenhandedness in the enforcement of the law; political influence on police decision making; and civility toward community residents. Public perceptions about excessive use of force by the police are best understood as an element of police "integrity," a critical component of public confidence in the police (see Lester's and Locke's discussions, in this volume, of officer attitudes toward different forms of police deviance that might be grouped under a heading such as "integrity").

In addition to recognizing that public opinion on police use of force is part of a larger set of attitudes toward the police, it is also important to realize that the term "excessive use of force" denotes a *continuum* of activities and interactions rather than a specific behavior on the part of the police. Reiss observed that "what citizens mean by police brutality covers the full range of police practices" (1968a: 11). In addition to physical brutality toward suspects and others, this continuum includes general incivility toward community residents, denigrating speech, harassment and threats, "roughing up" arrestees and others, and other forms of misuse of authority and inappropriate use of force. In this volume, efforts to refine such broad definitions of police brutality (so they are useful for public policy analysis and decision-making) are made by Klockars, Fyfe, Adams, and others.

III. CORRELATES OF PUBLIC ATTITUDES TOWARD POLICE

Substantively, nearly all of the research on public attitudes toward the police reports that the majority of the general public are supportive (i.e.,

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[1] Perez and Muir, in this volume, discuss another survey, conducted by Perez, of the attitudes of complainants to the Berkeley and Oakland, California, police departments.

[2] See Kelling and Kliesmet, in this volume, noting the popularity among John Birch groups of the "Support Your Local Police" campaigns around the nation.

satisfied, favorable, etc.) of their local police. Nearly 25 years ago, Reiss reported that in the United States, "dissatisfaction with the policing of everyday life is far from widespread in our population and the police can count more on citizen support than opposition" (1971a: 218). Today, the public opinion polls essentially are the same, but we have learned that attitudes toward the police vary with the characteristics of *citizens* (Murty, et al. 1990; Peek and Lowe 1981), the characteristics of *neighborhoods* (Mirande 1980; Primeau, et al. 1975), and the frequency and type of citizen-police *contacts* (Zamble and Annesley 1987; Zevitz and Rettammel 1990).

For example, attitudes toward the police consistently vary by race and age of respondents (Boggs and Galliher 1975; Bouma 1973; Jefferson 1988). Members of minority groups and young people generally report less favorable views of local police than do older persons and persons in the racial majority (generally, whites) (see also Locke's chapter in this volume). Decker (1981) suggests that the effect of race and age on attitudes toward the police may be mediated by other variables. Decker posits that socioeconomic status, frequency of contact with the police, the nature of those contacts, "neighborhood culture" and other factors are important in fashioning attitudes toward the police. Thomas and Hyman summarized these relationships as follows: "those citizens...whom the police are statistically more likely to encounter in the performance of their duties (blacks, younger citizens, those who are less affluent, and residents of inner-city areas) are significantly less favorable in their evaluations than are other categories of the population" (1977: 316; see Toch's similar assessment, this volume).

In addition to these attributes of *persons* and *places*, crime-related variables such as fear of crime, perceived risk of criminal victimization, and actual victimization experience have also been found to affect attitudes toward local police (see Block 1971; Garofalo 1977; Maxfield 1988). These latter relationships are not well understood, however, since some researchers have found these "experiential" variables to be unrelated to evaluations of the police (Thomas and Hyman 1977).

IV. STUDIES OF ATTITUDES TOWARD POLICE VIOLENCE

As noted above, a substantial body of re-

search exists on Americans' attitudes toward the police; however, far less is known about Americans' views about police use and abuse of force. Williams, et al. observed that "[S]urprisingly, ... there has been very little empirical research directed specifically at the public perception of specific situations in which the use of force is viewed positively or negatively" (1983: 38).

In an early study on police violence, Westley (1970) asked lawyers, black citizens, unionists, and social workers an open ended question: "What do you think of X police department?" While Westley's sampling techniques were crude and his sample nonrepresentative, his work represents an early attempt to gauge public opinion on police use of force. Nine of 20 lawyers said the police were "brutal and inefficient" (p. 21). Two of 14 social workers said the police were "aggressive and brutal" (p. 52). Eight of 35 blacks indicated that the police "use too much brutality" (p. 54), and one of eight union stewards said the police were brutal. Westley's early review of public perception of police use of force identified a diverse citizenry, although small in number, who believed the police were "ineffectual, brutal, corrupt, and ignorant" (p. 105).

A series of studies by Blumenthal, et al. (1972) investigated attitudes toward violence in a national sample of American men. Their work was an effort to understand the violence of the 1960s, manifested in assassinations, urban riots, and campus unrest. Blumenthal and his colleagues studied attitudes toward police behavior as an indicator of "support for violence for social control." They found that men's backgrounds and corollary attitudes influence opinions about the use of force for social control. Support for violence as a means of social control was related to age (older persons were more supportive) and race (black men were less supportive). Beliefs about the role of poverty, discrimination, and lack of jobs as contributory to violence among the citizenry were also related to support for police violence as a means of social control. Finally, Blumenthal, et al. found that (self-reported) *involvement* in violence was related to *support* for violence for social control.

Gamson and McEvoy (1972) studied responses from a national survey conducted for the National Commission on the Causes and Prevention of Violence. They created a three-item "support for police violence" index and found that

race, education, age, and political party affiliation differentiated Americans who supported violence by the police from those who opposed it. They argued that some Americans "trust" the police, as agents of lawful authority, more than other Americans (see also Locke, this volume). As a result "[E]xtra-legal police actions directed against unpopular targets are unlikely to draw censure or even disapproval from those substantial segments of the American public for whom the police are the 'good guys'" (1972: 342).[3]

Williams and his colleagues (1983) analyzed data from the General Social Survey conducted in 1980 by the National Opinion Research Center. They constructed a scale of "support for police use of force" from several questions concerning approval of a police officer striking an adult male citizen. Their analysis showed that the following individuals are most likely to support the use of police force in a variety of situations: "older white males, who approve of force by 'others,' are intolerant of 'deviants,' and are politically conservative" (1983: 46).

V. RECENT DEVELOPMENTS

Research on public opinion and the police waned considerably during the mid to late 1980s as other issues concerning the administration of criminal justice gained prominence (Sullivan, et al. 1987). This is unfortunate, because in many American cities racial and ethnic demographics changed dramatically during this period. Racial and ethnic groups that were minorities in some American urban centers have developed into majorities. The ranks of the police also have become much more diverse, especially along racial, ethnic, and gender lines.

The work of Sullivan and his colleagues (1987) illustrates the consequences of these

developments. In a survey of adult and student residents of the greater Miami area, they examined patterns of attitudes toward the police among samples of Anglos, Cuban Americans, and African Americans. Their analyses suggested that attitudes toward the police were not uniform across these groups. Rather, Sullivan et al. found that the underlying cognitive structure of attitudes toward the police differed markedly between youth and adults in Miami and between age-homogeneous ethnic groups. In short, they found that these elements of the community do not share a common set of cultural definitions or *expectations* about the police, and as a result these groups reflect very different *attitudes* toward the police. Since public opinion toward excessive use of force by the police is part of the larger set of attitudes toward the police, we would expect that these age and racial/ethnic differences would exist in relation to the use of force.

Waddington and Braddock's research in southern England underscores the point that it is "an error to regard 'ethnic minorities' as sharing a common attitude" (1991: 32; see also Locke, this volume). They reasoned that "the central issue around which perceptions of the police are organized amongst ... adolescent males ... is that of police power and how it is used" (1991: 40). Waddington and Braddock argue that young males perceive the police either as "guardians" or as "bullies," depending on the legitimacy they grant to police authority. Their data suggested that "racial groups differ in their perception of the police: that young blacks (unlike their white and Asian counterparts) have virtually *no* conception of the police as 'guardians'" (1991: 42).[4]

Finally, a recent study of university students in Portugal suggests that young peoples' *political ideology* may be important in understanding their perception of police use of force. Vala, et al. (1988: 236) found that radical students perceived aggressive behavior on the part of the police very

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[3] Gamson and McEvoy's general conclusions were supported by polling data after the 1992 Los Angeles riots. For example, Church (1992) found that the "law-abiding" public may allow the police to use more force in times of high crime than when society is peaceful and tranquil: "White fear of black crime is so high as to lead some to excuse almost any behavior on the part of the police who are supposedly protecting them against it" (p. 25). Thus, there is some evidence to suggest that citizens' fears about crime legitimize police use of force.

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[4] For example, after the state court acquittal of the police officers in Los Angeles shown in the videotaped beating of Rodney King, a Time/CNN poll showed that more African Americans than Caucasians believed they received unfair treatment from the police. Twenty-three percent of whites believed that in an encounter with police they run the risk of being treated unfairly, while 48 percent of blacks so believed (Lacayo 1992).

differently than did conservative students. Remarking on the futility of searching for "a consensual meaning of aggression in a social vacuum," they concluded that

> "[W]hen judging aggressive persons belonging to different social groups, conservative and radical subjects not only differed in their judgments of the severity of punishment, they perceived the violence of the act differently, they varied in the degree of perceived responsibility of the actor, and they also used different types of explanation" (*ibid.*).

VI. LIMITATIONS OF PUBLIC OPINION DATA ON THIS ISSUE

Public opinion data are relevant to discussions of important public policy issues such as police use of force. If public *opinion, perceptions, beliefs,* and *attitudes* about the police affect citizens' *behavior* on matters such as reporting crimes to the police and serving as witnesses and jurors, then it is essential that public sentiment be ascertained (see Lester's consideration, in this volume, of the nexus between *officers'* attitudes and behaviors; see also Toch, this volume). The exact role that these data can and should play in the ensuing policy debate on police use of force is, however, less certain. For example, should public perceptions of disproportionate use of force against members of minority groups be taken at face value? If the public perceives that the incidence of police abuse of force has increased, should this be taken as evidence of a rising tide of police brutality?[5] Perhaps the most effective use of public opinion data on matters such as these is in conjunction with official data on the problem, relevant legal analyses and administrative policies, and professional judgments concerning the appropriate use of force in specific cases.

Several cautions should be kept in mind in considering public opinion on sensitive issues such as police use of excessive force (see Moore 1992). In fact, a statement first published in *Public Opinion Quarterly* more than 50 years ago summarizes critical aspects of public opinion data:

"Since public opinion is demonstrably sensitive to events and organized pressures, each survey should be taken as a photograph of opinion *taken at a particular point of time.* All interpretations of these measurements of opinion must take this time factor into account" (Rae 1940: 75).

Polls about public attitudes toward police use of force are usually conducted in reaction to a highly publicized incident; there are very few periodic time series data on this topic.

Rae also reminds us that "poll results can be interpreted only in the light of the specific question asked and, consequently, that differences in the wording, phrasing or manner of presentation of the question to the respondent cannot be ignored" (1940: 75-76). Finally, it is important to remember that even national surveys fail to assay the opinion of "the public," since they usually exclude significant segments of the population. For example, national polls often include only non-institutionalized persons over the age of 18, while polls conducted via telephone exclude the five to seven percent of the population who do not own telephones. In addition, polls require substantial training of interviewers to avoid biasing "interviewer effects" and usually produce shorter, less detailed answers than face-to-face interviews (Bradburn and Sudman 1988). Finally, the highly summarized accounts of public opinion surveys that are published in the media create the impression that public opinion is monolithic. When substantial majorities of the public agree about an issue it is tempting to speak about the "public outcry" or a "mandate for reform" (see Klockars' discussion, in this volume, of scandal as a control mechanism on police misconduct). This conclusion assumes that people agree for common reasons, that they hold their views with uniform certainty and tenacity, and that significant pockets of minority opinion can be ignored. We will return to this issue of the relationship of the media and public opinion on police use of force. With these reminders of the limitations of public opinion surveys in mind, we turn now to assessments of public opinion on the use of force by the police.

In the sections that follow, we examine public opinion polls that have sought to determine the level of public *experience* with police use of

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[5] See Adams (this volume) on methodologies to assess prevalence.

force, and the nature and direction of public *attitudes* toward the use of force.

VII. PUBLIC EXPERIENCE WITH POLICE USE OF FORCE[6]

One of the most intriguing facets of the body of public opinion survey data on police use of force is the abundance of surveys which tap *perceptions and attitudes* toward police brutality and the relative paucity of data on Americans' *experience with or exposure* to police brutality (see generally Adams' essay in this volume on methods to estimate the frequency of police abuse of force). We uncovered only three sources of information on citizens' direct experience with police use of force.

A 1984 Roper Poll asked a national sample of respondents whether they thought that "police brutality is a very serious threat these days to citizens like yourself" (cited in Komarnicki and Doble 1985). Fewer than one in five respondents felt that police brutality was a "very serious" threat, one-quarter responded "moderately serious" and one-half said police brutality was either "not much of a threat" or "not a threat at all." The 44 percent of respondents who felt that police brutality was either a "very serious" or "moderately serious" threat was very high in relation to the proportion of Americans who have been actual brutality victims or even know actual victims of police abuse of force (assuming, of course, that we can guess what definitions of police brutality respondents brought to bear on this survey). If we consider the perceived personal threat of police brutality as a form of victimization, the 44 percent figure must be regarded as a serious concern, even if the *actual* threat is much smaller.

Polls which have asked about actual or vicarious experience with police use of force suggest that the actual threat is indeed much smaller. Winick (1987) was commissioned by the New York State Commission on Criminal Justice and the Use of Force to study residents in New York regarding their experience with excessive use of police force. When asked "Have you or

any member of your household been the victim of any police misuse of force in the past five years?" "95 percent of the sample said that neither they nor members of their household had *experienced* police misuse of force in the last five years," but nearly 17 percent of the sample reported that they or members of their households had *witnessed* police misuse of force during the period (*ibid.*). According to Winick:

> "The persons who witnessed or were victims of misuse of force (N=166) had been exposed to four kinds of activities: verbal abuse (49 percent), physical abuse (46 percent), nightsticks or twisters (24 percent), and deadly force (7 percent)" (1987: A21).

The high rate of reporting of experience with deadly force led Winick to reinterview households who reported it.   These in-depth interviews concluded that,

> "although there was some form of display of a firearm involved in each of these incidents, none of the episodes actually had any police firing of a gun or police misuse of deadly force. The situations all have included some traumatic event.... This reinterview suggests that what happens in a situation where police display a gun, in an emotionally charged context where there is a perception of crisis or danger, may be subject to considerable distortion when it is recalled by participants and/or spectators. The reinterviews even suggested that some of the initially reported 'deadly force' incidents probably had not involved any officer misconduct at all" (1987: A21).

Winick's survey of New Yorkers also reported that only one-third of the persons who said they had been victims or had witnessed police misuse of force reported the episode to authorities (compare Lester's review of officer surveys concerning the rate at which they have reported or might report fellow officers for abusing force; see also Perez and Muir's discussion and Kerstetter's discussion, in this volume, of the reasons why citizens may not report police abuses to authori-

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[6] Much of the polling data cited below derives from *American Public Opinion Index (1980-1990)* (Gallup 1991b).

ties).

The only fairly recent national survey on *experience* with police use of excessive force was conducted by the Gallup Poll in March 1991, following the highly publicized beating of motorist Rodney King by members of the Los Angeles Police Department (LAPD) (Gallup 1991a).[7] In the Gallup Poll, five percent of respondents answered "yes" to the question, "Have you ever been physically mistreated or abused by the police?" Among nonwhite respondents, nine percent reported personal experience with police abuse. In addition, eight percent of Americans reported that someone *in their own household* had been physically mistreated or abused, and 20 percent of respondents said they *knew someone* who had experienced physical mistreatment or abuse at the hands of the police. This vicarious experience with police brutality was reported by 26 percent of big city residents and by 30 percent of nonwhite respondents (Gallup 1991a, reprinted in Maguire, et al. 1993: 173).

In summary, our knowledge of actual victimization experience of police brutality is very limited. In both the New York State and national polls, about five percent of respondents reported personal victimization. Moreover, these surveys indicate that knowledge of others' victimization is much higher than personal victimization and that both types of victimization are probably not uniformly distributed throughout the population (see also Locke's, Toch's, Worden's and Adams' essays in this volume).

VIII.   PUBLIC ATTITUDES TOWARD POLICE USE OF FORCE

Pollsters have been gauging public sentiment about police use of force for many years. These questions seek information about respondents' perceptions of the incidence of police misuse of force, whether the problem is serious in the area in which they live, whether certain groups are singled out for mistreatment, and measures that can be adopted to control the excessive use of force by police.

Perhaps the longest-running series of data on

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[7] A Louis Harris poll on public ratings of local police reputations for using excessive force was conducted in 1992 (see Maguire, et al. 1993: 172).

this issue is a set of five questions that have been presented to random samples of Americans by the National Opinion Research Center's (NORC) General Social Survey (GSS) (see Flanagan and Maguire 1992; Maguire, et al. 1993: 174-77). Data on the broadest item are presented in Table 1 (at the end of this chapter), for the period 1973-91. In this series of questions, respondents are first asked: "Are there any situations you can imagine in which you would approve of a policeman striking an adult male citizen?" As seen in Table 1, responses to this item have been fairly stable from 1973 to 1991, ranging from 78 percent of respondents answering in the affirmative in 1983 to 66 percent in 1991. The percentage of Americans who can imagine a situation in which they would approve of a policeman striking an adult male citizen has hovered at about 70 percent for the last 18 years.

This generic item is followed in the GSS by four specific examples of police use of force. These scenarios include: "Would you approve of a policeman striking a citizen who . . . (a) was attacking the policeman with his fists, (b) was attempting to escape from custody, (c) had said vulgar and obscene things to the officer, and (d) was being questioned in a murder case?" These data are shown in Table 2 (at the end of this essay) for the 1991 survey; they reveal important differences in support for police use of force in different situations. They also indicate variation in support for police use of force among different groups.

First, these items show that Americans clearly distinguish between serious situations (a physical attack on the police officer or an attempted escape from police custody) and less serious situations (e.g., verbal abuse of the officer) in assessing the appropriateness of police use of force. These situational differences in support of police use of force characterize the GSS data throughout the 1973-1991 period (see Adams' discussion, in this volume, of the situational correlates of police use and abuse of force). Second, there is less consistency in respondents' reactions to police use of force in the less serious scenarios than in the more serious circumstances. For example, approval of a police officer striking a citizen who was attacking the officer ranged from 90 to 98 percent across demographic groups. In contrast, support for an officer striking a citizen who was attempting to escape from cus-

tody varied substantially according to the sex, race, education, income, and religion of respondents. Women, nonwhites, persons with grade school education, persons in the $5,000 to $6,999 income category, and young people (18-20 years old) were less likely to approve of physical violence toward a person attempting to escape than were members of other groups. Year-to-year variation in the approval of police striking a citizen in these specific situations has been relatively small; differences in approval ratings *across situations* have always been greater than differences within situations *across years*.

Pollsters have measured public attitudes toward excessive use of force by the police in many different ways. A May 1980 Gallup survey of black Americans asked: "Do you think there is any police brutality in the area in which you live?" Twenty-six percent of respondents said there was "a great deal" or "a fair amount" of police brutality in their area (Komarnicki and Doble 1985: 78). A poll by Research and Forecasts, Inc. during the same time period asked: "Do the police use too much force?" When asked in that manner, 12 percent of a national random sample of Americans responded "yes" (Komarnicki and Doble 1985: 78). In yet another variation of question wording, a 1982 survey asked residents of Louisville and Jefferson County, Kentucky if they agreed with the statement: "Police officers in this neighborhood use more force than is absolutely necessary." In that survey, 14 percent of citizens responded "strongly agree" or "agree," 70 percent said either "disagree" or "strongly disagree," and 17 percent said "don't know" or did not respond (Urban Studies Center 1982). Interestingly, a *smaller* percentage of Louisville/Jefferson County residents agreed that police officers *verbally* harass people than agreed that police use excessive force.

A series of New York City polls examined residents' views on police use of force. A 1985 poll by the *New York Daily News* found that while only seven percent of white New Yorkers agreed that police "often use too much force" in making an arrest, 26 percent of black and Hispanic residents agreed. Similarly, 18 percent of whites agreed that it was "common practice for New York City police to rough up suspects illegally after they have them in custody," while 56 percent of blacks and 44 percent of Hispanics thought this was common practice (Begans 1985).

Another *Daily News* poll, taken in April 1985, following the highly publicized case of Queens police officers charged with torturing a suspect, found that the percentage of respondents who perceived such mistreatment to be "common practice" increased to 23 percent among white and to 46 percent among Hispanic New Yorkers.

Racial differences in perceptions of police use of excessive force in New York City also were highlighted in a March 1987 *New York Times* poll. Respondents were asked, "Do you think that New York City police often engage in brutality against blacks, or don't they?" "Yes" was the response of 36 percent of whites, 70 percent of blacks, and 46 percent of Hispanics. When asked the same question about brutality against *whites*, 19 percent of whites, 24 percent of blacks, and 23 percent of Hispanics responded "yes."[8]

A Gallup Poll conducted in 1988 for *New York Newsday* examined criticisms of the New York Police Department because of several accidental shootings and police-citizen confrontations (Gallup 1988). In that poll, 45 percent of city residents thought that the facts that "the police are too quick to use their guns" and "the police use too much force" were an "important reason" why police get involved in such situations. In contrast, 65 percent of respondents agreed that "the police force is understaffed" and 70 percent agreed that "the police are under too much pressure" as important reasons for these confrontations. The fact that these public perceptions change over time is illustrated by a follow-up Gallup Poll conducted for *Newsday* one year later (Gallup 1989). In 1989, only 29 percent of New Yorkers agreed that "the police use too much force" (and only nine percent "strongly agreed") but 67 percent continued to agree that "the police are under too much pressure."

A perspective on trends in public attitudes

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[8] Similar racial differences were shown in a *Los Angeles Times* poll conducted in February 1990. Respondents were asked for their impression of law enforcement in their neighborhood "when it comes to pushing people around." Sixty percent of Anglos, 50 percent of Latinos, and 33 percent of blacks reported "favorable" impressions. On another item, 19 percent of Anglos, 33 percent of Latinos, and 48 percent of blacks said there was a "great deal" or "fair amount" of police brutality in their area.

toward excessive use of force by the police is provided by data from the Greater Cincinnati Survey, a poll conducted each fall for the last 13 years. The question has been: "In your opinion, would you say that Cincinnati police generally use too much force in making arrests, about the right amount of force, or too little?" Responses have been fairly stable from 1979 to 1992, ranging from a high of 27 percent who said "too much force" in 1982 to a low of 16 percent in 1984 and 1985. In the most recent poll, 23 percent of Cincinnati residents felt too much force is used in making arrests (Bishop 1992).

Winick asked a random sample of New York State residents for their perception of the trend in police use of force. One quarter of New Yorkers thought that police misuse of force had increased during the past *five* years (between about 1981 and 1986), while a majority thought it had remained the same (Winick 1987). One-third of New Yorkers believed it had increased during the past *20* years (approximately 1966 to 1986).

IX. CATACLYSMIC EVENTS: THE IMPACT OF THE RODNEY KING INCIDENT

As mentioned above, public opinion polling data are highly volatile and susceptible to the influence of major events. The televised beating of motorist Rodney King on March 3, 1991 in Los Angeles is a classic example of a "media event" which can provoke discussion of topics previously ignored by the media, sensitize the public to an issue and change public opinion.[9] As an illustration of the latter point, consider the nationwide Gallup Poll conducted during the period March 14-17, 1991. Fully 92 percent of respondents had "seen or read anything recently about the videotaped incident in Los Angeles in which policemen were seen beating a motorist" (Gallup 1991a: 53). More than two-thirds said such incidents occur "very frequently" or "somewhat frequently" in "police departments across the country," and 20 percent said such incidents occur "very or somewhat frequently" in their "local police department in their area." In response to

the question: "Do you think there is any police brutality in your area, or not?," 35 percent responded "yes" (Maguire, et al. 1993: 173), nearly four times the number of affirmative responses received in a 1965 survey. How much of the four-fold increase in perception of police brutality is directly attributable to the King videotape cannot be determined, but knowledge of the incident was widespread and its likely impact on the poll responses substantial.

Table 3 (at the end of this chapter) presents the demographic breakdown of the March 1991 Gallup Poll. The data show that the following subgroups of Americans were more likely than others to believe that police brutality exists in their area: males, younger persons (less than 50 years old), residents of Western states (where the King incident occurred), residents of large cities, nonwhites, college-educated persons, political moderates, and persons who claim no religious affiliation. With few exceptions, these attributes are similar to well-known correlates of general attitudes toward the police and toward police use of force.

Another poll conducted by *Time* magazine and *CNN* accentuates the differences between African Americans and Anglos in interpreting the actions of the police shown in the King videotape. After the officers who beat King were acquitted in the first (state court) trial, the poll found that 72 percent of whites and 92 percent of blacks believed that the amount of force shown on the videotape was excessive (Lester, in this volume, reports on police attitudes toward the Rodney King beating). Moreover, whereas 82 percent of black respondents believed the verdict would have been different if both the police and the man they had beaten had been white, only 44 percent of white respondents believed this. In addition, 89 percent of blacks (compared to 52 percent of whites) said the verdict would have been different if the police had been black and the man beaten had been white (Lacayo 1992; see also Locke, this volume).

Referring to the impact of police use of force on the public opinion in the minority community, Los Angeles Police Chief Daryl Gates (1992: 2) commented that "any visual depiction of force can appear worse than it is." According to Chief Gates, the Rodney King "incident would automatically evoke a greater response than if the man had been white or Hispanic. Race is often inter-

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[9] In turn, public opinion, galvanized around what the media and other public opinion shapers would characterize as a scandal, can spur police reform—see Klockars (this volume).

jected and can become a significant factor when really it shouldn't be" (1992: 3). Studies on police use of force taken in their totality indicate that some portion of the high level of perceived police brutality is probably due to the extraordinary media attention given to the King incident. At the same time, patterns of variation in attitudes toward the excessive use of force by the police, as measured after the King videotape, are consistent with previous research.

X. ROLE OF THE MEDIA

Individual and social factors play a part in the formation of personal beliefs. It is therefore difficult to associate a specific attitude with one specific event or a particular source (Surette 1992). Similarly, attitudes toward the police and opinions on police excessive use of force originate in a complex interaction of a multitude of forces, including the media. The extent to which the media genuinely affect citizens' attitudes toward the police is of considerable debate (compare the debate concerning media—especially movies and television—influences on violent crime rates by American youngsters).

Police officers believe television shows lionizing the police lead the public to expect too much from law enforcement personnel (Arcuri 1977). Unrealistic expectations and the tendency to simplify and trivialize portrayals of police agents characterize the media (Haney and Manzolati 1981; Goldstein 1993). Some police are portrayed as incapable of the basic requirements of police work, as incompetent or sadistic (Culver 1978; Rarick, et al. 1973). Other police have been portrayed as supercops, capable of solving any crime (Warr 1980). Media portrayals of illegal or questionable methods of enforcing the law, including excessive use of force, lead many to believe police agencies have incompetent and sadistic officers. These perceptions, whether justified or not, have contributed to the idea of the police as super-human yet flawed crime fighters (see also Skolnick and McCoy 1985).

The power of television to visually bring messages into our homes has greatly changed the ability of the media to influence public opinion (Garofalo 1981; Graber 1980). This influence is heightened by the fact that for many people, the sole source of information about the police is television and film portrayals of police activity

(Dominick 1973, 1978). Establishing and measuring these effects are difficult because of the vast number of media outlets and their varying degree of influence (McLeod and Reeves 1980). Among the effects deserving further analysis is the influence of film and television depictions of police work on police self-images (see Geller and Scott 1992: 95, 331).

XI. MEDIA CRUSADES

There is "some doubt about the ability of the mass media to affect attitudes through the unorganized, unplanned content of news" (Surette 1992: 86), but a highly "organized" media campaign may greatly enhance the media's ability to sway public opinion. According to Chief Gates, for example, the Rodney King incident sent "the entire LAPD hurtling into a bottomless pit of distrust and public disfavor" (1992: 4). The King incident became the catalyst for a media-induced nationwide examination of police brutality. The repeated showing of George Holiday's video of four white police officers beating Rodney King led to a national news theme, "Do the police use excessive force?" The implicit hypothesis that police brutality was not uncommon was supported in public opinion polls immediately after the King incident. For example, a poll conducted by the *Los Angeles Times* found that 66 percent of LA residents believed that the LAPD commonly used brutality and 28 percent of respondents said such incidents were very common (Rohrlich 1991). The King incident also had an adverse impact on citizens' views of police dependability and honesty: 50 percent said the King beating made them lose confidence in the police.

According to Fishman (1978) and Surette (1992: 62) "once a news organization adopts a crime theme, others will likely pick it up as well. If the focus becomes industry-wide, a media crime wave results."[10] Sabato (1991) called the intense media scrutiny a "feeding frenzy." According to Chief Gates, "the *Los Angeles Daily*

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[10] Also see Leff, et al. (1986) for a discussion of "crusading journalism" and public policy formulation. See also Skolnick and McCoy (1985) for a discussion of the types of police problems that do *not* lend themselves to broadcast (especially television) news coverage.

News alone ran 500 stories on the LAPD in 125 days," indicting the LAPD on "racism, brutality, and gross mismanagement" (Gates 1992: 352). Gates would probably argue that he, too, was the subject of a feeding frenzy: "The media continued to berate us, continued to spotlight every blemish, every failure, every little chink in LAPD armor, anything that could take the shine off the department" (1992: 352). In Gates' view of the King incident, the media had a wounded target in the chief, but also fed off the entire Los Angeles Police Department.

The effects of the media on attitudes toward the police "differ depending on the subjects, the medium, and the content communicated" (Surette 1992: 80). Surette says that "newspapers tend to affect beliefs about crime, whereas television more affects attitudes" (1992: 80). Several researchers have documented the effects of television *vis-à-vis* the print media (Meyrowitz 1985), citing the visual medium as encouraging "more reliance on [television] than on other people for social information, thereby increasing the media's potential ability to influence beliefs and attitudes" (Surette 1992: 85). Although anecdotal evidence suggests that news programs may attempt to boost ratings by sensationalization, Dominick (1978) reports that no studies have been conducted that correlate crime wave reporting with attempts to increase ratings.

Surette (1990) has identified two areas in which research is needed to determine more scientifically the media influence on public perception of police use of force. First, what are the possible *long-term* effects of a feeding frenzy, such as stories about the Rodney King videotape, on public attitudes toward use of force? Longitudinal studies should explore the type and kind of medium that has the most effects, whether it be news programming, drama shows, or documentaries. The differences between print and electronic media influences should also be explored in the context of public perceptions of the police abuse of force. For example, although the Rodney King incident would probably not have made as big an impact if the incident had been reported in the print media instead of on videotape, research is still needed to determine how big the difference might have been. In addition, what are the cumulative effects on public opinion of repeated exposure to police use of excessive force episodes? Second, what demographic groups are

most susceptible to media influence? Public relations efforts could be aimed at these groups to rectify the damage caused by over exposure to police abuse of force.

XII. OBSERVATIONS AND RECOMMEN-DATIONS

There is some evidence that Americans' faith in a broad range of social institutions has weakened in recent years. Lipset and Schneider (1983) have referred to this phenomenon as a "confidence gap." Mistrust of governmental entities and ambivalence toward the police are exacerbated by the fact that police officers—along with jail and prison guards and, arguably, certain mental health workers—are the only people in civilian society with the authority to use discretionary force. Westley (1970) also noted that the public's perception of police brutality is based on little knowledge of the routine demands of police work. A public educational campaign could address this problem. This educational effort could be enhanced by community policing strategies. Research is needed in areas and jurisdictions that have adopted community policing to determine if those efforts make any difference in the public's perception of police use of force.[11] Westley also wrote that the media were anti-police, misleading the public into believing that a majority of the police are brutal and use excessive force. Perhaps the media as well as the public need educating on the routine and ordinary aspects of police work, especially in relation to the actual incidence of police use and abuse of force (but see Skolnick and McCoy 1985 on the problems with shifting even educated media's story selection decisions).

Public opinion also may act as a method of social control, restraining police use of force (see Klockars' discussion, in this volume, of scandal as a control mechanism). In the aftermath of the state court acquittal in 1992 of the officers who beat Rodney King in Los Angeles, some evidence suggests that the police did not respond to violence in the streets for several hours because of

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[11] Some police administrators have suggested that they expect a salutary effect on the incidence of excessive force as community policing shapes officers' attitudes.

the fear of what the public would say about use of force. Between the beating of King in March of 1991 and the post-verdict April 1992 riots in Los Angeles, officers in the LAPD became the object of disdain and were labeled by some as inept cowards. Public opinion on excessive use of force was further influenced by investigations by ,the Christopher Commission (Independent Commission on the LAPD 1991), the Los Angeles Police Commission, and the United States Justice Department. Daily media coverage on police brutality led to a cumulative diminution of public confidence in the police and an increase in frustration, cynicism, and uncertainty among officers (see Lester, this volume). Before the riots, dispirited, indecisive, and tentative officers were making fewer arrests and having less contact with citizens (Eagan 1992). After the riots, public confidence in the police dropped even further. A poll conducted by the *Los Angeles Times* indicated that 80 percent of Angelenos believed that the police responded too slowly to the riots (Clifford and Ferrell 1992). We believe that negative public perception of the LAPD's use of force, resulting from the King beating and subsequent investigations, significantly contributed to the inappropriate police response in the critical early stages of the riots.

Different segments of society and incongruous community groups want different kinds of police practices. Individuals who have never had an unsatisfactory encounter with the police are generally supportive of the police or at least ambivalent (Cashmore and McLaughlin 1991). As Locke points out in this book, ethnic and racial minorities historically have viewed the police as oppressors of individual rights and freedoms. White residents in the suburbs, for example, have a different idea of police use of force than inner city blacks. Both the 1967 Presidential Commission and the 1991 Christopher Commission recognized the influence of police-community relations on public opinion toward the police, particularly in minority communities. Both commissions concluded that improving the image of the police in minority communities would involve recruitment, selection, training, assignment, supervision, and promotion of culturally and ethnically sensitive police officers. The 1967 Commission also recommended improved police-community relations to change public attitudes toward excessive use of force.

The Christopher Commission found, just as the 1967 Presidential Commission did, that police and community relations are driven by day-to-day police-citizen encounters. Both commissions recommended that police agencies become more involved in the community to improve community relations—and to address the public's crime and disorder problems.

Some have argued that a better organized and trained police force would result in positive community relations (see also Andrews 1985; Berkley 1969), suggesting that improved training and organization would decrease police brutality. Klockars and Fyfe address this issue in this volume, arguing that proper skill development in use of force would help control its abuse. Properly skilled officers should also promote positive public attitudes toward police use of force, especially if that force is used appropriately, skillfully, and in measured ways. Training and skill development also have been regarded as critical components of problem-oriented policing (Goldstein 1990; Skolnick 1969). Others have argued, however, that "if the police are better educated and better organized, they will just become more efficient oppressors" (Galliher 1971: 316). As Fyfe points out in his essay for this volume, some of the keys to reducing police brutality and less wilful abuses of force involve improvements in both leadership and training. In our view, police administrators at the highest levels must insist on high standards for police officers and exhibit intolerance for brutality. Police leadership must send the message that inept officer use of force will prompt retraining (see Klockars' and Kerstetter's essays, this volume); that irresponsible behavior will bring punishments, including perhaps dismissal (see Perez and Muir, this volume); and that violations of suspects' civil rights will result in prosecution (Galliher 1971; see also Cheh, this volume). Ultimately, however, as Grant and Grant argue in this volume, leadership and education must complement recruitment, selection, training, and supervision of officers (see also Chackerian 1974; Dugan and Breda 1991). Researchers should continue exploring ways to develop psychological tests that would eliminate recruits with a propensity for violence (Dunham and Alpert 1988; Toch 1973), although accurate behavioral predictors and good police performance measures have been elusive—and our resident experts in this volume (Grant and Grant)

opine that the quest is hopeless.

We believe, too, that recruitment of women and minorities also may be hindered by citizens' perceptions that local police are using excessive force. Such images need to be changed. Affirmative action programs and educational efforts to eliminate racism and sexism in police departments are important steps in this effort.

In addition to better recruitment, selection, and training of police officers, we also consider it essential to develop programs aimed at reducing violence among present police officers (Toch, et al. 1975; Toch's, Fyfe's, and Klockars' essays, this volume). This is crucial because the Christopher Commission (as well as earlier researchers) found that LAPD officers with a high number of brutality complaints were also the most productive officers in enforcing the criminal law (Independent Commission on the LAPD 1991).[12] Future researchers also need to examine the impact of the police subculture on legitimizing violence among police officers, even minority officers (see also Toch, this volume; and Kelling and Kliesmet, this volume).

This chapter's review of public opinion data on attitudes toward police abuse of force leads to an intriguing but unresolved dilemma. If we believe that public perceptions that excessive use of force is common are *inaccurate*, then efforts are needed to educate the public about the realities of police work and the relative infrequency of abuse of force. If we believe that these public perceptions are *accurate*, that they reveal police brutality in the United States as a serious problem, then perhaps organizational and structural changes in the way police agencies conduct their operations are needed. The most likely situation is that *both* conclusions are valid, that police abuse of force is indeed a problem in this country, and that the perception of the problem is exaggerated, especially among certain groups. If both conclusions are accurate, then the most sensible long-term strategy is to educate the public *and* change the police. This dual objective seeks to improve the nature and quality of police-citizen relationships in America, for the benefit of

both.

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[12] Productivity as appraised by these studies may or may not resemble productivity as envisioned by the community policing and problem-oriented policing movements.

Table 1
Attitudes Toward a Policeman Striking an Adult Male Citizen
by Demographic Characteristics, U.S., Selected Years 1973-91[a]

Question: "Are there any situations you can imagine in which you would approve of a policeman striking an adult male citizen?"

	1973			1975			1976			1978			1980		
	Yes	No	Not Sure	Yes	No	Not Sure	Yes	No	Not Sure	Yes	No	Not Sure	Yes	No	Not Sure
National	73%	25%	2%	73%	23%	4%	76%	20%	4%	76%	20%	3%	73%	24%	3%
SEX															
Male	75	22	3	77	20	3	81	17	2	82	16	2	80	18	2
Female	71	28	2	70	26	4	72	22	5	72	23	4	68	29	4
RACE															
White	77	21	2	77	20	3	79	18	3	80	17	3	76	21	3
Black/Other	42	54	4	46	47	7	48	44	8	48	45	8	45	49	6
EDUCATION															
College	84	14	2	86	13	1	85	13	3	85	12	3	82	17	1
High School	72	27	1	71	26	4	76	20	4	76	21	2	73	24	3
Grade School	56	38	6	58	35	7	62	33	5	59	33	8'	52	41	7
OCCUPATION															
Professional/ business	83	16	2	84	14	3	84	14	2	86	11	2	83	15	2
Clerical	80	18	2	77	20	3	78	18	5	79	19	2	78	21	2
Manual	66	32	2	66	30	4	73	24	3	72	25	3	67	29	4
Farmer	69	22	8	63	27	10	70	28	2	79	8	12	70	24	6
INCOME															
$15K +	80	19	(b)	83	15	2	83	14	3	85	14	2	82	17	1
$10K-$14,999	82	17	2	77	21	2	77	19	4	78	19	2	72	25	3
$7K-$9,999	70	28	2	71	24	4	76	21	3	72	24	5	66	29	5
$5K-$6,999	62	36	2	59	36	6	72	25	3	69	28	3	61	31	9
$3K-$4,999	66	30	5	63	34	3	71	26	3	61	31	8	56	37	7
Under $3,000	49	46	4	66	27	7	61	32	7	60	34	7	46	52	3
AGE															
18-20 years	55	45	0	70	27	2	78	20	1	67	30	3	71	29	0
21-29 years	76	22	2	75	22	2	78	20	2	79	19	1	76	23	1
30-49 years	76	23	1	79	18	3	79	17	4	79	18	2	79	20	2
50 years +	70	26	4	68	27	5	73	23	5	73	21	6	66	28	6
REGION															
Northeast	68	31	1	74	24	2	75	22	3	74	25	2	74	24	2
Midwest	72	25	3	77	21	3	78	18	4	80	18	3	70	26	4
South	73	25	2	71	24	5	74	20	5	74	21	5	71	26	3
West	79	19	2	70	26	4	78	20	2	80	16	3	79	18	3
RELIGION															
Protestant	74	24	2	73	22	4	77	19	4	75	21	4	74	22	3
Catholic	70	27	2	71	27	2	74	23	3	76	21	3	70	28	2
Jewish	71	26	2	91	4	4	70	30	0	72	24	3	81	16	3
None	69	30	1	76	23	1	82	16	3	85	13	2	70	26	4
POLITICS															
Republican	76	22	2	76	19	4	79	17	4	76	20	3	78	20	3
Democrat	67	31	2	67	29	4	72	24	4	73	23	4	67	29	4
Independent	79	19	2	78	19	3	79	17	3	80	18	3	75	22	2

Table 1, continued

	1983			1984			1986			1987			1988		
	Yes	No	Not Sure	Yes	No	Not Sure	Yes	No	Not Sure	Yes	No	Not Sure	Yes	No	Not Sure
National	78%	20%	3%	69%	28%	2%	72%	25%	3%	73%	23%	4%	73%	23%	4%
SEX															
Male	83	15	2	75	23	2	80	17	2	80	17	3	77	20	2
Female	73	23	3	65	32	3	66	31	3	67	27	6	69	25	6
RACE															
White	80	17	3	73	25	2	76	22	2	76	20	4	77	19	4
Black/Other	59	37	4	50	46	4	49	46	5	56	35	9	51	41	8
EDUCATION															
College	87	11	2	79	20	1	85	14	1	83	14	2	78	19	3
High School	75	23	2	67	31	2	67	31	2	70	26	4	73	23	3
Grade School	56	36	8	46	46	8	51	38	11	48	39	14	50	36	14
OCCUPATION															
Professional/ business	85	13	3	76	22	2	83	15	2	86	12	2	79	19	2
Clerical	83	16	1	74	26	1	70	28	2	66	29	5	77	19	4
Manual	71	26	3	64	32	3	66	30	4	65	29	6	69	26	5
Farmer	92	3	5	61	29	10	63	34	3	78	15	8	62	25	12
INCOME															
$15K +	84	14	2	75	23	2	79	20	1	80	17	3	78	20	3
$10K-$14,999	78	20	3	67	31	2	70	28	3	64	32	4	69	26	6
$7K-$9,999	70	26	5	62	34	4	58	34	8	62	34	4	65	31	4
$5K-$6,999	66	30	4	57	40	4	54	43	3	52	38	10	70	24	6
$3K-$4,999	48	44	8	55	41	4	54	39	7	48	44	8	64	24	12
Under $3,000	68	30	2	69	29	2	51	49	0	55	35	10	60	37	3
AGE															
18-20 years	78	22	(b)	71	27	2	60	38	3	71	29	0	74	26	0
21-29 years	81	17	2	72	26	1	74	25	1	73	24	4	70	26	4
30-49 years	81	17	2	75	24	1	78	21	1	77	19	4	79	18	3
50 years +	72	24	4	62	34	4	65	30	6	68	26	6	68	26	6
REGION															
Northeast	77	20	4	65	34	1	68	28	4	71	26	4	68	29	4
Midwest	76	22	2	70	26	4	72	26	2	72	24	4	70	24	5
South	77	20	3	67	30	3	70	26	4	71	23	6	75	19	6
West	84	14	2	76	23	2	78	21	2	79	17	4	77	20	2
RELIGION															
Protestant	78	19	3	70	27	3	73	24	3	74	22	4	74	21	5
Catholic	75	22	2	66	32	2	68	30	2	68	27	5	66	29	4
Jewish	83	12	5	67	26	7	76	18	5	80	15	5	91	4	4
None	80	18	2	74	25	1	76	22	2	75	21	4	78	20	2
POLITICS															
Republican	86	13	1	74	24	2	78	19	3	82	16	2	75	21	4
Democrat	72	26	3	62	35	3	68	30	2	66	29	5	69	26	5
Independent	79	17	4	73	25	2	73	24	3	74	21	5	75	20	4

Table 1, continued

	1989			1990			1991		
	Yes	No	Not Sure	Yes	No	Not Sure	Yes	No	Not Sure
National	70%	24%	6%	70%	25%	5%	66%	30%	4%
SEX									
Male	77	18	5	77	19	4	71	27	3
Female	66	28	6	64	30	6	62	33	5
RACE									
White	74	21	5	73	22	5	70	26	4
Black/Other	51	40	10	52	41	7	44	51	4
EDUCATION									
College	78	17	4	78	19	3	73	24	3
High School	66	30	6	64	30	5	64	32	4
Grade School	53	34	13	48	33	19	36	54	10
OCCUPATION									
Professional/ business	80	14	5	80	18	2	75	23	2
Clerical	70	26	4	73	24	3	66	30	5
Manual	64	30	6	64	29	7	60	35	4
Farmer	75	12	12	50	38	12	55	35	10
INCOME									
$15K +	77	19	4	74	23	3	72	25	3
$10K-$14,999	68	25	8	67	29	4	63	36	1
$7K-$9,999	61	26	12	51	35	14	47	47	5
$5K-$6,999	55	37	8	54	34	12	36	55	8
$3K-$4,999	29	63	9	63	32	5	69	27	4
Under $3,000	65	35	0	56	44	0	53	43	3
AGE									
18-20 years	69	31	0	59	36	4	53	42	5
21-29 years	73	21	7	74	24	3	68	30	2
30-49 years	74	20	5	74	23	3	72	27	2
50 years +	65	28	7	63	28	9	58	34	8
REGION									
Northeast	62	30	8	68	24	8	63	34	3
Midwest	79	19	2	69	26	4	66	30	4
South	71	20	9	67	27	6	65	31	5
West	66	29	4	76	20	4	70	26	4
RELIGION									
Protestant	73	22	6	70	25	5	67	28	5
Catholic	66	28	6	67	27	7	62	34	4
Jewish	75	19	6	71	29	0	68	32	0
None	68	25	7	74	19	6	65	34	2
POLITICS									
Republican	76	18	5	76	19	5	72	25	3
Democrat	69	26	5	64	30	6	58	37	5
Independent	66	26	8	70	25	5	68	28	4

Note: For a discussion of public opinion survey procedures, see Appendix 5.   *Source:* Table constructed by SOURCEBOOK staff from data provided by the National Opinion Research Center; data were made available through The Roper Center for Public Opinion Research.
*Percents may not add to 100 because of rounding.
bOne-half of 1 percent or less.

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The Color of Law and the Issue of Color: Race and The Abuse of Police Power

Hubert G. Locke

"Every public officer who under color of authority, without necessity, assaults or beats any person is guilty of a violation of [law]."

—*Judge Stanley Weisberg's instructions to the jury in the state trial of the four officers accused of using excessive force against Rodney G. King*

I. THE PROBLEM STATED

This essay addresses a feature of the issue of police use of excessive force in which the problems of discussion are as much definitional and political as they are empirical and analytic. The definitional and political problems are intertwined; a number of persons might prefer—perhaps insist—that the issue be stated as one of racism and police brutality, while others would bridle at both terms. Both terms point to a volatile problem in American society today: Race is a factor in

the way in which some persons behave toward others, and police officers do use, on occasion, more physical force in interacting with citizens than is lawfully necessary. It is the interconnection between these two realities—whether race is a factor in circumstances in which police use excessive force—which has long been subject to fierce debate, one that has been raised to unprecedented visibility, if not volatility, by the events surrounding the videotaped assault on Rodney G. King by Los Angeles police officers on March 3, 1991.

To defuse the discussion of an issue raised to intense national prominence by the King assault, state trial, verdict, violent aftermath, and subsequent federal trial of the accused police officers, this essay has opted for a less politicized title. It does so at the acknowledged risk of losing the attention of those who believe that the problem of police excessive force toward persons of color persists, in part, because of an inability of analysts to "tell it like it is." The risk is assumed

precisely because of the persistence and volatility of the problem. Its control and, it is to be hoped, eventual eradication depend in large measure on the degree to which the issue can be stripped of its emotional content and consequences and instead viewed as a problem of gross lawlessness by those sworn to uphold the law.

Viewing the problem from the perspective of law—what is licit or illicit behavior—is preferable for several reasons. First, it provides a relatively precise definition of what is at issue (but compare Klockars, this volume). In some quarters, any unwarranted or unwelcome police conduct may constitute brutality—including the use of a racial slur or profane and abusive language (Adams, this volume; Worden, this volume). As crude and inappropriate as such language may be, it does not aid the examination of the issue to lump it, together with excessive physical force, under the rubric "brutality". Any definition or category which designates too much ultimately describes nothing useful.

Second, and by extension, a legal perspective on excessive force offers a reasonably clear and concrete set of examples of the events and circumstances in which specific and, on occasion, documented behavior is at issue. Third, excessive use of force by the police—whatever its source or stimulus—is a legal offense, not merely unprofessional behavior. It permits the pursuit of legal remedies where administrative sanctions go unapplied or are inadequate (see Cheh, this volume; contrast Klockars' recommendation, in this volume, for a different definitional approach, in which many more uses of excessive force would be identified, not all of which would merit punitive responses).

Ironically, while some might wish to broaden its application, it is the narrow, legal definition of police use of excessive force—acting "under color of authority, without lawful necessity"—that most[1] persons of color would agree is at the core

of their complaints about police misconduct. One of the reasons that the Rodney King beating engendered so widespread and uniform a reaction from non-white Americans lies in the perception that police officers frequently act toward "minorities" in ways that are demeaning, if not physically abusive, because they enjoy the protective color and authority of their office.

Violence is an experience far too common in the cultures of poverty where a disproportionately large number of persons of color are to be found in our society. What may present itself as or appear to be officially sanctioned violence— excessive force "under color of authority"— therefore becomes especially odious to a person of color, who through diligence may escape other circumstances of violence only to be subject to violence at the hands of the police. What a single incident in Los Angeles in March 1991 made an issue of intense public attention has long been a problem that aroused passion in communities of color across the United States.

II. BACKGROUND

In December 1964, just after the first in what would be a four-year wave of summer civil disorders, the Practicing Law Institute (of New York), with the assistance of the Rockefeller Fund, convened a three-day forum on "The Community and Racial Crises." The meetings were attended by municipal, state and federal officials, police chiefs, prosecutors, law professors, and representatives of civil rights and community relations agencies. Both the agenda and the discussions were reflective of the national mood of the time and, among the agency representatives present, of the relative levels of awareness and sensitivity to issues of race in their various fields. One of the topics of discussion, "Racial Tensions and the Police," touched off a fierce exchange between representatives of the police and civil rights agencies on the issue of

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[1] Obviously, there is not unanimity of opinion among communities of color on any topic, although there may be more agreement concerning issues of police service quality than on many other topics (see Flanagan and Vaughn, this volume; Murty, et al. 1990; Boggs and Galliher 1975). But Lasley (1994: 250-51) found differences between poor Black and poor Hispanic residents of South Central Los Angeles in attitudes toward Los Angeles police officers. Before

the Rodney King beating, Hispanics' attitudes were not as favorable as those of whites but not as negative as those of Blacks; and during the four months following the beating, African Americans' negative attitudes toward LA police "were much more profound and 'longer-term'" than were the critical perceptions held by whites and Hispanics.

police brutality (Stahl, et. al. 1966).

Two articles from *The Police Chief*, written by International Association of Chiefs of Police staff, that were among the background materials presented to conferees encapsulate attitudes toward police brutality by police administrators in the 1960s. The thrust of the first article, by the IACP's executive director, was evident in its opening sentence: "I know of no period in recent history when the police have been the subject of so many unjustified charges of brutality, harassment and ineptness." With references to an editorial in the same journal, the article went on to decry "baseless charges of police brutality" made to cover "excesses and illegal conduct on the part of some demonstrators involved in the current racial tensions," as well as the excesses of "hoodlums" who "falsely [fly] the banner of civil rights" (Stahl, et al. 1966: 120).

The same theme was echoed by the second IACP official who wrote an article used as a background paper at the 1964 conference. He spoke of police brutality as "a commonplace and almost automatic accusation attached to any physical action taken by an official to control disorder" and as "a battle-cry...used by supposedly responsible Negro leaders to whip up support among their followers" (*ibid.*: 126). Police positions on the issue at the time tended to be reinforced by elements of the media; a *U.S. News and World Report* article listed Supreme Court rulings, civil rights pressures and cries of police brutality "as signs of an impending breakdown in law and order throughout the nation" (Locke 1967: 625).

In less strident tones, the community side of the controversy was stated by an official of the NAACP:

"Concerning the basic facts, there can hardly be any dispute. Police brutality does occur, and the only question is how much of it there is, and where.... Unnecessary force is sometimes used in making arrests, although the determination of what is and is not 'unnecessary force' is often extremely difficult.

Neither can it be denied that, at present, large numbers (majorities in some instances) of Negroes have come to regard policemen as oppres-

sors rather than protectors[2].... Finally, it is clear that no police force, operating under conditions short of a police state, can hope to function effectively for very long in a situation of crisis deriving from resentment or resistance on the part of massive proportions of the community in which it works" (Stahl, et al. 1966: 169).

Clearly, in the 1960s the issue of police use of excessive force was one which polarized police officials and large segments of the nation's Black populace and civil rights community (on the role of the civil rights community in forcing reform on American policing, see Williams and Murphy 1990). Three decades later, the assertions by the NAACP representative remain at the core of current discussions regarding the police and their behavior in communities of color across the nation: How widespread are incidents of the use of excessive force, where and under what circumstances do they occur, and does the excessive force problem cause the police to be viewed in

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[2] Historically, there can be little doubt that for generations after the involuntary arrival of Black people in this country, the formal, officially approved role of police, both in the South and often in the Northern "free" states, was that of oppressor of these people of color—keeping slaves in their place and capturing and returning runaways to their owners; later, enforcing "Jim Crow" segregation laws (Williams and Murphy 1990: 3-5; Richardson 1970: 19). Importantly, for the purposes of this essay, the early role of many Southern police in the "slave patrols" formally included inflicting corporal punishment on offenders (runaway or disobedient slaves) without prior judicial process (Williams and Murphy 1990: 4; Wood 1984: 123-24; Foner 1975: 206). While corporal punishment of Blacks—by today's standards grossly excessive force—may have been a formal police function in the Slave States, history has recorded the attitudinal climate that prevailed toward Blacks in many Northern communities. When Alexis de Tocqueville studied American prisons in 1830, on his travels he not only discovered many Northern police capturing and holding runaway slaves, as applicable laws required them to do, but also "was surprised to discover that there was more overt hostility and hatred toward blacks in the North, where slavery did not exist, than in the South, where it did" (Williams and Murphy 1990: 4).

non-white communities as oppressors rather than as protectors?

III. THE LITERATURE

What may be one of the earliest research inquiries concerning the police and "minority community relations" was also a subject of discussion at the 1964 conference. A collaborative study by the IACP and the U.S. Conference of Mayors was presented that had been designed to "gather information on police policies, practices and problems with respect to community relations and racial demonstrations in U.S. cities of over 30,000 population." The study serves as a benchmark on the police and their relationships with communities of color on the eve of what would become an era of immense change in American policing (*ibid.*: 143-58).

One hundred sixty-five cities were surveyed in the study. Much of the survey was calculated to discover the extent to which the cities were prepared for handling large-scale racial demonstrations; several questions, however, elicited findings on more basic race-related concerns. For example:

■ One half (N=83) of the cities reported difficulties in recruiting Black officers because "applicants fail exams and standards."[3]

■ Six departments, in their personnel assignments, restricted the arrest powers of non-white

officers; 34 assigned non-white officers to predominantly non-white sectors of the city (see also Williams and Murphy 1990: 8); 40 departments paired white and non-white officers only on special details.[4]

■ Forty-eight departments reported they were under charges of brutality; 46 were charged with "differential treatment" (of white and non-white citizens). Only two departments processed citizen complaints through a police review board.

The IACP-U.S. Conference of Mayors' early 1960s survey appeared just as academic interest in American policing was getting underway. By the end of the decade, the first of a torrent of research on police behavior began to appear in scholarly and professional journals

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[3] Williams and Murphy (1990: 2, 9-10) observe that

> "[s]everal of the hiring and promotional standards, although influential as antidotes to the rampant nepotism and political favoritism that had characterized policing [for generations], proved to be detrimental to blacks—just at a time when, to a limited extent, because of their increasing political power, they were beginning to acquire the credential that would have allowed them to qualify by the old standards."

Interestingly, by contrast, the first Blacks appointed to Northern police forces in the two or three decades after the Civil War were substantially *over*qualified compared to their white cohorts (Williams and Murphy 1990: 8; Lane 1986: 64-65).

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[4] Such practices had a long and sordid history. When Blacks were first appointed to some Southern police departments after the Civil War, whites often protested—and occasionally rioted over—the efforts of Black officers to use their lawful authority over whites (Williams and Murphy 1990: 8; Wharton 1965: 167). Williams and Murphy (1990: 8) report that a 1961 study "found that 31 percent of the departments surveyed restricted the right of blacks to make felony arrests; the power of black officers to make misdemeanor arrests was even more limited." This study was reported initially by the President's Commission on Law Enforcement and Administration of Justice (1967: 170).

A number of the leading Black police chiefs in America today, when they began their careers as rookie officers in the 1960s, were restricted to working in Black communities and could routinely neither partner with white colleagues nor arrest white lawbreakers. Some of their supervisors and fellow officers called them "niggers," and some departments would take a squad car out of service before allowing an officer of color to drive it. The outlaw subculture of some police departments was also a whites-only enterprise, excluding Black officers from any—or at least from their proportionate—share of payoffs. Black officers on patrol not infrequently were reported as "suspicious men" in citizens' calls to police emergency numbers. One widely respected police chief who exemplifies this poignant career odyssey, Attorney Gerald Cooper, who heads the Evanston, Illinois Police Department and formerly served with the Chicago Police Department, candidly discussed these "bad old days" with his officers at a recent organizational retreat (Cooper 1994).

(Sherman 1980a: 69). A quarter-century later, that research has produced an avalanche of publications. On the critical issue of the police use of excessive force, however, the research tells us far less than we would like to know about a problem that has been at the center of a long-standing debate between police and communities of color.

The questions that concern persons of color and researchers alike are fairly easy to specify. Are white police officers inclined to be racially and ethnically prejudiced? Do they discriminate against non-white citizens? Are incidents of excessive force the consequence of a few "rotten apples" in the ranks of policing or does the police system encourage and support such behavior? To what extent is the disproportionately high number of Black (and increasingly Latino) victims of excessive force due to internal police practices (e.g., police are more inclined to use excessive force against non-white citizens) or to external circumstances (e.g., a greater involvement by persons of color in criminal activity)? Are "minority" police officers disproportionately represented among those who use excessive force? Is there an organizational or occupational climate (i.e., a "police culture") or a rank-and-file climate (a police "subculture") that either actively encourages or tacitly condones the use of excessive force?

A. Problems of Inquiry

The search for answers to these questions has encountered innumerable problems that aggrieved citizens would consider insignificant, if not trivial, but which are of fundamental importance to scholars and legal system officials. One has to do with collecting the facts. As late as 1978, the Federal Bureau of Investigation would not release data on the police use of force (Takagi 1978); much has changed in this regard at both the federal[5] and local levels, although there is still a need for more standardization and goal-oriented

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[5] While the FBI is now more willing to release data, the problem remains that the data available to release are superficial and incomplete concerning police use of *deadly* force (Geller and Scott 1992) and so sporadic and ambiguous concerning police use of *nonlethal* force as to be worthless (see Adams, this volume).

compilation and reporting of data (Geller and Scott 1992). Recently, there was a pitched dispute between the chair of the House Government Operations Committee and the U.S. Department of Justice over the release of a review of 15,000 complaints against police (some, but not all, concerning excessive force) received by the Department's Civil Rights Division, its Federal Bureau of Investigation, and U.S. attorneys over the past six years (*Seattle Times*, March 4, 1992: A9; DeParle 1992).

A similar controversy surrounded an internal study of 50 persons allegedly abused by police in Chicago; its release had to be ordered by a federal judge (*Chicago Sun-Times*, February 8, 1992: 4). By contrast, however, Chicago's and many other big-city police departments have for several years been releasing data on police-involved *shootings*, albeit shootings the vast majority of which are considered justifiable by police administrators (Geller and Scott 1992). For extended discussion of access problems concerning data on police use and abuse of *nonlethal* force, see Adams (this volume).

Next to the importance of adequate data are the methods of their analysis. Griswold reviewed most of the research literature up to 1978 to see whether the police discriminate against "minority group members." For nearly every finding presented, either criticism about the measures used, or of the failure to control for other possible influences, or counter-evidence could be offered that pointed to other possible explanations. Griswold (1978: 65) states:

> "What conclusions, if any, can be made about differential treatment of blacks by the police? The conflicting evidence paints a rather fuzzy picture, with no clear evidence which can be presented to resolve the issue."

Two years later, Sherman (1980a: 69) noted that the preponderance of police research tended to examine two-factor assumptions about the causes or associational features of police behavior. "The present state of the field," he wrote, "is best characterized as a series of bivariate assertions about the impact of certain variables on police behavior about which a moderate amount of empirical evidence has accumulated." A

decade later, the evidence is much more extensive; the findings, however, continue to show what Sherman termed "weak relationships between a wide range of the hypothesized causes and police behavior" (see also Sherman 1980b). In lay terms, this simply means that researchers do not know or cannot assert much, with empirical reliability, about whether there are racial reasons for police behavior, because other possible explanations cannot be ruled out. Worden's essay in this volume is the latest and one of the best of such efforts to employ multi-variate analysis to assess the influence of a subject's race on police officer use of force (see also Toch, in this volume). More generally, Tonry's recent book (1995) mines data about all aspects of criminal justice system activity, seeking explanations for disproportionate involvement of persons of color in the nation's criminal justice systems.[6]

After data have been collected and analyzed, there is the added problem of the generalizability of findings. Most studies, for reasons of accessibility, manageability, and funding, are of local police agencies or samples of police documents, officer attitudes, court cases, or other data sources in a single or several police jurisdictions (Worden, this volume; Geller 1982: 151; Geller and Scott 1992). Occasionally, as with the studies by Fyfe on the police use of deadly force, the insights or conclusions gathered from a single department or several-department study are sufficient to prompt significant policy initiatives (see Fyfe, this volume). Often, however, the findings from a single department have—or are treated as having—significance only for that department. The cumulative evidence from single-

department inquiries may only serve to confound rather than clarify an issue, reducing the likelihood that any general conclusions can be drawn.

We do not mean to imply, however, that it is *impossible* for generalizable, single-agency studies to be devised to answer questions about whether race is a contributing factor in police use of improper force. If the evidence from a series of such studies seems impossibly inconsistent—as it often does—then perhaps researchers are asking the wrong questions.[7] Perhaps one of the right questions to ask would be *under what conditions* race is a factor in abuses of force. It may be that the effect of race is contingent on the social context, as has appeared in some studies of sentencing. Or it may be, as Fyfe has found in the context of police use of *deadly* force, that the effect of race is contingent on organizational context (e.g., the values expressed by the police chief). Much remains to be learned, given the primitive nature of the research data deployed to date.

Finally, there is the awkward, seldom discussed, but not infrequent problem of research bias. Research is generally viewed as important, among other reasons, for its capacity to force the setting aside of political or other assumptions in order to examine an issue dispassionately and without preconceived notions.[8] Since the monu-

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[6] While Tonry (1995) has little to report about the motivations of police *use-of-force* decisions, he reports in detail on a line of research that examined racism as a possible explanation of *arrest* decisions and found very little evidence of its *systematic* influence. With the important exception of arrests for less serious offenses (a category in which Powell 1981, 1990 suggests that police are more likely to abuse force for racial reasons), the studies generally reveal that police arrest persons of color in proportion to their participation in committing crimes. Crime participation rates are identified through victimization surveys, in which victims report, in Census Bureau surveys, the nature of their victimization and, among other characteristics, the race/ethnicity of their alleged offender.

[7] While more research on the effects of race on criminal justice decisions is warranted, so is more research on the effects of criminal justice decisions on racial problems (see National Advisory Commission on Civil Disorders—the Kerner Commission 1968). As Tonry (1995) urges, attention must be paid to such questions as how we can change criminal justice policies (even assuming they are race-neutral as conceived and as applied) "so that they become less destructive of the lives of black Americans and more restorative of the life chances of disadvantaged blacks." He opines that questions of this sort are "much more socially constructive questions than those that are asked in efforts to ferret out a wilful and pervasive racial bias in a criminal justice system in which most officials and participants believe in racial equality and worry about the racial patterns they see everyday" (*ibid.*: 71).

[8] Compare Cordner (1985), on the limited power of research findings to shift organizational priorities except in directions the organization was leaning anyway.

mental study of Gunnar Myrdal on race in America, we have known this general proposition is considerably weaker when questions of race are at stake (1962:1035-64). Scholars are seldom comfortable with the reminder that their work might be affected by other than scientific dictates; the comparative inattention to the issue of police use of excessive force against persons of color, for example, when placed against the unending examination of correlates between race and crime, suggests that research and the setting of research priorities may not be value-free.

This is not a sweeping indictment of the entire research community. To be sure, it is true that virtually every study of police behavior in general, and of the use of force in particular, has attempted to address the effects of race and that many of these studies have been motivated by the issue of differential treatment by race. Some of the scholarly inattention to the use of *nonlethal* force and the effects of race may be due to the paucity of existing data and the difficulty of primary data collection. Still, as the will to learn about a problem rises, the wallet to enable the learning may open wider (depending largely, of course, on the power of those who wish the learning to occur).

B. What Do We Know?

After problems in research methodology are acknowledged, there remains the question of what we know. The evidence is indisputable that, compared to general population distributions, persons of color are disproportionately represented among those subjected to police use of force, where the discharge of a firearm is involved (Binder and Scharf 1982; Mendez 1983; Trujillo 1981; Geller and Karales 1981b; Fyfe 1981a, 1981b; Geller and Scott 1992). Beyond this finding, there is little that researchers can assert empirically about the police use of appropriate and excessive force that is not in dispute.

For reasons related to the protocols of research, many of the inquiries regarding excessive force have focused on police shootings, since shooting incidents tend to be unambiguous as to whether force is involved (although whether the force is excessive remains an open question) and the data (police shooting review reports, autopsy and coroners' inquest reports, newspaper accounts, etc.) since the early 1980s have been

relatively abundant and accessible. It is from a welter of police shooting studies (summarized in Geller and Scott 1992) that the finding emerges regarding non-whites as a disproportionately high number—compared to their percentages in the general populace—of victims of such incidents.

This having been affirmed, little else gains consensus. If we pursue the matter further, we find any one of a number of individual, situational, organizational, or legal circumstances that have a potential impact on this general finding. Friedrich, in the same year in which Sherman summarized the state-of-research knowledge regarding four aspects of police behavior (service, detection, arrest, and violence—Sherman 1980a), offered a summary analysis of research on the police use of force. Friedrich reviewed the three primary explanations advanced for variations in the use-of-force phenomenon: individual characteristics of police officers, situational characteristics of encounters between police and citizens, and the organizational culture of police work. He concluded, a decade after extensive research inquiries had been undertaken on the topic, that "many factors commonly thought to affect the use of force have little effect" (Friedrich 1980).

Worden's essay in this volume is the most important scholarly attempt thus far in this decade to revisit the questions tackled by Friedrich 15 years ago. Worden concludes, based on a different data set than Friedrich analyzed, that the color of the adversaries in police-citizen encounters does play some explanatory role in the type and extent of force used.

> "Several variables have (statistically) significant effects both on the use of reasonable force and on the use of improper force. Either reasonable or improper force is more likely in incidents that involve violent crimes, and against suspects who are male, black, drunk, antagonistic, or who physically resist the police. Physical resistance has by far the greatest effect on the use of force. But even when the effects of physical resistance are statistically controlled, suspects' demeanor has significant effects on the use of force. And even when the effects of physical resistance and of demeanor are statistically controlled,

suspects' race has significant effects on the use of force. That officers are more likely to use even reasonable force against blacks might suggest that officers are, on average, more likely to adopt a penal or coercive approach to black suspects than they are to white suspects" (Worden, this volume).

Worden cautions about interpretation: While his data are consistent with the notion that racial *hatred* is what drives some of the disproportionate application of excessive force by police to persons of color, the data might also suggest that it is out of unwarranted *fear* of persons of color that officers respond excessively. In any event, the data set Worden reanalyzed is too limited to support confident policy decisions. As we shall discuss later, we do not mean to undermine appropriate confidence in the social science findings on racial disproportions, but we do intend to urge that other bases exist for taking policy initiatives that will address many of the concerns of people of color and other key concerns about police misuse of force.

As noted earlier, what every single study of police use of *fatal* force has found is that persons of color (principally black males) are a disproportionately high number of the persons shot by police compared to their representation in the general population (Goldkamp 1970; Kobler 1975; Peirson 1978; Takagi 1978; Fyfe 1978, 1981a, 1981b, 1982; Geller and Karales 1981b; Binder and Scharf 1982; Binder and Fridell 1984; Horvath 1987; Sulton and Cooper, n.d.; Geller and Scott 1992). Where the studies diverge are the reasons for such disproportionality. Fyfe found uses of force to depend partly on real and immediate police hazard in specific incidents in one police jurisdiction (1981c) and to depend partly on internal police practices in another (1982). Takagi (1978) questioned both the assumption-of-danger thesis as well as the-culture-of violence explanation, pointing to a number of compounding problems in the data which make for poor inquiries on the issue. Geller and Karales (1981b) found Blacks and whites equally likely to be shot by police, given their exposure to forcible felony arrests. In a related Chicago study, Geller (1981) found most variances in shooting participa-

tion by *officers* of different races to be explainable by the residency and deployment patterns of the officers involved. Binder and Scarf (1982) attribute the disproportionality of Blacks who are shot by police to community characteristics (e.g., the high rates of violence in inner cities); Goldkamp (1970) tentatively advanced a corresponding explanation based on arrest rates for violent crime.[9]

Mendez (1983), after analyzing deadly force rates and population in relation to violent crime arrests, property crime arrests, reported crime, and the length of public service, found only two offense rates related to the use of deadly force: robbery and larceny (the first, positively related; the second, negatively related). Binder and Fridell (1984), in a review of police shooting studies, found any conclusion about a pattern of racial discrimination in police shootings to be confounded by variables that support alternative explanations. Horvath (1987), reanalyzing the same data used by Fyfe (1980a), disputed the conclusion in Fyfe's 1980 study that there might be a geographic relationship between the rates of police shootings and the incidence of criminal homicides; Horvath found the relationship "spurious" and suggested the correlation is probably due to a third, unknown factor. Significantly, none of these studies, with the exception of Takagi (1978) and Fyfe's 1982 study of Memphis, suggest a racial motivation behind the high number of deaths of persons of color at the hands of the police or find any evidence to support the allegation that racial bias operates *systematically* as a factor in police shooting (see generally, Geller and Scott 1992). Worden's essay, in this volume, represents a significant departure from most prior findings by suggesting that race may play a contributing role in police use and misuse of *non*lethal force (see also Black 1980).

The notoriety surrounding the Los Angeles Police Department, highlighted by the Rodney King affair, prompts special attention to a study of firearms discharges by Los Angeles police officers (Meyer 1980). Based on data constructed

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[9] Friedrich (1980), studying police use of *nonlethal* force, found that only the behavior of the offender and the visibility of the encounter to police peers and the public were significant influences on police use of force; race was not.

from information supplied by the Department, the study found that of 584 suspects shot at during a five-year period (1974-78), where the race of the suspect was known, 321 (55 percent) were Black, 126 (22 percent) were Hispanic, 131 (22 percent) were white and 6 (1 percent) were of other non-white origin. The race of 21 suspects was unascertainable (they were excluded from the total in calculating percentages). In 1979, 46 (45 percent) of the 102 suspects shot at were Black, 32 (31 percent) were Hispanic, 23 (23 percent) were white (see also Geller and Scott 1992: 151).

Meyer's Los Angeles study also found that a higher proportion of shootings at Black suspects were reported as caused by suspects disobeying the order of officers to halt and by suspects appearing to reach for weapons. A greater proportion of Black (28 percent) than Hispanic (22 percent) or white (20 percent) persons shot at by police were ultimately determined to have been unarmed, although a somewhat greater percentage of Black (54 percent) than Hispanic (48 percent) or white (49 percent) victims were carrying guns. There was no significant difference in the number of shots fired at suspects by race when other circumstances surrounding the shootings were controlled.

Looking at the Los Angeles Police Department about a decade later than Meyer, the Christopher Commission (Independent Commission on the LAPD 1991) implied a pervasive relationship between officer prejudice and mistreatment by the Department of minority-race citizens. Polling of officers in the LAPD even disclosed some belief among the rank and file that prejudice contributed to such abuses of force. But Toch, in this volume, properly cautions that the data relied on by the Christopher Commission may be consistent instead with officers motivated by organizational pressures to use very aggressive crime and disorder control methods in all areas of high crime— an approach that would disproportionately expose persons of color to such police tactics.[10] The

Christopher Commission, more sanguine about prejudice as a causal factor, stated:

> "If combined with racial and ethnic bias, the Department's active style of policing creates a potentially grave problem. Because of the concentration of...crime in Los Angeles' minority communities, the Department's aggressive style—its self-described 'war on crime'—in some cases seems to become an attack on those communities at large. The communities, and all within them, become painted with the brush of latent criminality" (Independent Commission on the LAPD 1991: 74).

Perhaps the most important policy contribution of two decades of research on the issue comes from a line of research on police use of deadly force. Fyfe (1978, 1980a, 1981a, 1981b, 1981c) discovered that there was a significant impact on the nature and frequency of police-citizen violence in New York City from stringent departmental guidelines and shooting review procedures. This finding was reinforced by Fyfe's study in Memphis (1982) where he found that police officers frequently engaged in "elective" shootings (i.e., where the officer's life or that of a citizen other than the person confronted is not in danger). Geller and Karales (1981b), Geller and Scott (1992), Binder and Fridell (1984), and Wilson (1980) have all commented on restrictive shooting policies as control strategies for reducing police shooting incidents (particularly when such policies are coupled with other training and officer safety initiatives).

IV. THE PERCEPTIONS

While the role of race in police use of

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[10] Toch (this volume) acknowledges that prejudice may play a contributing role in some abuse-of-force incidents:

> "Prejudicial attitudes can sometimes translate into action by contaminating diagnoses of 'wise guy' behavior

or inviting resistances (to contemptuous approaches by officers) from citizens who are singled out for attention. Prejudiced officers may not *invariably* be violence-prone, but *when* they are, may express their prejudice in early stages of degenerating encounters" (see also Sykes and Clark 1975).

excessive force may remain empirically uncertain to researchers, it is far from problematic for countless citizens of color in America. Murty, et al. (1990) found that most citizens are satisfied most of the time with the police, except for Black Americans (see also Flanagan and Vaughn, this volume). Lasley (1994) found that the attitudes of poor Hispanics and poor whites were more favorable toward Los Angeles police than were the attitudes of poor African Americans. Lasley (1994: 249) also reports that

> "numerous studies...have found attitudes toward police to be most favorable among Caucasians and lowest among African-Americans, even while controlling for community context and demographic differences (Bayley and Mendelsohn 1969; Hahn 1971; Benson 1981)."

Wagner (1980), reporting on a city in which Black residents were 41 percent of the populace, found them to file twice as many complaints against the police as white residents (compare the findings of the Police Foundation's recent NIJ-funded study of excessive force—Pate and Fridell 1993; see also Perez and Muir, this volume). Davis (1990) found the urban poor and minorities to have the least favorable attitudes toward the police in New York City; Murty, et al. (1990) found the same to be the case in Atlanta (1970); and Lasley (1994) reached a similar conclusion in a study of inner-city Los Angeles residents. The finding transcends social status as Boggs and Galliher (1975) found persons of higher status among Black citizens to hold more negative attitudes toward the police than whites of similar status.

The problem of police use of excessive force may prove, from a public policy perspective, to be much like the problem of crime. Researchers and police administrators are learning that community perceptions about crime—the degree to which citizens feel safe or fearful in their homes or neighborhoods—may be as important to address as crime itself. Similarly, the challenge to police chiefs and public policy makers may be that of confronting the likelihood that in any given community in this nation significant resentment or hostility is present among persons of color toward the police and that the

feelings relate directly or indirectly to the excessive use of force.

The recency of several of the articles mentioned suggests that these perceptions persist even though policing has made significant progress in overcoming the conventions of law enforcement of the 1960s. In many communities a new generation of police leaders presides over a new generation of officers who come to police service with higher educational backgrounds and far better professional training than that of three decades ago. The ranks of policing are relatively more diverse today, with respect to both persons of color and women in uniform (see generally, Williams and Murphy 1990: 12). The fact, however, that resentment in communities of color is not directed only toward white police officers and that studies show that non-white as well as white officers are likely to be high-rate users (but not necessarily *abusers*) of force (Fyfe 1978; Geller and Karales 1982; Geller and Scott 1992) suggest the problem is more complex than white/non-white equations. One recent study (Brandl, et al. 1994) suggests that citizens' *attitudes* toward the police shape their perceptions and evaluations of their *contacts* with the police as much as, or more than, their *contacts* with the police affect their *attitudes* toward the police. The implication would seem to be that changing citizens' attitudes may require more than changing the nature of their direct experiences (compare Flanagan and Vaughn's and Lester's essays, this volume).

V.   THE ISSUES

If the bulk of the social science evidence remains unclear as to the salience of race in excessive force situations, the issues surrounding color and the police abuse of power are far less so. To some extent, it is the sifting of the evidence that has contributed to a sharpening of the issues which, in turn, have become specific foci of attention for analysts, activists, and police administrators alike.

One issue revolves around the "few-rotten-apples" thesis. It has been commonplace in law enforcement for decades to blame the failures of police work—from corruption scandals to brutality charges—on a few "bad cops" (see Kelling and Kliesmet, this volume). By focusing too much on rotten apples, one can miss the possibil-

ity that the *barrel* is rotten and is spoiling the contents. These are perspectives on *causation*—officer predisposition versus socialization to a brutal work group. In any event, it is important to know whether, as a number of police administrators have suspected for some years, officers accused of using excessive force are likely to be multiple offenders. Conventional wisdom and healthy suspicion combine, in this instance, to underscore a belief that the disproportionately high number of persons of color involved in excessive force incidents are victims of a relatively small proportion of officers—officers who commit these offenses several times (see Toch, in this volume, on the evidence bearing on "violence-proneness" among police).

An early clue to the repeat-offender phenomenon came from a source which, while it would not rank high on the scale of academic research, proved to be an important source of data. In February, 1983, a five-part investigative report on WMAQ-TV in Chicago was announced as the exposure of "a police system which fails to deal with the cops who are beating justice." The five-part telecast was based on a review of all lawsuits brought in federal court over a five-year period (1978-1982) in which police brutality was alleged (see Cheh, this volume, for additional discussion of such litigation). In all, 435 Chicago police officers were identified in the suits, 107 of whom subsequently were found to have been charged in two or more official complaints during the prior 10 years, either in court or at the police department. Further investigation found that 13 of 68 officers in a single police district had been the subject of complaints three or more times over a two-year period.

The investigative report was not research in any academic sense, nor did it claim to be. Ironically, it did not set out to deal with police brutality nor, after shifting to the excessive force issue, with repeat offenders. Both were accidental discoveries that led to a report which, as matters turned out, had a significant agenda-setting impact on Chicago mayoral politics during the winter of 1983 (Leff, et al. 1986) and made a contribution to knowledge about excessive force complaints.

Academic research provides some evidence to support the Chicago discovery about repeat offenders. In a study of police shootings in Philadelphia between 1970-78, Waegel (1984a) discovered that 0.2 percent of the sworn force (13

out of 8,000 officers) accounted for 10 percent of all shooting incidents. Sixty-seven officers in Philadelphia—0.8 percent of the force—were involved in more than one shooting incident and accounted for 34 percent of all shootings.

A more recent study of the Los Angeles Police Department finds the same basic pattern. From 1986 through 1990, allegations of excessive force or improper tactics were filed against approximately 1,800 officers, over 1,400 of whom had only one or two complaints. But 183 officers had four or more allegations, 44 had six or more, 16 had eight or more, and one officer had 16 complaints. The top 10 percent of officers ranked by number of excessive force or improper tactics allegations accounted for 27.5 percent of all such complaints (Independent Commission on the LAPD 1991; see Toch's discussion of these findings, in this volume).

These data involve only two urban police forces. Moreover, they do not control for the areas in which the officers were assigned; the race of the involved officers or civilians; the level of violence or the rates of arrest in the assigned areas; whether the officers were on or off duty when the alleged abuses of force occurred; whether the persons against whom force was used were found to be armed or unarmed; or any of a number of other variables we might factor in (see also Renner and Gierach 1975).

The raw complaint data, however, even without measuring possible influences, are sufficiently striking that police administrators and others in a position to influence law enforcement policy are not apt to await regression analyses[11] to screen out relevant from irrelevant factors, important as they are. But even at this level, the data are important. Assuming a sizable organization, a department is at its peril if less than one percent of its officers are involved in over one-third of its shooting or other use-of-force incidents. In all but very small organizations, for so minuscule a portion of personnel to account for a potentially sizable performance problem would be a red flag alerting administrators to the need for immediate analysis and possible personnel action. Absent clear evidence that an officer's assignment

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[11] Worden's multi-variate analysis, in this volume, will prove of considerable interest to such administrators and policy shapers.

to unusually dangerous tasks has occasioned his or her string of violent encounters, police managers would do well to err on the side of caution and, at least for an evaluative period, change the officer's assignment. And, in the interest of the officer's career longevity and the department's operational vulnerability to adverse public opinion, empathetic police commanders might well want to reassign the officer in question even if they conclude that it was *assignment* rather than *predisposition* to violent tactics that accounted for the pattern of violent encounters. To simply ignore the reasons for a growing string of shootings or other serious uses of force by a small number of officers (even if each episode has been determined to be within departmental policy) would pose important questions about how concerned a police commander is over officers who use or abuse force frequently.

The issue of how seriously the excessive force problem is taken by police also is illumined by the research literature (see generally Lester's chapter in this volume). In a survey of police officer attitudes in a small Southern city, one researcher (Barker 1978) examined the extent to which officers tolerated "deviant" behavior, i.e., behavior contrary to accepted standards among other officers in the department. "Deviant behavior" in the survey was measured by attitudes toward police perjury, drinking, sleeping or sex on duty, and police brutality.

The study found that first, the more officers perceived a given "deviant behavior" to occur, the more tolerant they were of it and, second, the less deviant the officers considered a given behavior, the more common they perceived its occurrence. Third and most striking, police brutality was perceived to be one of the least deviant behaviors, equal in seriousness to sleeping on duty and, simultaneously, one of the most prevalent behaviors; 40 percent of the force were perceived to have committed acts of brutality at some point in their careers (see Adams, in this volume, for a detailed discussion of the prevalence of excessive force; and see Lester, in this volume, concerning officer opinion surveys). Since brutality was considered a less serious form of deviance, officers indicated they would report a fellow officer for brutality less often than for any other of the stated "deviances."

A corresponding study of officers in a medium-size department (Lester and Ten Brink

1985) found that officers most likely to report fellow officers for acts of excessive force were also most likely to report them for other offenses, such as drinking on duty or accepting a bribe. Taken together, the two studies suggest that brutality or the excessive use of force is part of a range of "deviant behaviors" which are not considered by some officers to be any more serious than other offenses—perhaps, among some, less serious—and that those officers who would have the professional integrity to report excessive force offenses would be just as likely to report other violations of professional norms as well. A federally-funded study currently being completed in Ohio and Illinois should provide additional findings of interest concerning the prevalence of police abuse of force and officers' willingness to report their colleagues' misconduct to supervisors.

Carter (1976) found in a survey of officer attitudes that 16 percent believed ethnic or racial discrimination played a role in abuse of force; the Christopher Commission (Independent Commission on the LAPD 1991: 69) obtained similar results (a larger proportion but still a minority of officers—28 percent—saw a nexus between racism and abuse of force). Perhaps more importantly, Carter (1976) learned that 62 percent of his officer respondents (in a single police agency) believed officers were entitled to use excessive force in retaliation for assaults against officers (see also Lester, this volume). If people of color are disproportionately engaged in what police see as resisting arrest, an officer's propensity to respond with avowedly excess force could well produce patterns of abuse with racial dimensions. Sykes and Clark (1975) offered a theoretical framework, which they termed a theory of "deference exchange," for thinking about such problems. They argue that police expect acknowledgment by the citizen that police-citizen interactions are governed by an asymmetrical status norm—the police are the boss. If people of color disproportionately reject this norm, then police encounters with people of color are correspondingly more likely to give rise to behavior by citizens that officers interpret as disrespect.[12]

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[12] "Theoretical frameworks" are useful to the extent they serve as possible explanations—not necessarily justifications—for certain activity or behavior. Dis-

Given the extent to which the excessive force issue involves persons of color, the relative seriousness that officers attach to the excessive use of force is of considerable importance. If some police officers are inclined to consider the excessive use of force as less serious than drinking, or no more serious than sleeping on duty, some officers of the law and many citizens of color are assessing police behavior by fundamentally different norms. The Rodney King state court acquittal of the assaultive officers and its bloody aftermath suggest just how dangerous such differences can be. The beating and the verdict essentially reflected the norms of those who do not attach great seriousness to excessive force. The subsequent disorder in Los Angeles depicted just how much those norms of four police officers and eight of 12 state court jurors were at odds with people of color in the nation's second largest city.[13]

Some encouragement may be derived from the Lester/Ten Brink study (1985), which suggests that there is a cadre of police officers who do attach significance to the excessive use of force, so much so that they are willing to report offenders.[14] It is about such officers that we should wish to know much more than we do: their percentages, their values and other possible motivations, their backgrounds, their views of their work and of the communities they serve, especially if they serve in communities of color.

"Police culture" has long been a topic of interest and inquiry among researchers and observers of the law enforcement scene. The best literature on the police culture has been the writing of police officers themselves, sometimes as reflections on their own careers (Niederhoffer 1967; Niederhoffer and Blumberg 1970) or as the observations of "insiders" (Rubenstein 1973), and occasionally as popular fiction (e.g., Joseph Wambaugh's work).[15] The writings of police tell of an occupational world characterized by immense solidarity among those who enter its ranks, one which comes to divide society between "us" and "them", and one whose protocols dictate a strict code of silence if misconduct on the part of another officer is at issue. One analyst asserts that "the largest percentage of all acts of police brutality are the result of occupational socialization and peer group support" (Barker 1978: 267). With respect to the issue of excessive force and persons of color, officer attitudes, values, and behavior may be shaped as much by peer group pressure or the unwritten codes of conduct as by the administrative directives or the professional norms of policing (see also the essays in this volume by Kelling and Kliesmet, Toch, and Lester).

The research literature tend to support this assertion if one reads between the lines. The finding, in many studies (Fyfe 1978; Geller and Karales 1982; Geller 1981; and others) that non-white officers in some locales use force in more incidents than might be expected given their representation on police forces is, on occasion, reported as if it were evidence in support of the proposition that the police are not racially discriminatory, i.e., if non-white officers use force (albeit not necessarily *excessive* force) frequently, the problem of police misuse of force cannot be one of racial attitudes or bias. An alternate conclusion might be that the dominant over-aggressive peer culture of policing in some agencies is so strong that it pressures Black officers, who might know better, into abusing minority-race citizens.

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respectful citizens have long been triggers to police violence, and disrespectful officers have lit many a fuse on a hot-tempered citizen. Today, "dissing" seems increasingly also to be a major cause of interpersonal violence for urban street gangs.

[13] Lasley (1994) reports on the different atttitudes toward the police, before and after the Rodney King beating, held by Caucasian, African American, and Hispanic residents of inner city neighborhoods in South Central Los Angeles.

[14] In the hope of encouraging New York City police officers to identify corrupt and brutal colleagues—even anonymously—New York City Police Department Commissioner Bill Bratton made personal and video-taped appeals to his officers in the wake of a number of arrests of officers for drug corruption and violent felonies (Krauss 1994).

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[15] The Kelling-Kliesmet collaboration in this volume and elsewhere (e.g., they convened the nation's first conference *for police union leaders* on community policing) exemplifies a combining of scholarly rigor with street experience that holds much potential to further illuminate problems and solutions in policing.

In point of fact, most of the studies showing disproportionate use of *deadly* force by minority-race officers do not attribute these patterns to punitive or other inappropriate motives. Instead, the studies suggest that residential and deployment patterns in many jurisdictions place officers of color in exceptionally dangerous places—where they are, more than fellow white officers, likely to have to use deadly force *legitimately*, both on and off duty. But the careful presentation of such findings by most of the researchers (see Geller and Scott's 1992 summary of the literature) cannot prevent others from consciously or unconsciously twisting the conclusions to meet a preconceived text exonerating white officers of abuses because their non-white colleagues use violence just as or more often. If empirical evidence were to emerge suggesting disproportionate use of *excessive* force by officers of color, then it might indeed be valuable to research whether organizational climate and peer pressure—the culture and subculture of policing—are so influential as to override even racial background in shaping officer behavior (see Worden's analysis, in this volume).

There is an additional finding in several studies: the demeanor of the citizen may have much to do with the behavior of the police officer. In common parlance, it is the problem known as "flunking the attitude test" or "contempt of cop"; in the research literature, it first appeared as an almost incidental discovery or was reported inadvertently as a rationale for police conduct (Ferdinand and Luchterhand 1970). Piliavin and Briar (1964) were the first to note that demeanor was an important factor in police contacts with juveniles; Friedrich (1980) found demeanor to be one of two significant factors in the police use of force. Worden's chapter in this volume contributes additional findings; and Toch, in this volume, emphasizes the contributory role that officers may play in shaping a suspect's demeanor and movements.

The demeanor of offenders is itself a complex issue, quite apart from questions of race. There are those innumerable instances in which an officer must deal with someone who is inebriated, under the influence of drugs, or, especially following the era of "deinstitutionalization" in the mental health field, someone who is mentally ill. Force used in these circumstances, if it is reasonably applied, is likely to be less problematic or, at

the least, to be viewed with greater sympathy in doubtful situations.[16]

Problems arise more often when force is used in circumstances where police conduct in the first instance (e.g., the reason for a pedestrian or vehicle stop) is doubtful and where the resulting legal uncertainty of the situation triggers a verbal and then physical confrontation. When such problems repeatedly or disproportionately occur in encounters between police officers and persons of color, a serious problem in police-citizen relations as well as in police administrative responsibility occurs. It is best described by an assistant chief of the Los Angeles Police Department:

> "We expect people to go out and aggressively identify people, and then investigate them, and that puts these police officers in the middle between what we evaluate them on and what they are able to do legally. And so it results in police officers bluffing their way into situations and, when they stop people on the street, frequently the guy knows, you don't have any reason, and he knows that very well. And he knows they're bluffing. And that gets us in, time after time, into these conflict situations that end up, frequently, with use of force, frequently with manufacturing or at least puffing of the probable cause" (Independent Commission on the LAPD 1991; see also Muir 1977).

Two other interesting clues are to be found in the research literature. Friedrich (1980) was among the first to note the visibility of a police-citizen encounter to other officers and the public as a significant factor in the police use of force. Wagner (1980) found that officers in two-person patrols were more likely to be targets of excessive force complaints than one-person patrols, supporting observations in an earlier monograph by the Police Foundation (Milton, et al. 1977; Heaphy

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16 Compare Fyfe's views, in this volume, about police success in managing use of force—and public perceptions of such force—against emotionally disturbed persons.

1978). Finally, in the few studies to assert that the police may discriminate for racial reasons (e.g., Powell 1981, 1990), the discrimination was found to be prevalent primarily in "nonfelony mid-level types of offenses" (such as domestic disturbances, speeding, DWI), perhaps because officers have the greatest discretion in such cases (see also Fyfe 1982; Worden, this volume; Tonry 1995).

The methodology of such studies typically limits their generalizability, as is often true also with studies of single jurisdictions.[17] Accordingly, it is prudent to consider these studies primarily as offering clues and educated speculations about the circumstances that surround certain police behavior. These clues are sufficient, however, to permit us to hypothesize a typology or profile of the circumstances under which the use of excessive force is most likely to occur (compare Worden, this volume, and as quoted earlier in this essay):

> Police use of excessive force is most likely to occur in a proactive encounter (initiated by the officer and not a citizen) when more than one officer is present. The officers will be from a department in which abuse of physical force is considered a minor to mid-level offense. Perhaps most important, the suspect will not act toward the officer with complete deference and probably will be disrespectful.

This hypothesized typology also describes with accuracy the Rodney King incident. The episode began with a police chase of King's vehicle by two California Highway Patrol officers; when King's vehicle was finally halted, 10 minutes after pursuit began, 21 police officers were at the scene. All but two were officers of the Los Angeles Police Department. Comments by the Department's command staff indicate the

extent to which excessive force was, at the time (1991), considered a relatively minor problem:

> "We know who the bad guys [officers] are. Reputations become well known, especially to the sergeants, and then of course to the lieutenants and the captains in the areas.... But I don't see anyone bringing these people up and saying, 'Look, you are not...measuring up....' I don't see that occurring."

> "The sergeants...are not held accountable so why should they be that much concerned...? I have a feeling that they don't think that much is going to happen...if they try to take action and perhaps [they think they won't] even be supported by the lieutenant or the captain...when they do take action against some individual" (Testimony to the Christopher Commission by a retired, 38-year veteran of the LAPD who served as assistant chief— Report of the Independent Commission 1991: 32).

A second assistant chief of the Department testified:

> "[H]igher command officers, when learning of [incidents of excessive force] having occurred took no action or very indecisive action, [a] very weak and slow approach to doing something. Let me tell you that none of those people (the higher command officers), with rare exceptions, have been disciplined.... And so, that's an area that I believe we have failed miserably in, is holding people accountable for the actions of these people" (*ibid.*: 33).

Finally, there are the computer and radio messages transmitted between officers immediately following the beating of King. The comments of the officers (e.g., "he pissed us off, so I guess he needs an ambulance now"; "we had to chase him.... I think that kind of irritated us a little") reflect their perception that King had not

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[17] As noted earlier in this essay, the methodology of single-city studies potentially can be improved to strengthen their generalizability, such as by making the central research questions ones like, Under *what organizational and social conditions* is race a factor in use and abuse of force episodes?

acted toward them with the proper deference.

VI.   THE FUTURE

While police chiefs and commanders continue to grapple with the volatile problem of excessive force and with its particularly explosive racial and ethnic features, scholars and researchers will continue to probe the multiple aspects of this phenomenon. What new lines of inquiry might be explored that could produce insights helpful to police administrators and policymakers?

In addition to those suggested earlier (e.g., learning more about officers who will stand up against peer pressure and criticize colleagues' abuses of force), the most promising pursuits may be avenues of professionalism and community policing. While "community policing" in some respects is a catch-phrase for a host of new (and often untested) police strategies and tactics (Goldstein 1993; Mastrofski 1993; compare Sparrow, et al. 1993), it has the primary virtue of focusing attention on the relationship between police services and the public. Professionalism, on the other hand, is a matter of continuing interest in policing. Taken together, community policing and professionalism constitute major elements in a research agenda that, politically, police officers can view positively rather than as adverse to their interests (Kelling and Kliesmet advance precisely this point in their provocative essay about unions in this volume). Substantively, such a research agenda would be based on the premise that police professionalism is measured, in part, by the way in which police services are delivered to various communities. The interests of both the police and the public may be served by research efforts that examine the quality of policing through the eyes of different segments of the service population.[18]

In addition to its potential interest in police circles, such an agenda might also open a new chapter in research related to people of color and the police. Research—the problems examined,

the premises advanced, the questions asked—is driven largely by the interests or perspectives of the researcher and the research funder; inquiries on the police and "minority" problems seldom have been undertaken by asking what the interests and priorities of minorities might be. For example, it would be instructive to learn how communities of color assess "effective policing." What priorities would citizens of color set for the police in their communities? By what criteria would such citizens measure police performance? How do citizens of color assess police professional conduct? How significant is the race or ethnicity of a police officer in measures of police effectiveness by citizens of color?

Quite possibly one would find little divergence between the views of citizens of color (or within communities of color[19]) and the views of professional-minded police officers on these questions (see both Lester's and Flanagan and Vaughn's essays in this volume for the available evidence that opinions on policing are racially and occupationally linked). It is also possible that some unexpected, helpful insights might emerge concerning differences between police and public opinions. When the community policing and problem-oriented policing notions were first advanced, some scholars were surprised to discover the priority that residents placed on the removal of abandoned cars in their neighborhoods—symbols of community decay and public neglect that did not rank high on the priorities of the police; nor, in all likelihood, would most researchers have attached much importance to them (see generally, Goldstein 1990; Wilson and Kelling 1982). Similar discoveries might come from research inquiries that begin with identifying the concerns of people of color about policing (see Williams and Murphy 1990).

VII.   CONCLUSION

Research often proves frustrating or disappointing to those who do not engage in it (and not infrequently to those who do). What may appear as obvious or self-evident can, on careful analysis, turn out to be neither. Social science research is important to the extent that it forces those who

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[18] Crawford (1973), in an officer and public opinion survey, discovered that officer prejudice stands as an impediment to police-community rapport of the sort required to make community policing work. Crawford found that "prejudiced" officers overestimate the resentment that the public actually feels toward the police.

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[19] But compare Waddington and Braddock (1991: 32).

are not content with unproven answers or unprovable propositions to continue probing the hard questions that confront societies.

In the wake of the state court trial of the LAPD officers who beat Rodney King and the subsequent riot, reporting on almost three decades of research most (but not all) of which fails to document a systematic relationship between race and the police use of excessive force risks being dismissed, if not scorned, in some quarters as of the same piece as the acquittal of King's assailants. To reject this body of research findings—or the present summary of it—because it seems to fly in the face of common knowledge would be a serious error, for at least two reasons.

First, in the absence of being able to confirm that racist acts—behaviors that are racially motivated—take place pervasively in policing, we nevertheless have to deal with racially-linked outcomes in law enforcement. The disproportionately high number of complaints filed by citizens of color which allege police misconduct (most recently documented by Pate and Fridell 1993), the disproportionately high number of persons of color who are shot at, injured or killed by police (Geller and Scott 1992; Fyfe 1982), the significant number of civil damage suits involving excessive force claims in which plaintiffs of color receive significant monetary awards, all point to a police-minority community problem of considerable proportions. The problem of disproportionate harm to persons of color at the hands of police is much greater in some communities than in others; police and community leaders have worked at its resolution more urgently in some cities than in others.

Second, and in the final analysis, it may be more important to know that police abuse of force can be curbed or controlled (without impeding good, necessary police work) than it would be to establish whether it is race-neutral or race-biased (Tonry 1995). In terms of the concerns of communities of color, this is probably the most significant finding of the research literature on police use of force. Stringent guidelines on the use of force, accompanied by administrative directives that make clear to the rank-and-file that the guidelines will be enforced and followed by a review mechanism that assesses use-of-force situations and apportions the appropriate remedial or punitive action, succeeded in sharply curtailing police shootings (justified or otherwise) in many

locales (see studies reported in Geller and Scott 1992). As others in this volume have observed, it is important to realize that these positive results were obtained with the relatively visible police decisions to use *deadly* force; as yet we have little or no social science evidence that similar results can be obtained with *nonlethal* force[20] (compare Fyfe's chapter, in this volume).

Perhaps we will discover if such control mechanisms are effective against *nonlethal* abuses of force only when more police leaders take bold initiatives to shift police culture specifically on use-of-force issues and, more generally, on matters of police protection of the diverse communities they are sworn to serve. If techniques can be found to reduce police abuse of force against persons of *all* hues, significant headway might be made in reducing a major problem in local policing, municipal governance, and American race relations.

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[20] The lack of social science evidence does not necessarily discount the lessons learned in the school of hard knocks by thoughtful police practitioners, of course.

7

Officer Selection and the Prevention of Abuse of Force

J. Douglas Grant
Joan Grant

Officers who use excessive and unnecessary force create a problem for both the police department and the community which it serves. Indeed, the problem lies at the heart of conflicts between the police and the community. It is tempting to think that this problem would be solved if police departments could only select the right kind of people to become police officers.

The task posed to the authors of this chapter was to look at the research evidence for links between officer selection and subsequent officer abuse of force. Unfortunately, there is virtually none. There is no dearth of selection studies, however, and these shed some light on the utility of using the selection process as an approach to the problem of unnecessary force.

A review of the studies suggests that recruit screening, at least as it is done at present, is not a very effective way to weed out bad or incompetent police officers. We shall look at some of the research that has been done in the area of *screening out* people who will make bad officers and some that has been done on *screening in* people

who will make good ones. We shall consider the problems inherent in these approaches and advance some suggestions for overcoming them.

We shall turn then to studies suggesting ways in which recruit selection might be used to improve the effectiveness of a police department generally and, by extension, to reduce the problem of officer abuse of force.

I. SCREENING OUT

The 1967 report of the President's Commission on Law Enforcement and Administration of Justice (1967b) pointed out the potentially high cost to a police department of even a few high-risk officers. The Commission wrote that "[o]ne incompetent officer can trigger a riot, permanently damage the reputation of a citizen, or alienate a community against a police department" (p. 125).

The report recommended psychiatric and psychological screening of aspiring employees and advocated grant support for research to develop valid tests and procedures for such

screening. It suggested that

> "[p]sychological tests, such as the MMPI [Minnesota Multiphasic Personality Inventory], and interviews to determine emotional stability should be conducted by all departments. Federal and State funds should be made available in the form of research grants for the purpose of devising reliable tests or other means of evaluating the characteristics of applicants which may be detrimental to successful police work" (*ibid.*: 129).

This approach—weeding out the bad apples—has informed most of the efforts to use recruit selection as a tool for improving police performance. Yet a quarter of a century later, we have demonstrated that the problem of selecting effective police officers has a much more complicated set of determinants than poor mental health and undesirable personality traits.

A. The Poor Track Record of Screening-Out Tests

Periodic reviews of police selection efforts and research efforts over the 25 years since the Kerner Commission report uniformly point out the inadequacy of psychological screening in general and the use of the MMPI in particular.[1] A 1972 review (Kent and Eisenberg) of 29 articles on police selection concluded that, with few exceptions, the research quality of the reports was poor and that many of the statements made supporting the value of psychological screening methods

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[1] In 1975, Gavin and Hamilton reported that the use of psychological tests appeared to have leveled off. Sixty-one percent of the agencies responding did not use testing. Of this group, 71 percent stated they had no intention of using tests in the future. Of those who did testing, there had been a shift over time from the use of intelligence to the use of personality tests, a move probably encouraged by the Kerner Commission report. A recent national survey revealed that police administrators do not generally place much confidence in psychological screening tests. They rated background investigations as the most effective screening tool, followed by polygraph exams and then by psychological written tests or interviews (Horvath 1994: 79-80).

bordered on "charlatanism."

In 1978 Poland indicated that the studies he reviewed did not provide a set of recommendations as to the best procedure for selecting police officers. A year later, Crosby (1979: 226), after reviewing both the use of tests and clinical interviews, reported: "The foundations of clinical appraisal (psychological and psychiatric theory, and measurement technology) are not as secure and developed as we would like." He quoted Buros' (1970) discussion of the MMPI, which stated: "We are still at a stage where every test, regardless of its merits and deficiencies, is considered useful by some and useless by others" (Crosby 1979: 226-27).

In 1982, Mills and Stratton summarized an effort to demonstrate the validity of the MMPI in predicting successful policing in the Los Angeles County Sheriff's Department. They found no evidence to support the utility of the MMPI as a predictor of police performance. Like Kent and Eisenberg 10 years earlier, they concluded:

> "[T]o date there has been no systematic correlation of tests or interviews with an individual's subsequent behavior and success or nonsuccess in law enforcement. However, psychologists and agencies continue to reject candidates on the basis of unvalidated strategies whether they be tests, clinical interviews, or both" (Mills and Stratton 1982: 13-14).

A year later Daley (1983: 53) said: "[N]either psychiatric examination nor psychological screening has proven to accurately or systematically predict police performance." In 1987, White, in his introduction to a selected bibliography on police recruit screening, stated: "Only time will tell whether this care being taken at the front end of a police officer's career will make any difference."

Thus, tests to determine undesirable personality traits (and interviews as well) have not been found successful in predicting which recruits will make poor police officers. But what about predicting which recruits will be prone to the use of abusive force? We cannot assume that these two groups are the same. In Los Angeles, officers with more than their share of citizen complaints (the "bad apples" that are the focus of much police and community concern) were rated higher

than average in overall performance by their superiors (Independent Commission on the Los Angeles Police Department [the Christopher Commission] 1991). If those supervisory ratings can be credited, then proneness to violent behavior on the job is not simply a matter of poor job performance in general. And if we cannot predict poor job performance well, can we do any better in predicting a tendency to use abusive force?

Apparently not. Cunningham (1986) argued that while there are several tests that purport to measure an individual's potential to commit violent acts, few people actually commit them, making it extremely difficult to predict violence with precision. In consequence, "no test for violence potential has been created that has any demonstrated scientific validity" (*ibid.*: 24) Two studies of police misconduct, in Cunningham's view, demonstrate the difficulty of predicting violent behavior:

"[W]ithin shooting incidents, there are no easily apparent psychological or background differences between officers who fire their weapons and those who refrain from shooting" (Inn and Wheeler 1977, quoted in Cunningham 1986: 26).

"In an investigation of police officers using the 'Personnel Selection Inventory Violence Scale' by London House, only a modest correlation was found between the number of times that officers said they *felt* like physically assaulting a suspect and their test scores on the 'Violence Scale.' Scores on the 'Violence Scale' were *not* significantly correlated with the number of times that the police officers actually shouted at, pushed or shoved a suspect, nor were they significantly correlated with the number of times the officers actually used their weapons on suspects" (Jones 1982, quoted in Cunningham 1986: 26).

It has also been difficult to predict violent behavior using measures other than personality characteristics or a predisposition to violence. Talbert (1974) found that the height of police officers in Atlanta, Georgia was not related to reports of police brutality or to the number of injuries incurred while on duty. Willoughby and

Blount (1985), working with the Florida Marine Patrol, found that both shorter and taller officers made the same number of arrests. Though the shorter officers had greater potential for aggression, they issued more warnings than did taller officers. Talbert speculated that shorter officers consciously or unconsciously held their potential for aggression within acceptable limits.

B. Problems with a Screening-Out Strategy

The Christopher Commission report (1991) concluded that the initial psychological evaluation is an inexact predictor of an applicant's proclivity to use violence. Further, it raised questions about the utility of front end screening as the only approach to weeding out officers prone to the abuse of force. The Commission argued that emotional and psychological problems may develop *after* selection, during an officer's tenure on the force, and cannot be detected by pre-employment screening. But the Commission recommended regular retesting of officers for psychological, emotional, and physical problems, thus tacitly endorsing mental health screening as an approach to handling the problem of abuse of force.

As we have seen, the evidence suggests that such screening has limited value, and the utility of psychological screening for reducing the use of abusive force is still a subject for debate (Barnhill 1992). While the search for tests that will do a better job of predicting violent behavior continues, not all researchers agree that this can be done. Even optimistic researchers admit that "It's unrealistic to say we are going to have any one test that will eradicate this problem—though we have to try (Inwald, quoted in Barnhill 1992)."

The effort to predict violence from a knowledge of the individual's mental health is complicated by the fact that violence is a rare act. Violence-prone people do not behave violently in all situations (see Toch, this volume). Moreover, not all people with mental health problems are prone to violence. Thus any relationship found between mental health and violent behavior is bound to be a limited one (Monahan 1992). Even those individuals with a tendency to behave with violence may do so only during periods of acute disturbance.

The effort to predict violent behavior is also

complicated by the generally low validity of selection procedures (Cohen and Chaiken 1973; Cunningham 1986; Dunnette and Motowidlo 1976; National Advisory Commission on Criminal Justice Standards and Goals 1973; Poland 1978; Wollack, et al. 1973).

Another general reason for the difficulty in predicting which recruits will make good police officers is that we have rarely been clear on what we were selecting for. Poland (1978) argued that we cannot deal usefully with the problem of police selection until we have developed good measures of police job performance.

And it is not easy to develop measures of effective policing. One problem is the diversity of tasks and performances that have always been required of the police (Cohen and Chaiken 1973; Kelling and Kliesmet, this volume). Different competencies, different attitudes, and different personality characteristics may be needed for the performance of different tasks. The duties of police officers have long been viewed as much more differentiated than "report writers," who arrive on the scene following an incident, or "wrestlers," who engage in physical conflict with offenders (see Fyfe's discussion, in this volume, of recruits' paranoia about the dangers of police work, developed partly by watching adventure movies and television programs).

Selection procedures need to be attentive not only to the diversity of current police performance requirements, but also to the changing demands on the police and the consequent changing nature of policing—for example, the growing development of community policing and problem-oriented policing (Greene and Mastrofski 1988; Skolnick and Bayley 1986; Trojanowicz and Bucqueroux 1990; Goldstein 1990). Both the perception and reality of what is a good police officer changes over time. The Christopher Commission (1991) found that prior violent behavior seemed not to be a negative factor in officer selection in the Los Angeles Police Department, suggesting that a propensity to be "rough and ready" had been perceived as an asset to police performance rather than as a danger signal for potential violence. Such judgments may change over time because either the nature of policing changes or the perception of what is a good officer changes.

In an effort to deal with the problem of defining effective performance, Daley (1983: 53) proposed using measures of good judgment under

stress. By screening out applicants who show the rigidity and stereotypical reactions of people suffering from psychological disorders, one could select applicants who might be better able to adapt successfully to difficult situations. Daley wrote that

> "It was, and continues to be my opinion, that the greatest possibility for successful police work lies in the selection of individuals with the greatest chance of withstanding the rigors of this line of work without becoming psychologically symptomatic."

Daley reported that such a stress-resistant screening effort was being used in the New York City Police Department.

In addition to the problem of developing good outcome (performance) measures, we are faced with problems inherent in the measures used to make predictions. Buros argued that we cannot be sure that the tests measure what they are purported to measure, even when they are widely used:

> "[T]he [MMPI] inventory is probably just as controversial, if not more so, than it was ten or twenty years ago. Nevertheless, the use of the MMPI has been growing at a phenomenal rate. Moreover, it is probable that its use will continue to grow at an ever increasing pace, especially now that computerized interpretive printouts...are available at a nominal cost.... The sterility of the research and experiential writing on the Rorschach and the MMPI is also applicable to other personality tests which have generated fewer publications. In no case, however, has the accumulated research produced an enduring body of generally accepted knowledge concerning the validity of the test under study" (Buros, quoted in Crosby 1979: 226).

Thus we cannot be sure that the tests we use to describe mental health give us an accurate picture of the individual's psychological condition. A further problem is that responses to test items may change over time. We cannot answer questions such as: How permanent are the "per-

sonality" responses of the officer following recruitment? (Anderson 1991, Pugh 1985a, 1985b). How much do these measures reflect permanent personality traits and how much do they reflect changing situations and attitudes?

C. Situational Factors

Responses to a personality test may be affected not only by the individual's traits and values but also by his or her class background and socialization into an occupational subculture (Poland 1978). Mills and Stratton (1982) supported this conclusion. They argued that we should look at situational factors as well as personality traits in our efforts to predict good or bad performance (see also Worden, this volume; and Toch, this volume). Abusive behavior may be a manifestation of aggression gone out of control, but it may also occur because the climate of a police department tolerates or encourages some kinds of abusive force.

The importance of situational factors in determining officer behavior is revealed by an investigation in the Houston Police Department (Perry 1987). Several problems were discovered in the Department, each contributing to a climate that encouraged poor police performance: investigations of reported incidents of police misconduct took so long that officers found guilty could not be disciplined; the investigations were often biased in favor of the officers; if officers were found guilty, county prosecutors were often not informed; records relevant to the incidents were frequently missing; and officers with mental health or alcohol/drug problems were hired or retained on the force despite the recommendations of police psychologists.

The Christopher Commission (1991) has raised another issue pertaining to efforts to improve police selection, the changes that may occur in officers over time. Officers not only affect police operations, but are affected by their participation in police operations as well as by other events in their lives. Officers may thus change over time and may develop problems related to their performance well after their probationary period.

A final consideration in undertaking a procedure to screen out undesirable applicants is the problem of selection "misses." How many false positives (applicants wrongly judged desirable)

are screened in by the approach used and how many false negatives (applicants wrongly judged undesirable) are screened out? How important is either kind of selection "miss" to the effective operation of the department and to the community that the department serves?

It would seem that, 25 years after the Kerner Commission recommendation for the use of psychological screening by all police departments, it is time for such questions to be posed. Other theoretical approaches and strategies should also be applied to the problem of officer use of abusive force as well as to the problem of obtaining good officer performance in general.

II. SCREENING IN

An alternative approach to screening out undesirable applicants for police work is the screening in of those who are desirable. It seems reasonable to expect that hiring only the "best and brightest" would provide personnel who would perform in superior fashion and not make those mistakes that result in the abuse of force.[2] However, efforts to screen in desirable applicants have all the problems associated with efforts to screen out undesirable ones.

The idea of screening in gained impetus and concern with the passage of the Civil Rights Act of 1964. A report of the U.S. Commission on Civil Rights (Margolis 1970: 32) dealing with the question of equal employment opportunity argued against current screening practices because they resulted in too many false negatives (applicants wrongly judged undesirable):

> "The traditional process of screening, testing, and training police applicants and recruits needs to be thoroughly overhauled—first because it presently places a heavy burden upon blacks and Spanish-speaking Americans; and second, because there seems to be no demonstrable evidence that the system either brings in the best men for the job or teaches them the right combination of

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[2] Compare Klockars' proposal, in this volume, that the best and brightest officers—"highly skilled officers," in his phrase—be the benchmark for police agency reviews of incumbent officers' performance.

skills. * * * These [basic written] tests are clearly culturally biased.... No one knows precisely what they test or how well they predict a recruit's future performance on the job."

The initial rationale for screening in women and minorities was that it provides equal employment opportunities. An argument is also developing that such screening in will lead to increased operational effectiveness, including a reduction in the abusive use of police power. Women officers, it is said, are better at negotiating and averting violence than male officers (Greenwald 1976). Further, integrating police forces is said to reduce prejudice toward and the abuse and mistreatment of citizens (e.g., Hennessey 1992).

One approach to the problem of tests that may unfairly screen out people otherwise qualified for police work is to use differential validity measures, providing different selection equations and different norms for different race/gender groups. These equations need to be constantly updated to account for changes in policing and police requirements over time.

Talley and Hinz (1990) used this type of approach with public safety officers at Duke University. They developed different MMPI predictors of good officer performance, with different norms for white, black, male and female officers. Their study used a relatively small number of subjects (the sub-groups ranged in size from seven to 121) and a large number of predictor variables.

Using a .05 criterion of statistical significance, as Talley and Hinz do, means that relationships between predictor and outcome measures (in this case, between MMPI measures and good officer performance) will be found 20 times in 100 by chance. The smaller the number of subjects and the larger the number of predictor measures, the higher the likelihood that some predictor measures for some samples will show a statistically significant relationship to outcome when no relationship in fact exists. The use of a differential validity procedure, as Talley and Hinz have done, demands the division of subjects into small sub-samples, thus making it likely that some statistically significant relationships will be found between predictor measures and performance that are due only to chance.

Talley and Hinz recommended that the

differential validity concept be incorporated into all police departments. This approach addresses some of the police and community concerns about screening in, but it is probably not a feasible one. It requires separate validity studies for each subgroup of interest. Since there are a large number of conceivable populations from which a police department could hire, and since for each of these it would be necessary to update validity measures over time, the research task necessary would be prolonged, expensive, and beyond the reach of most departments. A further complication is that the use of separate norms for different groups may not be permitted under the Civil Rights Act of 1991 (Adler 1993).

III. SHIFTING THE ROLE OF THE MENTAL HEALTH WORKER

Should police departments abandon their efforts to look at the psychological health of their applicants and employees? Not necessarily. Police officers are not immune to mental health problems, whether these are due to pre-existing personality traits or to situational stresses in their private or work life. Such problems can occur not only during selection and training but throughout the course of the officers' careers.

Psychological testing can be helpful in determining the nature of an emotional disturbance when tests are used to help the individual describe his or her problem. However, the context in which a test is taken can influence the way that test items are answered. Crosby (1979: 223), in discussing the use of psychological examinations in police selection, pointed out that "The applicants...are hoping to 'pass the test' so they can get a job they want; they are *not* seeking help in finding out more about their emotional health and adjustment to their life experience." It is one thing for a client seeking counsel to answer test items that will help a mental health worker understand the client's problems. In this case, the client's answers are confidential, or should be. It is another thing for an applicant to give answers to test items knowing that the answers will influence whether or not he or she will be hired.

T. G. Harris (quoted in Barnhill 1992) argued that psychological tests are best used to help people understand themselves. He said that

"A lot of the traditional tests grew out

of a cloak-and-dagger concept of psychology based on the notion that the psychologist as an expert could figure out things about people that they didn't know about themselves, or that they were trying to cover up.... What psychological tests are really good at is self-knowledge. With self-evaluation tests we get a chance to see ourselves as others see us, or to relate ourselves to our neighbors who responded to the same situation or question. The results give us a way of describing ourselves accurately, based on rigorous scientific research."

To the extent that employees and potential employees can be helped with problems (either personal problems or those arising from occupational stress), it should be possible to make them better able to function or, alternatively, to self-select themselves out of police work. In either case, the result should be a more effective department and one less prone to using excessive force.

A. Employee Assistance

An innovative extension of the mental health professional's service is provided by the Los Angeles Police Department's peer counseling program (Klyver 1986). Specially trained line officers and civilian employees are used to counsel officers who voluntarily seek help. The program, begun in 1981, is based on the premise that one's peers can be as effective as (or perhaps more effective than) professionals in helping police officers work through personal and work-related crises.

Mental health personnel thus have potential roles other than recruit screening: for example, to engage in counseling officers and training peer counselors. Another role is suggested by More and Unsinger (1987)—using psychologists to provide special training to facilitate the adjustment and retention of (in this case, female) police recruits.

It should be possible to build voluntary officer participation into diagnostic screening, which could become part of an extended selection period running through both training and probation. The Christopher Commission would argue that such screening should be used on a regular basis throughout the department, and not only during the selection and training period. They point out that "Many emotional and psychological problems develop during an officer's tenure on the force and cannot be detected by pre-employment screening" (1991: 110). Ongoing diagnostic screening can also create a climate for self-referral as needed during an officer's career.

Using psychologists to help recruits and other officers, directly or indirectly, with immediate problems rather than to screen out undesirable individuals has an advantage beyond the probably greater effectiveness of this approach. It helps protect an employee's right to privacy, an issue frequently raised in connection with the use of psychological tests (Inwald 1985).

Unfortunately, we know little about how many officers who seek mental health counseling have excessive force problems, and, of those, how many with such problems are actually helped. It would certainly seem to be an issue warranting study.

IV. OBTAINING KNOWLEDGE AND UNDERSTANDING

We find a great deal wrong in efforts to select recruits who will be good police officers, but we should be learning something from such studies. One thing we should have learned is the limitation of personality as an explanatory construct (Mills and Stratton 1982). The failure to predict police performance using personality measures is not a matter of inadequate research; it is evidence that situations (organization, peer group, and community) are also determinants of behavior. There is probably an interaction between situation and personality (Bandura 1986), but it is obvious by now that concentrating on the individual personality—the "bad apple" or the "best and brightest"—does not get us very far.

We have learned and documented three things which have implications for police selection in general and reducing the use of excessive force in particular.

1. A theoretical approach focusing on personality or mental health, if not completely irrelevant, is too limited. A 1985 review of officer selection literature (Burbeck and Furnham) revealed no agreed-upon distinct police personality. Moreover, there are questions about the

utility of psychological testing in discriminating between police officers and members of the public or between successful and unsuccessful police officers. There are also questions about whether or not the recruit selection interview can reliably predict future performance.

There are three major limitations in the studies that attempt to link officer characteristics to their behavior on the street. The first is the "distance" of the data from the behavior of concern. The predictor variables (attitude and personality measures) are abstractions ostensibly related to street behavior. The outcome criterion is most likely to be rating by supervisors, another abstraction also assumed to be related to behavior. (The distance between rating of performance and actual behavior is shortened when the evaluations of peers, working with the subjects, are used. These evaluations are reported to improve predictability [Bayley and Garofalo 1989].)

The second limitation is the time between the measurement and the behavior of concern (Anderson 1991). How permanent are MMPI scores? One year, two years, three years? Pugh (1985a, 1985b) has shown that measurements made at the time of recruitment are related to different kinds of police performance depending upon the length of time after recruitment that the performance measure is obtained.

The third limitation is the characteristics of the samples used in the selection studies. These studies frequently report inconsistent findings. For example, officers rated high in effectiveness may show high sociability scores in one study and low sociability scores in another. Such inconsistency is due not only to chance variations in the samples but to variations in the size of the samples, the magnitude of the differences in sociability scores between officers rated high and low in effectiveness, and the range (wide vs. narrow) of the sociability scores obtained.

The likelihood of inconsistent findings is compounded by efforts to develop separate prediction norms for groups defined by gender, race, and location (as suggested by Talley and Hinz 1990). This approach is logically consistent with civil rights concerns, but when coupled with the changing nature of police work over time, it collapses from the demand for continual sub-sampling. Besides the tenuousness of any findings obtained through making predictions by smaller and smaller subgroups, the findings could

well be made obsolete by the length of time needed to obtain them.

2. The performances required for effective policing are multiple. Efforts to predict recruit success or failure raise the question, Success or failure at what? An exemplary effort to answer this question is Dunnette and Motowidlo's (1976) use of critical incidents to determine the dimensions of police performance. There have been many other studies using screening and selection process data to determine the characteristics of officers associated with kinds of performances or kinds of police functions (Cohen and Chaiken 1973; Wollack, et al. 1973). One of these functions is the use of force or power. Such analyses could help define the dynamics and determinants of excessive force.

3. Policing and its performance requirements are changing at a rapid rate. Predictions of performance today are probably not relevant for even the near future. Trying to tie down the relationships between officer characteristics and kinds of officer behavior has helped clarify the changing nature of police work. Brengelman (1982) pointed out that recruit selection procedures no longer reflect current social conditions or the abilities required in contemporary policing.

Johnson (1983), after surveying American and Canadian accommodation of selection procedures to female and minority applicants, recommended using the police selection process to screen in positive attributes and training potential. Hancock (1984) wrote of creativity and abstract mental attitudes as qualities to be identified, and advised that those possessing them be assigned to investigative careers. Now, in the 1990s, there is growing recognition of the value of problem-oriented policing and the need for patrol officers who have problem-solving skills.

In addition to the changing nature of police functions, there is evidence that the relationship between officer characteristics and police behavior changes over time. Pugh (1985a, 1985b) found that recruits judged to be good police officers two years after selection were those who had been rated high at the time of selection on efforts to fit in, gain trust, and become part of the police department. After four and a half years, the recruits judged to be good police officers were those who had been rated high on maturity,

responsibility, and social skills. Such findings would appear to have implications for the study of motivational need patterns which can, and apparently do, vary over the different periods in an officer's career development (Chusmir 1984).

V. IMPROVING COMMUNITY RELATIONS

Selection procedures and the abuse of force are problems for both the police department and the community. They are frequently perceived as problems *between* the police and the community (Kansas Advisory Committee to the U.S. Commission on Civil Rights 1980).

Price and Price (1981) pointed out that police-community relations programs have generally been ineffective in increasing the level of trust between the community and the police, in particular, when the department does not have a sufficient number of women or when its racial and ethnic mix is dramatically dissimilar to that of the community it serves.

Besides racial and ethnic balance, professionalism, with its standards of accountability and assumptions about the responsible exercise of discretion, is a requisite for effective police-community relations. There are several studies that suggest that community input into the police selection process could improve both the process and relations with the community.[3] O'Hara and Love (1987) reported a police-community approach to two selection concerns: the validity of traditional selection procedures and the feasibility of instituting more accurate procedures within the city's budgetary constraints. Community input, involvement, and acceptance of an innovative assessment center were gained through interviews and a mail survey and by training selected community residents to help assess police candidates. Costs were cut. A follow-up survey showed that community residents saw the project and its candidate selection as successful.

Selection interviews by a panel with community representation were unbiased vis-a-vis minor-

ity candidates, according to a study by Hazlett (1985). Ellison, et al. (1985) described the development of an officer selection procedure incorporating community members for an urban-suburban community of 40,000. The procedure included developing appropriate selection criteria, compensating for the advantage of candidates who were sophisticated about testing, creating a structured interview, and selecting members of the interviewing panel.

Ellison (1985a) described an experiment giving recruits previews of their job in a group session with officers from their department. The officers discussed their experiences and perceptions of police work and answered the recruits' questions. Such a procedure could easily be expanded to include citizen representation in group sessions, perhaps by having citizens present their experiences with the police as part of the discussion. Ellison (1985b) further reported that the involvement of a variety of community members in developing the recruit selection process provided a basis for making decisions based on qualitative judgments.

These selection innovations and developments suggest ways in which police-community relations—a foundation for police-community collaboration—could be improved by having officers and citizens share in recruit selection and training and, by extension, in the study and solution of other police problems of concern to both groups.

VI. CONTRIBUTING TO OFFICER AND ORGANIZATION DEVELOPMENT

New officers come into a department with a set of pre-existing attitudes and values, but these attitudes and values are in turn shaped by a socialization process that begins the moment they are selected as recruits. This socialization affects the new officers' behavior directly. It also affects it indirectly as it contributes to the organizational climate of the department as a whole. In both ways, socialization can affect the department's proclivity for the abuse of force.

There have been several studies of the police socialization process. Van Maanen (1974), as a participant observer, documented the power of friendship networks in officer development during pre-entry recruit training and probation. He found that peer relationships have a substantial impact

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[3] Consider also the implications for community involvement in officer selection of Kerstetter's advocacy, in this volume, of the participation by interested parties in the consideration of excessive force allegations.

on the way a department operates and on how effective it is as an organization. This socialization process, which can take as long as two years, affects both the development of the individual officer and that of the total police organization.

Mills and Stratton (1982) argued that selection procedures should pay more attention to situational pressures on the officers, pointing to the work of Zimbardo, et al. (1975), who produced aggressive and dehumanizing behavior toward "prisoners" in a sample of college students in a role-play prison study, and of Kirkham (1976) who joined a police force and documented radical shifts in his own attitudes and behavior. Mills and Stratton demonstrated that the socialization that occurs during training not only can be observed but can powerfully influence attitudes and behavior.

Gavin and Hamilton (1975) documented the socializing power of pre-entry procedures, which often take up to a year or more, as well as the impact of recruit and field training during probation. This is a significant period of experience before severe civil service limitations are imposed on attempts to reject a candidate, allowing judgments based on observed behavior and performance. Gavin and Hamilton described an assessment center selection method which used, among other procedures, role-playing and leaderless discussion groups to assess dimensions of effective police performance. The groups identified and assessed these dimensions by examining "critical incidents" of police performance. Such discussions can be an integral part of the socialization process, creating a climate for the study both of oneself and of the organization as a whole.

This performance aspect of the assessment center method suggests a way to merge selection with socialization. Rather than leaving to chance the socialization that occurs during the selection process, it points to a way of using socialization as a recognized force for both officer and organization development.

Field training is one way of introducing positive socializing experiences, particularly when recruits are paired with officers who are skilled in resolving problems on their beat. Such experiences can include systematic discussion of situations encountered on patrol (compare the "Friday Crab Club," discussed by Kelling and Kliesmet in this volume). Dissecting incidents and responses

to them can build skills for the recruits' later participation in problem study. This process has the further advantage of increasing the problem study skills of the field training officers through their participation in teaching others.

The National Advisory Commission on Criminal Justice Standards and Goals (1973) gave several examples of programs that allowed the participation of employees in the operation of the department. Each of these programs suggests ways to improve selection and training, and to develop material that can aid in desired socialization. The first of these involved employee participation in the handling of internal discipline:

> "One method of encouraging such self-discipline, in addition to responding to some of the concern exerted by employee factions, is to allow employees to participate in the administration of internal discipline. Employees can participate by drafting rules of conduct, investigating complaints, and sitting on trial board hearings. The police chief executive maintains ultimate control because he provides the final decision in any disciplinary matter. But those chief executives who have allowed for employee participation have found that it has strengthened the internal discipline system, as well as their own position and authority, by increasing employee support and observance of the internal discipline policies, procedures, and rules" (1973: 471).

The Commission advocated the use of actual cases of employee misconduct as employee training material with the instructor acting as a peer. It would also be possible to use videotapes and recorded telephone conversations involving employee misconduct as training aids.

The second example was a report on the Bakersfield, California Police Department. The Department requires uniformed field officers to tape record all official contacts. There was initial resistance by the officers when this procedure was introduced, but they became convinced of its benefits. The tapes have been useful not only in training but in investigation and court presentation. Further, the existence of the tapes has markedly reduced the need for investigation of

complaints (compare Geller 1993).

A third example, described in detail in Toch and Grant (1991), comes from the Oakland, California Police Department. The Commission noted that

> "Oakland, Calif., has been involved in a complex peer-group pressure program for nearly one year to identify employees who are potential disciplinary problems. Initially the program is specializing in over-aggressiveness and verbal conflict traits. Employees with these characteristics are identified by a detailed reporting system, after a predetermined number of conflict incidents.

> An employee and a group of peers then engage in personal discussion and critique for 2 to 8 hours. This group has no power other than to offer personal observations and advice. This meeting is not part of the disciplinary process and the information resulting from the encounter remains confidential. So far the only employee who has appeared before the group twice requested the second meeting himself, claiming he needed the group's assistance. The program's purpose is to prevent censurable employee performance, but it does not affect subsequent disciplinary action.

> Kansas City, Mo., is planning a similar program. However, the impetus for the program and the planning effort has been provided by first-level police employees, not the police agency administration" (National Advisory Commission 1973: 494).

For cost/benefit and performance effectiveness, policing must look for ways to merge and integrate its functions. A problem-oriented approach (Goldstein 1990) offers a method for such integration (Toch and Grant 1991). Selection, training, community relations, and organization development issues can all be addressed if there is department-wide concern with developing new officers from recruiting through the entire probation period. This focus could mobilize support to help prepare and socialize the recruit

for community and problem-oriented policing. It could also surface related organizational problems and enhance the problem-solving competence of the department as a whole.

Problems that could be studied during a recruit's training period could include not only street incidents but also the recruit's relations with the community, interaction with locker-room cultures, and his or her own socialization. One such problem has been suggested by Geller (1985a), that of an officer's use of restraint in the face of situations that could escalate into violence. Actual incidents, preferably tape-recorded, but, if not, at least fully reported, could be analyzed with recruits, line officers, and community representatives. There could be discussion of both the incident and the situation that led up to it, leading to a better understanding of cause-and-effect dynamics and helping in the development of approaches to handling street situations likely to lead to the use of excessive force. Although both successes and failures in averting violence could be studied, Geller emphasized the study of incidents that were successes as a new frontier in police shooting research.

Both community and staff resources (officers experienced in problem-oriented policing) could be available to recruits for study projects. The recruits should also have available the resources of the department's mental health staff during the training/probation period as well as later. Such staff could provide support for those recruits who choose to select out of a police career and those who need greater personal strength to stay in.

VII. SUMMARY

Efforts to improve the quality of police officer performance by screening out those recruits who will not make good police officers have generally been unsuccessful. Most of these efforts, following the recommendation of the Kerner Commission, have focused on weeding out those recruits who are, in one way or another, psychologically impaired.

The failure of these efforts has several causes. One is the inability of the tests used to accurately predict behavior, particularly several years into the future. Another is the difficulty of coming up with measures of good police performance. A third is the assumption that good police performance can be explained solely by

pre-existing personality traits.

Although there is very little evidence on this point, what is true for the prediction of good officer performance is probably also true for the prediction of the tendency to use abusive force.

There is considerable agreement on the need to take account of situational factors as well as individual differences among police officers. These situational factors include the informal socialization that begins at the inception of recruit training and includes the climate of the department as a whole. These factors at present have a generally unplanned impact on the recruit from the time of selection through training and probation.

It is inviting to suggest that selection be reconceived as a process extending through training and probation and that this process be combined with efforts to improve the operation of the department and its relations with the community.

A. Recommendations

1. Use the entire recruit training and probation period for retention or rejection decisions, based on intensive observation of performance.

2. Use the expanded selection period not only for officer training and development, but for improving police operations, creating an effective organization climate, and promoting good community relations. These are all needed functions, and both time and money can be saved by merging them as part of an extended selection procedure.

3. Divert mental health resources from selection decision-making to support services for recruits in particular, and police employees in general.

4. Develop ways to promote officer participation in devising police operations and an organizational climate to support it.

5. Extend community policing and problem-oriented policing by building community participation into selection, officer development, and organization development.

6. Expand active outreach to the community, creating genuine participation in addressing police problems. This should counteract the impression (and sometimes the reality) of police-community relations being a matter of "us against them."

B. Areas for Future Research

1. Expand the study of socialization to efforts to determine police personnel and community residents' feelings, attitudes, and ideas concerning the department's total operation, particularly its interface with the community. This study should include not only existing attitudes and feelings but the dynamics of their change and development.

2. Determine the nature and dynamics of excessive uses of force by having officers and others study (preferably recorded) actual incidents.

3. Determine the relationship between the mental health problems of police department employees and the use of excessive force. A start would be to check the mental health status of officers who use excessive force at the time of the incident and their prior history, if any, of mental health disturbance.

4. Build continual self-study and organization development into the department's operation.

5. Although staying in touch with developments in personnel selection research (Goldberg 1993), direct the thrust of prevention efforts toward the situational, organization climate, and socialization determinants of the problem of use of force (Lore and Schultz 1993).

8

Training to Reduce Police-Civilian Violence

James J. Fyfe

Discussions of strategies and techniques to prevent and reduce police use of force should be informed by the distinction between two types of excessive force. Extralegal violence—*brutality*—is "the willful and wrongful use of force by officers who knowingly exceed the bounds of their office." *Unnecessary force*, by contrast, is the result of ineptitude or carelessness, and "occurs when well-meaning officers prove incapable of dealing with the situations they encounter without needless or too hasty resort to force" (Fyfe 1986: 207; see also, Skolnick and Fyfe 1993: 37-42; Bayley, in this volume, offers primarily examples of *brutality* in other nations). It is the contention of this paper that the varying causes of both forms of excessive force can be reduced by training.

I. BRUTALITY

Since police brutality is a conscious act rather than the result of an unintended mistake, the connection between it and police training may seem indirect. It is not.

The major purpose of professional training is to prepare trainees to handle work-related problems better than the lay person. Brutal police do not pass this muster: any group of physically fit lay people with no regard for the injuries they may inflict can subdue a badly outnumbered individual. Police who handle tough situations brutally do so because of uncontrolled rage and/or because they are calculatedly oppressive (see, for example, Klockars 1980; Skolnick and Fyfe, 1993; Van Maanen 1978; Worden, this volume; Toch, this volume). Although training does not compensate for inadequate personnel screening procedures,[1] both hot tempers and proclivity toward violence are conditions that can be addressed in training (see Toch, this volume).

The development of successful boxers, diplomats, combat soldiers, and trial lawyers demonstrates that maintaining one's temper under stressful and confrontational conditions is a skill

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[1] Consider, however, Grant and Grant's appraisal, in this volume, of the state of the art of recruit screening.

that can be taught. At the broadest level, police training designed to do so may involve providing students with what Muir (1977) calls *understanding*—a nonjudgmental sense that peoples' behavior, no matter how bizarre or provocative, may usually be explained by factors that go beyond the dichotomy of good and evil. For police trainers, this translates into convincing officers that they should not take personally the insults and attacks they may experience at work. This training often includes a heavy crosscultural component designed to acquaint officers with their jurisdictions' subpopulations and their norms and ways of dealing with authority figures, such as the police.

Even if genuine *understanding*, as defined by Muir, cannot be imparted to individuals who bring extremely narrow views to policing, officers can be made to know in training that they simply will not be permitted to act out their prejudices through violent, or even discourteous, conduct. Where such officers are concerned—and there is no reason to believe that prejudice is any rarer among police than among the general population (see Lester, this volume)—the more modest goal of training must be to teach the skill of suppressing hostile impulses rather than to replace them with the more kindly instincts that Muir would prefer that officers possessed (Toch, et al. 1975; Toch and Grant 1991).

A. Training as Socialization

The goals of training, however, go beyond the transmission of skills and techniques and the suppression of a few officers' hostile impulses. Police training also has an attitudinal component: it socializes officers into their departments and teaches them their employers' philosophies, values, and expectations. As Wilson (1968) suggests, there are significant differences among police departments' self-conceptions. There also is considerable evidence that these differences among departments have great effects on police officers' behavior on the street. Gerald Uelman (1973), for example, studied police shootings among 51 Los Angeles County police departments and found that the major determinants of their shooting rates were not their communities' levels of crime and violence, but the personal philosophies and policies, written or otherwise, of their chiefs. Similarly, Fyfe (1988a) reported that the rate of police shootings in Philadelphia had more

to do with whether "law and order" politician Frank Rizzo was mayor than with any quantifiable measures of the threats to police officers' lives and safety. In short, police departments vary in their tolerance of the use of force by officers, and, to the extent that formal training reflects these variations, it will affect officers' decisions to engage in force.

B. Training In and Out of the Classroom

Just as training involves more than transmission of specific skills, it takes place in settings beyond the classroom. *Everything* that supervisors do or tolerate, every interpretation of broad departmental philosophy, every application of specific rules and policies is a training lesson that has at least as much impact on officers' performance as what they may have learned in their rookie days (see, e.g., Bennett and Greenstein 1975). When sergeants or older officers give young cops those fabled instructions to "forget what they told you in the police academy, kid, you'll learn how to do it on the street," formal training is instantly and irreparably devalued. Worse, when officers actually see firsthand that the behavioral strictures in which they were schooled are routinely ignored in practice, formal training is neutralized and the definitions of appropriate behavior are instead made in the secrecy of officers' locker rooms.

On occasion, this disjuncture has been carefully crafted by administrators, who have left a paper trail of apparently stringent policy and training that belies their unstated philosophy of encouraging officers to exact crude forms of street justice. More often, supervisors tolerate—or even encourage—police violence because they themselves lack the skills to take appropriate preventive or corrective action. It is not easy under any circumstances to be a successful police sergeant, lieutenant or captain; it is virtually impossible to flourish in these positions without being prepared for them by training in leadership and specific supervisory strategies and techniques (see, e.g., St. Clair, et al. 1992).

In their day-to-day routine, successful police supervisors and commanders must lead tightly knit societies of people who do dangerous and unpredictable work, usually in places where it cannot be monitored firsthand. Further, police bosses must get their officers to "produce" within

rule-bound bureaucracies that typically place great limits on supervisors' ability to reward good work or to correct substandard performance. Thus, even during ordinary police operations, supervisors are greatly challenged by their responsibility to see that their officers do their jobs with a minimal degree of force. These managerial problems multiply—*and change*—dramatically when officers are pushed into direct contact with groups engaged in behavior that, whether through intent or indifference, may provoke the police by publicly challenging their authority and legitimacy. Day to day, police supervisors oversee at a distance the performance of officers who work in low-visibility settings essentially as individual free agents. At demonstrations or mass confrontations, by contrast, police supervisors must adopt a role more akin to that of military commander or football quarterback, directing and coordinating large numbers of officers performing in very public settings. In such situations, collective brutality or needless violence is virtually inevitable unless commanders and supervisors change roles. When not trained to do so, commanders and supervisors default on their leadership responsibilities, and events are instead shaped by the most volatile elements among the officers present. The most notable results of this sort of mismanagement include the police riot at the 1968 Chicago Democratic Convention (Walker 1968) and the 1988 police assault on demonstrators in New York's Tompkins Square Park (Johnston 1988).

II. UNNECESSARY FORCE

All reasonable police administrators recognize that unnecessary force can be directly affected by training. Unnecessary force occurs when police officers who know no better cause bloodshed in situations that might have been resolved peaceably and bloodlessly by more capable officers (see Klockars' support, in this volume, for benchmarking "highly skilled officers" in police training). The impact of unnecessary force should not be underestimated. Ironically—despite events in Los Angeles in 1992—unnecessary force is far more likely than brutality to generate either widespread resentment of the police or civil liability for the police. However heinous police brutality, it rarely causes open police-community friction because, barring the serendipitous presence of a person trying out a new videocam, it

typically takes place out of the public's sight. Like ordinary criminals who carefully plan their crimes, brutal police officers usually take precautions to assure that their misdeeds escape detection.

Unnecessary force, by contrast, is unplanned and, quite often, public. Frequently, it begins with police intervention into relatively minor conditions that escalate into violence because of police haste and/or because officers are unable to establish communication with the people involved. Sometimes, this occurs because officers are unfamiliar with the folkways of racial or ethnic minority groups. Many brawls and much bloodshed have followed when officers have inadvertently challenged the manhood and pride of Hispanic young men during interventions in disputes and in disorderly street corner groups, for example. At the most spectacular and large-scale level, it has occurred in incidents like the 1971 Attica, New York, prison uprising (McKay, et al. 1972) and the 1985 Philadelphia police siege and bombing of the headquarters of the MOVE cult (*Philadelphia Inquirer*, 1985). In both cases, notwithstanding possible acts of unsanctioned illegal violence by individual officers involved, those in charge pushed the police into precipitous actions that had unnecessarily bloody outcomes.

More recently and more routinely, officers have ineptly put themselves in harm's way during encounters with the emotionally and mentally disturbed people who have appeared on our streets in increasingly great numbers over the last few decades (see, e.g., Murphy 1986). Consequently, they have had to forcibly extract themselves or colleagues from danger. A composite example drawn from incidents repeated in city after city is illustrative:

> Officer Jones is called to a busy downtown street at midday because one of the area's many "street people" has suddenly started to act out his pathologies by shouting at pedestrians and brandishing a small penknife. When Jones arrives, he finds the man—whom he recognizes—backed against a storefront, waving the knife and shouting unintelligibly. Nobody has been hurt. Passersby who had previously been giving the man lots of room stop to watch the encounter. Jones approaches

the man, who runs into the street, and stops on the white line. There, still waving the knife, he challenges motorists to run him over. The man succeeds in tying up vehicle traffic. Horns blare in the stalled vehicles, and the man becomes even more aroused. Jones has been keeping his distance from the man, trying to calm him down.

Officer Smith arrives and, without advising Jones of his intentions, quietly approaches the man from behind, planning to take the knife away from him while his attention is diverted by Jones' appeals. Jones sees Smith approaching the man. The man notices Jones' surprise and sees Jones' eyes briefly flash away from him to where, unknown to the man, Smith has closed to within a foot or two of him. The man suddenly wheels around toward Smith, crashing into him, the knife barely missing Smith. In his haste to retreat, Smith slips and falls to the ground. Jones, seeing the man brandishing the knife directly above his defenseless colleague, and not knowing whether Smith has already been stabbed, draws his gun and shoots the man. The man falls to the street, dying just as an ambulance arrives.

A local merchant tells the press that the man was a "harmless" street character who had been in the neighborhood for months and who had only begun to act out after he had been taunted by a group of street toughs. "I called the police so they could help him," the merchant said, "and they showed up and slaughtered him." The prosecutor finds the man's death to have been justifiable homicide. The police department rules that the shooting was within its policy of permitting officers to use deadly force in the imminent defense of innocent people's lives. Advocates for the homeless, joined by many downtown merchants who knew the man, lead noisy demonstrations protesting police insensitivity. The man's survivors file a civil rights suit.

Such an incident is a major problem for the

police. On the one hand, it involves an officer who, at the instant he pulled the trigger, reasonably believed that he had no other way to protect his colleague against a madman who may already have stabbed him. From this view, as an attorney once told me, such an incident should be regarded as nothing more than the death of "a nut with a knife" who brought on his own demise. However troubling any death may be, this attorney said, the police should not be expected to act as "street-corner psychiatrists." On the other hand, as a police officer who had killed a man in a similar incident told me, Smith's haste in closing on this man "forced [Jones] to kill somebody who really didn't have to die."

This officer's comment reveals much about the police dilemma in dealing with such shootings. Like Jones, the officer who spoke with me had little choice but to pull the trigger not because he was under attack or had done anything wrong, but because his partner had acted precipitously and, some would say, recklessly. As a consequence, and no matter how sensitively worded the findings of any administrative investigation of our example, it would be difficult for any police official to say that it might have been avoided without also implicitly condemning Jones, the man who shot the street person. Instead, as was true of the officer I know, our hypothetical case would likely be closed by the police with a letter of commendation to Jones, citing him for saving his colleague's life.

Where it has existed, the tendency to push such deaths under the rug in this fashion has been slowed by the courts' increasing willingness to look more broadly at police policies and training that may have contributed to unnecessary force. In this case, for example, attorneys for the dead man's survivors would almost certainly try to prove in court that both the decedent and Jones had been victimized by Smith's haste and ineptitude: the decedent because he had been unnecessarily killed; Jones, because he had been forced by his partner's haste to live with the reality of having taken a life unnecessarily. Then, building on the logic of *Monell v. Department of Social Services,*[2] these attorneys would attempt to

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[2] *Monell v. Department of Social Services,* 436 U.S. 658 (1978). In brief, *Monell* is significant to policing because it established the principle that public employ-

demonstrate that Smith had acted precipitously because his department had inadequately trained him to resolve the increasingly predictable problem of police encounters with emotionally disturbed people. These attorneys would then attempt to convince jurors that, without condemning either Jones or Smith, they could use a verdict for the plaintiff as a message to the police department that it could no longer victimize either the unfortunate homeless or the honest and courageous officers it asked to confront them. In short, plaintiffs' attorneys in cases such as this ask jurors to focus their evaluations on factors far beyond whatever alternatives to the use of force may have existed at the instant force was applied. In designing training to minimize the excessive use of force, police can do no less.

An excellent model for avoiding this "split-second syndrome" (Fyfe 1986) is provided by the great success of the police in developing policy and training designed to avert violence in hostage and barricade situations (see, e.g., Bolz and Hershey 1979). This early application of problem-solving techniques to policing involved diagnosis of crises that identified recurrent patterns and themes (e.g., that hostage takers generally fall into one of three types); careful analyses of the causes of these crises (e.g., identification of the motives of each of the three types of hostage taker); and careful development of means to assure that police did everything possible to resolve them with minimal bloodshed (e.g., identification of police strategies and tactics dependent on the type of hostage taker involved). As a consequence of this effort and the subsequent demonstration of its success in thousands of hostage situations, these encounters are no longer handled on an *ad hoc* basis. Instead, there has developed a set of principles and protocols that are widely known among well-trained police throughout the United States and abroad. There is no reason that a similar methodology cannot be applied to such other recurrent police crises as encounters with emotionally disturbed persons, apprehensions at the end of vehicle pursuits, responses to robberies and other violent crimes,

and off-duty interventions into suspected crimes. Such efforts will give officers better—and more experientially grounded—guidelines in dealing with them, as well.

III. TRAINING TO PREVENT AND REDUCE POLICE-CITIZEN VIOLENCE

Thus far, police administrators have no doubt noted, this paper has offered plenty of theory, abstraction, and criticism but little in the way of concrete recommendations. These follow:

A. Effective Training in Violence Prevention and Reduction Must Be Realistic

Training for any endeavor should simulate as closely as possible the actual working conditions for which trainees are being prepared. This is a difficult task, especially when training must prepare individuals to make decisions under volatile and life-threatening circumstances. No matter how hard police tactical trainers strive for realism, trainees know in advance that they and everybody else will remain physically unscathed when their lessons are over. There obviously is no such guarantee during the *real thing*, where danger and uncertainty grab participants' attention and affect performance in ways impossible to duplicate in training. Good evidence of the difference between training and the real thing, police firearms instructors know, is the deterioration in shooting accuracy by many officers when, instead of shooting at paper targets, they confront people who are shooting back.

Although it cannot be eliminated, the artificiality of police training can be minimized. Perhaps the best way to do this is in role-play scenarios in facilities that duplicate as closely as possible the conditions officers encounter in the field, both indoors and outdoors. In the scenarios, experienced instructors or even fellow trainees play citizens or adversaries. The dangers of the streets cannot be simulated, but it is my experience that role-play trainees become extremely involved in these scenarios. Role-plays frequently take place in front of other trainees, and those acting opposite trainees can quickly alter their actions based on officers' behavior. Under this psychological pressure, participants—especially experienced officers—take great pride in demonstrating their skills by, for example, not "losing".

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ers could be held liable if it could be shown that constitutional violations committed by employees were caused by such official customs and practices as grossly inadequate policy and training.

violent encounters or behaving inappropriately in less dangerous situations. Consequently, unlike participants in many other police training formats, role-play trainees pay extremely close attention to the lectures or other training that accompanies the role-plays, as well as to the performances of their classmates.

Role-play training is, of course, a very labor intensive activity. Role-play scenarios based on common police-citizen encounters (e.g., traffic stops or police encounters with mentally disturbed persons) typically are one-on-one or two-on-two situations that require as many training staff members as trainees. This should not be a bar to this training format, however, since role-plays typically are quick—how long do police spend at domestic disputes?, for example—and may be analyzed in detail afterwards. In addition, it is not always necessary that all members of a large training class actually take part in role-plays. Instead, a few may participate in scenarios that are presented before a group and later analyzed by the group. Where available, videotaping for detailed "instant replay" discussions and analyses by class members is a very useful and involving technique.

The realism of one-on-one encounters with flesh-and-blood human beings is a benefit of role-play training absent in the many interactive film and computer video training programs that have become available over the last several years. These typically consist of electronically presented scenarios that must be resolved by officers armed with blank pistols or laser guns. However technologically advanced, this electronic training is seen by many officers as little more than a video game: "It's fun and it really impressed the press and the community council when we put them through it," said an officer whose opinion reflects that of many other police trainers, "but I don't know what it has to do with life on the road."

In addition to the loss of real human contact, interactive film and video role plays introduce to training several sources of artificiality that seriously limit their effectiveness. Even when the scenarios presented are set in outdoor locations, interactive electronic training invariably takes place indoors in classrooms or auditoriums that do not reflect the terrain or other conditions on the screen. In one scenario, for example, trainees—typically standing in a darkened room—are asked to assume that sheets of plywood and other

items strewn about are objects of cover that they should employ during their encounters with the screen's jerky images of armed suspects beneath an elevated highway at midday. Furthermore, as they might—and probably should—during the real thing, trainees cannot observe these subjects from a distance while they use their radios to direct other officers to the scene from different angles of approach. Unlike real life and well-executed role-plays, video training is two-dimensional and allows officers to confront TV bad guys from only one angle: that of the camera.

The most important source of artificiality in this training is that it generally drops officers into the middle of situations that, in real life, begin far earlier (see Binder and Scharf 1980; Scharf and Binder 1983). In the field, patrol officers typically become aware of potentially violent situations at a distance, as when their radio dispatchers advise them of conditions requiring their presence or when they decide to stop suspicious pedestrians. In these circumstances, officers have opportunities to structure their confrontations in ways that diminish the likelihood that they will escalate into violence. When patrol officers learn of robberies in progress, for example, they may use their radios to plan and coordinate their approaches with other officers to minimize risk to innocent people and themselves. In doing so, they also reduce the chances that suspects will be hurt by, for example, defensive reactions by officers who have put themselves in vulnerable situations. In addition, well coordinated approaches to confrontations can also cut off escape routes and make successful flight nearly impossible.[3]

As this discussion suggests, successful resolution of potentially violent situations depends heavily on the skills with which officers coordinate and structure their confrontations with possible adversaries. Although the skills police need

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[3] The preceding critique of interactive video training applies to technologies currently employed widely in police training. If, as some technologists believe, virtual reality technologies can overcome the sequencing, dimensionality, and other artificiality problems noted above in the text—and if police departments can afford to adopt such training tools widely—then it is possible that *some* of the human interactive training this essay advocates could be supplanted by electronic devices.

when in actual confrontation with violent suspects are critical, what officers do in the moments immediately before that point is far more important than whether they can find cover, draw quickly, and shoot straight once they find themselves at risk (see, Fyfe 1988b, 1989a). Carefully planned approaches to volatile situations by officers can *prevent* violence by creating circumstances in which potential adversaries instantly recognize that both resistance and flight are impossible and that surrender is their best option. Once officers' hasty approaches have put them into harm's way, however, their combat skills can only help to determine who prevails when violence erupts. It is certainly desirable that officers come out on top in violent encounters, but it is far better to prevent violence in the first place.

The set of skills required to structure confrontations in the safest possible manner has been neglected by police administrators and trainers. Instead, and perhaps influenced by the legal test of justification for the use of force—*was the officer in danger at the instant he or she employed force?*—police historically have focused on what Binder and Scharf (1980) call the "final frame" of incidents that actually begin when officers become aware that they may confront potentially violent people or situations (Geller 1985a; Geller and Karales 1981a; Geller and Scott 1992; Reiss 1980; Toch 1980).[4] This tendency has changed somewhat since the days not so long ago when police firearms training consisted almost exclusively of shooting at bulls-eye targets, but it still exists. Where it does, as suggested earlier, it obscures the important question of whether officers' actions contributed to danger from which they subsequently had to forcibly extract themselves.

Regardless of its sophistication and its novelty, interactive video training has a "final frame" focus that cannot impart the tactical skills that officers should use to assure that they come face-to-face with adversaries in circumstances that make violence unlikely. These skills—how to

plan and coordinate approaches to potential violence—are more complex and tougher to teach than the skills of ducking, drawing, and shooting. They can, however, be presented in lectures and seminars, or by simple *explanatory* films or videos, and they may be tested in role-plays. They cannot be taught or measured by two-dimensional interactive presentations that begin only after trainees have been placed virtually face-to-face with armed people under circumstances that good street officers would have tried hard to avoid in the first place.

Police administrators who seek to develop training programs designed to minimize police-citizen violence should keep in mind Herman Goldstein's admonition that:

> "The gadgetry of technological improvements holds a certain fascination and dramatic appeal for large segments of the public; it feeds the 'Dick Tracy' concept of what policing is all about. Investment in technological improvements has been used by some police agencies and by state planning agencies as a way of avoiding more difficult problems" (Goldstein 1977: 325).

The "more difficult problem" here is to get officers to deal with routine, potentially violent incidents as skillfully as police have learned to handle hostage situations. This can be best done through training that causes officers to interact and match wits with other people rather than with electronic figures on a screen. While interactive electronic training may be a useful supplement to more traditional forms of training, it is no substitute for it.

B. Violence Reduction Training Must Be Carefully Tailored to the Officers' and Community's Experiences and Needs

Some tactical concepts are universal. Regardless of where they are, police should approach potential violence carefully: officers should never get too close to people with knives; officers should follow generally the same procedures whenever they make traffic stops; officers should stand to the side whenever they knock on doors; and so on. But every community also possesses unique characteristics that create spe-

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[4] Shifting from the *legal* definition of excessive force to one focusing on the necessity for force (given opportunities for officers to avoid painting themselves into corners) comports with Klockars' (in this volume) advocacy of a "highly skilled officer" standard for appraising use of force decisions.

cific challenges for officers, and these must be taken into account in training.

The most important such characteristic is the nature of the population which, in many jurisdictions, changes constantly. Unless police carefully monitor these changes and use training to let officers know about them and their implications for police work, officers are likely to deal insensitively with members of groups that, seemingly out of nowhere, have grown to significant size and have come to perceive themselves as mistreated minorities. To complicate matters, such population changes may also cause bitterness and resentment among longer term racial or ethnic communities who feel that their places on the local social ladder are threatened by the newcomers.

The potential costs of ignoring or inadequately responding to these changes are high, especially in places with previously well-established social orders (no matter how inequitable). In 1980, in the midst of the great social change caused by long-term Cuban immigration and by the massive Mariel boatlift, Miami suffered its Liberty City riot after a group of white and Hispanic police officers was acquitted in the beating death of a black man. During the late 1980s, Washington, D.C.'s Mount Pleasant district became home to large numbers of Hispanic immigrants. In 1990, a riot broke out there when a black female police officer shot a man during a Hispanic street festival. Afterwards, Hispanic leaders complained that the city and its police department had been treating Hispanics as invisible. As if to confirm this claim, many long-time Washingtonians expressed surprise that there were enough Latin Americans in Washington to hold a festival. In 1992, while Los Angeles was in the midst of massive population shifts,[5] the acquittal of the officers accused of beating Rodney King caused long-standing tensions to explode into a riot. Also in 1992, witnesses' accounts of a police shooting—subsequently determined to have been inaccurate—sparked a riot in New York City's Washington Heights, an area which had

rapidly become a community of Dominican immigrants in the late 1980s and early 1990s.

It is easy for police administrators to ignore the need to monitor and respond to large-scale changes in the population they serve. The people, after all, are the field officers' clientele, so that changes in the population and, hence, the need for modifications in police operating styles might appear to be most readily visible to street cops. This reasoning is flawed. First, even a startling change in a community may be so gradual that it goes unnoticed by those closest to it. Like a mother who doesn't notice how much her child has grown until a cousin comments on what a big boy the child has become since his last visit, officers who regularly patrol a neighborhood may not even realize that changes over time have meant, in essence, that they are working in a different place.

Second, even when field officers do see the forest for the trees, they generally are not sufficiently familiar with the norms and sentiments—or even the language—of the newcomers to be able to respond to them in appropriate ways. How, one might ask, does a white ethnic male police officer adjust to the replacement of Washington Heights' long-time Irish-American population by poor, Spanish-speaking, Dominican immigrants? How does the black female Washington, D.C., cop, herself a member of two historically marginalized groups, learn how to deal with the rural Hispanics who have suddenly become the mode in the formerly African-American neighborhood she patrols? How does the veteran white Los Angeles officer thread his or her way through the conflicts among the Hispanics and Asians who have moved in among the blacks in his or her district? The answer is that all of these officers can only do this *the hard way*, unless administrators take pain to monitor communities, to carefully consider the implications for police work of any changes in communities, and to see that street officers' training reflects these changes and their implications.

This may be most easily accomplished when police personnel closely reflect the community's diversity. Police hiring, however, often lags far behind changes in the community at large. Consequently, as a blue-ribbon Milwaukee commission pointed out, it is imperative that formal training reflect an appreciation of community diversity and dynamics, no matter who wears a

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[5] Over the long term, the change in the composition of Los Angeles' population has been no less massive than the change in its size. In 1950, 11 percent of Angelenos were non-white; by 1990, the city was 63 percent non-white (U.S. Bureau of the Census 1952: 5-51; Independent Commission on the LAPD 1991: viii).

police uniform (Milwaukee Mayor's Commission 1991: 4).

The need to fit training to the needs of individual communities is yet another reason why police agencies should regard commercial or other out-of-house training as a complement to their own training effort. No commercial vendor who directs training at a wide market can possibly anticipate or address the characteristics of individual jurisdictions. And despite their greater proximity to the departments they serve, it is extremely difficult for state or regional academies to do so. Assuring that training is congruent with community demographics requires real *hands-on* effort by local police departments.

One of the best ways to assure that training closely fits the actual needs of the community and the police is to base it on the real experience of the community and the police. Noteworthy police encounters with citizens—both those that have come to unhappy endings and those in which potential disaster was averted—should be documented and reviewed thoroughly for their training implications.

This was the model followed in the Metro-Dade Police/Citizen Violence Reduction Project (Fyfe 1988b, 1989a), and it appears to have worked with some success. During this project, a task force of experienced police officers—street officers and supervisors, investigators, tactical specialists, and trainers—was assembled and asked to review a random sample of reports detailing citizens' complaints of police abuse, officers' use of force, and injuries to officers during contacts with citizens. Each member of the task force was asked to take at face value the description provided in each report and to individually identify every decision made by the officer involved, to describe its effects on the outcome of the situation, and to prescribe alternative actions that might have produced happier endings.[6]

The task force members read and discussed each other's analyses and provided project staff with their conclusions. This work, and consultation with a citizens' advisory board comprising community leaders and activists, identified four broad types of incident (routine traffic stops, disputes, responses to reports of crimes in progress and stops of suspicious pedestrians, and high-risk vehicle stops) as the most common potentially violent situations. It also produced a list of "do's and don't's" for these situations based on the thinking of these officers and citizens. These "do's and don't's" were operationalized into a role-play training program and tested under social science experimental conditions. The results of the experiment suggested refinements that led to a five-day role-play training program. Preliminary examination of data indicates that this training has been followed by substantial (30 to 50 percent) reductions in injuries to officers, officers' use of force, and citizens' complaints of abuse (Skolnick and Fyfe 1993; Fyfe and Klinger forthcoming).

C. Violence-Reduction Training Must Not Make Matters Worse by Creating a Sense of Paranoia Among Officers

When young people enter police departments, they have very little appreciation for what their jobs will be like. Fed on movies and television shows such as *Dirty Harry, Starsky and Hutch,* and *Lethal Weapon,* and made more anxious by their families' concerns for their safety, new police officers, *teenagers* in many jurisdictions,[7] are likely to believe that they are entering a world where death lurks around every corner, where

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[6] This task force approach also brought to bear on this problem the considerable expertise of experienced street officers who were regarded as outstanding by their supervisors and colleagues (see Klockars' essay, in this volume, extolling such use of highly skilled officers as role models). Often, despite their unequaled qualifications for doing so, such officers have little input into the formulation of training related to problems that most directly affect them and their colleagues (see, e.g., Toch 1980; Bayley and Garofalo 1989;

Goldstein 1990). In addition, the task force approach enhanced other field officers' receptivity to the training that resulted because, as one trainee told me, "It's nice to see that the brass don't think that they have a monopoly on what it takes to develop training for road officers."

[7] Strawbridge and Strawbridge (1990: 17-22) asked 80 U.S. municipal and county police departments with 500 or more officers for information about minimum age at appointment as a police officer. Seven of the 45 responding departments allow appointment at age 18 or 19, as (I know from personal contacts) do several of the non-respondents.

every contact with a citizen may prove fatal. One of the major challenges for police recruit trainers is to bring many trainees' fears in line with reality and to convince new officers that while policing has dangers, life in a patrol car has little in common with duty in a military combat zone (see also Grant and Grant's discussion, in this volume, of officer selection and probationary-period socialization).

Instead of treating the dangers of police work as real but generally manageable, much commercially available training exacerbates officers' fear. As a consequence, some officers have come to believe that their work is one continuous tactical exercise and have overreacted with needless violence to minor provocations, or to no provocations at all. For example:

> A young officer walked uninvited into a man's home to investigate a domestic dispute. The man's argument with his wife (who had left and called police from a relative's nearby home) had involved much shouting but no violence, and had taken place hours earlier. The officer and his partner found the man seated behind his kitchen table, using a steak knife to eat the lunch he had just cooked. The officer drew his gun and, holding it in a two-handed combat position, pointed it at the man. In the officer's terms, the man was holding what a training film had described as an "edged weapon" within the officer's "21-foot zone of safety." The officer shouted warnings to the man to drop his knife; the man, about twice as old as the officer, told the officer to put his gun down or leave. The officer, his partner (also pointing his gun), and the man shouted back and forth at each other. Finally, the man—whom the officer had by now recognized as a member of the "knife culture" described in his training film—started to rise from his chair. The officer shot him dead before he was able to stand up.[8]

Other training media besides videos are equally provocative. A widely used police training text begins with this quote from an officer who was a "survivor of an armed confrontation with a mentally deranged suspect who had slashed a man's chest open with a razor":

> "I like the edge, the challenge. I get a high off it. You're out there in the concrete jungle or the cornfield jungle. You know the guy you're up against has no regard for authority or society. He doesn't care about you. But he knows he's got to go, and you've got to get him.
>
> I like the element of danger. It makes me feel *alive*. But I don't expose myself to danger blatantly. I'm not going to give anybody the opportunity to get even just a little bit of me if I can help it. Going up against danger and coming out whole because I'm prepared tactically, that's what the rush comes from.
>
> My dad used to say there are no new frontiers...they've all been explored. But in our society, there's still one: the street. It's the only place you can be that has any edge to it..." (Remsberg 1986: inside front cover; emphasis in original).

Similarly, electronic interactive programs, especially the earliest ones, often appear to be based on incidents that, if they occurred at all, must be virtually unique in police history. It may be valuable for police to know about such incidents, but it may be dangerous for young officers to be encouraged to generalize to their experience events such as the following, all of which appear in commercially available police training films:

> A police officer stops a group of unkempt bikers. Unknown to him, one of the bikers has modified his vehicle's handlebars so that twisting the throttle

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[8] It is tempting to write this off as an aberration but, within weeks, a veteran officer who had seen the same film described his similarly troubling fatal

encounter with a mentally disturbed young man in the same terms. For additional discussion of this particular training video and police administrators' concerns about it as well as the producers' counterarguments, see Geller and Scott (1992: 336-38).

will produce a shotgun blast from the end of the bar.

A police officer calls to a pre-pubescent boy on a bicycle. The boy stops his bike, draws a gun from his waistband and begins shooting at the officer.

A police officer goes to a suburban home, apparently in answer to a report of some sort of disturbance. As he approaches the front door, it is opened by a little old lady in curlers and a robe. She produces a handgun and begins shooting at the officer.

Police officers in search of an armed and dangerous suspect see a young man and call to him. He walks toward them, and both officers loudly and repeatedly command him to stop. They draw their guns and point them, but he continues to walk toward them. He reaches into his back pocket as he walks. When he finally gets close enough so that they can read it, he produces a wallet containing a card explaining that he is deaf. The clip does not explain how the subject could have mistaken the intent of two officers who, with guns directed at him, had obviously been signalling frantically for him to stop.

Worst-case scenarios such as these, the Los Angeles Sheriff's Department recently acknowledged in response to the criticisms of a blue-ribbon commission, may have a place in training but "must be balanced with a consistently strong message that such incidents are usually the exception in law enforcement" (Los Angeles County Sheriff's Department 1992: 153).

D. Violence-Reduction Training Must Be Continuous

In addition to preparing veteran officers to deal with changes in law, departmental rules, and the dynamics of their communities, there are two major reasons for this recommendation. First, some of the most critical police violence prevention and reduction skills are needed so rarely that they are likely to atrophy into uselessness unless they are the subjects of frequent refresher training. This may be especially so in suburban and rural jurisdictions. Despite the *blood 'n' guts*

tenor of much commercial police training material, for example, officers in most places are not likely ever to run into hostage-takers; but if they do, lives will depend on their ability to recall and apply their training. Thus, as in medicine and other emergency professions, constant in-service training is necessary to keep officers' most critical, but rarely employed, skills at a useful level.

The second reason to require constant refresher training in violence prevention skills reflects a perversity of police work: Most often, it does not matter whether officers' actions conform with their tactical training. Police officers who receive careful recruit training in the tactics of vehicle stops, for example, graduate to duty where they discover that virtually every traffic violator they stop is nothing more than an otherwise law-abiding taxpayer. Instead of coming on the escaped murderers they have been trained to understand they may find behind the wheels of cars that have run red lights, new officers instead find, to the disappointment of some, that most traffic violators are apologetic, subservient, ingratiating, and anxious only to escape fines and increased insurance premiums.[9] Similarly, officers who respond to reports of burglaries typically find that the tactics they were taught are moot, because the vast majority turn out to be false alarms.[10] Under these circumstances, it is very easy for officers to regard their training for both car stops and responses to burglaries as something akin to preparing to avoid lightning strikes and to place it in the category of useless things learned in the police academy. Without scaring such officers into paranoia, periodic training reminds them that there are real dangers out there.

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[9] In only 27 (2.4 percent) of the 1,051 routine traffic stops recorded by in-car observers during the Metro-Dade experiment, for example, did officers encounter motorists who were annoyed, demeaning, hostile, or disrespectful. The others were classified by observers as "nervous and apologetic" or "respectful and deferential" (Fyfe 1988b: K-52).

[10] Officers in one of the patrol districts observed during the Metro-Dade project responded to 229 electronic burglar alarms; 220 were defective, nine were accidentally tripped by home owners or merchants, and one signaled an actual burglary (Fyfe 1989a).

E. Violence-Reduction Training Must Address the Role of Police Officers During Their Non-Working Hours

There are 168 hours in the week, of which police officers generally spend only 40 in uniform. During the rest of their time, they do what other citizens do, with one exception: the law generally authorizes them to take enforcement action while they are off-duty, and citizens generally expect that officers' decisions to take *appropriate* police action will not be bounded by their official working hours.

Answers to the question of what is *appropriate* police action, however, vary dramatically depending on whether an officer is on-duty. It is relatively easy to prescribe *appropriate* police action for officers who are in uniform, in easily identifiable police vehicles, in radio contact with their colleagues, and not directly a party to the situations that give rise to the need for police intervention. But these prescriptions may be singularly inappropriate for an officer who enjoys none of these conditions and who may find that his or her actions may simply make bad situations worse.

Administrators must be careful to define what they expect off-duty officers to do (and to refrain from doing) and how they expect them to do it, and to train officers in these expectations. When this does not occur, some off-duty officers invariably will use their police powers to resolve personal disputes, and the good-faith attempts of some officers to intervene in relatively routine crimes will turn them into tragedies (see Fyfe 1980b).

F. Appraise the Effects of Violence-Reduction Training by Concentrating on Officers' Conduct Rather Than Incident Outcomes

The stringent requirements of social science experimentation need not be followed in developing such training, but one important rule should be followed assiduously: Until there has accumulated enough experience to allow statistical analysis, assessment of the appropriateness of police officers' conduct in crisis situations—and the adequacy of related training—should focus on *conduct*, not the outcomes of these situations. Too often, we forget that interactions between

police and citizens are two-way streets. On occasion, police officers may act in the most inappropriate or, even, openly provocative manners during encounters with citizens, and no violence or other immediate negative consequence ensues. This is so because the citizens involved do not take advantage of officers' ineptness or do not respond to their provocations. On other occasions, serious violence between police and citizens is unavoidable even though officers may do everything reasonably possible to avert and minimize it. In such situations, to paraphrase an old medical saw, the operation was a success even though the suspect wound up in the hospital.

The implication of this reality for police administrators is that, like assessments of surgeons' efforts, judgments about the propriety of officers' conduct and the adequacy of training should be based on what officers *did*, rather than on the outcome of what they did. To do otherwise is to overlook inappropriate conduct until it results in disaster and to discourage officers whose best and most appropriate efforts were unable to prevent violence because of decisions made by their adversaries.

IV. CONCLUSIONS

Obviously, there is much more that can be said about training to reduce violence between police and citizens. In the main, however, police administrators are well-advised to follow the wisdom of the courts as articulated in the *Monell* case and decisions derived from it. As I interpret this case and others that have followed it (my interpretive lens is that of a police manager and social scientist rather than that of a lawyer), it appears that the courts generally demand that the police:

1. Identify the predictable police crises characteristic of their communities;
2. develop policies and tactics to help officers resolve these crises with as little bloodshed as possible;
3. carefully train officers to implement these policies under crisis situations;
4. carefully review officers' actions in these situations to determine whether they have behaved in accord with policy and training and, equally important, whether policy and training are appropriate; and

5. take corrective action where indicated. Discipline officers who have unreasonably deviated from policy and training, nonpunitively guide and retrain officers whose deviations from best practices were not wilful, and modify policy and training where it has proven inadequate or inappropriate.

These are reasonable expectations. Meeting them will not guarantee that unnecessary bloodshed will be eliminated. But general experience and early data from Dade County indicate that meeting them will help reduce such problems to an absolute minimum.
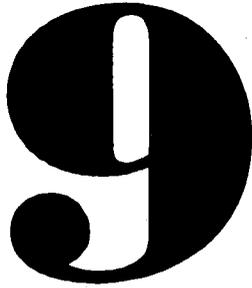
9 Officer Attitudes Toward Police Use of Force

David Lester

In the traditional view of human behavior, three areas of mental function were described: cognition (thought), affect (emotion), and conation (motivation). Attitudes can also be construed as having three components: thoughts about an object, emotions felt toward the object, and desires aroused with respect to the object. Zanna and Rempel (1988), for example, defined attitudes as evaluations based on beliefs (cognition), feelings (affect) and past behavior.

The study of attitudes has always been important in social psychology. The primary issues have been how to measure attitudes and attitude change. These subjects are supplemented today by studies of the structure of attitudes (Tesser and Shaffer 1990). We will explore later in this essay the stage that research on police attitudes toward the use of force has reached.

What makes attitudes especially important is that they perhaps predict behavior. Fishbein and Ajzen (1975) proposed that intention is the best predictor of behavior and that intention is a function of one's attitude toward the behavior and one's belief about the reactions of significant others toward the behavior (subjective norms). Of course, people behave sometimes out of habit and sometimes in a context in which one's attitudes are challenged (for example, when one is asked to give reasons for one's behavior, a process which causes people to examine and perhaps change their attitudes).

Furthermore, there has been a great deal of research which examines the phenomenon in which, after people are encouraged, persuaded, or forced to change their behaviors, their attitudes change also (Tesser and Shaffer 1990). It has long been recognized that changing people's behavior in an attempt to change their attitudes is a more effective process than changing people's attitudes in an attempt to change their behavior. In the United States, for example, forcing racial integration had a great impact on people's racial

attitudes; by contrast, efforts to change people's racial attitudes had only a minor effect on the pace of racial integration.

Police officer attitudes toward the use of force and excessive force is an important area of study. Not only do these attitudes play a role in determining the use of force by police, but the attitudes held by police officers can also function as a barometer of changes in police use of force (see Adams, this volume, concerning officer surveys to estimate the prevalence of abuse of force).

I. EXPLANATIONS OF POLICE BEHAVIOR

The two major theories of why police behave in the way that they do have been labeled as *situational* theories and *attitudinal* theories (Worden 1989; also see Worden's chapter in this volume). Situational theories examine factors in the structure of the situation confronting police officers which shape their response, such as the characteristics and behavior of the suspects. Attitudinal theories focus on the style of policing of the officers, which in turn is affected by the officers' personalities, attitudes, and socialization in the police force (see also Toch, this volume). (Both theories, of course, accept that police do not mechanically enforce the law, but rather have a great deal of discretion in deciding what to do in each situation they encounter.)

Attitudinal theories extend beyond attitudes and examine any kind of psychological trait, including motives for becoming police officers and personality traits (Grant and Grant, in this volume, supply additional discussion of psychological considerations in selecting and guiding police officers). Worden (1989) noted that research on these theories has been less extensive and less rigorous than research on situational theories. However, research does indicate that police officers have a great deal of variation in their attitudes (and their behavior), and this variation allows attitudinal theories to propose causal elements in police behavior.

Of course, a complete theory of police behavior would combine both situational factors and attitudinal factors (so that, for example, we might propose that one type of officer would behave one way in a specific situation while another officer would behave in a quite different

way; Toch, in this volume, extends this analysis.) In this chapter, though, the focus is on attitudes.

A. Limited Research on Police Officer Attitudes Toward Force

The attitudes of police officers toward the use of force and excessive force have not been studied extensively. There are several possible reasons. Perhaps, given the choice of studying the attitudes of police officers toward excessive force or studying their actual behavior, researchers have chosen to focus more on the behavior. Perhaps the definition of excessive force is imprecise and open to debate, and so researchers have preferred to study actual killings of civilians by police officers (for example, Lester 1982; see Adams' and Klockars' discussions, in this volume, of definitional problems). Thirdly, many studies of police officer use of excessive force have used participant observation and resulted in descriptive rather than quantitative reports (for example, Hunt 1985), reports which have not stimulated further research (compare Worden's essay in this volume and the studies it discusses).

Research into the police use of excessive force has also had a limited focus. In discussing the causes and reduction of police abuse of force, Geller (1985a) suggested that useful information could be acquired from the study of officer *restraint.*[1] Some police officers are adept at escalating police-suspect encounters into fights, while others are equally adept at avoiding the use of force (Toch, this volume). Even in this general area, Geller noted that we know almost nothing about the personal characteristics and methods used by these two extreme types of officers. Part of the problem is that researchers do not study nonevents, the many situations in which police officers do not use excessive force. Since "nothing" happened, the situation is not marked for special study. An exception is that in some observational studies (which are quite expensive) data can be deployed to explore officers who did and did not resolve potentially violent encounters violently (see Worden, this volume; Bayley and Garofalo 1989).

Despite these problems, research into police

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[1] Geller's discussion was focussed on deadly force but can be extended meaningfully to excessive force.

attitudes in general remains a core area for police studies, and research into police attitudes toward force in particular would greatly advance our understanding of police use of force.

Since research into police attitudes toward the use of excessive force is scarce, this essay will both review the research that has been conducted and propose a research program for the future.

II. POLICE ATTITUDES

A. General Attitudes Toward Police Misconduct

Barker (1978, 1983) questioned police officers with an average of 10 months on the job and found that they reported widespread use of excessive force by fellow officers (another such study, funded by the federal Bureau of Justice Statistics, is currently under way in Ohio and Illinois). Corruption of authority was the most common deviant behavior noted, followed by sleeping on duty and then the use of excessive force. (Queries were made about 15 deviant behaviors.) Although police brutality was considered to be as common as, for example, sleeping on duty, it was seen as less deviant. In fact, police brutality was seen as less deviant than four other deviant behaviors (drinking on duty, perjury, sleeping on duty, and sex on duty). The likelihood of an officer reporting a fellow officer for these deviant acts matched the perceived deviancy of the act.

Macfarlane and Crosby (1976) asked police officers to rank various rules of conduct for police for their fairness as written and for the fairness with which they were enforced. Rules on the use of physical force were ranked fifth on both scales out of 14 areas. Rules on courtesy to police and gratuities were ranked as the fairest and rules on grooming as the least fair.

B. Attitudes Toward Police Use Of Force

Corbett, et al. (1979) surveyed police officers about a variety of issues, including use of force. Of those surveyed, 22 percent agreed with the statement, "There are times when it would be better for a police officer to take the law into his own hands rather than turn a suspect over to the courts," while 67 percent disagreed; the remainder were unsure. Some 42 percent agreed that police

officers are too restricted in the amount of force they can use in dealing with suspects; 39 percent disagreed.[2]

Scores on these items (and on one other item on constraints on the police) were added to provide a measure of favoring a "strong police role." Scores on this scale were lower for those officers who felt the public supported police, for those who were less racist, for those who trusted the political system and people in general, for those who did not regret becoming police officers, for older officers, and for those less willing to strike for a pay increase. Scores on the scale were not related to rank, division, years of experience, father's or mother's occupation, spouse's occupation, party identification, liberalism-conservatism, religiosity, personal self-confidence, or other attitude items (such as job satisfaction and a perception that police work is dangerous).

Instead, the attitude of police officers toward the use of excessive force is likely to be related to other attitudes, such as attitudes to police misconduct in general and violence in general. For example, in a study of the police officers in one small town department, Ten Brink and Lester (1984; see also Lester and Ten Brink 1985) found that police officers who were more likely to report fellow officers for brutality (verbal abuse, physical abuse, or the murder of suspects) were also more likely to report fellow officers for other misbehaviors, such as drinking on duty, smoking marijuana off duty, accepting free cups of coffee, and accepting bribes.[3] They were also more willing to serve on an internal affairs unit to investigate fellow officers. Police officers who socialized off duty mainly with fellow officers

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[2] Among many possible areas for useful new research would be whether officer attitudes in this regard have changed after the pervasive adoption by departments of "pepper spray" as a nonlethal weapon.

[3] Flanagan and Vaughn, in this volume, cite one survey showing that only one-third of citizens who were victimized by or witnessed abuse of force reported the incident to government authorities (see also Perez and Muir, this volume). Later in this essay, we present data collected by Lester and Arcuri (forthcoming), showing that one-third of officers who witnessed colleagues beating a suspect say they would report it.

were less likely to report the misconduct of their colleagues.[4] Interestingly, just over half of the officers responded that they would participate in the street execution of a suspect known to have killed a police officer; officers who socialized mainly with fellow officers were more likely to admit this.

Brodsky and Williamson (1985) presented police officers with written scenarios in which an officer had used excessive force (such as beating a suspect). Police trainees and experienced officers both made lower scores than a comparison group of fire fighters. However, Brodsky and Williamson did not compare the attitudes of police officers and fire fighters toward other forms of violence.

Carter (1976) surveyed the police officers in one department and reported that 89 percent asserted that few officers use excessive physical force. Some 23 percent believed that excessive force is sometimes necessary to show an officer's authority, while 62 percent felt that officers have the right to use excessive force in retaliation for physical attacks by suspects. Only 16 percent felt that excessive force, when used, was a result of ethnic or racial discrimination.

When asked about verbal abuse, 59 percent felt that it was permissible for officers to talk rough with citizens, and 53 percent felt that rough talk was the only way to make some people listen. Carter explored correlates of the officers' opinions about the use of excessive force and reported that their toleration or acceptance of physical and verbal abuse was stronger if they expressed less satisfaction with their job.

The Independent Commission on the Los Angeles Police Department, the Christopher Commission, reported that in a survey of 960 officers in the department about five percent approved of the use of physical force on suspects who had committed heinous crimes or who have a bad and uncooperative attitude; 11 percent

reported having "no opinion," leaving 84 percent who disagreed with these propositions (1991).

C. Justifying the Use of Excessive Force

Waegel (1984b) explored how police officers justify the use of deadly force. His comments also apply to the use of excessive force. He noted that tales of past shootings are prominent in police folklore and are frequently recounted to rookies. Waegel noted three major themes which police officers use to justify shooting suspects.

They acknowledge that sometimes mistakes are made and that officers shoot when there is no legitimate cause to do so. However, they focus on the risk that they might have been killed if they were to underestimate the danger in a situation. A favorite phrase is, "I'd rather be judged by twelve than carried out by six." They give examples of officers getting shot when they did not fire first.

Police officers also share the beliefs of the general public that some offenders are despicable people. The presumed moral inferiority and the race of suspects lead the police to see them as less than human, thereby justifying brutality. The same practice is common in war; the enemy is denigrated by derogatory terms (such as "Hun" or "gook"). Pogrebin and Poole (1988) have documented how humor is used by police officers to denigrate individuals or groups.[5]

Waegel noted also that police officers are often cynical about the operation of the criminal justice system which, from their viewpoint, lets offenders off too lightly. They are often tempted to dispense justice themselves, and in this they

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[4] On the other hand, a corruption scandal in the Miami Police Department in the 1980s, in which evidence suggested a wave of new recruits had not been socialized into the police culture and had, to an unusual extent, continued spending off-duty time with civilian friends of questionable character, illustrates the problem of bad influences in the neighborhoods increasing the likelihood of police misconduct.

[5] Further explorations are warranted of the potentially positive role of "gallows" humor as a coping mechanism to mitigate the considerable stresses of police work (e.g., graphically viewing, smelling, and touching human misery and inhumanity on a recurring basis). For such humor to be of psychological benefits (providing a release valve) does not mean that the content of the humor must be racist, sexist, or in other ways objectionable. The timing of an officer's release may be all important (e.g., after seeing a particularly bloody crime scene, the officers would not want to find a humorous way to release their own horror *in the presence of* loved ones of the victim or others likely to misinterpret the humor as callousness to human suffering).

are often supported by the attitudes of the general public. Waegel saw these rationalizations as consistent with the strategies used for neutralization of guilt by criminals (Sykes and Matza 1957), strategies that release the actor from conventional rules and prohibitions (see also Toch, this volume).

D. Opinions About the Use Of Deadly Force

In a study on police officers' opinions about the use of *deadly* force, Brown (1983) asked the officers in two departments to rank in order of preference four possible department policies on the use of deadly force. The policies and rankings were:

"(1) A police officer should be allowed to use a firearm only to apprehend a suspect who has committed a violent felony and if the officer believes that death or serious bodily harm will result if the suspect is not apprehended immediately; or an officer may also use a firearm in defense of himself or another against death or serious bodily injury" (ranked first by 42 percent of the officers).

"(2) A police officer should be allowed to use a firearm to apprehend a suspect who has committed a felony, or in defense of himself or another against death or serious bodily harm" (ranked first by 32 percent of the officers).

"(3) A police officer should be allowed to use a firearm only to apprehend a suspect who has committed a specified violent felony (aggravated assault, armed robbery, rape, murder) or in defense of himself or another against death or serious bodily harm" (ranked first by 20 percent of the officers).

"(4) A police officer should be allowed to use a firearm only to defend himself or another against death or serious bodily harm" (ranked first by 5 percent of the officers).

Thus, the officers did not support the most restrictive policy (#4). However, Brown noted that, although both departments permitted the use of deadly force to apprehend a fleeing felony suspect, many officers declared that they would not use deadly force in that situation. Thus, it may be that police officers use more restraint than they are given credit for (or than their agencies require).[6] Brown noted that the legal repercussions, possible civil suits, and departmental punishments may all deter officers from using deadly force even when they may legitimately do so (see also Cheh, this volume; Perez and Muir, this volume).

Brown (1984) presented patrol officers with hypothetical situations and asked them to rate the appropriateness of shooting in each. There were great differences in the ratings depending on the situation, but the officers' responses were also affected by their level of education, length of experience on patrol, percentage of time working alone, experience of assault by civilians/suspects, race, age and sex.

Dwyer, et al. (1990) presented sheriff's deputies with 60 scenarios and asked them whether they would draw their weapon, aim, or shoot. They found that the deputies were more likely to shoot if the suspect had a weapon, if the suspect had an intent to harm, if the suspect was committing a felony, and if the suspect was leaving a building. The setting of the incident (such as daylight, rain or public location) and characteristics of the suspect (such as race, age, or sex) did not predict a shooting decision. Dwyer, et al. concluded that these results supported the notion of the police officer as a professional, making the decision to shoot based on the suspect's actions and intentions. However, as with other studies of attitudes and hypothetical responses, it would be interesting to explore the extent to which these responses parallel actual behavior.

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[6] It is worth noting that the highest ranked deadly force policy in Brown's 1983 study was probably the prevailing policy—written or unwritten—in most police agencies at the time; and it was a policy bolstered in 1985 by the Supreme Court in *Tennessee v. Garner* (see Geller and Scott 1992; Walker and Fridell 1992).

III. WHAT DETERMINES POLICE ATTI-
TUDES TOWARD EXCESSIVE FORCE?

There are several possible theories of what might shape a police officer's attitudes toward the definition and use of excessive force.

A. The Occupational Environment

The work of being a police officer may in itself change and shape the attitudes of officers toward the use of excessive force (Toch, this volume; Grant and Grant, this volume).

For example, police officers, by some yardsticks (see Geller and Scott 1992) run a high risk of being injured or murdered on the job. The risk of being murdered for an American police officer in the 1970s was about 22 per 100,000 annually as compared to only 1.4 for police in England and Wales (Zunno and Lester 1982). Lester (1982) found that the states in which police officers were murdered at a higher rate were also those states where civilians murdered one another at a higher rate and where police officers killed civilians at a higher rate. In other words, police officers in violent areas tend to behave more violently. Lester (1984) suggested that the police may reflect the values of the communities from which they come or that working in a violent community may increase the likelihood that a police officer will use deadly force (see Friedrich 1980 for a rigorous appraisal of the geographic and other correlates of police use of deadly force). Working in a community where murder is common would probably also affect police attitudes toward the use of deadly force.

The expectation of danger on the job can have an impact on police officers. Lester, et al. (1980) found that state police recruits who had a greater expectation of facing danger were less inclined to see their job as primarily helping citizens in the community. Corrigan, et al. (1980) found that municipal police officers who had a greater fear of injury on the job were more willing to use their authority to control the behavior of citizens and felt more socially isolated from the non-police community. Thus, the expectation by police officers of harm may lie behind their use of excessive force (see Toch, in this volume, exploring the intersection of officer fear and suspect behavior).

Teahan (1975) has provided some data on this. He tested police officers on entrance into the police academy, on graduation, and 18 months later. Some of the questions he asked were on officers' attitudes toward complaints about police brutality.[7] White police officers became less willing over time to admit that police officers are guilty of abusing citizens, while black officers agreed more with the proposition over time. In general, Teahan found shifts in various attitudes during both academy training and the period of working, but he does not document well the responses to the questions on police brutality.

Crawford (1973) found evidence that police officers may feel that the community is more hostile to them than is the case. For example, he found that, while 32 percent of the residents of one town felt that there was police brutality in their city, the officers on average expected that 49 percent of the residents would say so. The more prejudiced and less educated officers were especially prone to overestimate the hostility toward police in the city (see also Locke, this volume).

B. Peer Group Socialization

Attitudes toward the use of force by one's fellow officers may also shape an officer's attitude toward the use of excessive force. In line with this hypothesis, Hunt (1985) noted that rookies soon learn that what is taught in the police academy is somewhat irrelevant to their work on the street. Department-issued equipment marks them as new recruits, and they quickly upgrade to the plastic nightsticks and flat-headed slapjacks that experienced officers carry ("slappers" are prohibited weapons in many police departments today—Geller and Scott 1992). They learn to hit suspects in order to incapacitate them quickly, rather than to hit them on the "safer" areas of the body taught at the academy. They also learn that their colleagues reward them for aggressive and forceful action and punish them for caution. Cautious police officers are seen as unreliable and as risky partners. Hunt noted that

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[7] Perez and Muir (this volume) discuss the results of officer surveys concerning complaints and complaint review systems in Berkeley and Oakland, California. Note especially their finding that officers tend to prefer a complaint review system which has citizens playing at least some role.

the acceptance of female police officers in the department she studied was facilitated when the women, too, were accused of brutality. Thus, the rookie revised his or her definition of normal and excessive force and behaved more aggressively than taught (see also Toch, this volume; Grant and Grant, this volume).

However, Hunt noted that there are limits to the use of force and violence, and these limits, too, are taught. Excessively brutal police officers are chastised by partners; assigned to more mature officers who, it is hoped, will calm them down; and eventually transferred to duties without public contact.

Hunt noted that officers also developed ways of accounting for the use of excessive force, even by their standards. Excuses deny full responsibility for the act but acknowledge its inappropriateness. For example, physiological or emotional stress often triggers excessive force in police officers, and they acknowledge this. Thus, suspects are often abused after high-speed car chases or when an officer comes close to killing an unarmed person.

Justifications for the use of excessive force accept responsibility for the behavior but deny that it was blameworthy. Justifications usually refer to the situation that was thought to require force or to the fact that police authority was threatened. Thus, a suspect who physically threatens or attacks an officer or who symbolically assaults an officer (such as violating the officer's car) is more likely to be the victim of excessive force (the officer's contribution to an escalating violent interaction is explored in Toch's and Fyfe's essays, in this volume; see also Klockars, this volume). Excessive force is also felt to be justified against morally reprehensible persons, such as child molesters.

Hunt's descriptions of situations involving excessive force mix both behaviors and attitudes, and it is difficult to disentangle the two.

C. Police Officer Predispositions

There may be police officers whose attitudes and actual behaviors make them violent individuals. They are violent on the job because it is their preemployment style (Toch, this volume; Grant and Grant, this volume).

Walker (1982) found that police officers who were more approving of violence in general were more likely to have been physically punished as children and to have participated in contact sports. Younger officers were also more accepting of violence. Walker noted two possibilities: people who are more accepting of violence may be attracted to police work or a career in policing may result in a greater tolerance of violence (see also Grant and Grant, this volume).

Carter (1976), whose research was discussed above, found that police officers who were less satisfied with their job showed a greater acceptance of physical and verbal abuse of suspects.

D. Opportunity

In studies of criminal behavior, opportunity theory focuses on the possibility that behaviors may occur when there are opportunities for them. Decreasing opportunities sometimes decreases the occurrence of the behavior. Open casinos, and there is an increase in the incidence of compulsive gamblers. Establish money vending machines, and there is an increase in robberies at such venues. Conversely, reducing the opportunities for criminal acts frequently decreases their frequency without displacement to other criminal acts (Cornish and Clarke 1987). An opportunity theory of excessive force by police focuses on their opportunities to engage in such force (especially since supervision is typically absent).

For example, officers now occasionally videotape encounters with suspects for use in court (typically from cameras mounted in their cars and with wireless body microphones). Such videotaping would be expected to decrease the use of excessive force on suspects since the officers would know that the tapes would be reviewed later—that is, the officers' opportunity to interact with a suspect *unwitnessed* has been reduced.

IV. A RESEARCH PROGRAM

Since there has been so little research on this issue, this section will suggest avenues for future research into police attitudes toward excessive force.

A. Measuring Police Attitudes

A research program first requires one or more satisfactory scales to measure the attitudes

of police officers toward excessive force. For example, research into police attitudes in general was greatly stimulated by the development of a cynicism scale by Niederhoffer (1967). Publication of the scale stimulated a great deal of research using it, as well as critiques of the scale itself which led to alternative scales. A central part of developing useful scales will be developing broadly acceptable definitions of excessive force (see Worden's, Adams', Fyfe's, and Klockars' essays in this volume).

B. Correlates of Attitudes

Once a scale has been developed, research into police attitudes toward the use of excessive force would benefit from an exploration of the simple correlates of such attitudes. What other attitudes are associated with officers' attitudes toward the use of force, which personality traits, and which antecedent experiences (which might suggest hypotheses for the factors affecting the development of the attitudes)? What serendipitous experiences and typical occupational hazards change an officer's attitudes toward the use of force? What kinds of training programs and techniques best change officer attitudes?

C. Types of Deviance

There have been many listings and classifications of police deviance. A common typology is corruption, misconduct, and malpractice, but Hale (1989) found that different scholars include different behaviors in each category. She suggested this breakdown: malfeasance (misconduct—acts which are forbidden by the moral code or by contract), misfeasance (the performance of a lawful act in an improper or illegal manner), and nonfeasance (the omission or neglect of duty). Using excessive force is a form of misfeasance.

It would be worthwhile to examine the attitudes of police officers toward the different forms of police deviance (malfeasance, misfeasance and nonfeasance) and toward the different behaviors included in each of the categories. Are all the behaviors viewed similarly?

D. Attitudes Versus Behavior

It has long been recognized in social psychol-

ogy that attitudes are often not strongly related to behavior. Indeed, changing attitudes by forcing people to change their behaviors is more effective than vice versa. Worden (1987) found that the attitudes of police officers accounted for very little of the variation in their actual behavior in traffic enforcement, preventive patrol or dispute resolution.

An important question is whether the attitudes of police officers toward the use of excessive force bear any relationship to their actual behavior in this area. A working hypothesis, that would support methodological work on estimating the prevalence of abuse of force, would be that officers who abuse force more often than their colleagues would express the opinion that officers frequently have no choice but to use rough tactics to satisfy the pressures on them to fight crime and disorder (see Adams, this volume).

E. Typologies

Scharf and Binder (1983) proposed that research be conducted on a typology of officers involved in high-risk encounters. Geller (1985a) suggested classifying such situations into those in which the officer fired or did not fire and into those in which the decision was reasonable or was not reasonable, giving a two-by-two matrix of situations with four cells. A reasonable decision to shoot would constitute a justifiable shooting; an unreasonable one would constitute a wrongful shooting. A reasonable decision to refrain from shooting would constitute reasonable restraint; an unreasonable decision would be unreasonable restraint (Geller and Scott 1992). The last problem—unreasonable restraint—is rarely identified by police managers but is indicated by fellow officers in the form of ostracizing a colleague who is "afraid to use force."

Geller (1985a) suggested surveying officers about such issues as: (1) the types of incidents in which they consider shooting; (2) the situations in which they feel that they could lawfully shoot but do not; (3) the situations in which they could lawfully shoot and probably would; and (4) the closeness of their individual and personal values on these matters to the informal organizational norms expressed through supervisory statements and actions and peer pressure. These suggestions are relevant to the concerns of the present chapter, and the research design could easily be

extended to the study of excessive force.

F. An Example

Lester and Arcuri (forthcoming) studied the attitudes of a group of municipal and state police officers toward the Rodney King beating in Los Angeles, which came to the first (state) trial in 1992. The questionnaire was administered before the not-guilty verdicts which led to riots in Los Angeles. The percentage of officers agreeing with the 10 items are as follows:

1. The Rodney King incident has given police a bad name 97%
2. When police hit a suspect, it's national news; when a suspect hits a police officer, no one cares 95%
3. For every alleged Rodney King incident there are dozens and dozens of incidents where police are assaulted 92%
4. The police officers who beat King were actually threatened before the video recorder began filming 79%
5. The Rodney King incident represents a few bad cops 77%
6. If the LA police officers who beat King are found guilty, they should go to prison 59%
7. I have never witnessed any beating of a suspect 37%
8. If I witnessed police beating a suspect, I would report him/her 33%
9. The Rodney King incident happens only once in a lifetime 27%
10. Rodney King got what he deserved 21%

It can be seen that only 21 percent of police officers thought that Rodney King got what he deserved. Thirty-seven percent of the respondents had never seen a suspect beaten, and 33 percent would have reported fellow officers for beating a suspect. Although almost all of the police thought that police officers are more often abused by suspects than vice versa, they realized that the Rodney King incident had tarnished the image of police officers.

A factor-analysis identified one major cluster of items in which the responses to the items were associated (items 3, 4 and 7 positively and 5 and 8 negatively). The scores on these items were

totaled. The total score was not related to the age or years of experience of the officers, their level of education, or whether they were state or municipal police officers

Those officers expressing more approval of the police behavior in the Rodney King incident were more in favor of the death penalty for murder, more likely to agree that they would hit a suspect who resisted arrest or verbally abused them, more often felt in danger on the job, more often admitted that they had hit suspects to subdue them, and said that they had more often been assaulted on the job. With respect to their reasons for becoming police officers (using a questionnaire developed by Lester [1983]), these officers were less likely to give "helping people in the community" as a reason for becoming police officers and more likely to give "early retirement with good pay", "the excitement of the work" and "the job has power and authority".

Thus, it was possible to identify a cluster of items that assessed attitudes toward the Rodney King beating and to find meaningful correlates. Those supporting the police in the incident felt more in danger at work, liked the power and excitement of police work, felt that they had been assaulted more often, and would use physical force on suspects more often than would officers supporting King in the incident.

V. CONCLUSIONS

An attempt has been made to show that the study of attitudes in general and police officer attitudes in particular is important for advancing understanding of police behavior. At present, the study of police attitudes toward the use of excessive force is in only an embryonic stage. There is a need for rival investigators to devise alternative scales to measure police attitudes toward force, so that the better ones can be identified. Correlates and antecedents of these attitudes must be sought, and research conducted to explore the relationship between attitudes and the actual use of force. This area is an exciting one and, it is to be hoped, one which will attract researchers in the 1990s.

10

Police Unions, Police Culture, the Friday Crab Club, and Police Abuse of Force

George L. Kelling
Robert B. Kliesmet

This essay attempts to examine police unions and their impact on police use of force. In respects its outcome is disappointing. Aside from inferences based on the impressions of the authors and the literature on police culture, it is impossible to draw strong conclusions from the extant literature. This is because research and serious accounts about police unions are virtually nonexistent. We conclude that although police unions have a strong informal impact on police use of force, formally, they maintain a narrow interest in use of force: defending officers who are accused of abuse and avoiding officer liability. We have no quarrel with these interests—they reflect appropriate and traditional union concerns. Nonetheless, we believe that unions and the officers they represent have additional long-term interests that can only be served if unions take an active interest in *substantive* issues of policing rather than narrow, traditional issues of rules, working conditions, and wages and benefits. The

body of this paper, therefore, attempts to understand why police unions have maintained such narrow interests and what options exist, if any, to facilitate police unions developing long-term interests in the *quality* of American policing.

A final introductory note. The authors rely heavily on their personal experiences in policing to develop insights, infer conclusions, and offer policy recommendations. One of the authors, Kliesmet, has been an active police unionist since the 1960s, when he developed one of the first police unions to be formally recognized in the United States: the Milwaukee Police Protective Association. The other author, Kelling, primarily known as an academic who has studied police, has had extensive contacts with police unions since the 1960s, although he has published relatively little about the subject. These backgrounds give the paper the strength of the authors' intimate familiarity with police unions and police departments; the weaknesses are, of course, that

neither author has systematically collected data on police unionism.

Although serious police research is now in its fifth decade in the United States (if one starts with the American Bar Foundation's *Survey of Criminal Justice*), and experimentation in its third decade (if one starts with the *Kansas City Preventive Patrol Experiment*), research about the structure, function, and role of police unions has been at a practical standstill since the work of Juris and Feuille during the early 1970s (Juris and Feuille 1973). Moreover, major scholarly books about policing largely ignore police unions or, if they do discuss them, do so only in a cursory descriptive fashion—often presenting generic union issues such as collective bargaining and defining such terms as mediation and arbitration, adding a few comments about the lessons learned from the Boston strike in 1919.[1] Scholarly work about police unionism has yet to begin.

The reasons for this ignorance about unionism are not immediately apparent. The argument that police unions are uncooperative with researchers is hard to take seriously; during the 1960s and 1970s, police departments were hardly enthusiastic about opening themselves for research, but their sheer number and fragmentation gave early researchers opportunities to penetrate at least a few departments and, once these were opened and the professional value of research was understood, police barriers to research collapsed across the country. We have no reason to doubt that the same situation holds in police unions: Right now we could name a dozen unions that would gladly participate in meaningful research, about their most basic functioning in some cases. Certainly, lack of funds has been a problem for those who might want to become involved in research about unions; such research has not been on the agendas of foundations or national funding agencies, although the authors know of one research project on unions funded by the National Institute of Justice (NIJ) during the early 1980s. Still, "lone wolf" researchers have studied many issues in policing with little, if any, funding, and nothing keeps them from studying police unions

as well.

Probably as much as anything, most academics share a general unease about the legitimacy of police unions.[2] Everyone understands their importance, but it is not clear what role they should play in policing. Most researchers enter police departments through management, collaborate with management in some research or evaluation project, and develop an ongoing relationship with chiefs. Rarely are unions involved in such research. Occasionally, local unions may oppose some innovations that they believe are threatening to their interests or grumpily raise questions about use of some research methodology, but serious opposition to research in police departments has been exceedingly rare.[3] On a national level, the International Union of Police Associations, AFL-CIO, has applied for research funds from several sources, with no success, and Kliesmet has sat on review panels for the National Institute of Justice. For the most part, therefore, a research agenda has developed in policing independently of unions, with little union opposition, and with some token participation on panels reviewing proposals for research grants.

I. THE DOMINANT VIEW OF POLICE UNIONS

A fairly predictable point of view is put forward when scholars give attention to unions. Walker's *The Police In America: An Introduction* (1992), is a good example.[4] Walker concludes a

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[1] Two contemporary examples of important works that completely ignore police unions are Geller (1991) and Sparrow, et al. (1990). By contrast, see Geller (1985b).

[2] Compare Locke's comments, in this volume, about the reasons why researchers tend to eschew studying topics of high interest to poor, minority-race communities.

[3] At times, unions are wary of surveys of their members, fearing that the normal diversity that opinion surveys inevitably demonstrate will be used to undermine union solidarity in collective bargaining. A planned multi-state survey of rank-and-file officers concerning, among other things, their use and abuse of force, was narrowed in 1993 to two states—Ohio and Illinois—when some police in Pennsylvania refused to participate. The funding agency is the Justice Department's Bureau of Justice Statistics.

[4] Walker's book is selected because it is convenient. Kelling uses it as a text in one of his undergraduate

brief and relatively balanced section on police unions (the last section of the final chapter), with a discussion of the so-called police "professionalization" movement and unions—an issue at the core of this paper.

"There is much controversy over the impact of unions on police professionalization. When unions first appeared, many reformers were alarmed that they would destroy the professionalization movement.

First, unions reduced the power of police chiefs. Historically, powerful reform-minded chiefs have been the major force for professionalization. Second, unions frequently opposed many specific reforms associated with professionalism. Some unions, for example, opposed incentive pay for officers with college educations. Unions in several cities opposed the creation of a fourth patrol shift. And many unions fought programs designed to improve police-community relations" (Walker 1992: 379).[5]

The book ends on a discouraging note: "[T]he possibilities for changing police organizations are limited by structural features such as civil service and police unions" (*ibid.*: 380).

The view that unions retard professionalization of police is widely shared by police executives. Tony Bouza is perhaps one of the most outspoken chiefs (now retired) on the issue:

"The movement to unionize in the 1960s had to buck the by then commonly accepted objective of gaining the status of a profession—a dream that would

never come close to being realized but that captured the police imagination for two-thirds of a century. The absence of altruism in union goals also ran counter to the concept of selfless service that at least theoretically guided soldiers, doctors, priests, lawyers, nurses, and cops" (Bouza 1985: 253).

This point of view—unions oppose the professionalization of police (not to mention their "absence of altruism")—is troublesome. Both Walker and Bouza claim that chiefs historically have supported police—in Bouza's word's— "gaining the status of a profession." *This is not true.* Historically, chiefs have supported moves that *they* have christened as professional; however, some of these moves have been antithetical to the basic concepts of professionalization, as those concepts are commonly understood both popularly and in the literature on occupations. These moves, described below, are not only antithetical to the professionalization of line police officers but even incompatible with the recognition of line police as *craftspersons.* It is hard to exaggerate the extent to which labeling the reform agenda of early and mid-twentieth century police leaders as "professional" was a misnomer—indeed it was an oxymoron (see Walker 1992: 13; see also Kelling and Moore 1987).

The moves that police reformers dubbed professional were, instead, *bureaucratic*—strong lines of administrative control and oversight, extensive rules and regulations, pre- and in-service training provided by police departments,[6] elimination of discretion, and simplification of work tasks—all moves that are antithetical to any conventional definition of professional status. For good or ill, these moves not only shaped police departments, they were directly responsible for the shape and functions of police unions as well. To understand the values such reform efforts served and their impact on line police officers, further background is required.

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police courses at Northeastern University. Other texts could be cited to illustrate our point.

[5] It is hard to take opposition to a fourth platoon, which Walker uses as an example, as resistance to professionalization. It is an administrative means to allocate police over time—a scheduling issue in which line personnel and unions have considerable vested interest. But identifying it as a *professional* matter is typical of the confusion that results when the word "professional" gets bandied about as it does.

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[6] Professions rely on graduate schools for pre- and much in-service training, not on employing organizations. For instance, lawyers receive their basic legal training in law schools, not in law firms, prosecutors' offices, or other organizations for which they work.

II. THE REFORM STRATEGY OF POLICING

As Bittner (1990: 9) has put it, reformers "reinvented" policing during the early twentieth century. Their primary goals were to free policing from the excesses of political influence, end police corruption, and improve the efficiency of police. To achieve these ends, reformers had to resolve three basic issues:

1. defining the function of police;
2. developing the tactics or technologies that police would use to achieve their goals; and,
3. instituting the organizational structure and the managerial and administrative systems required to carry out the police mission.

The first two, function and tactics, are not central to this paper, and we will only briefly note reformers' answers to these issues. The official definition of the police function in the reform model was law enforcement. That is, police would be focused on reacting to serious crime and would move away from crime prevention (except as an outcome of arrest), peacekeeping, order maintenance, and the provision of social and emergency services. Those functions would be given to other agencies; police would be "crime fighters," the front end of a criminal justice "system." Second, the tactics police developed would concentrate on serious "crimes in progress," with police patrolling in cars, intercepting crimes in progress, responding rapidly to calls for service, or investigating criminal events on a *post hoc* basis. The managerial and administrative systems police reformers would put into place are central to this paper, however.

III. POLICE ORGANIZATION AND MANAGEMENT: RANK-AND-FILE RESPONSE

While the managerial and administrative systems police reformers put in place were ostensibly military or quasi-military in form, they were primarily influenced by and patterned after the "scientific" management theories of Frederick Taylor. Without going into detail, Taylor's factory model urged centralization of authority, use of middle management to rationalize work, standardization and routinization of tasks, layers

of control, span of control, and unity of command.

In this view, labor was a commodity. Because work was standardized and routinized, labor was easily replaced. Taylorism assumed little commonality between management and labor. Workers were motivated solely by their vested interests—money and working conditions—and had little or no interest in the substance of their work. Left to their own devices, workers would avoid work and screw up. Managers would think, structure work, and command; workers would do.

These views were directly reflected in American policing. August Vollmer, the father of American police reform and the mentor of O. W. Wilson, advocated the view during his early efforts at reform while still chief in Berkeley, California that the police officer should be a college-trained professional providing a broad array of police services. This view was later abandoned by reformers in favor of a view of the police officer as a tightly controlled and inherently limited functionary whose primary, if not sole, role was nondiscretionary law enforcement (see Kelling and Stewart 1991). As Walker put it, "The rank-and-file police officer was the 'forgotten person' of reform. Most reformers had *contempt* for ordinary officers...." (Walker 1992: 14; emphasis added). Bittner, by no means sharing reformers' contempt for line police officers, notes reformers' views of both the capacity of urban police departments and the kind of persons needed to staff them (on officer selection criteria, see also Grant and Grant, this volume).

"Though not made explicit, it was quite well understood that the crime control activities assigned to the police were directed to what might be called residual crime.... [O]ther law enforcement agencies divided the tasks of dealing with crime taking place in banks, offices, boardrooms, government agencies, and so forth, which is almost entirely nonviolent and demands sophistication on the part of both the perpetrator and law enforcement. The preponderant majority of what is left for the police is what is sometimes referred to as 'street crime.' The salience of so-called street crime, which frequently involves acts of violence, in the perceived police mandate

dictated the definition of the person suitable to wage the struggle against it. The strengths sought in recruits were the 'manly virtues' of honesty, loyalty, aggressiveness, and visceral courage. It was also understood that police recruits should be able and willing to follow uncritically all received commands and regulations. Of course, they had to be literate enough to read instructions and to write short reports. But it was taken for granted that police work was not for people whose intellectual aspirations reached far beyond this level" (Bittner 1990: 6-7).

And Bouza gives us a modern rendition of the reformers' theme of how to control such persons. "Police agencies are *mainly controlled through terror*, and this terror is most aimed at the one or two percent who, if left to their own devices, would set a negative tone" (Bouza 1990: 133; emphasis added).

And so, all of policing's control mechanisms were put into place: extensive rules and regulations, span of control, unity of command, specialization of work, overseers (sergeants), maintaining police in cars, reduction—or denial—of discretion, and others.

This preoccupation with control of officers pervaded all police reforms (see Kelling and Stewart 1991). Bruce Smith made this clear in 1929: "Without exceptions, all proposals for improvement of organization and control have necessarily been aimed at the weakening or the elimination of political influences" (Smith 1929: 27). Thus, regardless of other values reform innovations in policing may have had,

"[t]he UCR [Uniform Crime Reports] enabled police departments to be evaluated independently of political judgments.... Use of automobiles for patrol not only increased the range of patrol officers but also improved the ability of police executives to monitor and control them.... [C]ommunications systems further augmented administrative surveillance and control of officers. Database based beat allocation systems, by facilitating equitable distribution of police services, gave police the high moral

ground in the public mind if anyone, particularly politicians, attempted to force the police to allocate services on the basis of favoritism.... [C]ivil service and the use of objective examinations to select and promote personnel limited the influence of politicians over personnel matters. Centralization of command and the replacement of geographical by functional organization...lessened significantly the influence of ward politicians.... [C]reation of centralized special units reduced the power of precinct commanders relative to the central command staff" (Kelling and Stewart 1991: 6-7).

Reformers' emphasis on control of line personnel extended to the private lives of officers as well.

"They [police authorities] also imposed all kinds of conditions on officers' private lives, conditions designed to minimize exposure to temptation and corrupt influence. These included restricting officers from living in the areas they policed, from incurring debts, or from being involved in businesses in their areas, as well as requiring them to declare the business interests of their families" (Sparrow, et al. 1990: 36-37).

Moreover, officers had to live within a certain distance of police stations, had to carry weapons while off-duty, had their financial and sexual lives monitored and regulated, and, in some cities, had to take their police cars home with them.

Arguably, the reformers' strategies paid off. Political influences, especially corrupt political influences, over police were reduced; police financial and political corruption was also reduced, as was inequitable and unjust policing; and, police organizations were modernized. Other, perhaps less beneficial, outcomes will be discussed later. Simultaneously, and not surprisingly, the police union movement developed.

IV. SCIENTIFIC POLICE MANAGEMENT AND POLICE UNIONISM

While the history of police unionism in the

United States cannot be detailed in a paper of this length, it should be noted that the move to unionize police was characterized by unusual virulence, even in a field well-known for its bitterness. Opponents of police unionism were so successful in forestalling it, primarily by firing anyone who attempted to organize until well into the 1950s and early 1960s, that police unionism, in contrast to other public sector unionism, still remains in inchoate stages: fragmented and immature. For many of today's union leaders, this virulence is a matter of personal experience. Kliesmet, one of the authors of this paper, for example, was harassed, arrested, and fired for his union activities while a member of the Milwaukee Police Department. (Both the arrest and firing were later overturned.) Parallels between private sector unions and public sector unions, especially police, are important, however, and must be understood in some detail.

Late nineteenth and early twentieth century industry moved from production systems that relied on artisans and craftspersons who were organized into craft unions to alternate systems that relied on unskilled workers and scientific management. The need for skill, for craftspersonship, was eliminated by standardized and routinized production processes.

As craftspersons were eliminated from industry, their unions were largely eliminated as well. (Trade unions still exist in some occupational areas, however, such as carpentry and plumbing.) Industrial workers eventually adopted industrial unions—the United Auto Workers, for example, represent a wide variety of job categories, from maintenance personnel to assembly line workers. In this model, workers, stripped of skills as the basis of their value, moved to define their value in other terms. John Hoerr describes this process.

"In order to defend workers against the abuses of scientific management, the new industrial unions accepted, even embraced, all that went with it—in particular, the rigid separation of thinking from doing, 'managing' from 'working.' Cut off from decision-making responsibilities, unions focused on protecting workers from exploitation by using Taylorism as a base of shopfloor power. They negotiated multiple job classifications, linked wage rates to the job instead of a worker's skills, and established seniority as the basis for promotion. This 'job control unionism' gave unions a negative power to hamstring management but not a positive power to influence operations. Rules bred more rules, eventually straitjacketing the production system and creating unproductive hierarchies in companies and unions" (Hoerr 1991: 36; see also Rankin 1990).

This model of industry unionism, with its emphasis on seniority, rules and regulations, and "jobs" rather than "skills" is, of course, the model of unionism that has been transposed into policing.

Departments developed extensive rules and regulations to control police. Police unions, as they gained hold during the late 1960s and early 1970s, responded by negotiating extensive rules and regulations to protect street officers from excessive arbitrariness by supervisors and managers in applying not only the rules that defined the work of police but also the rules that impinged on their personal lives.

The view of using rules as a means of counter-control in police organizations is not merely theoretical. Leibig (1993: 2), a labor lawyer, is quite explicit about this:

"Police management's fascination with the myth of unilateral 'rights,' the feeling that management should control a police department on an 'ad hoc' (an-order-is-an-order) basis without careful consideration of the rights of the working officer, is the strongest weapon of a labor organization. The management rights myth is a union's strongest weapon because it is a myth—in reality police departments, like all American organizations, are controlled by rules and not by men. The thinking police organization must understand and take advantage of those rules.

Too often management does not know the rules.... Know as much about those rules as you can. It is nearly impossible to have a situation in which a creative police organizer cannot find a rule, regulation, guideline, budget provision,

benefit program rule, or personnel procedure which cannot be exploited to significantly increase the rights and benefits of working officers.... Management is bound by those rules. Read them.... Think of them as helping the working officer and binding management. Make management follow the rules. There may be more than a dozen levels of management controls and restrictions."

Leibig lists at least 10 sources of union counter-control: the Constitution; federal statutes; state statutes and regulations; city ordinances; internal budget and personnel regulations and directives; EEO rules and affirmative action plans and court decrees; public disclosure, privacy, and administrative law rules; general orders; squad or division rules, directives, and guidelines; and personnel records.

Although the following describes the private sector, it reads much like the police world.

"[T]hey [industrial unions] bargained for elaborate seniority procedures to ensure fairness in the distribution of jobs within the system. However, these procedures not only bred an intense loyalty to and a vested interest in scientific management, they also formed the basis for the widespread acceptance of the position that uniformity was a necessary condition for developing worker solidarity. Workers accepted the dull, deadening jobs in their earlier years with the understanding that later on in their work life they would be entitled to the 'good' jobs. 'Good' meant not necessarily more challenge or autonomy, but work usually free of heavy labor, on days, or in a warm, dry setting. As a consequence individual worker interests and the interests of scientific management were merged" (Rankin 1990: 27).

The views of "good" jobs in policing paralleled those in industry. Good police jobs were in quiet neighborhoods during the day with as many weekends off as possible. The "dog watch," 11:00 p.m. to 7:00 a.m., in difficult neighborhoods, was tolerated during the early days of

one's career; as one persisted on the job, seniority ensured "cushier" assignments, not increased challenge, independence, or responsibility. Consequently, the core concerns of police unionism became:

■ wages and benefits;
■ job security;
■ hiring, retention, promotion, and disciplinary processes;
■ access to "good" jobs, shifts, assignments, overtime, etc.; and,
■ regulation of work practices by rules.

And, just as rank-and-file industrial workers developed "an intense loyalty to and a vested interest" in scientific management, so police developed an intense loyalty to the reform strategy. The unions that grew in the context of Taylorism in policing ultimately embraced management beliefs that the issues of definition, tactics, and organization in policing had been solved.

V. THE UNION AGENDA

As did their brethren in factories, police unions once in place focused their attention on rectifying the abuses that often typified reform management: arbitrary dismissals, scheduling, and work assignments; informal discipline (e.g., stand on a corner for three hours); citation and arrest quotas; cronyism in promotions; incursions into officers' personal lives; and others. They did this by getting the rules and regulations into the bargaining arena and then bargaining, politicking, mediating, arbitrating, and pressuring. Once new rules and regulations were in place that were more to their liking—seniority in bidding for shifts and assignments, for example—unionists had a profound commitment to continuation of scientific management.

Thus, by the late 1960s and early 1970s, police management and unions basically agreed on:

■ reform definitions of the police purpose supported by powerful images and metaphors;
■ appropriate police tactics;
■ correct administrative and managerial processes for police departments; and

■ the respective domains of each.

Having conceded these issues to management, police unions have little stake in organizational effectiveness or in the production of quality goods or services. As Weiler points out when discussing industrial unions: "The natural assumption on both sides was that management would continue to run the enterprise and would have the prerogative of initiating changes in the firm's operation and work organization" (Weiler 1990: 197). Thus, if management wants to change its product line, that is its prerogative. Likewise, management is free to change production processes (tactics) as well. However, as Weiler continues: "The role of the union was to react to these decisions, to challenge them in grievance arbitration, and eventually to regulate by contract the exercise of management authority where it significantly affected employees" (Weiler 1990: 197). Thus this model clearly defines roles: unions are interested in members' salaries and working conditions; issues like the quality of goods and services, or their prices, are ceded to management. All of this, of course, is congruent with the basic assumptions of scientific management: workers are concerned about wages and working conditions; management is concerned with product or service line, quality, and profits.

This understanding of the historical concerns of police unions explains their current abrogation of any substantive interest in the quality or substance of policing—including concern for use of force—the primary concern of this paper. "Thinking," management, and quality control are the prerogatives of top and mid-management. The most extreme version of this is seen in Boston, where unions have managed to forestall efforts to develop field training programs. The union position is firm: no officer will evaluate any other officer—that is management's responsibility. Officers do "police work."

VI. A SURVEY OF UNIONS

Testing the idea that unions maintain a narrow range of interests, we informally surveyed 18 police unions—most from southern, midwestern, or western states—about use of force and union policies. The survey was conducted during the spring of 1992, a year after the March 1991 Rodney King beating in Los Angeles. All were

IUPA (International Union of Police Associations) AFL-CIO affiliates. The locals ranged in size from 21 to 2,500 members, with the majority having several hundred members. Twelve were designated bargaining units; six were from states that did not formally recognize unions. The person interviewed most often was the president of the local. All the unions had policies of defending officers against use-of-force complaints, although one, the unit with 21 members, had never been called on to defend any of its members.

We asked six basic questions:

1. Has your union published anything about the Rodney King incident?
2. Have you or anyone else in your union been quoted in the press regarding the Rodney King incident?
3. Has your union advised officers in any way regarding use of force?
4. Do unions have any role in developing use of force policy in police departments?
5. Should unions have any role in developing use of force policy in police departments?
6. Do you have any comments about the impact of the Rodney King incident on police and police unions?

Regarding the first three questions: No unions had published anything about the use of force; representatives from three unions had been quoted in the press regarding the Rodney King incident; and seven unions had advised officers about use of force. None of the three unions whose representatives had been quoted in the press had kept the articles, with one saying to our interviewer: "We don't save that kind of crap."

Of the seven unions that reported advising their members on use of force, the comments of the representative of a large western union were typical:

"Yes, whenever we have delegate meetings we advise them to strictly follow the guidelines set down by the department because we don't want them to get into trouble. We emphasize that nothing is more important than your job and safety.

Also we state that by following the rules they will also help the union save money because the high cost of representation will not be a factor. This may sound self-serving, but it only helps them and helps the union."

A representative from one mid-size southern department who said the union had not offered advice on use of force added ruefully:

"We have gotten together with the department on several deals to come up with seminars to explain abusive behavior, but as of yet, nothing has happened. The department does have a general order about excessive force."

As for whether unions *have* a role in use-of-force policy development and *should have* such a role (questions 4 and 5), 12 of the 18 unions indicated they had no role in determining policy. However, 17 unions indicated they believe they should have some role. Some of their explanations of why they should have a role are of particular interest:

"We have an obligation to the members and department to inform the hierarchy of policy problems and improvements."

"Officers need to receive instruction on use of force, meaning that officers are given weapons to apply force—nightstick, gun, mace—and are told how to use these weapons but are not instructed on *when* to use them."

"Because it [use of force policy] is going to be something that the union will be getting involved in once the complaint comes down. The opinion of law enforcement officers today is to let the suspect go and not to risk being charged. It's not worth it."

"It is our policy. It is our tool. And I think that our input is required."

"Because [sometimes departments have] civilians...manag[ing] law enforcement officers who don't have to deal with the force issue one-on-one and never will."

"There should be an ongoing dialogue between the department and union. The union should have a say, especially regarding use-of-force policy development, because this issue involves equipment and safety."

"People out here working the street know when and how to use force and should be brought into that decision-making process."

"We represent the members, and sometimes the department's policy is questionable and too arbitrary.... A lot of good officers are not sure how much force they can use anymore."

"The powers that be are not always correct. We should have a voice in what it is that we are ordered to do or not to do."

"The union can give a different point of view than the administration. Management looks at the issue of excessive force from a possible risk of law suit point of view. Cops look at the issue from the point of view of a person who must make a split-second decision when confronted."

"If it affects members, then we should be a part of policy setting."

"It would be a better respected policy."

"Police officers are the ones affected by this policy. We are also the ones who use the policy. The managers use pencils; we use force. Since we use the policy, it is only right that we should have a say so in its development, since we are the ones who apply it."

"If everyone knows where the department is coming from, then they will know the rules from the get-go; there will be no surprises."

"Unions should be asking for use-of-force policies. The worst situation is not knowing what to do. At least with a policy you would have guidelines. It used to be that cops who discontinued a car chase were called wimps. But now since there are pursuit policies, a cop's integrity is no longer called into questions if he chooses not to pursue or stops pursuit."

The one representative who opposed involvement in policymaking had an interesting point of view.

"On the whole, as a general rule, unions should stay out of making the policy, because they will be defending officers against a policy they created."

In their final comments about the impact of the Rodney King affair (made after the first trial and subsequent riots), union representatives expressed the belief that the incident had worsened the relationship between police and citizens, especially minorities; that worried them (see also essays in this volume by Locke, Lester, and Flanagan and Vaughn). They believed that the incident represented the actions of only a few in policing but that the consequences would fall on all officers, regardless of their values and performance. The consequences they feared were both lack of community support and lack of departmental backing in use-of-force situations. A response that typified this point of view:

"This incident has made police officers suspect in most cases where force is used. Now, a segment of the public looks at police officers as the enemy, and I don't believe that to be true. The vast majority of officers do their jobs within the guidelines. However, because of the publicity of the King incident, many officers are not sure whether the department would support their actions in use-of-force situations or leave them hanging."

But some respondents were philosophical about the issue:

"Basically, the incident focused a very

bright light on police work. Now, every action we take is scrutinized. My only hope is that this attention brought to police work will benefit it in the long run."

"The Rodney King incident has brought to the surface any and all problems existing in police departments.... Departments have now been placed under a microscope. As such, other problems, above and beyond use-of-force issues, have come to the light. Departments are now being looked at more closely in their handling of sexual harassment, alternative lifestyles (gay/lesbian), asked to be more culturally aware of their area—causing a tremendous amount of change in all departments. Because everyone, no matter your job, anytime an organization is subject to such scrutiny, change is bound to occur and it will affect everyone. Along with this change will come resentment, uncertainty, and fear. If departments and unions take the initiative on this, they could come out better than we were. We have to change. Society, with its changing demographics and cultural makeup, demands these changes. The problem is that some people think the change is too fast and others that the change is too slow."

In general, these findings are consistent with what one would expect in an industry (policing) shaped by the philosophy of scientific management. Basically, although union representatives believe they ought to be involved in use of force policymaking, development of community policing, and other substantive issues, it is not for them a "mat," or negotiating issue. They may fuss because management ignores their capacity for input on these issues, but management's "prerogatives" in such issues are ceded. To the extent that unions do encourage adherence to rules, or the development of policies, regulations, and rules, they do so for protection of workers ("nothing is more important than your [union members'] job and safety") or for the protection of the union ("following the rules they will also help the union save money because of the high

cost of representation"). Virtually no concern whatsoever is voiced for improved police services. It would be easy to be cynical about this and see police representatives as motivated purely by self-service and evidence of Bouza's "absence of altruism in union goals." But, of course, this is a self-fulfilling prophecy: Treat line personnel as only interested in wages, benefits, and salaries; refuse to involve them significantly in substantive issues in policing; and structure union-management relations on the factory model; and it should come as no surprise that unions will reflexively move into their own domain when queried.

VII. THE NEED FOR GREATER ORGANIZATIONAL AND STRATEGIC FLEXIBILITY

In industry, scientific management flourished for management and workers in the pre-international economy. Unskilled workers could find well-paying jobs, especially when financial times were good. The income they received allowed for mass consumption of consumer goods, fueling the economy. Workers withstood boring work and repressive management practices, but as they gained seniority they moved into higher paying and cushier jobs. Quality of products might have suffered, but a broad marketplace existed nonetheless. When corporations were confronted with global competition and new demands for quality in products and service, however, they found their ability to adapt shackled by unwieldy rules and unwieldy processes to modify those rules. Moreover, given the preoccupation with rules and regulations by both management and unions in the past, no mechanisms existed to obtain workers' views—an untapped resource—of how to improve either productivity or quality (contrast Toch's early peer-assistance project in Oakland, focusing on officers' use-of-force skills—Toch and Grant 1991).

Change affected the world of policing as well. The particulars that drove police organizations to develop a new strategy and the shape of this new strategy are beyond the scope of this paper.[7] But just as earlier reformers redefined the

police function, developed tactics to carry out these functions, and developed organizational structures and management practices to support these tactics, so contemporary police leaders have been required to make similar changes. These shifts have been labeled community and/or problem-oriented policing.

In attempting to shift strategy, police leaders, like their corporate colleagues, are confronted both with unwieldy rules and regulations (to which police unions now have a deep commitment) and with few mechanisms for getting line input into methods of improving police services. Police leaders, however, are also confronted with a powerful, pervasive, and entrenched police culture, elements of which over time have gained broad popular and political support. Like all cultures, there is little to suggest that police culture will change quickly.

VIII. POLICE CULTURE

The idea of a corporate, or organizational "culture" gained popularity in organizational and business circles during the 1970s (Morgan 1986: 111). Morgan defines organizational culture as follows:

> "Shared meaning, shared understanding, and shared sense making are all different ways of describing culture. In talking about culture we are really talking about a process of reality construction that allows people to see and understand particular events, actions, objects, utterances, or situations in distinctive ways" (*ibid.*: 128).

The idea of police culture developed early in police research and writing. Authors including Wilson (1968), Skolnick (1966), Manning (1977), and van Maanen (1973) have presented the power of a police culture to shape police behavior.[8] Herman Goldstein has described how police culture overwhelms rules, regulations, guidelines and instructions, as well as the authority of chiefs

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[7] For detailed discussion of these broad issues, see Kelling and Stewart (1991) and Kelling and Moore (1988).

[8] Compare Lester, in this volume, suggesting that the nexus between police attitudes and behavior concerning excessive force has not been demonstrated empirically.

and mayors, in shaping how police officers use their discretion (Goldstein 1977, 1990). Reuss-Ianni (1983) and Reiner (1985), moreover, posit distinct police subcultures, particularly the subculture of "street cops".

Bittner has summarized the schism between street and "management cops":

"1. There is widespread belief among street cops in a past, golden age of policing during which the department was one happy family, united in a common cause, permeated by unquestioned trust and unbreakable loyalty, from top to bottom.

2. As seen by street cops, any indication of outside influence is evidence that management cops have sold out.

3. In the view of street cops, management has not just caved in to pressure; management cops found that in yielding to outside influence they could advance their own careers.

4. [W]hat is cooked up in headquarters is not only a departure from all established principles of policing, it also looks strange and often is incomprehensible" (Bittner 1984).

Other authors see additional ingredients in police culture: police solidarity, the hostile world in which police operate, officers' focus on "getting the job done," civilians never commanding police, and policing as a craft—learned from other officers on the job, not from education or training (see, for example, Goldsmith 1990).

That unions often embody such belief systems will come as no surprise to most chiefs or unionists: in many cities such ideologies were the platforms on which police unions first developed and on which candidates still run. It must be recalled, however, that many, if not most, of the elements of police culture have their origins in management practices. Isolating officers from citizens and equating citizen involvement with corruption contributed to officer alienation from the citizens they serve and to the "blue curtain." Creating military metaphors to describe policing—police as crime fighters and the "thin blue line"—led to narrow definitions of the police function and a warrior mentality.

This warrior mentality has had a powerful impact on police unionism. It affects collective bargaining, the political stance of many unions, and even the process of union formation. For example, Kelling has often testified on behalf of line personnel in wage disputes. A pattern develops. Generally recruited by the president or secretary of a union, Kelling usually meets with the union board the evening prior to his testimony. Almost inevitably, a conflict ensues. Board members urge Kelling to argue for higher salaries on the basis of their "manly virtues": their role as crime fighters, the danger of their work, their heroics, and the costs of their work to their family lives. Many become incensed that Kelling intends to emphasize not those issues but the complexity (see Goldstein 1993) and nuances of their work: their discretion; their autonomy, given the inability of overseers to be present when officers make their most important decisions; the infinite variety of their work—including services police officers have learned to despise as social work—and the lack of formal recognition for their work. Many board members leave the meeting dubious and skeptical, some deeply offended that their leaders have brought in one more *civilian*—read in here all the pejorative connotations that police can attribute to that status—moreover, a civilian who cooked up some harebrained social work notion of policing.

During testimony, however, when a complete line of thought about the substance of police work is soberly and uninterruptedly developed, one can see unionists become more and more attentive—nodding and shushing others so they could hear more clearly. Afterwards, even many doubters and skeptics come forward to say that they had never thought about such things before. "Why wasn't all this better known?" They come to understand that complexity and discretion were as important, or more important, than heroics when it really mattered—recognition of their skills and status. To be understood as skilled analysts confronted with complex problems is far better than being perceived as dumb, but maybe heroic, cops fighting "scum bags." Still, getting this to "stick" in the minds of unionists is extraordinarily difficult.

Commitment to the crime-fighting ideology reached such levels during the 1960s that many

police, including unionists, began to flirt with the political imagery of the far right's law-and-order rhetoric, especially that of the John Birch Society. While most police unions have now moved into the middle of the political spectrum—having learned since the 1960s how to play political games with considerable skill—their early flirtation with far right politics is another example of the extent to which unions became the ideological and organizational mirror images of police reformers.[9]

Commitment to ideology has not only affected collective bargaining, it has affected the pace at which police unions have developed. In Milwaukee, for example, Chief Harold Brier (1961-1984) was deeply admired and respected by line police officers. Tenured for life, outspoken against lawbreakers, intolerant of outsider or civilian influence in policing, opposed to community relations programs, rejecting any suggestion that any of his officers were disrespectful or abusive towards minorities ("Law-abiding citizens have nothing to fear from police, only trouble-makers need worry."), and with a reputation as a "tough cop," Brier was so admired by his officers that they would have charged city hall had he given the orders.

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[9] This does not imply that police reformers were necessarily ultra rightwing. Police rhetoric developed, however, from police leaders like Los Angles Chief William Parker and FBI Director J. Edgar Hoover, who linked lawlessness, communism, and anti-Americanism in strident terms that demonized criminals and communists (see Kelling and Stewart 1985). This rhetoric was picked up by the far right during the 1950s and 1960s in law-and-order campaigns; the John Birch Society's "Support Your Local Police" campaign was the best known. Feeling isolated for a variety of reasons, not the least being the successful resistance to their unionization, line personnel found this rhetoric attractive. Later, police unions found more natural political alliances, but the strident law-and-order rhetoric continues to have powerful appeal among line personnel. Also, although space does not permit discussing the argument here, unionists discovered that collective bargaining in the public sector was considerably different than in the private. In the private arena, bargaining is primarily a market process, partially shaped by laws and regulations. In the public domain, it is primarily a political process, again shaped by laws and regulations. We make this argument in some detail in Kelling and Kliesmet (1991).

Attempts to organize Milwaukee police into a union continually foundered on officers' unwillingness to appear to oppose Chief Brier's ideology or to appear disloyal to his "vision." It was only his opposition to establishing a grievance procedure to protect officers from his tyrannical disciplinary system that finally resulted in line support for a union. But so loyal were the officers and so fragile were the attempts to unionize the Milwaukee Police Department that had Brier wanted he could have aborted the union movement simply by reaching out to officers in any meaningful way. Brier so clearly articulated basic cultural beliefs of police that organization of the Milwaukee Police Association around "bread and butter" issues—wages and benefits—could easily have been forestalled with a modicum of administrative restraint around discipline.

All of this, of course, testifies to the power and efficacy of the reform model of policing. It was a coherent, consistent, and emotionally powerful vision of policing. Arguably, it may not have served communities very well, but that is another matter. It shaped the occupation and unions for generations of police officers.

IX. ANOTHER VIEW OF PROFESSIONAL POLICING: THE FRIDAY CRAB CLUB

August Vollmer is generally acknowledged to be the "parent" of the professional (or reform) police model. This is not surprising. Two of his patrol officers became prolific police writers and major architects of the model: V.A. Leonard and O.W. Wilson. Viewing Vollmer as the parent of this model is, on the one hand, seemly. His protégés, through writing, consultations, and practice shaped police practice through most of the 20th century.

On the other hand, to be seen as the initiator of the professional model, as it has been practiced in American policing, obscures his own police practice and innovations in Berkeley, California. For example, Leonard and Wilson were two of Vollmer's "college cops": two of a dozen of so college students or graduates in a department of 28-30 officers (Carte and Carte 1975: 43). This was a far cry from the reform model's "dumb cops"—and the year was 1921! Gene and Elaine Carte wrote in 1975, while reform policing dominated and before community or problem-oriented policing began to take shape, of Vollmer's philos-

ophy of policing.   His officers were problem solvers.

> "He expected each man to be the 'chief' of his beat, to bear responsibility for dealing with problems of any nature that came up within the area he patrolled.... He was to work closely with merchants to establish preventive measures and to know the families on his beat well enough to detect delinquency problems or unusual needs" (*ibid.*: 45).

Officers were generalists. Specialists might have a function, but they were not imposed on patrol.

> "It was the philosophy of the generalist in policing, as opposed to the specialized operative who was assigned to a single category of work.... Although Berkeley had specialists in criminal investigations, they were not brought into a case unless the patrolman requested their assistance or unless they were led there as a consequence of other investigations in progress" (*ibid.*).

Officers shared points of view with each other and Vollmer. Collegial control was one means of guiding police methods. Outsiders were brought in to share their knowledge.

> "Every Friday, all officers not on duty attended a group meeting to discuss department matters.... The Friday meetings, informally called the Crab Club, were a combination of gripe and learning session. 'For instance, if you had anything against any man in the department, you said it right there in front of him, and after it was over it was forgotten,' remembered one officer. During the summer, guest lecturers were brought in, primarily psychiatrists and articulate criminals who shared their expertise with the group" (*ibid.*: 47).

On the agenda of the Friday Crab Club were such matters as controlling the use of deadly force.

> "One officer recalled: 'If you fired your gun, you would have to get up before the whole group on the Friday Crab Club hour and give the factors on what happened, and there was a decision made by the men from the standpoint of this way or this way; right or wrong'" (*ibid.*: 46-47).

Note again *collegial* control, even in the use of force (see Toch's work on peer control of officers' use of force—Toch and Grant 1991; Toch, this volume).

In other words, Vollmer, before the management theories of Frederick Taylor became integral to the reform model, was experimenting with the development of a genuinely professional model of policing. This model included higher education, collegial control, a generalist police practitioner, specialties at the service of generalists, devolution of authority to practitioners, and collaboration with other professions. Of Vollmer's approach the Cartes comment:

> "The Berkeley success came from Vollmer's ability to find good men to be police officers and to use their talents well. Professional policing began when Vollmer decided, rightly or wrongly, that the police officer required significantly special skills to do his job, skills that could not be learned on the beat by a recruit who was indifferent to the 'higher purposes' of policing. *That is why it is inconceivable to him that a policeman should become identified with workingmen whose sense of occupational purpose extended only so far as a decent wage and adequate conditions on the job*" (*ibid.*: 42; emphasis added).

Policing went in a different direction. What was inconceivable to Vollmer during his tenure in Berkeley—that policing should be identified with a narrow vision—became a set of operating assumptions for most of contemporary policing. Yet, despite this view, we know from research that police continued to provide a rich panoply of services, especially social and emergency, to neighborhoods and communities; officers identified with communities; they solved problems; they consulted with each other; and they sought authority from and collaboration with citizens. Unfortunately, most of these activities have gone

unrecognized, unrecorded, and unrewarded. Fortunately, however, the ability of line personnel to contribute successfully to policing has been documented, albeit too rarely. We will briefly discuss four efforts.

A. Collegial Control in Oakland

During the 1960s and 1970s, the Oakland, California Police department was considered to be a model of a legalistic, arrest-driven police department (Wilson 1968; see also comments about Oakland during the 1980s in Perez and Muir, this volume). The Department emphasized high personnel standards, national recruitment, and quality training.[10] Despite emphasis in training on human relations, it was also struggling with the level of violent encounters between police and citizens; much of the police violence was considered unnecessary and abusive. Officer behavior was routinely monitored, and a planning unit analyzed police-citizen encounters.

Chief Charles Gain, aware of research by Hans Toch into police violence, requested assistance from Toch in dealing with violence-prone officers. The approach that developed under Toch's guidance, the Violence Prevention Unit, was based on at least two assumptions: patrol officers themselves could control other officers, and officers who had been violence-prone in the past could best assist officers who were having difficulties in the present—hence the creation of a peer review panel staffed by patrol officers who formerly had been violence-prone.

The project was a success in two respects. First, the *process* was successful: officers participated with considerable enthusiasm and caring. Second, the peer review panel reduced the number of violent confrontations between police and citizens.[11]

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[10] Toch and Grant (1991: 79). This entire section is based on this source.

[11] These findings were not replicated in Kansas City. See Pate, et al. 1976. A variety of explanations are available. Kelling, one of the authors of this paper and the director of the Kansas City project, believes that in Kansas City an unusually broad interpretation of confidentiality for officers referred to the panel made it literally unaccountable. Shorn of the guidance Hans Toch provided to the Oakland panel, Kansas

B. Problem Solving in Kansas City

During the early 1970s, the Kansas City, Missouri Police Department, like many other police departments at that time, received funds to add a large number of new officers. Chief Clarence Kelley wanted to allocate new officers in the most intelligent way possible. Assisted by Police Foundation staff and consultants, especially Robert Wasserman, Kelley conducted a series of conversations with his top command staff to determine how to allocate these new officers. Frustrated by their prosaic suggestions, he created four task forces—one in each division and one in the special operations unit—consisting primarily of patrol officers, and asked them to develop allocation plans.

The South Patrol Division, with Wasserman as their coordinator, first identified the primary problems in the district and then decided that the South Patrol District's most serious problem was youth behavior around schools. Some of the officers wanted to use the new officers to deal with this problem. Other officers firmly believed in the deterrent value of preventive patrol, and while they agreed that something should be done about the youth problem, nonetheless wanted all the new officers to be assigned to routine preventive patrol. A vigorous debate resulted, with some officers arguing the value of preventive patrol and others arguing that it had little impact. Finally, the officers decided to experiment with levels of patrol to determine the efficacy of patrol before they decided how to proceed with the youth problem. Kelling was invited by the task force to help them develop a research design.

Chief Kelley approved the ultimate recommendation of the officers that an experiment should be conducted—over the objections of many commanders. Patrol officers participated in every facet of the experiment, from monitoring the experiment, to data analysis, to write-up (Kelling, et al. 1974).

C. Community Relations in Milwaukee

Regardless of one's current perspective on community relations programs, many police, academics, and those advocating change in polic-

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City's got out of control.

ing during the 1960s and 1970s believed that community relations programs would help to resolve the antagonism between police and minorities. Community relations programs were one of the key recommendations of President Johnson's Commission on Law Enforcement and Administration of Justice.

In Milwaukee, Chief Brier was having nothing to do with community relations programs despite strong demands for such initiatives from parts of the community. Many in Milwaukee at that time believed that Brier simply was unwilling to make any moves that would be seen as conciliatory towards the black community. Brier himself would not meet with representatives of black neighborhoods. Woe be it to any of his commanders who were tempted to. His stated point of view was that people should simply obey the law and they would have no trouble with Milwaukee's police. Milwaukee's police union saw this issue differently. From the point of view of Kliesmet and the rest of the leadership of the Milwaukee Police Association it wasn't Brier who had to be on the street and face the antagonism of black citizens; it was line police (see Locke's essay, in this volume, for general discussion of police-minority community tensions).

As a consequence, unionists began meeting with citizen groups using community relations techniques. Attempts to formalize the program never materialized, however. Funds to reimburse officers for time spent with citizen groups were not forthcoming. While government agencies like the Law Enforcement Administration Assistance (LEAA) would fund police departments to develop community relations programs, they would not fund unions; LEAA has been replaced by several funding bureaus within the Justice Department, but the failure to fund union projects persists to this day.

D. Broken Windows in Newark

Foot patrol in New Jersey cities during the 1970s was funded by the state in a unique Safe and Clean Neighborhood program: To receive state funding for foot patrol, virtually all New Jersey police departments had to do was to submit a map indicating when and where foot officers would walk. While there was some evidence that foot patrol was popular with citizens and politicians (this was before the Newark and Flint foot

patrol experiments were published in the early 1980s), chiefs in New Jersey almost universally opposed the program (Police Foundation 1981; Trojanowicz 1982). They wanted the funds to continue, but wanted to use them to increase the number of officers in cars. For New Jersey chiefs at the time, foot patrol was largely a waste of time—a personnel pool if one lacked enough cars or discipline for intransigent officers at best, a sop to politicians or citizens at worst.

As a consequence, foot patrol in New Jersey cities was largely an undirected activity for which there was little training or integration with other patrol or special units. In some cities, rookies were assigned to foot patrol; in others, it was a disciplinary assignment; in yet others, it was voluntary, often selected because of the better hours. Evidence of supervision was rare. In one city, officers still used call boxes on a regular basis to inform the "desk" of their presence on their beats.

For the most part, especially in larger cities, foot officers patrolled in downtown, shopping, or high-crime areas. Most foot officers were white and, especially in high-crime areas, patrolled areas populated by minorities, primarily blacks. Officers were known to residents, business persons, and transients, often by name. Likewise, officers knew many citizens' names. For the most part, regardless of area, officers concentrated on maintaining order: regulating panhandling, managing youth in the area, enforcing informal rules of street conduct, checking businesses, monitoring public spaces, and so forth.

With the exception of the union effort in Milwaukee, all of these efforts are well known in police literature. Yet part of their importance has been submerged: the central role that line personnel played in each. Oakland is an example of collegial control of use of force; Kansas City, of officers' professional concern about dealing with problems and the quality of police services; New Jersey, an example of police collaboration with citizens, based on the initiatives of undirected officers when they are placed in close working relationships with neighborhoods; and Milwaukee, of union concern for police-citizen relationships, partially out of self-interest—officer safety—but also out of concern for citizens as well. These examples, of course, are congruent with the conclusions of Bayley and Garofalo cited by Adams in this volume: "Police rank and file

respect colleagues who exhibit behavior police departments want to encourage.... It respects qualities that the public respects and would intuitively associate with the ability to minimize violence." The conclusion to be drawn from these examples, and many others, is that line personnel are a powerful and important resource when we think of ways to improve policing or improve the relationship between police and citizens—both at the core of managing use of force.

X. ANOTHER VIEW OF POLICE UNIONS

So here we are. History has happened. The path of the early Vollmer was largely abandoned. Now policing is again shifting its strategy—in a sense, retracing its steps and picking up where Vollmer left off.

But, what about unions? After all, with the exception of the Milwaukee experience, although *officers* were major players in the efforts, the contribution of unions to the efforts noted above was marginal. Toch is silent about any union response in Oakland. In Kansas City, police unionism was not much of an issue during the 1970s. In New Jersey, unions supported research into foot patrol because they were trying to protect the state program—from their point of view a source of police jobs (some New Jersey cities were already in dire economic straits during the 1970s). Even worse, some critics of unions (see Walker 1992, discussed above) view unions as active opponents of change.

Again, we believe that both the nature of the management-union relationship and the union agenda are a direct product of the reform strategy's emphasis on Taylorism and its assumptions about line personnel. Happily, policing is changing and, slowly but seemingly inexorably, both the commitment to scientific management and its assumptions about personnel are changing. The question facing police unions is whether, as management philosophy and practices change, unions can change as well. At least three specific and similar questions emerge:

1. Can unions improve the relationship between police and citizens and help ensure that force is used wisely and prudently in policing?

2. Can unions become intermediaries through which the substantive concerns of line personnel can serve to improve policing?

3. Will unions move beyond their traditional concerns and develop enthusiasm for improving the quality of American policing?

If we look at our own data, limited though they are, our first responses to these questions are somewhat hopeful. First, we know from experience after experience that the vast majority of line personnel, given a chance to participate meaningfully in change and innovation, do so with enthusiasm and skill. One of the surprises for many—and it is unfortunate that it has come as such a surprise—has been the level of enthusiasm and care that officers demonstrate when they become involved in problem-solving. So we know that the readiness is there to be tapped.

Unions have unique access to the potential of police officers if they move to develop, as it were, a new union strategy in tandem with, if not in collaboration with, police management. As in Milwaukee during the 1960s and 1970s, unions understand that they have a vested self-interest in improving the relationship between police and citizens and, as an integral part of that, managing use of force. Unionists did not "rally around the flag" of solidarity after the Rodney King episode. Most wanted involvement in developing use-of-force policy, even if out of self-interest.

Second, there is tentative movement in the union movement to adapt to the move to community and problem-oriented policing. Again, although our sample is limited, union leaders appear to support community policing. (At least what they *understand* as community policing. This is no slight to union leadership; the concept of community policing is so riddled with ambiguity and so many departments call any minor innovation community policing that, for many, community policing can mean nothing more than overtime foot patrol or rewarmed community relations programs—Goldstein 1993.) We found that their biggest complaint is the failure of management to include unions formally in planning (or informally when local regulations or political traditions prohibit union activities) (Kelling and Kliesmet 1991). Moreover, the International Union of Police Associations, AFL-CIO held one conference on substantive issues in

1993 to which it invited a broad audience of unionists, chiefs, and academics. The theme was "Unions' Stake in Community Policing." A second conference that focuses on bargaining issues and community policing is planned for 1994. (The bad news about this is that unionism is so fragmented among independents, the Fraternal Order of Police [FOP], the IUPA AFL-CIO, and others that collaboration in such issues among unaffiliated unions has been limited.)

The most interesting question, of course, is whether or not police unions, like craft unions in the past, can move to reclaim some legitimate responsibility for the recruitment and socialization of recruits and legitimate responsibility for maintaining the quality of policing in America. We believe that for unionism to be credible and viable, it will have to shift its concern as more enlightened management moves away from administration by rules and regulations to administration by values and mission (see, e.g., Sparrow, et al. 1990).

But this shift will take time. Consider the situation for police administration. For generations, police administrators have focused on running the organization as against dealing with substantive problems. As Bittner, Goldstein, and others have pointed out for decades, rules and regulations, training, supervision, and administration in policing have been more concerned with managing the internal relations among ranks than with the content of police work. The shift to focusing on the content of police work—problems—is new and tenuous in many cities; traditionally the focus has been on where police are and how fast they get there rather than on what problems police face and what they can do about them.

Finally, it is now widely known that superior recruitment, training, and administration cannot adequately control use of force unless the culture of police work supports those changes (see essays in this volume by Grant and Grant, Toch, Fyfe, Lester, and Klockars). We learned this in Oakland during the 1960s and 1970s, and we have rediscovered it in Los Angeles during the 1990s. Left on its own or, at times encouraged by "thin blue line" rhetoric of chiefs, police culture has drifted in many departments into a besieged warrior mentality. Police who are genuine leaders can help shape this culture. But the shaping has to start by engaging them in the substance of their

work regularly and systematically and regaining the service vision of policing a democratic society. A good way to begin would be the establishment—in a fitting memorial to August Vollmer's real genius—of Friday Crab Clubs in all departments. It would pick up a forgotten link in the move towards genuinely professional police.
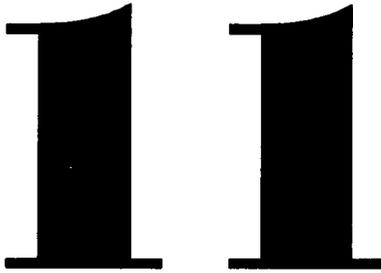
11 Administrative Review of Alleged Police Brutality

Douglas W. Perez
William Ker Muir

When a citizen believes he or she has been brutalized by the police, there are numerous avenues available for exercising the right to petition the government. But the usefulness of grand juries, public prosecutors, legislatures, the press, and other external monitoring mechanisms is limited (Bittner 1990: 141; Box 1983: 80; Chevigny 1969: 136; Guyot 1991: 190; Pinkele and Louthan 1985: 20; Ricker 1991: 48; Schmidt 1985: 228; Uglow 1988: 116; U.S. Civil Rights Com. 1981: 116; Cheh, this volume; Adams, this volume). Because of their political independence, professional expertise, and closeness to the cop on the street, administrative review mechanisms provide the most effective means of holding the police accountable for the excessive use of force (compare Klockars, this volume, urging the use of administrative structures to help officers strive for higher standards of performance than those normally applied when conducting disciplinary reviews).

Allegations of police brutality sometimes become highly politicized. As in the Rodney King incident, the media and political actors can become fixated with a single interaction between the police and citizens. Such dynamics make police review systems the subject of great controversy. At the center of this controversy lies the debate over the civilianization of police review. In recent years police-operated review systems have been replaced or augmented with civilian-run mechanisms in some jurisdictions. What experiences have American cities had with these different techniques of administrative review? Which technique has worked best?[1]

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[1] This essay will outline the civilian review debate and will reflect on the growing body of literature in the field. It will also refer liberally to several surveys which reveal the attitudes of complaining citizens and of police officers toward review systems (see also the Flanagan and Vaughn, Lester, and Kerstetter essays, in this volume). Officer attitudinal surveys were conducted in the Oakland and Berkeley police departments in California with the help and encouragement of both police officer organizations and departmental adminis-

While there are many different kinds of systems currently in place (Walker 1991, Texas Law Enforcement Management 1994), three can be used as general models. The first is the totally in-house, police-operated, internal review system. The second is the civilian-operated body commonly referred to as the civilian review board. The third model is that of the "civilian monitor" or ombudsman. The civilian monitor is a hybrid of the other two. It leaves the investigation of complaints to the police, then employs civilians to monitor those investigations and to act as citizens' advocates.

I.   THREE MODELS OF COMPLAINT ADJUDICATION

In the past, most police departments dealt with civilian complaints of excessive force in an

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trations. Questions were asked regarding both internal review mechanisms and civilian review boards. Since Berkeley and Oakland have both civilian and internal review systems, conducting the officer surveys was particularly important for developing a comparative understanding of police review in action.

The Citizen Complainant Attitudinal Surveys were conducted at the same locations with the help of local civilian review boards and police departments. Here citizens who had complained about police abuses were asked questions about both internal and civilian systems. Like the police officers sampled, these complainants had experience with both types of review. In all, 150 officers and 80 citizen/complainants participated.

In addition, direct observation of internal and civilian review systems was done in Berkeley, Oakland, and Kansas City, Missouri. These sites were selected for study from a number of systems across the country as "model" operations. Other organizations studied include those in Chicago, Contra Costa (CA), Los Angeles, Richmond (CA), San Francisco, and San Jose. Research included direct observation of input, investigative, and hearing mechanisms. Interviews were held with civic leaders, civil liberties group members, police union officials, private attorneys representing abused citizens, media representatives, and command level staff.

The research of which this essay is a part has been in progress for over 15 years. It has been partially funded by the Comprehensive Employment and Training Act (CETA) and by Skyline College, San Bruno, California. Additional discussion of this research is contained in Perez (1994).

informal manner. The local precinct captain or lieutenant would attempt to pacify indignant citizens and investigate misconduct as his time permitted. Citizens were influenced, cajoled, and even threatened out of making complaints against the police (see also Independent Commission on the LAPD 1991).

Such practices, while commonplace, were not the subject of controversy until the 1960s. Urban unrest, mass demonstrations, and what were later described as "police riots" illustrated for many previously unconcerned citizens the problems of police misconduct. Academicians and politicians alike traced unrest among black citizens and middle class white students to such police abuses as the excessive use of force, verbal abuse, and discrimination in law enforcement.

Citizen complaint processes within police organizations received scrutiny from several of the commissions assembled in the 1960s. The McCone Commission, looking into the causes of the Watts riot in Los Angeles, called for internal review systems to be set up within police organizations (McCone 1965: 31). Academicians such as Edwin Schur echoed this appeal for "strong internal investigative units to insure...fair and effective means of handling citizen complaints" (Schur 1969: 142).

In 1967, the Task Force on the Police of the President's Commission on Law Enforcement and Administration of Justice (1967b) declared that

"without question the best means for ensuring that police personnel are complying with departmental policies and general notions of fairness is through effective internal police procedures. Internal discipline can be swifter and, because [it is] imposed by the officer's own superiors, more effective [than external review]."

Supported by social scientists such as George Berkley (1969) and Herman Goldstein (1967), this logic has been employed by police administrators to defend their internal systems and to attack the logic of external review systems.

Calls for civilian review also abounded during the 1960s (e.g., Platte 1971: 181; Skolnick 1969: 280). People of color in particular did not (and do not now) trust internal review (U.S. Civil Rights Commission 1966: 305, 455, 514; Lohman

and Misner 1966: 92). Former United States Attorney General Ramsey Clark (1971: 143) is illustrative on the subject:

"Police review boards in which citizen panels finally determine allegations of police misconduct and appropriate penalties are desirable to most cities. Some civilian review of police conduct, whatever the form, is always essential. Ultimately, the police are responsible to the public, not to the Chief of Police."

The political potential of civilian review ideas was not lost on police administrators. The formation of rigorous, tenacious, and at times even tyrannical internal investigative units was seen as one method of forestalling the formation of such external review bodies. As put by O.W. Wilson (1963: 208), the highly respected Chicago police chief:

"It is clearly apparent that if the police do not take a vigorous stand on the matter of internal investigation, outside groups—such as review boards consisting of laymen and other persons outside the police service—will step into the void."

The polarization which was created by this debate has retarded the development of civilian review. Skolnick (1969: 280) remarked in his study of the politics of protest:

"At the outset, it was the distrust by minority group members of internal police review procedures which caused the demands for civilian review boards; the militant opposition of the police has only brightened this distrust. Thus, as might be anticipated, a cycle of greater and greater polarization has been set in motion."

In part due to the polarization of advocates for internal and civilian review, and in part because of practical reasons, a third, hybrid type of system has emerged. Because of its potential for mediating between aggrieved citizens and governmental officials, because it leaves the direct investigation of complaints to police profession-

als, and because it acts as an advocate for the citizen, the civilian monitor oversight system holds great promise (Kerstetter 1985). (Many systems in place today which call themselves "civilian review boards" are, in fact, closer to civilian monitor systems in their daily operations. Examples are operational in Albuquerque, Atlanta, Baltimore, Dallas, Fresno, Houston, Indianapolis, Miami, New York, Pittsburgh, Portland, San Diego, and Toledo.)

It makes sense to study administrative police review systems in terms of these three models: internal review, civilian review, and civilian monitor. While interesting variations on these themes are operating in other jurisdictions, we shall focus on Oakland for our study of internal review, Berkeley, California for our study of civilian review, and Kansas City, Missouri for our study of the civilian monitor. These systems are chosen because they offer the purest models for analysis and in many ways the "best" examples of each type of review.

A. Internal Review

As noted by numerous authors, Oakland's "internal affairs" is respected throughout the country (Douglas and Johnson 1977: 265; Guyot 1991: 181; Potts 1983: 71; Skolnick and Bayley 1986: 156). It is in a sense "the best" that one can expect from closed, internalized, completely police-operated processes. No internal process is more thorough in its investigations. None is populated by more concerned investigators, genuinely honoring objectivity in the pursuit of their task. (We do not, of course, pretend to global knowledge; no slight is intended to other exemplary agencies.)

The Internal Affairs (I.A.) Section of the Oakland Police Department works closely with the chief of police, who sets the tone for its rigorous investigations. I.A. is housed within his office complex. The chief's "no-nonsense" approach to citizens' complaints directly influences the working style of I.A. investigators and of the officers on the street. Aside from the chief's preoccupation with its integrity, the beat cops of Oakland learn that assignment to I.A. is one way to enter the "fast track" toward promotion. Also, officers rotate frequently (two year assignments) through I.A. Thus there are a number of officers within the patrol ranks who

have worked at I.A. They help to pass on its knowledge about citizens' complaints and educate the everyday cop about how I.A. works. Ideally these dynamics combine to make I.A. respected, understood, and feared by the cops it polices.

Internal affairs in Oakland, as in most jurisdictions, is operated by a staff of sworn police personnel. They conduct investigations in a similar fashion to criminal investigations. They interview witnesses, prepare statements, collect booking slips, review arrest reports, collect physical evidence, and so forth. Both officers charged with misconduct and witness officers are required to give truthful statements to the I.A. section. Under the U.S. Supreme Court's decision in *Garrity v. New Jersey* (1967), officers who refuse to so cooperate can be disciplined or even fired. Officer statements are given to investigators in the presence of a representative of the police officer's association or an attorney. Complainants are not allowed to cross-examine police officers (compare Kerstetter's advocacy, in this volume, of a larger role for complainants in review procedures).

Anonymous complaints of force are usually investigated. Latitude does exist in all review systems to disregard, at the discretion of the supervisor, anonymous complaints that appear to be hoaxes, patently false, or impossible to investigate (Texas Law Enforcement Management 1994: 2). This latitude can be abused, of course. It allows the supervisor, who in most I.A. systems is a police officer, to avoid handling a complaint without having that decision reviewed.

A completed I.A. investigation is submitted to the chief and routinely forwarded for comment to the immediate supervisors of the employee concerned. If the investigation indicates that the officer was not in error, the matter is filed and closed. If the investigation indicates misconduct, the supervisor recommends a disciplinary finding. This convention follows the dictates of the classic police administration text by Wilson and McLaren (1963: 211): "The first recommendation for action should come from the lowest command level, so that...the...officer...will not feel that he has been given a summary sentence." Aside from protecting the officer's "feelings," this practice is meant to ensure that line supervisors take responsibility for the actions of their officers (see also the essays by Klockars and Fyfe, in this volume).

The case is then referred up the chain of command for review by each supervisor above the officer involved. Thus, patrol officers accused of misconduct will have their cases read and commented on by the sergeant, lieutenant, captain, and deputy chief of police. The report and all attending comments are then forwarded to the chief of police for final review. The chief decides if the charges are to be sustained. He also decides on a course of action in terms of discipline. Oakland finds its officers guilty of misconduct in approximately 11 percent of its cases—very close to the national average of 13 percent discovered by Pate and Fridell (1993) in a recent survey.

An additional review process may occur in Oakland. When an officer is penalized with more than one day's suspension, the officer has the automatic right to a hearing before the Civil Service Commission. These formalized hearings are rare. This is either because most penalties consist of less than one day's suspension (reprimands of various kinds) or because officers accept their penalties without protest. While this avenue avails the police officer of an appeal mechanism, it cannot be used by the complaining citizen. Furthermore, the Civil Service Commission is consistently lenient with police officers. It invariably acts to reduce penalties handed down by the chief.

While no avenue of appeal is available to the complainant within Oakland's internal review system, Oakland does possess a civilian review process outside of the police department. This system is neither as independent nor as strongly institutionalized as is Berkeley's (Skolnick and Bayley 1986: 155). However it will take an internal investigation on appeal and review it for a complaining citizen. The Oakland civilian board's hearing process finds police guilty of misconduct in less than 1 percent of its cases. It has little authority as it is advisory to the city manager, who invariably accepts the chief's (and I.A.'s) recommendations for discipline.

The Oakland I.A.'s workload consists of approximately 350 cases per year, and it spends slightly less than $1,000 for each complaint investigation it undertakes.

B. Civilian Review

The Berkeley Police Review Commission (P.R.C.) is a useful model for discussing civilian review. Organizations that have labeled them-

selves "civilian review boards" have been set up in almost 40 jurisdictions over the course of the past 30 years. There were 30 in operation as the decade of the 1990s began (Walker 1991). While each of these civilianized review systems is different in form, almost all of them are advisory to the chief of police. In contrast, the Berkeley board reports directly to the city manager with its recommendations. It has its own civilian investigatory staff and intake location. The Berkeley P.R.C. is thus the most "independent" and long standing (19 years) civilian review operation in existence in the country.

California law requires all police departments to accept and investigate citizens' complaints. Thus, parallel to the P.R.C., Berkeley operates an internal affairs section similar to that in Oakland. (Its case load, staff—two persons—and budget are smaller than Oakland's.) The Berkeley internal review system handles all citizen complaints that are filed either with the P.R.C. or with the police system itself. The P.R.C. only handles those complaints that citizens wish to make public. Thus, the P.R.C. handles fewer cases than the internal system. The P.R.C.'s caseload is approximately 100 cases per year and the internal system's about 145. And as a pool the P.R.C.'s cases may also be more ambiguous or notorious than the pool handled by internal affairs. This is because citizens have chosen to make them public.

The commissioners of the P.R.C. are appointed individually by Berkeley City Council members. Thus, the political heat that might be generated by concentrating such appointments in one set of hands is avoided to some extent. A mayor or city manager might be accused of slanting such a board in one direction or another. (This has been the case in Oakland, for example.) By dividing the responsibility for appointments within the council, Berkeley has avoided problems that might have developed from a process containing no "advise and consent" procedure.

The P.R.C. conducts interviews and investigations along similar lines to those of Oakland's internal affairs unit. It gathers the same types of evidence and constructs cases that are remarkably similar to investigations developed by police officers. With respect to officer statements in Berkeley, an administrative procedure has been agreed on between the city manager, the police chief, and the P.R.C. Each accused officer is

ordered to show up for an interview when the P.R.C.'s investigators wish to talk with the officer. This happens on a case-by-case basis. The officer who refuses is subject to disciplinary action, including termination, for refusing a direct order of the chief.

Originally, accused officers did not have to give statements to the P.R.C. This was a due process protection that the P.R.C.'s creators believed was important in order to be fair to officers. However, it became clear immediately that such a procedural safeguard would severely limit investigations. The Berkeley Police Officer's Association's attorney advised officers to take no part in the P.R.C.'s processes if they were not required to. They did not. Thus, for its first 10 years the P.R.C. put together cases from which statements by accused officers were missing. This procedure did not help the P.R.C. gain acceptance among Berkeley officers. They saw the organization as a "kangaroo court" that put together one-sided investigations and held one-sided hearings. While Berkeley has dropped this procedure, a number of civilian systems continue to allow such due process protections.

After investigations are completed by the P.R.C.'s civilian employees they are reviewed by the organization's director. Then the Berkeley process becomes much more formal and judicial than the one in Oakland. All investigations result in public hearings—"boards of inquiry"—before three of the nine commissioners of the P.R.C.

Boards of inquiry are semi-judicial hearings. The standard of proof is one of "clear, convincing evidence". Evidentiary standards are rather lax from a judicial perspective. Much evidence, usually in the form of testimony, is accepted at hearings which would not be accepted in a court (see the essays by Cheh, Adams, and Kerstetter, in this volume). This is done so that citizens will have a great deal of latitude within which to attempt to prove allegations. An over-all standard of "fairness" to the citizen then is used to allow the kind of hearsay that is not normally heard in a courtroom. This fact, of course, is not lost on Berkeley police officers. They are accustomed to courtroom procedures and know when hearsay is being admitted. They tend to resent this rather open-ended approach.

Accompanied by counsel or union representative, all Berkeley officers must testify before the P.R.C. Citizens may also be represented but

usually do not obtain counsel. Officers usually do. Both sides are allowed to cross-examine all witnesses.

After testimony and an open discussion, the commissioners vote on suggested outcomes for each allegation. Formal notice of decisions is then sent from the commission to the accused police officer and to the citizen complainant. The P.R.C. is advisory to the Berkeley city manager. A copy of its findings and of the investigative report are sent to the city manager for every complaint which it investigates. Only on rare occasions do the outcomes of the two (I.A. and P.R.C.) differ substantially. When the outcome is different, the city manager invariably sides with the chief of police. No official statistics are kept on these infrequent disagreements between the two review bodies, but according to the city manager they occur only a few times a year.

P.R.C. investigations take longer to complete than do those of I.A., causing a delay lasting more than a month. As a result, hearings can be convened to hear cases in which the internal system has already disciplined the officer(s) involved. This is rather awkward, given that the city manager usually goes along with the discipline handed out by the chief. Thus, P.R.C. hearings sometimes become moot.

The Commission has a dual role; it also discusses police policy questions in public hearings. Policy hearings are separate from boards of inquiry. But their substance may relate to specific cases or sets of cases that boards have heard. The P.R.C.'s second role thus involves giving community input to the chief and to the department about police policies of all sorts (in this dual role, the P.R.C. is comparable to the Chicago Police Board and others around the nation).

The city manager believes the police department to be slightly *more* prone to find cops guilty of misconduct than the Police Review Commission. An early study found that "the Berkeley Police Review Commission has assigned blame in a far lower percentage of citizen charges against the police than has the Berkeley Police Department's internal complaint mechanisms" (*California P.O.A. News* 1974: 25). This dispositional pattern has not held up over time. Today, the P.R.C. finds officers guilty of misconduct in 17 percent of its cases while the internal system finds fault 15.7 percent of the time (both are higher than the national average for excessive force case

dispositions found by Pate and Fridell 1993). But Berkeley is the only civilian review board in history to have done so. Everywhere else that parallel outcomes have been tracked for civilian and internal review, *the internal system has been more prone to find police misconduct.*[2]

Finally, we must note that the Berkeley system is expensive. The P.R.C. spends an average of nearly $4,000 for each case it receives. This must be added to the costs of the police department's internal system. That internal process spends an average of $970 per case, or almost exactly the same as does the Oakland internal operation. Together, these costs raise the taxpayer expense for police review in the city of Berkeley to almost $5,000 per citizen complaint—an annual total of about $600,000 for a city of 104,000 people (see also Perez 1994: 246).

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[2] Early civilian review boards were reluctant to find the police guilty of misconduct. In Philadelphia, the internal police-operated board recommended dismissal in 14 percent of its cases during the period that the civilian body did so in only one percent (Hudson 1972: 425). Of the 530 cases heard by the Philadelphia civilian review board from 1958 through 1965, only 38 cases resulted in recommendations of disciplinary actions against police officers (President's Commission on Law Enforcement and Administration of Justice 1967b: 201). In New York City, of the 135 cases disposed of by its board in the 1960s, only five resulted in recommendations of disciplinary actions or reprimands (*New York Times*, March 4, 1967).

The processes developed during the 1980s have shown similar results. The Office of Citizen Complaints in San Francisco sustains only one percent of its investigations against the police (*San Francisco Chronicle*, May 9, 1990). The Honolulu civilian board sustains six percent of its cases (Honolulu Police Commission 1988). The Cleveland civilian board sustains 10 percent of its cases (Cleveland Police Review Board 1991). The Cincinnati board sustains a much higher rate of 23.7 percent of its cases (Cincinnati O.M.I. Annual Report 1990), but this is still lower than the 25 percent of cases sustained by police-operated organizations nationally (Dugan and Breda 1991: 167; compare Pate and Fridell 1993, who report a national average on excessive force cases of 13 percent). A continuing source of information on the work of civilian review boards is the International Association for Civilian Oversight of Law Enforcement, whose corresponding official is based in Evanston, Illinois.

C. Civilian Monitor

For a number of political and fiscal reasons, mechanisms have been created in some jurisdictions that are combinations of civilian and internal review systems. These civilian monitor systems tend to operate along the lines of the Scandinavian ombudsman. Internal investigations done by police professionals are monitored by nonpolice personnel for their completeness and objectivity (see Bayley, in this volume, discussing the ombudsman approach in Australia and other nations).

The Office of Citizen Complaints (O.C.C.) is a civilian monitor operation in Kansas City. Civilian personnel take initial statements from complainants and then forward cases to the police department's internal affairs division for investigation. This civilian-run input structure operates along similar lines to Berkeley's P.R.C. The investigations done by internal affairs are similar to those done by Oakland's police-operated system.

A tremendous amount of time is spent in Kansas City by Internal Affairs creating investigative files that are complete and thorough. Every witness statement taken by an I.A. investigator in Kansas City is typed verbatim. Thus, Kansas City's investigative files are normally more voluminous and in some sense more "complete" than those of other I.A. organizations. They are even more detailed than those of the P.R.C.

Kansas City's Internal Affairs sends the completed case back to the Office of Citizen Complaints. An analyst and then the director review the case in a similar fashion to the supervisors of I.A. and the P.R.C. The O.C.C. can send a case back to internal affairs or directly to the chief, if such action seems appropriate, for further investigation. Internal Affairs in Kansas City does not recommend possible investigation outcomes or disciplinary action. Only evidence, statements, and investigation summaries are included in I.A. files. After the O.C.C. staff approves a complaint investigation, it formulates a recommendation regarding the case. The O.C.C. process is then complete, and the investigation is referred to the chief of police.

Office of Citizen Complaints policy allows any complainant and/or his attorney access to the investigative file. There are some circumstances under which the chief of police has the right to withhold specific statements or pieces of evidence

when a file is being reviewed. Generally, however, complainants are allowed to view the entire investigative file. This is not true in Oakland or at other police organizations. Such access generally is allowed by civilian review systems.

Once a complaint has been forwarded to the chief of police, he makes the final complaint finding. Various informed people in Kansas City concur that the chief almost always agrees with the recommendations of O.C.C. When the chief disagrees with O.C.C. recommendations, the chief and the director of O.C.C. meet. These meetings have been very rare. Both the chief and the director indicate that when such a meeting occurs, agreement is normally reached after brief discussion.

As in Oakland, the Kansas City chief of police requests that line supervisors make recommendations as to disciplinary actions when a complaint results in a sustained finding. If a sustained complaint results in an officer being suspended for 14 days or more, state statutes allow an automatic right of appeal, again similar to procedures in Oakland. The officer takes the appeal to the Board of Police Commissioners, which is appointed by the governor. The board holds open public hearings in a semi-judicial manner similar to that of civil service in Oakland. These hearings are extremely rare, partly because the board invariably sustains the findings of the chief and O.C.C.

Two points must be considered. First, in Oakland and Kansas City, the right of appeal on sustained cases is available to officers. This right creates access to hearing processes that are more formal in their evidentiary rules but nevertheless similar to those held by the Berkeley P.R.C. In other words, hearings are a part of each of the systems studied. (And because of case law and statutes in virtually all jurisdictions, such hearings are a part of all police internal review systems.)

Second, the officials who hear appeals tend to be quite conservative in their decision making. They either "rubber-stamp" the decisions of the chief, as they do in Kansas City, or they lessen penalties imposed by the chief, as they often do in Oakland. Nowhere does administrative review through police commissions or civil service boards tend to be "harder" on the subject officer than is the administrative review system (Bouza 1990: 266; Guyot 1991: 183).

This observation is of critical importance

because these bodies are, to some extent, "civilian review boards." They are composed of civilians, not police officers or administrators, who review police conduct and the operations of in-house review mechanisms. In observing that civil service boards never operate in a fashion that is more demanding than internal review, we see the same dynamic that statistics on civilian review boards indicate. When institutions put citizens in a position to review police behavior, they invariably act in a liberal way toward the individual police officer (McLaughlin and Bing 1989). Civilian review is neither oppressive of police officer rights nor responsive (in a "winner" and "loser" sense) to complainants' rights.

Thus, experience shows that those in policing who expected that civilian review would be unfair and counterproductive due to overaggressiveness made an incorrect assumption. Likewise, those outside of policing who believed that civilian review would be a panacea for police abuses, finding more officers guilty of malpractice, were also wrong.

The Office of Citizen Complaints in Kansas City sustains misconduct at a rate of 17.9 percent, similar to that of internal systems and greater than that of all civilian systems. The cost per case of O.C.C. operations is approximately $1,000. Again, this is similar to the cost of internal review. The O.C.C. cost is much lower than that of civilian review for several reasons. First, no functions are duplicated under the system, as the Berkeley process does. Second, the O.C.C. rarely holds open hearings, very costly for any type of system.[3] Third, while the Kansas City system operates at a separate location that may be less cost efficient than having just I.A. in the police building, the civilians at O.C.C. are paid less than police investigators. Thus, the extra site costs of O.C.C. are to some extent absorbed by the lower wages of non-sworn personnel.

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[3] Analysis of Kansas City's O.C.C. and I.A. expenditures reveals an interesting pattern. Without the rare formalized hearings before the Board of Police Commissioners, the system costs about $500 per complaint. Adding the very expensive hearing, the cost rises to nearly $1,000 per case. This helps explain why Berkeley's system is so expensive. The Berkeley P.R.C. holds hearings for all cases investigated.

II. COMPARING THE THREE TYPES OF REVIEW SYSTEMS

Having briefly outlined three model systems, a direct comparison is in order. Three separate indexes of evaluation—integrity, legitimacy, and learning—will be used.

A. Integrity

An analysis of police review systems must first concern itself with the "integrity" of a given system. It must ask several questions. Is the complaint system unintimidating to the aggrieved citizen? Are its investigations thorough and competent? Is the adjudication of the complaint fair and objective? How likely is the decision of the fact-finder to result in appropriate disciplinary action?

At the intake level, there is not much to debate with respect to different types of review systems. Put simply, other-than-police locations are always preferable. Citizens bringing complaints are more at ease in a non-police setting, and there are no offsetting disadvantages.

Many have suggested that reported abuse defines only the "tip of the iceberg" of real police excessive force (Black 1968: 94; Goldsmith 1991a: 21; Potts 1983: 85) (see also Adams' chapter in this volume). It is hard to know how many citizens do not complain out of intimidation, having been frightened by the police in the first place. The recent attitudinal survey we conducted found that 44 percent of those who brought complaints against the police would prefer to file a complaint at some kind of community center, 27 percent preferred a building other than the police department, 16 percent wanted someone to come to their home, and only 11 percent would feel comfortable filing a complaint at the police building.

While law enforcement personnel tend to be highly skeptical that the aura of police buildings is intimidating, the right to petition the government may very well be chilled by requiring that complainants come face-to-face with their "oppressors." The uniforms, badges, weapons, and para-military carriage of everyone at a police station may be too much to face for more passive complainants. A system that receives complaints should not be available only to some citizens—those who have the audacity to confront

government agents personally.

Furthermore, our studies suggest that having intake personnel who are not sworn police officers will also have positive effects on review system integrity. Taught what to look for in an initial complaint interview, the civilians at both Kansas City's O.C.C. and Berkeley's P.R.C. are professional and competent. Complainants feel more comfortable with civilians at intake by a wide margin according to our surveys: 64 percent of complainants prefer to talk to civilians about their complaints, whereas only 19 percent wish to speak to police officers directly (to 17 percent it does not matter).

Most systems appear to do a thorough job of investigating alleged police misconduct—although we readily acknowledge that many citizens may believe otherwise (see the essays in this volume by Flanagan and Vaughn and Locke). In the case of Oakland, the high quality of investigations reflects the personal style of a chief of police who is determined to pursue abusive behavior tenaciously. In Kansas City, the anticipation of the civilian review of cases may have more to do with investigative thoroughness than does any other factor (although the current chief, Steven Bishop, has gained a well-deserved national reputation for his determination to prevent and redress police misconduct).[4] In Berkeley, the professional competence of the civilian investigatory process may be at least partially related to the size of the organization. With a staff of five and about 100 cases per year, their relative workload is far less than that of the other systems. (Berkeley's parallel internal review office handles 50 percent more cases with a staff of only two.)

Some internal systems allow informal handling of force complaints. This can open the system to criticism. Departmental personnel are allowed to summarily decide that a complaint is "minor." They may also unilaterally decide that a complainant is "satisfied" before an alleged incident is even written up.

There is a rather infamous example of the abuse of such discretion. In 1991 an audit was done of five years of complaints processed by the Los Angeles Police Department. The review

indicated that hundreds of complaints, perhaps thousands, had been written off of L.A.P.D.'s books without good reason (Independent Commission on the Los Angeles Police Department 1991: chap. 9). As reported by the Christopher Commission (*ibid.*), the police in Los Angeles would require citizens to wait for hours, alone, if they wished to file a complaint. The police would characterize force complaints as "minor" in nature, thus avoiding the review process altogether. They would thus use the atmosphere of the police station to quash complaints at the intake level (*ibid.*). Because of such practices, most review systems—internal, external, and monitor—have done away with such latitude where complaints allege excessive force. This is not to say, however, that excessive formality always produces a satisfactory process (consider Kerstetter's argument, in this volume).

In all the types of review systems, the decisions in use-of-force reviews are "objective" in a legalistic sense. That is, a removed observer would almost always determine that the facts of the case rather than the personal biases of any of the actors or reviewers have shaped the findings. Some corroboration for this assertion comes from the consistent agreement as to outcome reached between civilian and police reviewers in locations where we have been able to make comparisons. Of course, if one believes that, generally, civilian reviewers quickly become coopted by—or for other reasons identify excessively with—police interests, thus failing to reflect the views of civilians in the community, then consistency of conclusions between police and civilian reviewers would be less reassuring.

Even if one believes that civilian reviewers maintain their independence of view when working constantly on police misconduct investigations, this formal objectivity is of limited significance. Police review systems generally have standards of proof similar to civil courts—misconduct must be shown with "clear and convincing evidence." Often no abuse can be proven, even when misconduct has actually occurred, because the system cannot develop evidence independent of the statements of cops and citizens (see Cheh's essay and Klockars' essay, in this volume). Such "stand-off" cases occur in large part because officers and citizens are often caught alone, perhaps late at night, in situations not witnessed by anyone else. With

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[4] Chief Bishop's determination was manifested, among other ways, by the firing of numerous officers for abuse of force (see Geller and Scott 1992: 278).

only statements on both sides, the "swearing contest" ends in findings of "misconduct not-sustained." Such findings make up a large portion of the outcomes of all types of review systems.[5]

Such outcomes, neither siding with the complainant nor absolving the officer of wrongdoing, leave everyone involved dissatisfied (compare Kerstetter, this volume, concerning the key ingredients of participant satisfaction *other than* case outcomes). Civilianized operations tend to develop even higher numbers of not-sustained findings than do police-operated systems. If we put this fact together with the tendency for police systems to find "sustained" outcomes more often than civilian ones, we reach a disconcerting conclusion for proponents of civilian review: civilian mechanisms are *less* likely to produce statistics that indicate they are "tough" on the police than are police-operated systems.

Finally with respect to integrity, sustained outcomes typically require discipline (rather than nonpunitive corrective steps) to be handed out to errant officers. Quite often at the Oakland P.D., there is a difference between the disciplinary actions recommended by the accused officer's commanders and the chief. The I.A. commander estimates that such a disparity exists 50 percent of the time. The immediate supervisor tends to identify with and protect the accused employee. The first line supervisor is almost always a sergeant of patrol and at times is subject to the same types of psychological pressures that lead to misconduct. The supervisor is on the street every

day as a police officer too.

Supervisors above the sergeant are more and more removed from the accused officer but also tend to go along with the recommendations of their subordinates. These command officers feel that the line supervisor knows what is best for the individual officer involved. Because of these dynamics, the chief must often increase the gravity of punishment recommended. Removed from the street experience, and possessing an organization-wide perspective, the chief is responsible to local political elites for the performance of the department and for the image of its disciplinary mechanism. In Oakland, recent chiefs have never failed to "harden up" disciplinary recommendations. As a result, Oakland's chief is often seen from below as abusive of officers, always increasing punishments, never "going along" with light recommendations.

An obvious question is whether this pattern in Oakland typifies departments nationwide. It may not. In other jurisdictions, chiefs tend to follow the same path of supporting the lower level chain of command's recommendations that middle managers do. In San Francisco, for example, the chief historically has tended to accept the recommendation that flows up from the line supervisor. In fact, the chief tended to lessen discipline. Between 1984 and 1990, of the 129 complaints that were sent to the chief as "sustained" with requests for disciplinary actions, only 47 resulted in any discipline whatsoever being handed out (*San Francisco Chronicle* May 29, 1990). Disciplinary decisions consequently appear lax to those outside of the police organization. Much more data is needed, of course, from departments around the United States before reaching responsible conclusions about whether the Oakland pattern of the chief enhancing disciplinary recommendations is exceptional (for the most recent effort to assemble national data, see Pate and Fridell 1993).

Central to this entire discussion is the question of how to balance the expertise of the professional against the objectivity—and potentially greater external credibility—of the external observer:

> "Police administrators, believing that
> they understand the subtleties of their
> profession better than those who are not
> a regular part of it, prefer to direct their

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[5] The numbers are illustrative. In 1989, the Los Angeles Police Department system found 43 percent of its complaints to be "not sustained" (L.A.P.D. Internal Affairs Report 1989). The much smaller Richmond, California Department found cases to be not sustained at the rate of 56 percent (Richmond Police Department I.A. Report 1989). In Chicago, the civilian-staffed Police Department's Office of Professional Standards found 81.5 percent of its cases to be not sustained (Memorandum to Superintendent of Police from O.P.S., Jan. 4, 1991; for discussion of O.P.S., see Kerstetter, in this volume). In New York City, the civilian monitor system reached not sustained findings in 85 percent of its cases (New York City Police Department 1989) (for other data on this question, see Pate and Fridell 1993; and for international sustension rates, see Bayley, this volume).

behavior in a way which their special understanding warrants, a view which is shared, let us remind ourselves, by lawyers, judges, senators, teachers, and doctors, to name a few of the more obvious ones" (Hanewicz 1985: 46).

Professionals generally hold that they possess a monopoly over theory, skill, education, and research in their particular fields, an expertise that should not be questioned by the lay person (ABA 1970; Delattre 1989: 93; McDowell 1991: 143). Police administrators are no exception and tend to denigrate civilian review as an inappropriate intrusion into their profession (but compare Klockars' argument, in this volume, about the ability of intra-professional review to set elevated standards of conduct).[6]

While this dynamic is not unique to police work, what the police do is. Police work is unsettling to people in a liberal society. Their monopoly over the use of coercive force threatens citizens in very tangible ways. The fact that officers in internal review systems find their own peers guilty of misconduct so seldom seems to confirm the need for external scrutiny.

Yet other professions are equally guilty of self-serving, defensive tactics where alleged misbehavior is concerned. Lawyers are particularly important in this regard as they are always at the forefront of efforts to change police review systems. It is not irrelevant to the police that the legal profession's own internal disciplinary mechanism seldom finds fault with attorneys accused of misconduct. Early research revealed that in only slightly more than one percent of the cases which it investigates did the bar's own grievance handling committee find fault with its peers (ABA 1970: Section II; Carlin 1966: 150).

There is no "answer" to the professional expertise versus external objectivity dilemma. Both sides of the debate are persuasive. One major argument in favor of the civilian monitor system is that it accepts and defers to police investigative expertise while bringing to bear external perspectives in an advisory capacity, thus trying to capture the strengths of *both* approaches.

B. Legitimacy

It is critical to analyze how legitimate police review mechanisms are considered to be by groups vitally interested in their docket of cases. Apart from assessing the actual integrity of a system, it is important to know what people *think* about that system. Is the process seen as fair by the members of the police department? Is it seen as fair by the public (including the media, political officials, and the bar) so that they will stand up and defend it when it is under attack? Is it seen as fair by neighborhood leaders, especially of those communities in which allegations of police brutality more often arise? Does the system get the "benefit of the doubt" from the public? Does it allay the need for violent public protest?

Internally-operated mechanisms fare very well with respect to integrity. Their externally perceived legitimacy, however, is perhaps the major shortcoming of internal review. It is the completely in-house, police-operated system which develops the least amount of acceptance in the community. In areas where police-community relations are tense, often with race an issue, community acceptance is especially low (also see essays by Locke and Flanagan and Vaughn, in this volume).

As a way of lending some specificity to perceptions of legitimacy, our surveys asked both cops and complainants to reflect on the system's *integrity*. The police everywhere tended to support the local review system, no matter what form it took. Whatever is familiar seems to be preferable to that which is not from the perspective of those being regulated.[7] Even cops subject to civilian review seem to have normalized it as simply a part of the "rules of the game." Since

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[6] We put aside here perennial debates about whether the field of policing qualifies by traditional standards as a "profession."

[7] Geller (1993), studying police attitudes toward documenting stationhouse interrogations on videotape, discovered that police familiar with this form of monitoring of their conduct found it acceptable and often useful in capturing incriminating evidence in a way that proved convincing in court. Yet, officers in departments that had not adopted video documentation techniques found the notion of switching from written or audio documentation to video abhorrent, speculating that it would constitute an oppressive and counterproductive form of monitoring their behavior behind closed interrogation room doors.

approximately 80 percent of complaint investigations handled by police review systems do not find the police guilty of misbehavior, it is understandable that police officer evaluations tend to find satisfaction with existing systems everywhere. The militant opposition of police unions to civilian review noted above seems absent in the individual officer subject to its operations (on union perspectives, see also Kelling and Kliesmet's essay in this volume).

Citizen complainants, on the other hand, find almost all systems lacking in integrity (thus, the systems lack *legitimacy* for citizen complainants). Most hold negative perceptions of the thoroughness, fairness, and objectivity of the various systems to which they complain. Even among those whose cases were treated by civilians at Berkeley, where satisfaction levels were somewhat higher, the system was still found lacking. Since complainants "lose" 80 percent of the time, this is equally understandable. If complainants "won" more often, undoubtedly they would feel more positive toward police review mechanisms of whatever form. In fact, 86 percent of those who "lose" their cases find review systems (of all types) to be unfair. Kerstetter's argument in his essay for this volume that a "procedural justice" approach may enhance the credibility of review systems for complainants, regardless of case outcome, deserves serious exploration and testing in the field.

While most review systems seem objective and thorough, two problems severely limit the acceptance of all systems by complainants. First, legalistic proof requirements are imposed on review systems through codified law, administrative case law, and convention. These make some outcomes substantively unfair from the complainant's perspective and make many others seem arbitrary.

Second, complainants do not seem to be able to differentiate between outcome and integrity. Since this is so, and since review systems employ adversarial processes, the overwhelming majority of complainants will be disappointed with their treatment by *any* review system (again, contrast Kerstetter in this volume).

Most internal review mechanisms keep all of their information secret for several reasons. First, secrecy protects the police organization from the financial risk of civil suits (Schmidt 1985: 228). Police administrators and municipal governments

are prone to protect complaint investigation information so that it is not used against them in court. Second, as we shall see in our section on "Learning," secrecy can help officers learn and develop positive behavior patterns.

Third, since discipline and quality control are the province of management,[8] any organization or professional group's leadership will seek to defend itself from external attack by creating internal, secretive mechanisms of review. As Carlin (1968: 62, 65) notes in his study of the disciplinary systems of bar associations, "the organized bar through the operation of its formal disciplinary measures seems to be less concerned with scrutinizing the moral integrity of the profession than with forestalling public criticism and control." While this approach may still result in rigorous review, its legitimacy outside the organized bar will be limited. Defensiveness and secrecy are usually perceived as proof of corruption by those who expect the worst.

So, too, in police review systems, secrecy norms have sought to protect the organization (not necessarily individual police officers) from scrutiny. These norms place important limits on the ability of internal systems to convince civilians of their thoroughness and objectivity. In reaction to these problems of external legitimacy, Kansas City's police organization negotiated the inclusion of civilians in its processes.

Some observers of civilian monitor systems believe such experiments have been shams, fooling the public into trusting internal mechanisms (Meyers 1991; Terrill 1990: 82). But these critics miss an important point. Despite the intuitive assertions of some to the contrary, *in the vast majority of incidents brought to the attention of any police review systems, police officers have acted legally and properly.* This means that any case-by-case approach to complaints that is fair and honest will most often find the police exonerated of wrongdoing.[9] But our studies tell us that the integrity of an internal system will not be

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[8] Compare the intriguing perspectives on peer quality control in Kelling and Kliesmet's, Toch's, Klockars', and Fyfe's chapters in this volume.

[9] Compare Klockars' advocacy of a nonpunitive system that more often finds police work below desirable standards.

understood or believed by outsiders *no matter how fair it is* (compare Kerstetter's argument in this volume).

Efforts to generate acceptance by "marketing" the system's integrity and by including civilians, even if they do not make a substantive difference in case outcomes, can be important for all interest groups inside police agencies, in the community at large, and in government. We should not, therefore, be too hasty to label efforts to bolster the image of police review as Machiavellian. To be concerned with the symbolic meaning of systems is not to be excessively patronizing of the public. It is a rational exercise of critical importance to the police, to local political elites, and to the community.

Some police review organizations publish information on their findings and procedures. This policy costs the organization little and can be an important tool in developing external support for any kind of process. Only a third of America's police internal review systems publish either information about complaint procedures or investigative data (West, no date: 8; practices in other nations vary widely, as discussed by Bayley in his chapter in this volume). All civilian systems in this nation do so. Openness to the public gives civilian systems an advantage.

Community faith in internal systems, then, seems to be a problem for police-operated systems. The openness that civilian involvement in review can generate may develop faith in police accountability mechanisms. If only symbols, civilians may be of considerable usefulness to police review systems and to police-community relations in general.

But this argument must be tempered with two realities. First, civilianization may *not* develop increased legitimacy. In Chicago, New York, and San Francisco, for example, civilianization has been extremely limited in its ability to generate external acceptance of review mechanisms because, as noted, these systems find few police officers guilty of misconduct. They are thus perceived to be illegitimate by many in the community (Brown 1991; Meyers 1991; N.Y.A.C.L.U. 1991; *San Francisco Chronicle* May 29, 1990).

Second, civilianization is not *necessary* to develop legitimacy. Oakland presents a prime example. There, several high profile examples of the rigorousness of internal review have been brought to the attention of the public in recent years. In a rather infamous incident, several officers were fired for harassing members of the Hell's Angels motorcycle gang. The chief's quick and decisive action drew praise from some local politicians and from the local press. The chief also drew criticism from "law and order" advocates who felt he was unreasonably tough on the officers involved.

This and other events have won a legitimacy for internal review in Oakland that has not developed elsewhere. It may be one reason why Oakland has not experienced the civil disorders which have occurred in other cities as a reaction to incidents of police brutality.

C. Learning

Analysis must also focus on the propensity of review systems to affect police behavior. Does the system deter police from acting brutally? Does it teach errant officers to change their ways? Does it pinpoint the truly abusive cops and rid the department of such "bad apples"? Is it sufficiently inexpensive to operate without significant harm to other training mechanisms within the department?

The Berkeley Police Review Commission's role in policy formulation can help the police department learn from citizens' complaints. This civilian review mechanism is the only system studied that undertakes a systematic analysis of complaints and policy. The other systems studied focus almost exclusively on individual complaint adjudication. Thus, the organizational learning of almost all of America's police review systems is very limited. "The essential focus is upon the individual incident. Rarely do individual incidents produce a serious analysis of aggregate performance" (Moore and Stephens 1991a: 36). The systematic analysis of trends in complaints is one step forward in the direction of producing learning for the organization and for individual officers.

But on balance, internal review systems are the most effective mechanisms for influencing the behavior of police officers on the street.[10] For

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[10] Kelling and Kliesmet would argue, presumably, that peer pressure is a still better mechanism for altering rank-and-file conduct; see their essay, as well

many reasons, the learning generated from civilianization is severely limited. Observations and interviews across all organizations studied indicate that the existence of police departmental review mechanisms is often on the minds of police officers on the street when they make discretionary judgments. If police review systems have a deterrent effect on the potentially errant officer, and this study concludes that they do, the effect is most fully realized in the internal system.

One reason is that internal systems influence careers. By developing a reputation as a troublemaker, either in the eyes of the chief, one's peers, or with internal affairs itself, the beat cop can limit his or her ability to operate effectively within the organization. In terms of promotion, a coveted transfer, or specific beat, shift or partner assignments, the errant cop can find this sort of reputation a handicap.

More important, the officer prone to misbehave can find that the approval of his or her peers is withheld (see, generally, Toch's and Fyfe's chapters in this volume). Police subcultural solidarity being what it is, such support is essential to the individual officer. As one Oakland cop confided, "You gotta learn who the real cowboys are. Then you stay away from them. Just bein' around the real clowns will get you in the shit with 'em!"

The review of peer professionals in internal affairs is taken seriously by street cops. The expertise of professional investigators generally produces thorough investigations and reports. The chances of a police officer not being disciplined when wrong are slight in the internal system of the Oakland Police Department. When motivated by a chief executive genuinely concerned with developing accountability, internal systems offer the most effective potential for positive behavioral influence.

External systems are less effective in influencing police behavior in several ways. First, due process rights granted to officers by many external mechanisms impose limitations on their aggressiveness. The price paid for procedural fairness is often a lessening of substantive thoroughness (compare Kerstetter's essay in this volume). Second, the police investigator is motivated to "clean out the rotten apples" in part

because of a personal, professional concern for the department's image. This concern does not often drive the civilian investigator to the same lengths. The consequent lack of rigor in the civilian investigator has been noted, for example, in the civilianized Office of Professional Standards in Chicago (Brown 1991: 37).

Third, our research has found that the more judicial and bureaucratic a system becomes, the less likely it is to have positive impact on future police behavior (see also Kerstetter, in this volume). When police review becomes formalized, involving judicial hearings, attorneys, and protracted procedures, police officers naturally tend to become defensive. And when they have "lost a case" and have been disciplined, they tend to become embittered and diffident. Sanctioning errant officers may be considered an important part of review in that it punishes improper behavior and presumably deters misbehavior in other officers. But the long term effect that formality and punitive discipline have on future behavior of an errant individual is almost universally negative (see Toch's discussion, in this volume, of a more nurturing, peer-assistance approach to altering problem behavior by officers).

Civilian review mechanisms operate completely outside the cop's subcultural peer group. They tend to be bureaucratic and formal, less open than internal systems to the informal handling of complaints. Use-of-force complaints are not always "major." On some occasions, force complaints can be handled informally; "handcuffs too tight," for example.[11] A system that has as its focus the modification of errant behavior patterns is best served by handling such complaints with counseling and training, or retraining. The informal "word to the wise" from a peer or sergeant or a class in advanced handcuffing techniques may very well move an officer to think twice the next time about applying excessive force in such a case. In our view, the formalities of civilian review will only make such behavior worse.

But we have asserted that informal complaint handling can be problematic, as in the Los Angeles example documented by the Christopher

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as Fyfe's, Toch's and Klockars' essays, in this volume.

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[11] Even here, however, the intent of the officer and the degree of harm inflicted has to be weighed, for serious permanent injuries to wrists and hands can be caused by tight handcuffs.

Commission. How can these two dynamics be reconciled? The answer lies with the civilian monitor system. In such a system, informal mechanisms make use of peer expertise and subcultural strengths, yet are monitored by the civilian participants to assure that abuses do not occur (see Kerstetter 1985). This assures optimum learning in the long run.

For the same reasons that they are most effective at deterring abuse, internal systems are the most likely to be counterproductive in various ways. Some officers surveyed believe that on the street they are handcuffed and prohibited from doing their jobs effectively by overzealous internal review. But paradoxically for opponents of civilian review, officers feel neither intimidated nor abused by civilian review. Most (62 percent) feel it has little or no effect whatsoever on their behavior. Several other studies confirm that civilian review does not tend to develop counterproductive tendencies inhibiting officers from the performance of their charge (Sparrow, et al. 1990: 159; Terrill 1982: 400).

Finally, our discussion of learning must concern itself with the costs of each system. For all of their theoretical utility, civilian review systems have proven to be expensive. The Berkeley Police Review Commission spends a great deal of time and money duplicating procedures carried out by the police department's internal mechanism.

As long as the police are required to investigate complaints, chiefs want to have direct control over their officers, and municipalities feel threatened by the potential of civil litigation, internal review systems will exist. Duplication of tasks is theoretically tantalizing because it responds to so many concerns. But it is costly, so costly as to be prohibitive in most jurisdictions.[12]

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[12] The Berkeley Police Review Commission's $600,000 price tag is the cost of civilian review in a city of only 104,000. In Minneapolis, the new civilian board there spent over $350,000 in 1991 for a system that held four formal hearings and handled 11 complaints. The Honolulu civilian board, whose budget "seems" more fiscally conservative, spent over $250,000 on 159 complaints in 1990. In Canada, the Royal Canadian Mounted Police (RCMP) Public Complaints Commission spends over $3 million (U.S.) to monitor 2,400 complaints per year. This commission has formal hearings so infrequently (nine hearings

This is important to learning because of how police department budgets are prepared. Police review is a part of any law enforcement budget that legally and politically must be considered "essential." When police review becomes extremely expensive, expenditures considered nonessential are cut back or eliminated. The costs of training in particular are vulnerable. When more money is spent on review expenditures, less is spent on interpersonal relations training, sensitivity training, sergeants' training, field training officer programs, academy classes in ethnic relations, and so on. All of these programs are considered less critical. The sort of double billing that Berkeley does by operating parallel systems can thus limit expenditures for proactive training programs that could alter officer behavior and obviate some expenditures for review of misconduct allegations (consider, for example, the valuable investment made by the Metro-Dade Police Department in officer violence-reduction training, discussed in this volume by Fyfe).

The duplication of expenses in Kansas City's civilian monitor system, on the other hand, is limited. Complaint intake expenditures for the city are borne by the Office of Citizen Complaints, investigative budgets are found in internal affairs, and outcome expenses are borne back in the O.C.C. With no parallel investigations to underwrite, the city of Kansas City is billed only once for each part of its system. As we have seen, its cost is almost exactly that of internal review in Oakland or Berkeley.

Our analysis of civilian review illustrates the limits of adjudicative complaint processes. It highlights the balancing act that constructing a review system involves. More due process means less impact on behavior. More secrecy means less legitimacy.

III. THE BEST SYSTEM?

Which system is "best"? Two of our systems beg to be analyzed further. The potential of the civilian review system to generate legitimacy is

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in the past three years) that its spending is virtually all aimed at monitoring police investigations (RCMP 1991). And these monies are being spent *in addition to those spent to support in-house, police-operated systems.*

persuasive. The fiscal advantage of the civilian monitor system is equally appealing.

The multiple systems of Berkeley offer a sort of "something for everyone" approach to police review. Those with no faith in police departmental structures can go to a completely external, civilian organization to press forward a complaint. That system offers an open hearing process, a civilian perspective, and the right to confront and cross-examine the officer and any possible witnesses. An internal review system is also available in Berkeley for those who wish the police department to handle their own processes. (It must be noted that 19.7 percent of complainants surveyed preferred to bring complaints to the police directly.) This dual system might be well received by citizen complainants with both preferences. Multiple avenues can generate the optimum amount of accountability (Goldsmith 1991a: 51).

In the preceding discussion of learning, however, we have already noted the fiscal realities of such multiple systems. In answer to what are prohibitive costs for most jurisdictions, the usefulness of the Kansas City civilian monitor system is tantalizing. The Office of Citizen Complaints allows the police to police themselves to a certain extent, playing on the advantages of both internal investigative systems and informal peer review. The system amalgamates the strengths of internal and external review in a commonsense manner; it neither sanctifies nor vilifies police-operated internal review mechanisms.

What is more, in terms of police officer acceptance, the civilian monitor system speaks to our concern that the population policed must accept (at least tacitly) any review mechanism in order for it to be effective. On one hand, police officers surveyed indicate that they believe in the competence of internal affairs investigators. Seventy-three percent from cities with civilian review felt that civilians were less competent than police officers to investigate complaints. Not one officer of 150 believed civilians to be superior to sworn investigators (eight percent felt both sorts to be competent, 18 percent had no opinion). These numbers support the idea that the police feel only they can effectively police their operations (see also Lester, this volume).

But on the other hand, our survey went further to reveal some startling information about

officer attitudes toward civilianization. When asked to reflect on the ideal system, an unexpected 35 percent opted for a "combination" of police and civilian investigators. Even more surprising were officers' responses when we asked who they thought should sit on a hearing board to adjudicate important cases. Sixty-two percent of the officers thought a formal hearing board should be made up of a combination of cops and civilians.

This finding seems to fly in the face of conventional wisdom about police acceptance of civilian review. The officers studied are working in jurisdictions where they experience civilian review every day. Their limited acceptance of the idea of combined investigations and overwhelming agreement with the concept of civilianized hearing processes is testimony to a central finding of our research: civilian review *neither* abuses police officers *nor* interferes with police organizational interests.

Gellhorn (1966: 193) sums up many of the strengths of a civilian monitor (ombudsman) approach. He writes that the discharge of disciplinary responsibility in

> "all instances must be subject to an outsider's examination...with the object of publicly disclosing slipshod administration or adoption of wrong attitudes. That course should be acceptable to the police as well as to the public.... It does not remove from police hands the power to direct, judge, and discipline the staff members whose actions have been challenged, but, as in the case of other departments, leaves to the professionals the job of appraising fellow professionals" (see also Klockars, this volume).

The civilian monitor approach thus leaves intact the learning strengths and investigatory expertise of the internal system. It also can generate the external legitimacy and removed perspective of the civilian review board. For instance, with the civilian monitor system in Toronto,

> "initial police investigation of complaints was intended as a means of giving the police a stake in the system, thereby encouraging their acceptance of

it and preserving an important management role. The monitoring and review power of the public complaint commissioner, together with the commissioner's extraordinary right of initial investigation, was intended to ensure that initial investigation and adjudication by police would be thorough and impartial" (Lewis 1991: 159).

In our view, the civilian monitor system's strengths, taken together with its fiscal responsibility, make it the "best" system available. On balance the civilian monitor can come closest to answering all of the concerns of police review interest groups at once.

IV. FUTURE STUDY

After 60 years of speculation, we now know something about civilianized police review systems in operation. We know that they are neither abusive of police officers nor abusive of police organizations. We know that the most important drawback to civilian review in practice is that it is "too easy" on the police due to its distance from the individual police experience (see also Klockars' and Kerstetter's essays, in this volume). In addition, the due process protections afforded accused police officers by civilian review mechanisms are quite expansive. They may be a part of systems that find legal guilt less often than events might suggest is appropriate.

The civilian monitor system presents a balance between internal and civilian review that is intriguing. But to take full advantage of its potential, several areas of investigation must be pursued:

1. It is important to study how civilian investigators can be trained to accomplish their dual tasks of bringing an external perspective to police review while developing an understanding of police occupational standards. If civilians identify too much with the police, as has been observed in Chicago, civilianization loses its impact. Yet if they fail to understand standard police practices, they will be unable to evaluate police conduct fairly.

2. The several jurisdictions where civilian and police investigators work side by side need study. The organizational dynamics of using such a mixed group must be explored to see if the idea is manageable—and at what cost. Among the questions meriting study is whether greater cooperation is indeed obtained from both citizens and officers interviewed by a mixed group

3. Hearing systems should be studied in Toronto and wherever mixed groups of citizens and police officers are charged with reviewing complaints. Do the long-term operations of such systems in fact develop better police-community relations through a cross-pollination of perspectives?

Our studies point repeatedly to the limitations of formal investigations, judicial hearings, and punitive discipline in generating learning. If we are to take changing police behavior seriously, we must emphasize proactive training, peer review, counseling instead of negative discipline, and informal, nonthreatening review mechanisms (we also need to determine the standards by which officers should be judged, as Klockars argues in this volume). Observations and notes we believe should be considered in future research include:

4. Most complainants reject the legitimacy of *any* sort of police review system, no matter how "fair" it may appear to be, because they usually lose their cases. It is important, therefore, to experiment with mediation and conciliation processes that seek to satisfy complainants in more direct and personal ways than do bureaucratic adjudicatory systems (see Kerstetter's recommendations in this volume).

5. Police officers operating within an adversarial system, pushed to prove their "innocence" and to defend themselves at all costs, will rarely see the citizen's complaint and its investigation as grounds for changing their behavior. Thus, officers don't tend to learn from a formal review. For this reason, we need to know a great deal more about police review systems that attempt to teach officers from their mistakes in positive ways. We need to explore systems that seek to promote learning through counseling and training

instead of through punitive sanctions (see Fyfe's, Kelling and Kliesmet's, Toch's, and Klockars' essays in this volume).

6. Police organizations rarely use their review systems to learn about systematic problems that lead to abuse. As Geller and Scott (1992) detail, often police officers engaged in regrettable conduct are doing the best they can without a sufficient infrastructure of training, supervision, procedures, and equipment furnished by their employer. It is critical that we learn more about systems that develop policy—and recommend other changes—based on analysis of complaint patterns. Civilian boards such as Berkeley's P.R.C. can help to illustrate the strengths of this approach.

7. Police organizations that seek to influence police officer behavior in a proactive manner should be encouraged (Klockars, this volume). Training in interpersonal relations and other violence-reduction tactics (see Fyfe, this volume) is important, and "early warning systems" that attempt to predict misbehavior are critical. Peer review (see Toch's essay in this volume) is another interesting alternative that should be encouraged and studied.

These ideas should be pursued in the interests of furthering police professionalism as well as protecting citizens from police excessive use of force. Every effort should be made to find ways to teach appropriate behavior to young cops, to reduce overly aggressive tendencies, and to treat police misconduct in a positive atmosphere where officers learn from their mistakes.

Simultaneously, the civilianization of review systems should be continued in order to help those citizens who believe they have been victimized by excessive force feel that they are treated fairly and objectively. Community perceptions of legitimacy must be fostered in an era where increased violence and criminal behavior will require more, not less, cooperation between police and citizens.

A "Procedural Justice" Perspective on Police and Citizen Satisfaction with Investigations of Police Use of Force: Finding a Common Ground of Fairness

Wayne A. Kerstetter

I. INTRODUCTION

Many of the proposals to reform the review of allegations of police misconduct (e.g., Perez and Muir, this volume) are useful but not sufficient. For example, a *New York Times* editorial assessing the controversy regarding the creation of a wholly civilian panel to review police brutality complaints stated: "[T]he important question is not who does the job but how well, and the key is whether the city upgrades the quality of investigations" (June 29, 1992). The editorial goes on to identify what it perceives to be the central problem:

"Complaints often come down to the civilian's word against the police officer's—or a group of officers who refuse to testify against one another. The present review board frequently fails to act because investigators can't decide whom to believe. More aggressive, skilled inquiries could make a difference."

It is hard to argue with the notion that better investigations could make a difference, but a recent study of police excessive force investigations conducted by the Chicago Police Department's Office of Professional Standards suggests that there are limits to the potential for improvement.[1] The Chicago study concluded that the

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[1] The Office of Professional Standards (OPS) is a part of the Chicago Police Department. Its investiga-

presence of an independent witness (one not connected with either the complainant or the police) was the most significant factor in determining the outcome of these investigations (Kerstetter and Van Winkle 1989: 16). The problem is that an independent witness was present in just 16.8 percent of the Chicago cases. Independent probative evidence (either physical or testimonial) which *corroborated* the complaint was available in only 7.1 percent of the cases. These findings suggest that while improving the quality of investigations is a worthy objective, no matter how good the investigation, substantial numbers of individuals are not going to have their complaints sustained because the evidence required is not available.

II. THE PROCEDURAL JUSTICE EFFECT

Because many citizens will be disappointed with the outcome of their complaint about police use of excessive force, a body of research, developed over almost two decades, is relevant to efforts to improve the complaint review process. This research shows that if the process by which a decision in a dispute was reached is perceived as fair, even an unsuccessful party will have a more favorable attitude about the outcome. Further, the negative impact that disappointment has on attitudes about the process, the authorities involved, and the social order will be diminished. Recent research indicates, further, that this impact on attitudes will increase the likelihood that the individual will obey the law in the future. Researchers have labeled this impact of process on attitudes the "procedural justice effect".[2]

Twenty-four studies have been conducted to replicate these findings. All have confirmed the effect in part, and only one contradicted it, and that only in part (Lind and Tyler 1988: 67). Other studies suggest that the procedural justice effect operates in other cultures as well (Lind and Tyler 1988: 145). These findings contradict earlier assumptions that people assess their experiences entirely on the basis of what they get out of them.

E. Allan Lind and Tom R. Tyler,[3] two of the leaders in this research effort, conclude that "the picture that seems to be emerging is of people much more concerned with the process of their interaction with the law and much less concerned with the outcome than one might have supposed" (Lind and Tyler 1988: 92). This does not mean that people are indifferent to the results of the dispute, but that they will feel better about even a negative result if they perceive the procedures used in reaching a decision as fair. This is true even when the result was very important to the party and when the decision would make a serious difference (Lind and Tyler 1988: 73).

Researchers have attempted to identify the reasons behind the procedural justice effect. Some have suggested that fair procedures are seen as increasing a party's chance of a desired outcome. This is called the instrumental effect of procedures. Other researchers argue that the opportunity to express one's point of view on the issue in dispute is the important factor. This is labeled the value-expressive effect. Lind and Tyler conclude that both play a role in producing the procedural justice effect (1988: 100).

There are some limitations to the procedural justice effect. For example, it is apparently less powerful for those who receive positive outcomes, but it is also less important because these people are less likely to be disappointed by the result of

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tors and supervisors are civilian employees of that department. The study referred to here is based on a random sample of 273 complaints filed with the Department in 1985 alleging use of excessive non-deadly force by police officers. These complaints contained a total of 637 excessive force allegations. OPS sustained 6.6 percent of these allegations, exonerated the accused officer(s) in 7.7 percent, judged 18.8 percent unfounded, and failed to reach a conclusion regarding the truth of the allegation in 66.9 percent (Kerstetter and Van Winkle 1989: 22; for additional discussion of OPS, see Perez and Muir, this volume).

[2] The research discussed here makes two important distinctions. By procedural justice it means the fairness

of the *process* by which decisions are made. Distributive justice relates to the fairness of the *outcome* or *results* of the decision. This literature also distinguishes between subjective and objective justice. Lind and Tyler articulate this difference as "between justice as a subjective, psychological response and justice as a state of affairs" (1988: 3).

[3] Much of this article is based on Lind and Tyler's *The Social Psychology of Procedural Justice* (1988) which summarizes the extensive research on this topic.

the process. Two other limitations are of greater relevance to the review of allegations of police misconduct. A 1986 study by Tyler and McGraw provided some evidence that the disadvantaged place less emphasis on procedural fairness (1986: 42, 115-28). However, Lind and Tyler conclude that "although the poor care less about procedural justice than do the rich, they still do care about procedural justice more than they care about distributive justice" (1988: 171).

Another relevant limitation may lie in the capacity of social or contextual circumstances to blunt the procedural justice effect. If a person hears others comment on the unfairness of the outcome and this reinforces his or her own feelings, the impact of perceived procedural fairness is diminished (Folger, et al. 1979). Similarly, if the context gives rise to doubts about the integrity of the process the procedural justice effect is diluted (Lind and Lissak 1985). The later finding emphasizes the importance of the perceived integrity of the decision maker (see also Perez and Muir, this volume).

Further, parties who do not have a direct involvement or participation in the dispute do not experience the procedural justice effect as strongly as those that do. It is important to note, however, that while the impact on these parties is diminished it does not disappear (Lind and Tyler 1988: 69; Kerstetter and Rasinski 1994). Lind and Tyler have called for additional research on the effect of different roles on procedural justice judgments (Lind and Tyler 1988: 123).

Despite these limitations the possibility of reducing the discontent of the parties to the dispute justifies giving serious consideration to this psychological phenomenon.

III. WHAT MAKES PROCEDURES SEEM FAIR?

If procedures matter, the obvious question is *which* procedures are perceived as fair? Procedural justice researchers see people as trying to maximize their personal gain in their interactions with others (Thibaut and Kelley 1959; Tyler 1990: 115). To this end people seek control over decisions that are important to them and resist relinquishing control of these decisions to others. They prefer to negotiate with others rather than have settlements imposed on them. When the conflict between their interests and those of others

is such that negotiation is not possible, they will reluctantly yield control over the decision to a third party (Lind and Tyler 1988: 14).

In these situations people prefer to grant only that power that is absolutely necessary to the third party. An important way of retaining as much control as possible is to grant a third party control over the decision but retain control over the presentation of information on which the decision is based. The research we are reviewing thus distinguishes between *decision control* and *process control*.

Thibaut and Walker, the scholars who first conceptualized the procedural justice effect, contend that procedures that vest process control in those affected by the outcome of the procedure are viewed as more fair than procedures that vest process control in the decision maker (Thibaut and Walker 1978). Subsequent research confirms this view with persons from many different walks of life and in other cultures (Lind and Tyler 1988: 141-145).[4]

Research suggests that a belief by the parties that they had an opportunity to be involved in the decision-making process is the key element in creating a sense of fairness. Specifically, they desire an opportunity to present information and views they believe are relevant to the decision maker and a sense that they have been listened to and that the material they presented was considered in the decision making (Conley 1988; Tyler 1987c; Tyler 1990: 163).

The opportunity for each side to express its point of view is also seen as having an important educational function for the other side. Thus both sides to the dispute become more informed about what is at stake in the controversy (Tyler 1990: 163).

A. Adversarial versus Inquisitorial Models of Procedure

A central focus of research has been the relative efficacy of adversarial and inquisitorial procedures in creating a sense of procedural fairness. In the adversarial model, while the decision is controlled by a third party, the collection and presentation of evidence are controlled

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[4] See studies by Barret-Howard and Lamm (1986); Leung and Lind (1986); and Leung (1985).

by the parties to the dispute. The common law trial familiar to most Americans embodies the principles of the adversarial procedure. In the inquisitorial model both process and decisions are controlled by the third party. Inquisitorial procedures are characteristic of European judicial systems.

The relative efficacy of the two models has been compared in a number of respects including: preference of parties to the dispute, opportunity to express one's point of view, contribution to bias reduction, cost, and the perceived versus actual fairness of the resulting procedure.

Experiments in various locales have indicated a clear preference by the parties to the dispute for adversarial procedures (Lind and Tyler 1988: 33-35).[5] This preference was sustained even when the national legal system of respondents was based on the inquisitorial model (Lind and Tyler 1988: 33). The opportunity to control the collection of relevant information and the presentation of that information in the decision-making process (the notion of giving voice to one's perspective) plays an important role in the preference for the adversarial model.

The adversarial and inquisitorial models were evaluated on the basis of their contribution to reduction of bias in the decision-making process. Three types of bias were considered: prior expectancy bias, order effect bias, and party labeling bias. Prior expectancy bias occurs when a decision is made based on expectations derived from past experience with similar but unrelated situations. In the context of allegations of police excessive force, a prior expectancy bias might involve the expectation that persons with prior arrest records are more prone to make false allegations. Experiments conducted with both American and French undergraduate students demonstrated that adversarial procedures resulted in a greater objective reduction of prior expectancy bias than did inquisitorial procedures (Thi-

baut, et al. 1972; Thibaut, Walker 1975; Lind, et al. 1976; Lind and Tyler 1988: 21).

Order effect bias results from the sequence in which evidence is presented. Research again demonstrated that the procedures normally associated with adversarial hearings came closest to eliminating the impact of order effect bias (Walker, et al. 1972; Thibaut and Walker 1975; Lind and Tyler 1988: 22).

Party labeling bias refers to the reduced objectivity of a witness as the result of being identified with one party or the other. A series of experiments explored the extent and nature of this bias. These studies suggest that witnesses, while not omitting unfavorable testimony, worded their testimony in a way that favored the side that called them. The bias involved was substantial. In one experiment, students viewed a slide presentation concerning a barroom fight and then were asked to assume various roles—witness for the plaintiff, for the defense, or called by the court. Judges—also played by students—who heard the testimony of witnesses called by the plaintiff attributed 38 percent of the responsibility for the incident under consideration to the plaintiff compared to attributions of 47 percent and 52 percent, respectively, for judges who heard the testimony of witnesses called by the court or the defendant (Vidmar and Laird 1983).

It is important to note that in the experiments mentioned above, the witnesses were not cross-examined by opposing counsel, which is the primary defense in an adversarial system against party labeling bias and other inaccuracies. Indeed, in an earlier study Lind found that the biases inherent in the presentation of both sides canceled each other out in the course of the normal adversarial process (Lind, et al. 1983).

The 1983 study by Lind and colleagues is relevant to a concern expressed in the literature that a procedural justice approach in general, and an adversarial process in particular, might increase perceptions of fairness but in fact result in reduced procedural and distributive justice.[6] This could happen either because greater opportunity to express one's views may result in the introduction

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[5] Leung's study of Chinese subjects found disputant process control was a positive feature of the adjudicative procedure, but he did not find the Chinese had a preference for adversary procedures. He hypothesized that was because the Chinese saw some characteristics of adversary procedure (e.g., conflict) as undesirable. These perceptions counteracted their favorable evaluation of process control (Leung 1985).

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[6] It is important to recall here the distinction between subjective judgments regarding fairness—either procedural or distributive—and objective judgments.

of more material irrelevant to the decision or because the adversarial process increases the amount of partisan and/or inaccurate information that is presented to the decision maker. Lind's research suggests that the balances built into the adversarial process provide an effective safeguard against these sources of error (Lind and Tyler 1988: 113-14).

One of the strongest arguments against use of adversarial procedures is their cost. The view is widely held that they are more expensive than non-adversarial procedures. Added expense is undesirable in itself and by virtue of the barrier it creates for people of limited means to be adequately represented. When the stakes are too low for contingent fee arrangements to entice private counsel to share the risk, a party feeling aggrieved may go unrepresented.

The perceived expense of an adversarial system is challenged, however, by a line of analysis that uses the notion of "imposition costs". These are seen as the cost of incorrect decisions derived from inaccurate information. The risk of inaccurate information is believed to be greater when the information gathering and presentation are conducted by a third party (Lind and Tyler 1988: 120). This is an interesting argument but no research is available to support it.

Research demonstrates enhanced procedural fairness judgments can be attained as the result of brief, informal hearings with relaxed rules of evidence. Such hearings, which allow greater scope for expression of the views by parties, would meet procedural fairness needs and at the same time not unduly increase cost (Lind and Tyler 1988: 121).[7]

Procedural justice studies have identified two additional elements which affect fairness judgments. These are having one's views heard and considered and the neutrality and bias of the decision maker.

B. Having Views Heard and Considered

If a party were permitted to express its views but it appeared that those views were not given appropriate consideration, the party's judgment about the fairness of the procedure would likely be hurt and the potential benefits lost. A mechanical decision such as one in which the decision maker obviously simply split the difference between the parties, apparently without attention to the merits of the matter, would also diminish the procedural justice effect. On the other hand, an explanation of the decision, either written or oral, which indicated that both sides of the issue had been considered, would enhance the sense of procedural fairness (Lind and Tyler 1988: 106).

C. Neutrality and Bias of the Decision Maker

While there is evidence that process control enhanced procedural fairness judgments even when the decision maker appeared to be biased, the party's belief in the unbiased nature of the decision maker is more likely to lead to a positive interpretation of the outcome (Tyler 1990: 134, 149). Further research regarding the characteristics of decision makers that lead to a belief in their neutrality would prove helpful in this sensitive matter.

D. Summary

In summing up the research, Lind and Tyler state:

> "Across-the-board endorsement of either the adversary or the inquisitorial procedure run[s] counter to some research results.... We believe that as our knowledge of the psychology of procedural justice increases, it will be possible to design novel procedures that perform optimally in the situations to which they are applied... A hybrid procedure can be designed that moderates disputant control over information while allowing sufficient disputant process control to provide opportunity for expression that is critical to perceived fairness" (1988: 117).

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[7] Also see Perez and Muir's discussion, in this volume, of the costs of different types of police review mechanisms, suggesting that the more expensive methods generally achieve greater legitimacy for the key interest groups.

IV. THE VALUE AND DIGNITY OF THE INDIVIDUAL AND THE LEGITIMACY OF THE SYSTEM

Tom Tyler, in his book *Why People Obey The Law*, suggests that in addition to instrumental and expressive functions, procedure is relevant to another important dimension of human experience:

> "When people approach authorities, their social standing and feelings of security within the group are on the line. They may have an experience that reaffirms their belief that they are valued, protected members of society who will receive benevolence and consideration from the authorities when they need it; they may also have an experience that makes them feel less valued and protected than they would like to believe" (1990: 175).

If what is at stake for individuals in dispute resolution is a sense of being valued by the social order, what is at stake for the social order is its acceptance as appropriate and trustworthy—in short, its legitimacy in the eyes of its members. Procedural justice research suggests that judgments about fairness, both procedural and distributive, are key determinants of citizen attitudes towards decision makers, the decision-making process and institutions, and the social structure itself. These judgments have important ramifications for the willingness of citizens to obey the law (Tyler 1990: 175).

V. LESSONS FOR THE REVIEW OF ALLEGATIONS OF POLICE MISCONDUCT

This section begins by sketching a general picture of our understanding of the problems involved with the review of allegations of police use of excessive force in order to clarify the context in which the procedural justice effect becomes relevant. It then suggests a number of lessons drawn from procedural justice research which can assist in addressing these problems.

Any system of review of police excessive force allegations will leave a substantial number of complainants disappointed with the result of the investigation. For example, the evidence

indicates that civilian review agencies do not substantially alter the outcome of investigations into police misconduct. The experience in Philadelphia (1958), New York (1966), and Berkeley California (1978) suggests that civilian review is less likely than police internal review to find officers guilty of misconduct and is more lenient in its disciplinary recommendations when it does find them guilty (Perez and Muir, this volume; Perez 1978: 278-79; also see Hudson 1972).

A Vera Institute of Justice study (1988) of New York City data on investigations of police misconduct led two seasoned and judicious observers of the police to conclude: "[M]aking the [review] board independent of the department and adding more civilian investigators won't change the outcome of most investigations, nor is it likely to satisfy more people who file complaints or police officers" (*New York Times*, October 23, 1992: A17).

The study of Chicago's Office of Professional Standards[8] data, discussed earlier, discloses the evidentiary problems inherent in investigations of allegation of police use of excessive force. A central evidentiary problem is the unwillingness of officers to testify against other officers. William Ker Muir's insightful analysis of the moral and legal dilemmas of police officers gives lie to the notion that the reluctance of officers to give evidence to each other can be easily remedied, even by coercive legal process (1977: 197-200).

Beyond these problems, Egon Bittner has alluded to the unavoidable discretion inherent in police use of force (compare Klockars' essay in this volume):

> "In sum, the frequently heard talk about the lawful use of force by the police is practically meaningless and, because no one knows what is meant by it, so is the talk about the use of minimum force. Whatever vestigial significance attaches to the term 'lawful' use of force is confined to the obvious and unnecessary rule that police officers may not commit crimes of violence. Otherwise, however,

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[8] The Office of Professional Standards is staffed by civilians. The data referred to here are believed to be reasonably representative of the case experience of any review agency.

the expectation that they may and will use force is left entirely undefined. In fact, the only instruction any policeman ever receives in this respect consists of sermonizing that he should be humane and circumspect, and he must not desist from what he has undertaken merely because its accomplishment may call for coercive means. We might add, at this point, that the troublesome problem of police brutality will not move beyond its present impasse, and the desire to eliminate it will remain an impotent conceit, until the point is fully grasped and unequivocally admitted. In fact, our expectation that policemen will use force, coupled with our refusals to state clearly what we mean by it (aside from sanctimonious homilies), smacks of more than a bit of perversity" (1970: 38).

Whether or not one is willing to accept Bittner's analysis *in toto*, his insight into the social function of police remains the clearest and most comprehensive statement on the topic: "The role of the police is best understood as a mechanism for the distribution of non-negotiable coercive force employed in accordance with the dictates of an intuitive grasp of situational exigencies" (Bittner 1970: 46). As Michael Lipsky demonstrates in his classic study of public service bureaucracies, such a social role inherently contains nearly insurmountable barriers to full accountability (1980: 16-18, 40-54).

There are real limitations to the effectiveness of any system for the review of allegations of police use of excessive force. These include the inherent evidentiary problems, the patterns disclosed by experience with civilianized investigation of complaints against police, the moral and legal dilemmas of police work and its unavoidable discretion in the use of force, and the barriers to accountability in public service bureaucracies. The limited effectiveness of complaint review systems makes centrally important the possibility that the way a complaint is processed can alleviate the disappointment felt when the result is not what the complainant wishes. In order to capitalize on this fundamental insight, procedural justice research provides at least five lessons regarding ways to increase the likelihood that the complaint review process will be perceived as fair.

The *first* and most important lesson is that parties to the complaint—both citizen and police—need an opportunity to present to the decision-making authority information they believe relevant and to express their perception of the matter at issue. This point has far reaching implications for complaint review procedures, most of which currently assign the person claiming to have been victimized by police misconduct the role of a witness in a process controlled by others. The effect of this is to limit the alleged victims' expression of their views of the situation and thus undermine their sense of having been treated fairly.

Secondly, procedural justice research demonstrates that parties to a dispute prefer adversarial to inquisitorial procedures. And adversarial procedures do appear to be more effective in reducing various biases and producing a more complete picture of the controversy. Concerns about the potential costs of adversarial processes and the possibility that they develop inaccurate information have been meet by suggestions of hybrid models (combining features of both adversarial and inquisitorial models) with informal procedures and relaxed rules of evidentiary relevance.

Third, these suggestions underline another potential problem identified by research into the experience of civilian review agencies. Doug Perez (1978) in his study of the Berkeley, California Civilian Review Board found a tendency to confuse the adjudication of a complaint about the conduct of a particular officer(s) in a particular incident with a critique of broader issues of departmental policy. Care needs to be taken to minimize the extent to which procedures that offer greater procedural and evidentiary flexibility exacerbate this problem.

Fourth, procedural justice research has implications for the representativeness of the decision-making body. We noted earlier that one of the salient features in producing the "procedural fairness effect" is the parties' perception that the decision maker is neutral and unbiased.[9] Research indicates that a party's belief that

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[9] Bayley, in this volume, notes that in at least some of the Australian states, when a complaint about police misconduct is made by a citizen (rather than by a police official), the complaint review board must

the decision maker is fair increases the chances of a positive interpretation of the outcome (Tyler 1990: 149).

This would seem to be particularly important when the parties are individuals for whom the procedural justice effect is diminished as a result of being poor or living in a social milieu in which cynical comments about the integrity of the process are common. The Chicago study (Kerstetter and Van Winkle 1989) data suggest that a significant proportion of police abuse victims[10] fall into one or both of these categories. For example, 72 percent of victims were minority group members. In order for a procedure to be viewed as neutral and unbiased among this segment of the population, particular care must be taken that the decision-making authority be viewed as fair. Ironically, the opposing party in these cases, the accused police officer(s), also view authority structures with a great deal of cynicism.[11]

In this situation it seems likely that a decision-making authority must include a significant representation of individuals whom each party will view as capable of understanding their point of view. Certainly a decision-making authority composed either entirely of people associated with the police or entirely of people from the part of the community from which most of the complaints arise will not create a perception of fair-

ness among enough of the key interested parties or groups.

To create that perception of fairness, both parties will need to feel that their point of view has been given due consideration. This is the *fifth* important lesson. Tyler underlines the importance of the parties believing that their views have been given "due consideration":

"The most important factor in shaping people's reactions to having process control is their assessment of the degree to which their views are considered by the decision maker.... Simply providing structural opportunities to speak is not enough to produce value expressive effects: citizens must also infer that what they say is being considered by the decision maker" (Tyler 1990: 149).

A related implication of procedural justice research pertains to the manner and extent to which decisions are explained. The available research suggests the usefulness of oral or written statements indicating the basis of the decision (Lind and Tyler 1988: 106). Sending the complainant a written notification of the decision with little or no articulation of the reasons underpinning it, as is often done, will not contribute to a perception of "due consideration" of his or her point of view (see Perez and Muir's description, in this volume, of the notification procedures used by some agencies).

In summary, procedural justice research suggests a number of lessons for our attempts to provide for satisfactory review of citizen complaints about police behavior:

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include a civilian, appointed by the elected "police minister."

[10] This study distinguishes between people who first notify the Office of Professional Standards of the incident (complainants) and those who were victims of the incident. Sometimes these are the same person. Often, particularly with younger victims, a parent will initiate the complaint without having been present when the incident occurred. In these situations, the parent is classified as the complainant and the child as the victim.

[11] Accused police officers have a great deal at stake. Even if their job is not threatened, their career interests can be damaged by allegations of excessive force. Given these realities, there will be justified legal and political pressure to ensure that they are treated fairly. To be viable, any complaint review system must be responsive to these concerns (see also Perez and Muir, this volume).

1. the perceived fairness of the procedure affects attitudes toward outcomes;

2. a substantial opportunity for the parties to provide information and express views is important to the perceived fairness of the procedure;

3. procedures based on the adversarial model which provide parties with significant process control enhance the parties' perception of justice;

4. care must be given to limiting the extent

that vesting greater process control in the parties results in the introduction of irrelevant material or in confusing individual liability issues with broader policy and political issues;

5. the credibility of the decision maker affects attitudes toward outcomes—a credible decision maker can make an unfavorable outcome more palatable; and

6. indications that the decision maker gave due consideration to both sides of the dispute make the outcome more acceptable. A written or oral explanation of the decision that provides evidence that the decision maker considered the arguments of both parties enhances a sense of procedural fairness (Lind and Tyler 1988: 106).

VI. CONCLUSION

Moving beyond these lessons, the research discussed above suggests the possibility of a more fruitful way of responding to citizens' complaints. Crucial elements here include the likelihood that there will always be a substantial number of unsuccessful complainants, the central importance of an opportunity to express one's viewpoint in the dispute, the tendency to confuse adjudication of a particular complaint with a critique of large policy issues, and the importance of treating all parties with respect and due consideration.

These findings suggest the value of moving away from a judicialized, liability fixing, punitive model for the review of alleged police abuse of force toward a problem-solving approach (see Kerstetter 1985: 180-82, 197-98 and Klockars' essay in this volume). Such an approach would emphasize reconciliation and compensation for the citizen, when appropriate, and assistance and training for the officer, if necessary. It would also facilitate review and correction of policy or systemic problems in the police department (see Geller and Scott 1992: 279-280, 282, 414-415). Repeated or especially serious misconduct by police officers could be treated by traditional disciplinary methods.[12]

Inherent in this approach are a procedure and methodology which will seek to give voice to the perspectives and experience of all parties and to hear and consider their views in formulating a response. It will increase the likelihood that all parties will experience the process as an affirmation of their dignity and worth and as a result enhance the legitimacy of the social order for all concerned.

A. Suggested Research

At least three issues need immediate research.

1. Development of Hybrid Models

Procedural justice researchers have expressed the view that elements of adversarial and inquisitorial processes can be combined in ways that are tailored to a particular problem. Research should be undertaken to develop and test appropriate models. Simply relying on traditional models (such as those discussed by Cheh and by Perez and Muir in this volume) relinquishes the opportunity to utilize for maximum benefit the leads that procedural justice research has provided. Moreover, the variety of models currently in operation provides rich opportunities for research.[13] This research should include consideration of the reoriented approach suggested above.

2. Structuring the Decision-Making Authority

How best to structure the decision-making authority in citizen complaint cases is a pressing issue that would benefit from sustained research. The research should focus on the impact of race, institutional and interest affiliation, experience,

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[12] Cheh (this volume) cites a recent Vera Institute of Justice Study, reported in Anderson (1992: A22), in

which the Institute discovered that a large percentage of persons who allege they have been mistreated by police do not seek serious punishment for the accused officer(s). Instead, the complainants reportedly would be content with an informal opportunity to discuss the problem with the police and with a simple apology or reprimand of the officer(s).

[13] The Cleveland oversight agency provides greater complainant participation than many others. As such, it may provide an interesting research opportunity.

and personal demeanor on the fairness perceptions of all parties. As with the issue of the tailored procedural models, there currently exists an accumulation of experience which would provide a useful starting point for research.

3. Non-Involved Observers

The impact of various procedures on the perceptions of justice of non-involved observers needs additional research. In the context of complaints against the police, both community members and police officers who know of but were not involved in an incident are important audiences. Do non-involved observers react as positively to adversarial procedures, or does the partisanship which is likely to be displayed in such procedures reduce their perceptions of fairness? The procedures adopted should maximize the extent to which these important audiences perceive the process as fair.

The notion that the process by which a complaint is dealt with can improve the attitude of the party who loses toward that result is heartening. It is particularly encouraging in an arena where the evidence suggests that complainants will infrequently prevail. The key to this hopeful outcome is to treat all parties, and their views, concerns and interests with respect. This is particularly important for the citizen complainant, but it applies to the accused police officer as well. The procedural justice research reviewed here provides a path for that endeavor.

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Are Law Suits an Answer to Police Brutality?

Mary M. Cheh

In a volume whose recurring theme is a quest for positive methods of identifying and nurturing officers' highest instincts and skills in the use of force, this chapter (and, to a lesser extent, the Perez/Muir chapter) may seem like "the heavies" in the sense that the focus is on maximizing the power of a punitive control system (here, civil and criminal law suits) to punish errant officers and departments. We do not quibble with the view that the best and most effective control system for the vast majority of American police officers will be self-control and peer control, grounded in values shared with the community about the importance of police using minimal violence in serving and protecting the public. Where such value systems, coupled with professional training and supervision, do not suffice, we believe that internal administrative controls are likely to be much more effective and efficient in redirecting inept or willfully abusive officers than are law suits. But where all other systems have
failed, we see law suits as an important last resort. With that hierarchy of controls in mind, this essay assumes the task of speculating on how civil and criminal law suits could be **maximized** in their power to punish bad police work.

We operate in the United States with an adversarial legal system, and we accept the wisdom of that approach. Thus, there is certainly **at least** one other side to the story told in this chapter. The other side might be a police defense lawyer's perspective on achieving fairness (or maximum protection) for officers, police executives, and local governments through **limitations** on the litigation tools that this essay attempts to strengthen. Among the topics that would deserve attention in that regard are methods for deterring baseless law suits against police and methods generally to avoid having law suits backfire and make matters worse. For instance, if empirical evidence showed that, despite enlightened police leadership, certain types of suits against the

police left departments and communities more estranged and more likely to use violence against one another, such evidence might argue for a change in reform strategy that diminishes litigation. Similarly, if, as some believe, the risk of civil liability deters some police agencies from candidly and progressively documenting their own deficiencies so they can move forward, then that, too, might counsel some law reform effort that would provide more "elbow room" for institutional self-reform efforts. So the reader should see this essay as fulfilling a specific assignment: to discuss how greater use could be made of these last resort control mechanisms and, to a lesser extent, to argue that such expanded use is, on balance, in the public interest. There are certainly other points of view, and they have been, and will continue to be, given voice in many other forums.

— The Editors

I. INTRODUCTION

Criminal prosecutions and other kinds of law suits have not played a major role in addressing the problem of excessive force by the police (see Klockars, this volume). There are many more incidents of police abuse than there are civil law suits, and there is an enormous gap between the number of incidents and the number of criminal prosecutions (Adams, this volume). This is partly explained by the inherent limitations on the capacity of any legal remedies to cure social ills. More pointedly, law suits may be especially unsuited to addressing the phenomenon of excessive force and its causes. Commentators agree that comprehensive and enduring solutions to the problems of excessive force lie in proper hiring, training, acculturation, and supervision of officers; in proper leadership and management of police departments; and in holding police accountable to the public (see, e.g., Rudovsky 1992: 493).[1]

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[1] For example the change in police practices concerning the use of firearms presents a dramatic illustration of the power of managerial reform. When police departments adopted and enforced restrictive firearms policies—in many cases years before required do so by the Supreme Court in *Tennessee v. Garner* (1985)—the number of police shootings fell precipi-

But to say that legal remedies can only carry us so far is not to say that we have gone far enough. On the contrary, the rich potential of civil and criminal responses to excessive force has never been fully exploited. And many of the preparatory steps we might take to expand the use of legal remedies, such as improved public reporting and meaningful complaint procedures, are, in themselves, means to reduce excessive force incidents. To understand what role legal remedies can and should play, we need to understand the different wellsprings of excessive force behavior, and the different limitations and possibilities of the criminal and civil law.

Excessive force tends to occur in two relatively distinct kinds of contexts. In one kind of case, sometimes called the "bad apple" case, an officer or group of officers is culpable strictly as individuals. Despite training, despite clear guidelines, despite full awareness that their actions are wrong, these officers engage in impermissible acts of beating, shooting, or other forms of mistreatment of citizens. In another kind of case, which we can call the "bad department" case, police misbehavior is part of a systemic problem in the department either because police officers are effectively encouraged or permitted to use excessive force, or because they lack clear guidance, adequate training, or responsible supervision and oversight of their actions. Of course there can be a blending of the two kinds of cases; one notable hybrid is a department indifferent to repeated brutality complaints against the same handful of officers. (Compare Fyfe's distinction, in this volume, between abuse of force stemming from willful wrongdoing and abuse of force stemming from ineptness.)

The main objective of a criminal case is to adjudicate guilt and express societal condemnation of morally culpable individuals. The criminal law is not an effective way either to prevent excessive force or to cure systemic misbehavior. Indeed the use of the criminal law to punish police who brutalize, assault, abuse, and even murder citizens represents a failure of preventive measures and, if the misdeeds are widespread, signals the need for immediate and thorough internal reform. The criminal law can only proceed against specific

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tously, and death and injuries declined markedly (see, e.g., Geller 1982: 151; Geller and Scott 1992).

wrongdoers and only within very circumscribed procedural forms. It can punish and, in some instances, it might deter, but it cannot of itself force fundamental change in how a department is run, supervised, led, and made accountable.[2] Its most appropriate application, therefore, is against bad apples.

By contrast, the civil law, because of its greater flexibility and scope, does have the potential to serve as the instrument of systemic reform. In adjusting rights and settling wrongs, civil remedies generally offer distinct advantages over criminal sanctions. First, a victim of police misconduct can sue on his or her own behalf and need not await the government's decision to go forward. Second, an injured party need not face the heightened procedural protections afforded the criminally accused. For example a plaintiff can prevail under a preponderance of evidence standard rather than proof beyond a reasonable doubt. Third, although the civil law, like the criminal law, can punish via its potential for imposition of punitive damages, the civil law provides compensation to victims who have been harmed by police misconduct. Recompense is beneficial in itself (see also Kerstetter, this volume), and damage awards can spur reform if the costs of misbehavior are high. Fourth, civil law suits permit broad discovery of information and may provide a means to uncover police misbehavior and stir public reaction. Finally the civil law offers various possibilities for framing relief which go beyond punishment or compensation and include remediation. That is, the civil law offers equitable relief, via court injunction and specific orders, that can force a deficient department not only to pay for harm caused but to reform so that the harm is not likely to be repeated.

It remains true, of course, that civil suits are not the exclusive nor even the best or preferred way for handling excessive force problems. Despite their potential advantages, even civil law suits have limitations, such as cost, and other solutions are better. Again, the ideal is internal,

administrative, managerial reform (see essays in this volume by Klockars, Fyfe, and Toch) with significant outside oversight (see Perez and Muir, this volume) and the backstop of the criminal law for bad apples who slip through the best of screening,[3] training, and supervision. Civil law suits can, however, serve as a catalyst for change.

This chapter describes the civil and criminal remedies currently available to redress incidents of excessive force, and it identifies their inadequacies. The main focus will be on federal causes of action. This chapter presupposes that, even under the best of circumstances, legal remedies will continue to play only a subordinate role. Yet the full potential of these remedies has not been tapped, and the need to do so grows more urgent in the face of inadequate alternative solutions.

II. WHAT IS EXCESSIVE FORCE? LEGAL STANDARDS AND MIXED MESSAGES

Excessive force issues will always present difficult dilemmas for the legal system. Law suits typically end with liability determined or guilt adjudicated; someone wins and someone loses. Justice in such circumstances depends on our ability to know the relevant facts and to apply relatively clear rules. Many kinds of cases test our capacity to give correct legal answers but perhaps none more than issues of excessive force.

Excessive force is almost always a matter of degree and a matter of circumstance. Excessive force complaints frequently arise in situations where the officer, armed and obliged to confront criminality, was doing his job; where he was duty-bound to intervene; where danger was present and some force was necessary; or, where witnesses are limited to the victim and the officer and there is a marked divergence in their views about what happened.

Added to this ambiguity, relativity, and uncertainty is the effect on an individual officer of the behavior of other officers, the department's real or imagined acquiescence or encouragement

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[2] On a rare occasion, such as that involving Rodney King, a criminal case might further publicize such shocking behavior that it triggers calls for fundamental changes in police practices (see Klockars' discussion, in this volume, of scandal as one of the several external "mechanisms" for controlling police misconduct).

[3] Grant and Grant, in this volume, caution that the effectiveness of even state-of-the-art pre-employment screening to weed out candidates who will abuse force is very low.

of violent behavior, and the public's conflicting expectation of "model officers" who will be paragons of discretion yet still do whatever it takes to preserve order and protect property. Before looking at particular criminal and civil law responses to excessive force, it is necessary to consider the applicable legal standards and the mixed messages often conveyed to the officer.

A. Legal Standards

Although sociologists have taught us that most of a police officer's time is spent on other matters, police officers are required to enforce the law and apprehend criminals. An officer may, and indeed must, use all reasonable means to discharge his function. A police officer may not shrink from danger, he is not "free to turn away" (*State v. Williams* 1959), and he may face sanctions for failure to act[4] (compare the discussion by Fyfe, in this volume, of officers choosing sensible times and methods for placing themselves in harm's way).

Yet force becomes legally excessive when it is used for other than lawful purposes or when it is used out of proportion to the need. International standards (see United Nations General Assembly 1979; Eighth United Nations Congress 1990); constitutional standards (*Graham v. Connor*, 1989); model standards (Commission on Accreditation for Law Enforcement Agencies 1991: §1.2.1-1.3.16); and representative police regulations (e.g., Los Angeles Police Department Manual 1991) tend to rely on similar formulations to capture the two requirements of lawful purpose and proportionality (compare Klockars' criticism of such existing definitions of excessive force, in his chapter for this volume).

For example, the United Nations Code of Conduct for Law Enforcement Officials (United Nations General Assembly 1979) and the related Basic Principles on the Use of Force (Eighth United Nations Congress 1990) stress the exceptional nature of the use of force, provide that force must always be proportionate to danger, and require that injury and damage be kept to a

minimum (*ibid.*).

The current U.S. constitutional standards governing police use of force are set out in *Tennessee v. Garner* (1985) and *Graham v. Connor* (1989). In *Garner* the Supreme Court held that the use of deadly force to arrest a fleeing felony suspect is subject to the Fourth Amendment standard of reasonableness. The Court invalidated, as applied, a Tennessee statute which permitted a police officer to use all necessary means to effect an arrest. The Court stated: "The use of deadly force to prevent the escape of all felony suspects, whatever the circumstances,.is constitutionally unreasonable" (*Tennessee v. Garner*, 1985: 11). Rather, deadly force must be limited to cases "where the officer has probable cause to believe that the suspect poses a threat of serious physical harm, either to the officer or to others" (*ibid.*).[5]

In *Graham v. Connor* the Court held that the Fourth Amendment command of reasonableness applies to "*all* claims that law enforcement officers have used excessive force—deadly or not—in the course of an arrest, investigatory stop, or other seizure of a free citizen" (1989: 395 [emphasis in original]). While

> "the right to make an arrest or investigatory stop necessarily carries with it the right to use some degree of physical coercion or threat thereof to effect it, proper application [of the Fourth Amendment] requires careful attention to the facts and circumstances of each particular case, including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or other, and whether he is actively resisting arrest or attempting to evade arrest by flight" (*ibid.*: 396).

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[4] Almost 10 percent of all civil liability actions against New Jersey police officers in the years 1985-1986 (56 of 576 cases) were for failure to act (Fisher, et al. 1989: 45).

[5] The case collects many references to studies and departmental rules governing deadly force. The Court in *Garner* made no attempt to define what objects would present a danger of serious physical harm. There is uniform agreement that a gun poses a danger of deadly force. The dissenters in *Garner* objected, however, that: "Police are given no guidance for determining which objects, among an array of potentially lethal weapons ranging from guns to knives to baseball bats to rope, will justify the use of deadly force" (1985: 32, O'Connor, J., dissenting).

The Commission on Accreditation for Law Enforcement Agencies, in its *Standards for Law Enforcement Agencies* provides that "an officer may use deadly force only when the officer reasonably believes that the action is in defense of human life, including the officer's own life, or in defense of any person in immediate danger of serious physical injury" (Commission on Accreditation for Law Enforcement Agencies 1991: 1-2). The standards prescribe that written directives be issued to "encompass the use of all types and kinds of force (whether deadly or nondeadly) and all types and kinds of weapons" (*ibid.*).

As these standards indicate, legal rules often differentiate between deadly and nondeadly force. The meaning of deadly force is often assumed, or simply equated with the use of firearms or other obviously lethal force. Arguably, however, deadly force could include intentional headstrikes with weapons such as flashlights and batons, or the use of dogs in some circumstances (see Kolts 1992: 187; see generally, Geller and Scott 1992).

The definition of nondeadly force is even less clear. The New Jersey Task Force on the Use of Force in Law Enforcement concluded that there is a "lack of any common understanding as to what contact—ranging from handcuffing an arrestee in compliance with department policy to physical altercations—should be considered a use of nondeadly force" (New Jersey Task Force Report 1992: 7). Pushing, punching, slapping, body blows, chokeholds, and TASER assaults can all be instances of nondeadly force—excessive or appropriate under the circumstances.

There is a need for greater clarity and uniformity of standards regarding excessive force (see other essays in this volume discussing definitional problems, including those by Klockars, Adams, and Worden). Some states set out rules regarding the legitimate use of force in their general criminal codes under provisions of "justification." These standards can be quite detailed and complex and may even be at variance with constitutional norms (*ibid.*: 104-20). Other standards may be too general. Frequently, internal police orders can provide additional guidance with, for example, rules limiting or prohibiting warning shots, car chases, or the use of certain methods of restraint. As others in this volume argue, it is essential that police agencies provide much more detailed guidance to their officers in the appropriate tactics and tools of their trade than could ever

be written into legislation or case law.

Excessive force as a legal concept is typically too narrow to embrace the wide range of police abuse that citizens complain of (and often refer to as "brutality" or "excessive force"). These complaints cover threats; abusive language; racial slurs; racially and ethnically discriminatory treatment; requiring citizens to assume demeaning positions, without justification, such as lying prone in the dirt or submitting to restraints such as hog-tying; unwarranted invasions of the privacy of one's possessions or home; unlawful arrest even without force; and destruction of property. Again, more specific internal standards such as police regulations or codes of ethics may encompass these actions. Some of these abuses may also be proscribed by civil rights statutes which impose civil and criminal liability for deprivation of constitutional rights, such as protections against racial discrimination or unlawful searches and seizures (e.g., 42 U.S.C. §1983, see our subsequent discussion under the heading "Federal Law: Section 1983"). Civil rights statutes can also be employed to hold officers liable for failure to prevent other officers or municipalities from using excessive force against a victim or lying to cover it up (*Byrd v. Brishke*, 1972—group beating by Chicago police officers; *Brandon v. Holt*, 1986: 1266-67—code of silence). Nevertheless, some abusive police conduct such as derogatory comments, too-tight handcuffing, or the exercise of legitimate discretion in a retaliatory way may simply escape the reach of the civil and criminal law.

B. Ambiguities and Mixed Messages

1. Clear Guidance and Basis for Accountability

Police necessarily exercise a wide range of discretion in the conduct of their duties. They work alone, in pairs, or in very small groups largely unsupervised throughout much of the day. Charged with enforcing the law, facing up to danger, and using force as needed, they are called on to make split-second judgments in tense, emotional, and threatening circumstances.[6] But,

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[6] Sometimes the police themselves create the confrontation or escalate it. Kolts discusses the

as the standards above indicate, only particular circumstances can fully define reasonableness, and the police must not go too far. It can be a very "delicate balance" (New Jersey Task Force Report 1992: 103).

Because officers must sometimes walk a fine line between duty and excess, minimal fairness would require that, before they are subject to civil or criminal liability for their actions:

(a) the rules of behavior be clearly, specifically, and consistently set out;

(b) they receive adequate education and training, which should include a knowledge of alternatives to the use of force and simulation exercises;[7]

(c) they receive periodic reeducation and retraining;

(d) they subscribe to a code of ethics and receive positive reinforcement for adhering to it; and

(e) the standards to which they are subject reflect degrees of moral culpability commensurate with the criminal or civil liability they face (compare the higher standard of conduct for nondisciplinary review called for by Klockars in this volume).

2. The Mixed Messages of Particular Practices

A substantial number of citizen complaints arise out of the use of tactics or weapons whose use carries an elevated risk of inflicting unneces-

sary pain and injury and of violating citizens' rights (see, e.g., Independent Commission on the Los Angeles Police Department 1991: 99; Kolts 1992: 75-87, 187-90; Subcommittee Hearings, Fyfe and Hoffman testimony 1991: 37-53, 57-59, 67-73). These include the use of so-called pain compliance techniques, that is, inflicting pain on demonstrators or others to induce compliance with police orders; the use of choke-holds, TASERs or stun guns; the use of dogs; and the use of street sweeps or round-ups in which large numbers of citizens are encountered, accosted, and detained without lawful justification (see Subcommittee Hearings, Fyfe and Hoffman testimony 1991: 37-53, 71). When police departments encourage or permit these tactics and tools to be used without carefully defining and limiting the circumstances of their use, the departments may signal approval of or indifference to the use of excessive force.[8]

3. The Mixed Messages of Governmental Policies and Societal Expectations

Although the focus of this report is on excessive use of force by the police, it would be foolish to pretend that the phenomenon of excessive force is unrelated to the difficult societal conditions in which crime, disorder and fear flourish and the sometimes unrealistic expectations which we have for the police.[9] The police cannot change the societal conditions in which they work, but, inevitably, they are affected by them (see Goldstein 1990). It should not be surprising that claims of excessive force correlate with population density, and at least one study posits a connection between the problems of excessive force and the poverty, alienation, and despair of crime-ridden neighborhoods (New Jersey Task Force Report 1992: Foreword; see Worden's extensive discussion, in this volume, of the correlates of police use and abuse of force).[10]

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phenomenon of "contempt of cop" scenarios, where officers act violently in response to disrespect, cursing, interference, or threats by unarmed citizens (Kolts 1992: 35-50). Fyfe (1986 and in this volume) and Geller and Scott (1992) discuss the jeopardy in which police needlessly place themselves and others by over-reliance on a "split-second" conceptualization of tactical decisionmaking.

[7] Indeed, as discussed in section V of this chapter, municipal liability may attach where officers who injure others received inadequate training (see, e.g., *Davis v. Mason County,* 1991).

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[8] And the agencies may, consequently, invite municipal civil liability (see the subsequent discussion in sections V.B.2. and V.B.3.a. of this chapter).

[9] The "often confrontational nature of police work" almost invites complaint (see Goldsmith 1991b: 16-17).

[10] As newspaper accounts and studies of police

Police departments can meet the challenges of the streets in different ways. When their rhetoric and tactics are guided by "war" metaphors, as in the so-called "war on drugs," they invite officers to adopt an "us-against-them" mentality. Often this means the police versus the inner city neighborhood or the housing project, or versus the young males who congregate in certain areas. The very methods of drug enforcement require intrusive actions, including the use of informants, stings, searches, "working the busses and trains," high profile presence in drug areas, usually in the inner city, and sweeps, again, usually in the inner city. And the police are aware that the "drug war" has led the courts to relax otherwise applicable standards, lessen probable cause requirements, find good faith exceptions to warrant requirements, permit the police to stop travellers meeting loose criteria of drug traffickers, and sustain forfeitures of property and lengthy sentences for drug possession and sale. The not-so-subtle message to the police is: be aggressive, get it done, the ends do justify the means (see Subcommittee Hearings, statement of Gerald L. Williams 1991: 216; Marshall 1992: C1).

III. THE INCIDENCE OF EXCESSIVE FORCE

A variety of studies and task forces have tried to identify the incidence of excessive force (see, e.g., Fisher, et al. 1989, examining the prevalence of excessive force from the perspective of civil suits). An entire chapter (Adams') in this volume is devoted to this issue. This information is directly relevant to the criminal and civil law because it provides the basis to assess its effectiveness as a scheme of compensation, as a deterrent, as appropriate punishment, or as a vehicle for triggering reform.

Yet the reality is that there remains a distinct lack of information on the dimensions of excessive force. Information on excessive force is often not kept or maintained, or if kept and maintained, it is often not reliable, not standardized, not comprehensive, or not available to the

public. Studies of excessive force uniformly criticize this state of affairs and call for reporting requirements, agreed on and standardized terminology and relevant disclosures, and access by the public and governmental authorities to the information[11] (see Kolts 1992: 169-85; New Jersey Task Force Report 1992: 77-100; Geller and Scott 1992: 44-49; del Carmen 1993). It appears self-evident that, without information, responses to police violence by the public, oversight agencies, and the executive branch of the federal government will be inadequate or faulty. In the 1994 Violent Crime Control and Law Enforcement Act, Congress has recently directed the Attorney General "through appropriate means" to collect data on "the use of excessive force by law enforcement officers" and to "publish an annual summary" (section 210401 [a][c]; the essays in this volume by Adams and by Geller and Toch discuss this new statutory mandate).

The information that is available paints different pictures. Some departments generate a large number of excessive force complaints, including allegations of serious injury and death. Others report few incidents (Pate and Fridell 1993). Nevertheless two general observations can be made that have a direct influence on assessing the scope and effectiveness of the criminal and civil law. First, even though the incidence of the use of excessive force, in absolute terms and relative to the number of total police-citizen contacts, is infrequent[12] (e.g., New Jersey Task Force Report 1992: 22, 48; New York Commission Report 1987), there are more, perhaps many more, such incidents, including serious ones, than the number redressed by civil suits or criminal

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violence show, racial tensions may also underlie or exacerbate problems of police abuse (see Shipler 1992; Locke, this volume).

[11] The nation's police chiefs recognize the need for systematic reporting on excessive force. They have called for a national system for gathering data (James 1991). Lee P. Brown, then-President of the International Association of Chiefs of Police and Commissioner of the New York City Police Department, stated: "The problem of excessive force in American policing is real" (*ibid.*).

[12] Force is found in about five percent of arrests and in less than one-tenth of one percent of all police/citizen contacts (see Adams' and Worden's essays, in this volume).

prosecutions[13] (see Subcommittee Hearings, statement of Wade Henderson 1991: 167). Second, whatever the empirical data, the public perceives the incidence of the use of excessive force to be significant and the problem of excessive force to be serious[14] (see, e.g., New Jersey Task Force Report 1992: 29-31; Gallup 1991; Flanagan and Vaughn, this volume).

Both of these observations suggest that any critique of the criminal and civil law must consider ways to make the laws more effective and perceived as more effective. The uncovering and reporting of police violence appear to be necessary first steps.

IV. CRIMINAL SANCTIONS

Experience demonstrates that the criminal sanction will play only a marginal role in preventing excessive force[15] (see Newman 1978: 449-50). Yet the criminal law must be part of any regime to control the police because, even in the best of departments, criminal abuse may occur. And, if it does occur, a criminal prosecution reaffirms the societal condemnation of police lawlessness, strengthens the public's trust and confidence that

even the police will be subject to the law, and, if explained and seen as legitimate by other officers, can serve some deterrent and educational purposes.[16]

A. Criminal Prosecutions Under State Law

In all states police can be prosecuted for excessive use of force under generally applicable state laws such as assault, aggravated assault, manslaughter, and murder. In addition, in some states, there are civil rights statutes which make unjustifiable use of force by officers a distinct crime.[17] In these latter states an officer can be prosecuted under the specific statute, under the general criminal provisions, or, as happened in the case against the four Rodney King officers, under both. Typically, it is also a criminal violation for police officers to file false reports.[18]

The information gap surrounding the number of criminal cases brought against officers for

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[13] For example, citizens in Syracuse, New York filed about 100 police brutality complaints with the Syracuse District Attorney over a 15 year period. Only four officers were indicted and none were convicted (Gruson 1992). And relatively few excessive force incidents are redressed by internal police discipline (see the chapter by Perez and Muir in this volume).

[14] Citizen perceptions of the police as hostile or brutal (and vice versa) may be especially pronounced where officers are white suburbanites and the community consists of Hispanic or black residents of the inner city (see McKinley, Jr. 1992; Locke, this volume).

[15] "[T]he criminal sanction will never have significance as a deterrent. Its use is bound to be sporadic at best." Skolnick and Fyfe explain the limited role of the criminal law by analogizing criminal prosecutions against police officers to criminal prosecutions against other professionals such as doctors. In both kinds of cases, they say, "professionals are better situated than lay juries to deal with the sinners among their ranks," and "justice in cases of occupational crime is better served by victims' private civil actions than by public criminal prosecutions" (Skolnick and Fyfe 1993: 199).

[16] While criminal prosecutions of police are rare, still the criminal law can be used too aggressively against police. A sense of unfairness and loss of morale may defeat the deterrent and educational benefits which might be gained. Indeed criminal prosecution of one or two officers for abusive acts that are, in fact, widespread may simply reinforce the notion among other officers that the prosecuted few were just unlucky to be caught, or improperly singled out, or unfairly punished "for doing their jobs." Yet, although no particular optimum use of the criminal law can be identified here, the evidence suggests that the criminal law is materially underenforced.

[17] See, e.g., Alaska Stat. § 11-76, 110 (1991) (making injury, oppression, threat, or intimidation in derogation of a state statutory or constitutional right a misdemeanor, whether or not under color of law); Cal. Pen. Code § 422.6 (1992) (similar state civil rights statute); Mass. Ann. Laws ch. 265 § 37 (1992) (same); Ohio Rev. Code Ann. § 2921.45 (1974) (similar state civil rights statute, though limited to state action under color of law).

[18] See, e.g., Mass. Ann. Laws ch. 268, §6 A (Law. Co-op. 1992) (specific to reports filed by public officers); Cal. Penal Code §148.5 (Deering 1992) (applies to any person who files a false report); Md. Ann. Code art. 27, §150 (1991) (same); Mass. Ann. Laws ch. 269, §13A (Law. Co-op. 1992); N.Y. Penal Law §240.50 (Const. 1992).

excessive force is particularly acute (see Adams, this volume). There appears to be no comprehensive source of statistics on the number of criminal prosecutions brought against police officers. Some states, like New Jersey, which rely on general criminal statutes for officer prosecutions, keep statistics by statute and do not separate out cases brought against police officers. Other states, whether having a specific statute or not, simply do not keep relevant data. By all accounts, however, the number of criminal prosecutions brought against police officers each year is quite small[19] (see American Bar Association Project 1972: 151-52; Edwards 1965).

1. Why So Few Prosecutions?

Given the hundreds and perhaps thousands of excessive force incidents which occur each year, some involving quite serious harm, why are there so few criminal prosecutions? There are many possible explanations (also see generally Adams, this volume).

One set of explanations arises directly out of the nature of criminal cases. In a criminal prosecution, the accused enjoys many procedural advantages. The government must prove the

officer guilty beyond a reasonable doubt; the officer is entitled to counsel and, ordinarily, a trial by a jury; and the officer may refuse to testify (see LaFave and Israel 1991: §§11, 1.22, 1.24.4; Smith 1990: 3). Moreover, in all states it is a complete defense to a charge of excessive force that the officer acted reasonably in the circumstances. It is also a complete defense if the officer reasonably, although mistakenly, believed that the use of force was necessary. States vary concerning criminal liability where an officer mistakenly believes force is necessary but his mistake is reckless or negligent. In such circumstances criminal liability may attach or may be mitigated (New Jersey Task Force Report 1992: 101-27).

In some cases, the criminal law might appear to be too harsh an instrument to use against a police officer even if he did, in fact, use excessive force. In this regard it is useful to note that a high percentage of excessive force claims arise in the context of an arrest, sometimes after a harrowing car chase or in the midst of impending violence or unstable surrounding circumstances. Although it might be appealing simply to say, "let a jury decide," the very use of the criminal law carries a reputational, psychological, and possibly a monetary penalty to the defendant. It may also adversely affect the morale of the other police officers who work in the defendant's department.[20] Therefore, a prosecutor might want to have an especially clear and dramatic case before proceeding. And the prosecutor's decision not to proceed is generally not reviewable. Citizens may not initiate criminal prosecutions.

The criminal law may also appear to be too blunt an instrument to use against a police officer in some circumstances. Criminal cases have an all-or-nothing quality—either the officer is branded a criminal or he is exonerated. In many cases an officer may have misbehaved but a more measured, more constructive response, such as an administrative sanction, payment of restitution, or retraining is appropriate.[21] Moreover, the criminal

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[19] At the national level, the Justice Department receives about 8,000 police misconduct complaints each year. Three thousand are investigated. Only about 50 of these are presented to a grand jury. At the local level, in Los Angeles, for example the *Los Angeles Times* reported that, since 1980, the county District Attorney, after considering accusations of assaults sent to its office for review, prosecuted officers and deputies in 41 cases of assault but declined to prosecute 278 other cases. About one half of the 41 cases resulted in convictions (Freed 1991: 1). Meanwhile, in 1990 in Los Angeles alone over 2,500 complaints of police abuse were recorded by the Police Misconduct Referral Service. Further, Paul Hoffman, Director of the American Civil Liberties Union Foundation of Southern California, testified before Congress that, despite hundreds of complaints against Los Angeles police officers, "no one can recall a single instance in which a law enforcement officer in Los Angeles has been prosecuted by the Justice Department...." (Subcommittee Hearings, Hoffman testimony 1991: 65). Thus, the federal criminal prosecutions of the LAPD officers who beat Rodney King were highly unusual, particularly in the Los Angeles metropolitan area.

[20] For an example of police loss of morale in the face of accusation, see Wolf (1992: B2).

[21] Apparently there is considerable potential for using mediation or a chance for a complainant and a police officer to "talk out" an incident, at least where

law may not permit sufficient distinctions to be made in the degree of culpability of the defendant. In New Jersey, for example, a task force study specifically called attention to the inflexibility of the criminal statutory options, which leave no room to distinguish between use of deadly force in circumstances where the officer acted purposefully and where he acted under a reckless or negligent mistake about the need to use force (see New Jersey Task Force Report 1992: 121-27).

A second explanation for the low number of criminal prosecutions is the reluctance of local and even state authorities to proceed against local officers. The identity of interests between police and prosecutors and the need to maintain good working relationships may color assessments of criminality and the decision whether to go forward (Newman 1978: 450; Skolnick and Fyfe 1993: 199). Government officials may also fail to proceed out of concern that a criminal prosecution could engender or aid a civil damage action against the municipality or the county (see Kolts 1992: 193-95; Schwartz 1970: 1024-25; Skolnick and Fyfe 1993: 197). The use of special prosecution units or the use of special prosecutors may overcome these potential conflicts.[22]

Finally, the low number of criminal prosecutions is explained by the fact that many jurisdictions lack the underlying complaint and investiga-

tive systems necessary to bring cases forward.[23] Many observers cite an inadequate complaint system as a principal reason for failure to address excessive force through criminal or other means (see Rudovsky 1992: 482-88). An inadequate complaint system is one that is either not available, or not effective, or one that is actually administered to discourage complaints, compromise them, or cover them up.[24]

Most of the elements of an exemplary complaint system can probably be articulated (see Police Executive Research Forum 1981; Goldsmith 1991b; Perez and Muir, this volume; Kerstetter, this volume). Such a system should include at least publication of the complaint process; simple and easy filing procedures; taking of complaints by or filing with a neutral and cooperative official; prompt, effective, and objective investigation of allegations; an opportunity for the complainant to participate in and be informed about the progress of the matter; and provision of reports and recordings of the disposition or sanction to the complainant, to the officer's file, and to oversight agencies. The hard part is getting police departments to adopt such systems and, most importantly, getting them to work. Two glaring deficiencies are the lack of oversight of a system's effectiveness and the lack

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the claimed mistreatment was minor or ambiguous (see Kerstetter, in this volume). The *New York Times* reported on a Vera Institute of Justice study which found that there are a high number of complainants who do not seek serious punishments against officers and who would prefer an informal opportunity to seek an officer's apology or reprimand (Anderson 1992: A22).

[22] For example, in its study of police and racial violence, the New York-based Center for Law and Social Justice specifically recommended that the governor "create an independent office of Special Prosecutor to investigate and prosecute incidents of police and racial violence" (Center for Law and Social Justice 1988: 24). Other, less dramatic devices might include structuring the exercise of prosecutorial discretion by requiring written statements of reasons why prosecutors elected non-prosecution (see LaFave and Israel 1992: §13.2).

[23] Police officials cite the lack of investigative resources as a principal reason why only 3.9 percent of all complaints (131 cases out of 3,379 complaints) filed against police officers in New York City in 1991 were substantiated (Anderson 1992: A22; on rates of sustaining complaints generally, see Perez and Muir, this volume).

[24] For examples of flawed approaches, see, e.g., *Gutierrez-Rodriguez v. Cartagena* (1989: 565-66) (describing practices of Commonwealth of Puerto Rico Police); *Harres v. City of Pagedale* (1987: 505-08) (practices of Pagedale, Missouri Police). A study of the Boston Police Department found that officials would defeat complaints by inaction. The effort would be "to outlast the victim, to continue, and continue it until the victim gets fed up and no longer comes to the hearings" (Boston Report 1992: 99-119). The Christopher Commission reached similar conclusions about the Los Angeles Police discouraging complaints of excessive force (Independent Review Commission on the LAPD 1991). Bayley (this volume) discusses police efforts in several other nations to discourage the lodging of misconduct complaints by citizens.

of discipline against officers who fail to follow the system, provide false information, and cover up wrong-doing (see, e.g., Independent Commission on the LAPD 1991: 165-71; Kolts 1992: 62-62, 119-22; Rudovsky 1992: 483-90). Effective complaint systems need vigorous disciplinary back-up and an audit system whereby compliance is sampled at random, even without a public complaint (see Perez and Muir's discussion, in this volume, of the "civilian monitor" model of complaint review). False reporting by officers should be treated swiftly and harshly.

Even if there is a viable complaint system, excessive force cases are not necessarily brought to the attention of prosecuting officials, and if they are, it may be at a time when investigation avenues have grown cold or information has been compromised or distorted. In addition to a proper complaint system, most authorities agree that there must also be a system of oversight and accountability outside the department (see New Jersey Task Force Report 1992: 84-95, 94-97; Rudovsky 1992: 497; and the essay in this volume by Perez and Muir).[25]

Even under the best of circumstances, investigating excessive force cases can be difficult. In many cases the only witnesses will be the victim and the police, and medical data may be inconclusive. If there are other witnesses, they may be reluctant to come forward. Even victims may refuse to proceed, fearing retaliation or unsure of their rights. And, for their part, the police may cover for each other and file false accounts.[26]

2. Bringing More Cases and Factors That Might Justify a Low Level of Prosecution

Should there be more excessive force crimi-

nal prosecutions? Under current circumstances, it is difficult to know. The experience of lawyers and others close to the issue (Subcommittee Hearings, testimony of Hoffman 1991: 65-70) and the dramatic gap between the number of complaints and the number of prosecutions strongly suggest that criminal acts by the police are being overlooked.[27] Yet even a very low number of criminal prosecutions may be justified if (a) there are procedures in place that permit citizens' complaints to be filed, investigated, and publicly reported; (b) decisions not to prosecute reflect legitimate and informed prosecutorial discretion or grand jury judgment; and (c) cases of low level or ambiguous wrongdoing can be relegated to an effective administrative or managerial remedy. These conditions for justifying a low number of criminal cases are not now prevalent.

3. Winning Cases Which Are Brought

Even when excessive force prosecutions are brought, they may prove difficult to win. Prosecutors frequently assert that juries are reluctant to convict officers of excessive force except in the clearest of cases and, even then, may ignore the facts and the law (see, e.g., Mintz 1992: 2; Newman 1978; Subcommittee Hearings 1991: 5). Jurors are naturally sympathetic to an officer, who, after all, became involved in the incident as part of his duties. They are reluctant to brand him a criminal and find beyond a reasonable doubt that he committed a crime. Contrariwise they usually see the victim as unsympathetic, as contributing to the event, or as a criminal who deserved what he got. Jurors may worry that a criminal conviction will send the wrong message to other officers, lower morale, or encourage officers to be less aggressive. They may worry, too, that a convicted officer will face retaliation from prisoners if sent to jail (see Newman testimony 1992: 4-5; Adams, this volume).

Yet criminal cases are brought and are won. For example the Justice Department brought less than 100 criminal cases out of 8,000 complaints

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[25] This need not mean civilian review. Indeed in some cases a civilian review system can be the obstacle to oversight if a panel is untrained, ineffective, or lacking in investigative authority and expertise. At the same time, even ineffective civilian review boards can serve as "emotional safety valves" and impart legitimacy to police oversight determinations (see, e.g., Gruson 1992: B1; Perez and Muir, this volume).

[26] For citations to litigation and studies of police culture that discuss the police "code of silence," including refusal to cooperate, coverups, and lying, see Rudovsky (1992: 481, n. 60, 487-88, n. 83-89).

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[27] Of course it should be recalled that underenforcement of the criminal law is the norm. If every prosecutor pursued every case in which there was clear evidence of criminal guilt "the criminal law would be ordered but intolerable" (Breitel 1960).

it received. In those cases, however, it recently has had a conviction rate of 60 to 70 percent (see Subcommittee Hearings 1991: 6, 10). Although this rate falls below conviction rates for other felonies,[28] it is still significant.

If criminal enforcement is to prove more successful, some innovations might be considered. One idea is to dispense with juries in some cases. Constitutionally, a defendant is entitled to a trial by jury in a criminal case, but non-jury trials are ordinarily permitted in petty or misdemeanor cases where the possible sentence does not exceed six months in jail (e.g., *Baldwin v. New York*, 1970; *Blanton v. City of North Las Vegas*, 1989).

Of course, this is an unacceptable approach where the crime is particularly brutal or causes death or severe injury. But, in close cases, one strategy would be to pursue a misdemeanor rather than a felony prosecution. Even conviction for a petty offense is a criminal conviction—it will carry some punishment and stigma, and perhaps trigger internal disciplinary action or termination from the police force.

Another idea is to confront the reasons for jury nullification (that is, jury acquittal despite proof of guilt), where that is possible.[29] It is hard to predict the chances that jury nullification will arise in a given case, and harder still to know the precise reasons for it. It is clear that juries expect and require criminal cases against police officers to show dramatically culpable behavior. Special units in prosecutor's offices could develop expertise and experience in handling the distinct problems and strategies that apply to a prosecution for excessive use of force. These special matters include selecting juries, using experts, developing very carefully drawn jury instructions, and handling tricky evidentiary issues relating to an officer's prior use of force and the victim's criminal past.

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[28] Generally 80-90 percent of all criminal felony cases result in a plea disposition prior to trial and, of the cases which go to trial, about 70-80 percent result in convictions (see MaGuire and Flanagan 1990: 502-03, Tbl. 5.25).

[29] Jury nullification occurs in many cases and for many reasons (see LaFave and Israel 1991: §13.2, at 625, §22.1 at 959).

B. Criminal Prosecutions Under Federal Law

There is no specific federal statute which criminalizes police use of excessive force. Rather, there are broadly written civil rights provisions which make it a crime to deprive a person of his civil rights under the Constitution or laws of the United States (18 U.S.C. § 241 [1988] [conspiracy]; 18 U.S.C. § 242 [1988] [deprivation of rights under color of law]). The use of excessive force may, for example, violate a person's right to be free of an unreasonable search or seizure under the Fourth Amendment (e.g., *Tennessee v. Garner*, 1985) or the right to be free of unlawful summary punishment inflicted by officers contrary to the due process clause of the Fourteenth Amendment (see, e.g., *Titran v. Ackman*, 1990); or the right to be free of coerced confessions under due process and the Fifth Amendment protection against self-incrimination (e.g., *Gray v. Spillman*, 1991).

In response to the acquittal under state law of the officers who beat Rodney King, the Justice Department brought federal civil rights prosecutions against the officers. This federal action raised anew questions about the efficacy and wisdom of using civil rights statutes to redress police use of excessive force and questions about whether the particular statute, 18 U.S.C. § 242, is well designed for such a task.

The idea of federal prosecution to protect federal rights grew out of the turbulent Reconstruction era following the Civil War. Congress sought strong and sweeping remedies to counter widespread, often government-backed violence against and denial of rights to Southern blacks (see Eisenberg 1991: 3-23; Maslow and Robinson 1953; Lawrence 1992: 26-31). Local and state government officials in the South were not only failing to protect blacks (and white union supporters) in the exercise of their rights of life, liberty, and property but were actively subverting those rights. State remedies could not possibly be adequate because it was the states themselves, and their agents, who were among the wrongdoers. The precursor of the current section 242 purposefully employed broad language to protect all persons, of any race, against the loss of federal rights under color of law.

The current law provides:

"Whoever, under color of any law, statute, ordinance, regulation, or custom, willfully subjects any inhabitant...to the deprivation of any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States, or to different punishments, pains, or penalties, on account ...being an alien, or by reason of his color, or race, ...shall be fined not more than $1,000 or imprisoned not more than one year, or both; and if bodily injury results...imprisoned not more than ten years, or both; and if death results ...any term of years or for life" (18 U.S.C. §242).

This law has come to play a profound and central role in safeguarding basic rights in society. First, a broad-based civil rights statute is a declaration of the importance of those rights—they are primary, not derivative, and they command their own enforcement regime. Second, such a law is an acknowledgement that although we live most of our lives locally, controlled by local rules and local justice, and although that is desirable and empowering, it can also be abusive and corrupt. There are times when the community is powerless to provide self-correction for official abuse either because it has lost effective control or because it acquiesces in or approves of actions against disfavored individuals or groups. Official abuse can take many forms. It can be systematic and widespread or disorganized and sporadic; it can be laced with racism or political favoritism; or it can be idiosyncratic or an exercise of bullying. The federal civil rights statute holds out the hope of redress from outside. A third reason that section 242 has achieved such prominence is that, even where the state or local government has tried but failed to punish those who violate state laws and deprive persons of their federal rights, a separate federal prosecution eliminates the real or perceived conflict of interest that may attend state or local prosecution of state and local officers. Finally, a broad-based federal civil rights statute adds that extra measure of insurance that the federal interest will, in fact, be vindicated.

Although there is an understandable tendency to recoil from a double prosecution for the same acts, one by the state for violation of state criminal laws and one by the federal government for violation of the civil rights statute, such a prospect can be confined to manifest miscarriages of justice.[30] A double prosecution is not barred by the constitutional provision against double jeopardy because the state and federal governments are deemed to be different sovereigns entitled to vindicate their respective interests against the defendant (e.g., *Abbate v. United States*, 1959).

Yet the same difficulties of proving and winning a criminal case against an officer under state law also plague criminal prosecutions under federal civil rights statutes. The investigation may prove as difficult, the witnesses may still refuse to come forward, and the jury may still be unsympathetic to the victim. Similarly, because juries in the federal case will be drawn from essentially the same community as for state prosecutions, it may prove just as difficult to persuade a jury beyond a reasonable doubt that the officer's actions were so unjustified that he should be branded a criminal. A new jury may still worry that a convicted officer will face retaliation from prisoners if sent to jail. The new jury may still fear that a conviction will tell other officers that vigorous protection of law-abiding citizens is perilous. And prosecutors and grand juries may never proceed with a case unless it presents a clear and dramatic picture of wrongdoing.

Moreover federal criminal prosecutions face two further complications. First they raise delicate issues of federalism (the proper relationship of state authority and control over the police to the federal government and federal courts). Second they add an additional element to the prosecutor's proofs. In every civil rights case, the prosecutor must prove not only that an officer used excessive force and deprived a victim of a federal right, but also that the officer acted with the "specific intent to deprive a person of a federal right" (*Screws v. United States*, 1945: 104, plurality opinion). The Supreme Court has im-

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[30] This is consistent with current Department of Justice policy (see Subcommittee Hearings, statement of John R. Dunne 1991: 3-6); Attorney General Guidelines require a "compelling federal interest" to support dual prosecution (*United States Attorneys' Manual*, §9-2.142; *Petite v. United States*, 1960 [policy noted by Court and since referred to as "Petite Policy"]).

posed this specific intent requirement in order to avoid striking down the federal civil rights law as too vague.

1. Federalism and a Monitoring Role for the Federal Government

Federalism concerns have always influenced the interpretation and use of federal civil rights statutes, particularly criminal enforcement. The issue is not, however, one of constitutional authority, for it is now well settled that Congress possesses the necessary constitutional power to adopt a civil rights statute as broad as section 242. Rather federalism in this regard is a matter of politics, ideology, and prudence. Reasonable minds can and have differed about how extensively, how vigorously, and precisely under what circumstances the federal government should pursue violations of section 242 (see Gressman 1952; Clark 1947).[31] Congress itself was divided in its view about how radical a revision of federal-state relations was contemplated in the passage of the civil rights laws. And Court interpretation limiting application of the civil rights laws has repeatedly invoked federalism themes (see, e.g., Civil Rights Cases, 1883; Rizzo v. Goode, 1976: 380; City of Los Angeles v. Lyons, 1983: 112).

The recent policy of the Justice Department largely avoids the federalism debate because it generally defers to state and local initiative and because it generally confines its prosecutions to a limited and discrete set of rights (see Malone 1990: 168 n.21).

In testimony before Congress in the wake of the Rodney King beating, John Dunne, then-assistant attorney general in the Civil Rights Division of the Department of Justice, described the Department's enforcement role in the area of police use of excessive force as a "backstop" to

state and local action. He stated:

> "The nature of the federal enforcement effort in this area, however, should not be overstated. We are not the front line troops in combatting instances of police abuse. That role properly lies with the internal affairs bureaus of law enforcement agencies and with state and local prosecutors. The federal enforcement program is more of a backstop, if you will, of these others resources" (Subcommittee Hearings, statement of Dunne 1991: 3).

The Justice Department investigates violations of civil rights under section 242 only upon receiving a complaint via letters, phone calls, or visits. Of the roughly 8,000 complaints received each year, approximately 3,000 are actually investigated (*ibid*: 10). Half of these investigated cases relate to police brutality (*ibid*: 4). Very few of the investigated complaints are taken before grand juries for further investigation or indictment (*ibid*: 4-6). For example, in 1990 there were 7,960 complaints and 3,050 investigations. Prosecutors filed charges in 33 misdemeanor cases and presented 46 cases to grand juries. The grand juries returned indictments in 30 cases. As noted earlier, of defendants indicted, the Department's conviction rate recently has ranged between 60 and 70 percent.

Theoretically a federal "backstop" posture makes good sense and can be viewed as consistent with the general purposes of the civil rights statutes. That is, the law was inspired by a perceived need to act when state and local governments were unwilling to act or were ineffective. A backstop role is both more efficient and potentially more effective.

That is the theory. In practice, the central flaw is that an *effective* backup role requires good information and monitoring to know when the backup is needed. The Department of Justice does not monitor or seek information about police abuses; it awaits complaints. The Department does not review the adequacy or reliability of police department internal complaint or review systems. Yet, it relies, in part, on reports from police departments to determine whether federal prosecution is warranted in a given case. The Justice Department also does not have a system

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[31] In this regard it should be noted that federalism considerations attend the scope of enforcement of any broadly written federal criminal statute, for example, the federal mail fraud statute (18 U.S.C. §1341 [1988]). Of course, federal statutes which replace local enforcement become even more sensitive if the targets, in this case, the police, are themselves locally controlled entities.

for identifying trends in police practices and tactics (Skolnick and Fyfe 1993: 211-16).

Active monitoring is the necessary yet missing ingredient of the Justice Department's current policy. Such monitoring should routinely include a review of all deaths and serious bodily injury inflicted by police officers (see Geller and Scott 1992); a review of abuses that appear to be directed disproportionately to political, racial, or other minority communities; a review of broad-based practices, such as pain control techniques used on demonstrators or sweeps of whole neighborhoods for drugs or guns, that result in complaints by or injuries to many victims;[32] a review of repeated complaints against particular officers and particular departments;[33] and a review of complaints which arise where no criminal charges, other than assault on an officer or resisting arrest, are brought against the victim.[34] Such monitoring, of course, presupposes a reporting system that provides true, complete, and accurate information on these matters.

2. The Specific Intent Requirement

Due process mandates that criminal laws be drafted with clarity and specificity, so that a person can know what conduct is or is not per-

missible and so that law enforcement officials cannot arbitrarily pick and choose who is subject to the law. Because the federal civil rights statutes were intentionally drafted in broad language to criminalize the willful deprivation of *"any rights, privileges, or immunities secured or protected by the Constitution or laws of the United States"* (18 U.S.C. §242 [emphasis supplied]) and because the precise content of a federally protected right, particularly a constitutional right, may be ambiguous and shift over time, an ordinary citizen might not be able to know, at any particular point, what conduct would amount to a deprivation of a federal right. The law's content is subject to expansion or contraction depending on court interpretation of what is and what is not a constitutional right. Without some confining principle, the dynamic and variable content of constitutional rights would render the statute's standards too vague to give fair notice.

In order to convict a person under section 242, the government must prove that the defendant (1) acted "under color of law," (2) deprived an inhabitant of a state, a territory or the District of Columbia of (3) a constitutional or federal right, and (4) did so willfully. In *Screws v. United States* (1945, plurality opinion), the Supreme Court interpreted the willfulness requirement to mean that the government must show that the defendant had the "intent to deprive a person of a right which has been made specific either by the express terms of the Constitution or laws of the United States or by decisions interpreting them."

Commentators have criticized the specific intent requirement as creating a confusing rule which, in any event, does not really solve the problem of vagueness which generated it (see Lawrence 1992: 9, 90-111; Malone 1990: 191-215). These writers argue that if a law is written such that an ordinary person reading it could not know what action is prohibited, then it remains a vague law even if a particular person had a specific intention to do an act which, it turns out, violates the law. But this may overstate the case.

The real problem of vagueness here is that the statute incorporates by reference all constitutional and federal rights, including "broad and fluid definitions of due process," and thus sweeps within it "a large body of changing and uncertain law" (*Screws v. United States*, 1945: 95-96). But

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[32] A good example of such initiative was shown by the Justice Department's recent decision to review 13 cases in which people died during arrests in which pepper sprays were used by police to subdue suspects (Berger 1993: 25). Subsequent analysis by an experienced medical examiner of all known cases (where medical examiners would share their files) in which subjects died after being sprayed with this substance suggests that the pepper derivative was not a causal factor (Granfield, et al. 1994).

[33] Studies of police abuse frequently find that a very small group of officers is responsible for an overwhelming majority of citizen complaints. For example, the *Boston Globe* recently reported that statistics in Boston show that 18.8 percent of officers were responsible for 79.4 percent of all complaints and that the 25 officers with the most complaints averaged 85 times as many complaints as the average officer (Murphy 1992: 1; see also Toch, this volume).

[34] It is unclear whether the 1994 Crime Act provision requiring data collection on excessive force will change federal monitoring policies.

if that body of rights is confined to constitutional and federal rights which have been made specific and definite, and if the defendant specifically intends to do the act which violates those specific and definite rights, then "he knows or acts in reckless disregard of [the law's] prohibition" (*ibid.*: 104). A defendant need not be "thinking in constitutional terms" (*ibid.*: 106).

In this regard the federal civil rights statute may be likened to a number of federal laws which make it a crime for persons regulated by a particular federal agency to violate the rules and regulations of the agency. An agency's rules may be quite extensive, sometimes ambiguous, and they may change over time. If a relevant rule is, however, clear and definite, and if a person is violating *that* rule, intentionally doing the act prohibited, then he has all of the notice the law would require. Because he was regulated by agency rules and because a rule applicable to him was in fact clear and definite, he will be charged with knowing the rule or acting in reckless disregard of its content.

So, too, with police officers. Officers know or should know that citizens have constitutional rights to be free of unreasonable force and violence while confronted by or in the custody of the police. If an officer intentionally subjects a person to unreasonable force or violence, he has violated the civil rights statute, whether or not he was thinking in constitutional terms.

Although the *Screws* specific intent requirement can be thus explained and justified, commentators are surely right when they observe that the requirement has confused some courts (see Lawrence 1992: 9, 91; Malone 1990: 193-215) and made some prosecutions more difficult (see, e.g., Clark 1947: 182-83; Shapiro 1961: 536-37; Muller 1974: 217-18; Kates 1952: 570). Some courts have imposed the specific intent requirement to mean that the defendant acted with the specific purpose to violate the victim's constitutional rights (see *United States v. Harrison*, 1982; *United States v. Shafer*, 1974). Most courts, however, have read the specific intent requirement to be satisfied in police excessive force cases if the defendant purposefully took an action which he knew or should have known violated the victim's constitutional rights (see *United States v. Fricke*, 1982; *United States v. Ragsdale*, 1971 — intent to violate victim's rights inferred from beating of escapee victim by sheriff).

Although many defendants have tried to appeal their cases on the argument that the jury was not properly instructed on specific intent, few have succeeded (see Malone 1990: 191-92). It would seem that the main impediment of the specific intent requirement is that it may confuse the jury. The whole notion of thinking of a beating or a murder in terms of a deprivation of a constitutional right, and the necessity for finding a specific intent to violate a constitutional right, may be too elusive for some jurors (see *United States v. Shafer*, 1974—charges dismissed against Kent State National Guard troops who shot student protestors).

In the kinds of cases which are likely to be brought against police officers under the federal criminal civil rights statute, that is, cases where the police officers' acts were demonstrably excessive, unreasonable, and beyond accepted rules, the specific intent requirement, by itself, should offer little real impediment to bringing the case. Rather, convictions will prove difficult for pretty much the same reasons excessive force cases against officers are hard to win in state courts (Subcommittee Hearings, statement of Hoffman 1991: 59-60).

Any number of suggestions have been offered to lower the specific intent hurdle, such as it is. The most common suggestion is for Congress to identify and specify the precise constitutional rights it wishes to protect from deprivation (see Malone 1990: 219-21). Another idea is to specify the distinct types of specific intent that really underlie violation of civil rights (see Lawrence 1992: 122-56). Yet another is to encourage courts to presume specific intent in some circumstances (see Kates 1952: 574-82).

In response to the Rodney King case, one member of Congress introduced legislation to make excessive force a specific federal crime. No action has been taken on the idea, and the provision was dropped from the 1991 crime bill (see H.R. Conf. Rep. No. 405, 1991). In view of the limited interest in completely overhauling the civil rights laws and the dwindling or non-existent interest in enacting a specific civil rights law addressed to the problem of excessive force, the specific intent requirement is likely to remain an element in federal civil rights prosecutions. Working within that requirement, the Department of Justice has demonstrated its ability to prevail in strong cases. Although more resources could be

devoted to this effort, such as more special U.S. Attorney units for these civil rights prosecutions (see Subcommittee Hearings, prepared statement of Henderson 1991: 167), the law itself appears adequate.

V. CIVIL SANCTIONS

A. State Law

Most states permit civil law suits against police for excessive force. Most actions are brought under common law tort doctrines such as assault and battery. The elements of these so-called intentional torts mirror those used for such actions against non-police officers. Intent may usually be satisfied by recklessness or even gross negligence (see Hagglund 1984).

Use of reasonable force necessary to effect an arrest is a complete defense to most battery actions brought against police. Some degree of force is always allowed to effect the arrest, even where the suspect offers no resistance. For example, handcuffing is almost always allowed, although police internal controls attempt in many jurisdictions to ensure that excessively tight handcuffing is not employed negligently, recklessly or purposefully. The privilege to use some minimal force to make an arrest is limited by several constraints which apply to federal law enforcement officials and have been largely adopted by the states. First, the force must be objectively reasonable given all the relevant circumstances—subjective good faith is not generally accepted as a defense against use of excessive force in civil suits. Second, deadly force is not permitted to effect an arrest for misdemeanors or nonviolent felonies (see, e.g., *Sauls v. Hutto*, 1969; *Tennessee v. Garner*, 1985). In sum, a claim of battery may be negated by showing that, given the class of crime suspected and the alleged resistance offered by the suspect, reasonable force was used.

Officers may also be sued under various negligence theories. Negligence can consist of departures from police department rules and regulations (see, e.g., *San Antonio v. Higle*, 1984; *Moore v. Columbia*, 1985). Under state laws there usually exists no master-servant liability between a police chief and his subordinates. Hence vicarious liability is usually not imposed on superiors, except where the chief authorized,

directed, or ratified the offending actions. Vicarious liability may be made out, however, where (1) a supervisor performed or caused the antecedent negligent act, and (2) that act or omission was the proximate cause of the victim/plaintiff's injuries. This type of direct liability suit is usually grounded in negligent appointment, negligent retention, negligent assignment, negligent entrustment, lack of necessary training, and failure to supervise properly (see Schmidt 1984: 4-7).

Liability against the state or municipality may be obtained only where the government waives sovereign immunity. Many states have tort claims statutes that prescribe the circumstances for law suits against governmental bodies (see, e.g., N.J. Tort Claims Act). States vary on the level of culpability necessary to waive their immunity, making for an uneven doctrine of governmental liability. State's attorneys are often keen to dismiss municipalities and other governmental bodies as named parties, because juries are less likely to impose direct monetary liabilities on individual police officers. Evidence of indemnification or insurance is not admissible.

Various states also permit equitable relief against police departments and some such suits have proven successful. Yet such suits tend to be massive undertakings which can tax the resources of most firms and public interest groups.

B. Federal Law: Section 1983

In sweeping language, federal law gives all injured persons the right to sue government officials for deprivation of constitutional rights. Title 42 of the United States Code, section 1983 provides:

> "Every person who, under color of ... [state law], subjects, or causes to be subjected, any citizen...to the deprivation of any right...secured by the Constitution and laws, shall be liable to the party injured."[35]

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[35] Civil Rights Act of 1871, 42 U.S.C. §1983 (1982). Section 1983 addresses statutory and unconstitutional violations by individuals acting under color of state law; a so-called *Bivens* action addresses unconstitutional violations by officials acting under color of

In 1990, federal district courts decided 144 reported civil cases involving the police, of which police won 53 percent; in the cases lost by police, the average award for damages plus attorney's fees was $87,699 (Kappeler and Kappeler 1992; see also Kappeler 1993; *Yale Law Journal* 1979 also reported that police won most of the civil suits filed against them). McCoy (1984) reported an average award in police misconduct cases of over $650,000.

No systematic nationwide data are kept on the number of section 1983 excessive force cases filed against police officers.[36] Particular studies, however, do give a glimpse of the likely numbers. One report stated that the number of civil rights cases filed in federal courts between 1980 and 1986 increased by 56 percent, from 11,485 to 17,875 (see Fisher 1989: 48). When juxtaposed with another report that found that 15 percent of approximately 1,709 law suits filed in federal court between 1977 and 1983 alleged police misconduct (*ibid.*), this translates into approximately 1,700 to 2,600 federal civil rights police misconduct cases filed each year between 1980 and 1986.[37] And the number of cases is appar

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federal law (see *Bivens v. Six Unknown Named Agents of Fed. Bureau of Narcotics*. 1971—individual injured by federal agents in violation of Fourth Amendment rights entitled to redress).

[36] The author contacted the Bureau of Justice Statistics Clearinghouse, which compiles statistics for the Department of Justice, and talked with a representative over the phone regarding statistics for actions filed against police officers, including those involving excessive force. The representative reported that the Bureau does not compile any statistics on cases specifically against police officers. In particular, the representative noted that it is very difficult to get an accurate number of police offenses from government surveys. Police Departments do not like to report these offenses as a matter of public record. Hence, when surveys are returned, the number of offenses reported by different departments are so low as not to be believed or they are considered inaccurate and not worth reporting (see also Geller and Scott 1992, discussing the gap between individual police departments' tallies of police use of deadly force and the information those departments forward to federal record keepers at the FBI).

[37] If law suits in particular jurisdictions parallel

ently on the rise (see *Yale Law Journal* Project 1979: 781-82; Schmidt 1985). One commentator (del Carmen 1993: 87, 89) speculates that the visibility of the Rodney King incident and other abuse of force cases will prompt an increase in the filing of law suits against police for misconduct.

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federal actions, it again appears that hundreds and perhaps thousands of excessive force civil actions are filed against police officers each year. For instance, in New Jersey, there were a total of 3,122 state and local tort cases filed under the New Jersey Tort Claims Act, and 167 were police civil liability suits (Fisher 1989: 56). Although not all civil suits against police officers allege excessive force, the New Jersey study found that the most common claim was assault and battery followed by false arrest and false imprisonment.

A recent report concerning the Los Angeles County Sheriff's Department looked at 104 excessive force cases settled for more than $20,000 between January 1987 and May 1992; 20 excessive force cases in which verdicts over $20,000 were awarded between July 1988 and May 1992; and 114 settlements and verdicts below $20,000 between January 1989 and May 1992. This review adds up to a total of 238 cases in five and one half years (triggering a total liability of $33,530,760.85) (Kolts 1992: 25-27). The total involved only excessive force cases, only cases against the sheriff's department (not the Los Angeles Police Department, or other California authorities); and it did not include cases which were filed but lost or abandoned by plaintiffs for whatever reason. Del Carmen (1993: 89) reports on a U.S. Justice Department study revealing that, in the three year period ending September 1989, Los Angeles County "settled 61 police misconduct cases for payments ranging from $20,000 to $1.75 million." The City of Los Angeles reportedly paid $11 million in damages for police misconduct in 1990 and $13 million in 1991, with an expected payout in 1992 of $14 million (del Carmen 1993: 89). The City of New York, over the five years 1987-91, paid a reported $44 million in settlement of police misconduct cases (Kappeler 1993; del Carmen 1993); Detroit police cost their city $20 million in payouts during 1990 (Skolnick and Fyfe 1993; del Carmen 1993); and Miami Beach (with approximately 300 police officers) paid $3.5 million as a result of claims against its police over the six years 1986-92 (del Carmen 1993: 89). The author of a recent manual on police civil liability speculates that between federal and state actions, as many as 30,000 civil suits may be filed against American police annually for all categories of allegations (Silver 1991).

Most types of police misconduct, including excessive force claims that may violate the Fourth Amendment, can be the subject of actions under section 1983. There are many advantages for plaintiffs in bringing a section 1983 action to redress excessive police force. Section 1983 actions may be filed as class actions under Federal Rule of Civil Procedure 23, and prevailing litigants may recover attorney fees under 42 U.S.C. §1988. Attorney fees are available even if plaintiff's recovery is nominal (see *Texas State Teachers Ass'n v. Garland Indep. School Dist.*, 1989), a distinct advantage over many state law tort actions. And since the Supreme Court's landmark opinion in *Monroe v. Pape* (1961), holding that police-officers-could-be-held-liable for deprivation of Fourth Amendment rights under the civil rights statute, and *Monell v. Department of Social Services* (1988), holding that municipalities can be held liable for police misconduct if it was pursuant to a policy or custom, section 1983 has become "the primary statutory basis for federal actions seeking to remedy police abuse" (National Lawyers Guild 1992: 2-5; see *Harvard Law Review* 1977: 1133; also see Fyfe's discussion, in this volume, of the *Monell* case).

Plaintiffs must, of course, allege violation of constitutional rights and, while most forms of police excessive force and abuse will qualify as a deprivation of constitutional rights, not all will. Some actions may be merely negligent, and only a state law claim for negligence may be available.[38] Car chases, for example, often cause injuries giving rise to negligence claims, but, ordinarily, these are not constitutional violations.[39] If the police intentionally "seize" a suspect, however, as for example with the use of a roadblock, that sort of activity can be the subject of a 1983 suit *and* a state law negligence claim (*Brower v. County of Inyo*, 1989—police placed a truck

in the path of an oncoming vehicle, behind a curve and with police car headlights shining in such a way as to blind the driver: held actionable under §1983).

Many other forms of police abuse have been held actionable under section 1983, such as an action for false arrest (e.g., *Pierson v. Ray*, 1967); illegal searches and seizures (e.g., *Lynch v. Household Finance Corp.*, 1972); acting to deny persons the free exercise of their First Amendment rights (e.g., *Glasson v. City of Louisville*, 1975); illegal coercion to obtain a confession (e.g., *Gray v. Spillman*, 1991); deliberate denial of counsel (e.g., *Maclin v. Paulson*, 1980); and deliberate denial of needed medical care to one in custody-(e.g.,-*City-of-Revere-v.-Massachusetts Gen. Hosp.*, 1983). Other causes of action, such as "mere" verbal abuse and harassment, have not been recognized (e.g., *Pittsley v. Warish*, 1991). Still other claims, such as actions for malicious prosecution and failure to provide police protection, have led to conflicting court responses.[40]

For excessive force cases, it is clearly settled that use of excessive force during an arrest, an investigative stop, or any other action amounting to a "seizure" of the person is actionable under section 1983 (*Tennessee v. Garner*, 1985; *Graham v. Connor*, 1989).[41] The use of excessive force in such circumstances violates the Fourth Amendment. The test for whether force is constitutionally excessive is whether it was "reasonable" under the circumstances (see other discussions of helpful and unhelpful definitions of abusive force in this volume by Klockars, Fyfe, Worden, and Adams). To assess "reasonableness," a court must balance the nature and quality of force against the government's interests in using it. In particular courts must pay "careful attention to the facts and circumstances of each particular case,

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[38] Of course, a plaintiff can combine a 1983 action with a state negligence claim and thereby avoid two separate law suits.

[39] *Brower v. County of Inyo* (1989) (no unconstitutional seizure in high speed chase); *Roach v. City of Fredrickstown* (1989) (same); *Patterson v. City of Joplin* (1989) (same); *Archer v. Johnson* (1954) (state law negligence for driving recklessly); and *Herron v. Silbaugh* (1970) (same); on high speed pursuit liability, see generally Alpert and Fridell (1992).

[40] On malicious prosecution, compare *Hand v. Gary* (1988) (liability imposed) with *Friedman v. Village of Skokie* (1985). On failure to provide police protection, compare *Delong v. Erie County* (1983) (liability for nonresponse to 911 call for protection from burglar) with *Escamilla v. City of Santa Ana* (1986) (no liability for failure to intercede in barroom brawl).

[41] Force used against persons in prison must be analyzed under the more stringent standards applied under the Eighth Amendment protection against cruel and unusual punishment.

including the severity of the crime at issue, whether the suspect poses an immediate threat to the safety of the officers or others, and whether he is actively resisting arrest or attempting to evade arrest by flight" (*Graham v. Connor*, 1989: 396).

Furthermore, officers who are present and know police excessive force is occurring have a duty to aid the victim or they, too, will be liable for violating the victim's constitutional rights (see, e.g., *McHenry v. Chadwick*, 1990).[42] A supervisor may also be liable, whether or not he was on the scene of a beating if, as a supervisor, he did something or failed to do something which was a proximate cause of the violation of plaintiff's rights (e.g., *Black v. Stephen*, 1981: 189; *Bowen v. Watkins*, 1982: 988-89). Causation can be difficult to prove but has been found in orders given or not given at the scene of a beating (e.g., *Maclin v. Paulson*, 1980); acquiescence in the misbehavior of subordinates (e.g., *Gutierrez-Rodriguez v. Cartagena*, 1989); failure to train in necessary skills (e.g., *Dewell v. Lawson*, 1974); and failure to discipline and reform a violence-prone officer (e.g., *Gutierrez-Rodriguez v. Cartagena*, 1989; see also Toch, this volume).

A constitutional violation and hence a 1983 violation can occur even where there is slight injury and even where the force applied was modest.[43] Of course, where injuries are slight and force modest, juries may be unsympathetic and

unwilling to impose liability. Indeed whether any particular claim of excessive force will prevail is always hard to predict.

Whether a police officer is permitted to use force, deadly or nondeadly, depends on whether his conduct is objectively reasonable, given the totality of circumstances known to the officer at the time he acted (*Ford v. Childers*, 1988; *Sherwood v. Berry*, 1988). This objective analysis makes the officer's state of mind, his underlying intent or his subjective, although mistaken, good faith, irrelevant. No malice, evil intent, or specific purpose to violate a constitutional right need be shown (*Graham v. Connor*, 1989). "An officer's evil intentions will not make a Fourth Amendment violation out of an objectively reasonable use of force; nor will an officer's good intentions make an objectively unreasonable use of force constitutional" (*ibid.*: 397).

In interpreting the language of section 1983, however, the courts, acting out of considerations of federalism and with self-conscious regard for limiting the use of federal judicial power, have imposed a variety of limitations on 1983 actions. These limitations include who may sue, what defenses and immunities local officials and governmental entities may rely on, and the kind of relief available to plaintiffs.

1. Who May Sue

Only an injured party may sue for a deprivation of constitutional rights.[44] This is a fairly conventional limitation in civil litigation, but in the context of 1983 actions, requiring the injured party to sue may actually hamper the ability of some plaintiffs to obtain redress in worthy cases. The problem is that often plaintiffs in police abuse cases are themselves unsavory characters or criminals whose claims of abuse arise in circumstances where they were committing or about to commit a crime (see Newman 1978; Newman testimony 1992: 8-9; Subcommittee Hearings, statement of Dunne 1991: 5). To meet this difficulty, Federal Appeals Court Judge Jon O. Newman has suggested that legislation be adopted

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[42] This standing obligation, coupled with the graphic images of inactive bystander officers at the scene of the Rodney King beating, has prompted recent efforts to devise "intervention" training for police officers (Geller and Scott 1992).

[43] See, e.g., *Titran v. Ackman* (1990: 147) (rejecting requirement of "severe" injury); *Lester v. City of Chicago* (1987: 712) (no showing of significant injury required for Fourth Amendment violation; reasonableness of force depends on totality of circumstances); *Lewis v. Downs* (1985: 714) ("[A] serious or permanent injury is [not] a prerequisite to a claim under Section 1983...all the facts and circumstances surrounding the application of force must be scrutinized and weighed."); *Norris v. District of Columbia* (1984: 1151-52) (rejecting concept of severity "threshold" for injuries and holding that the amount of force required to establish a constitutional violation varies depending on the justification for that force).

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[44] Federal courts have been receptive to permitting survivors to sue where police use of force has resulted in death (see, e.g., *Bell v. City of Milwaukee*, 1984: 1234-41).

permitting the United States to sue on behalf of an injured civil rights victim (Newman 1978; Newman testimony 1992: 1-2).

Currently, the United States may not sue on behalf of a victim to recover damages, nor until recently could the United States sue on behalf of affected citizens generally in order to redress a pattern and practice of police abuse in a particular community (*United States v. City of Philadelphia,* 1980).[45] In *United States v. City of Philadelphia* (*ibid.:* 199) the Third Circuit Court of Appeals held that, in the absence of specific statutory authority, such suits are impermissible. Since the court's ruling in *Philadelphia,* it is accepted that, in the absence of specific legislative authorization from Congress, the federal government has no authority to bring pattern and practice suits against a police department. Congress weighed conferring this authority in the past and, recently, adopted a provision in the 1994 Crime Act to permit it.[46] Congress has permitted the United

States government to bring pattern and practice suits under other civil rights statutes, such as voting rights and housing acts.[47]

2. *Defenses and Immunities: What Defendants, What Proofs?*

A serious deficiency in 1983 actions lies in the doctrine of qualified immunity or the so-called good-faith defense for officers (quite likely, most

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"(a) UNLAWFUL CONDUCT—It shall be unlawful for any governmental authority, or any agent thereof, or any person acting on behalf of a governmental authority, to engage in a pattern or practice of conduct by law enforcement officers that deprives persons of rights, privileges, or immunities, secured or protected by the Constitution or laws of the United States.

(b) CIVIL ACTION BY ATTORNEY GENERAL—Whenever the Attorney General has reasonable cause to believe that a violation of paragraph (1) has occurred, the Attorney General, for or in the name of the United States, may in a civil action obtain appropriate equitable and declaratory relief to eliminate the pattern or practice."

In July 1992, a "Police Accountability Act" was introduced in the House of Representatives to authorize federal government suits over patterns and practices of police misconduct (del Carmen 1993: 95); it, too, failed to attain passage.

The 1994 Act, as passed, is identical to the 1991 bill quoted above in this footnote, with the difference that the 1994 law also explicitly mentions in paragraph (a) that the government may sue to redress the conduct of "officials or employees of any governmental agency with responsibility for the administration of juvenile justice or the incarceration of juveniles" (Violent Crime Control and Law Enforcement Act of 1994, Title XXI, Subtitle D, Section 210401 [a][b]).

[45] In litigation in the late 1970s, the U.S. Attorney General claimed that widespread deprivations of Fourteenth Amendment due process rights were caused by various alleged practices of the Philadelphia Police Department: illegal automobile and pedestrian stops, frisks, arrests unsupported by probable cause, searches without warrants, excessive detention, and physical and verbal abuse including unnecessary use of deadly force. The government also alleged widespread practices of thwarting investigations of abuses by summarily terminating investigations, harassing citizen complainants and witnesses, and refusing to discipline its officers internally (*United States v. City of Philadelphia,* 1980: 190).

[46] The new law provides that the Attorney General may bring a civil action for equitable and declaratory relief (no damages) against any governmental authority engaging in a pattern or practice of police conduct that deprives persons of their federal rights (Title XXI, section 210401 [a][b]).

The new provision is drawn from earlier but unsuccessful efforts to establish this cause of action. For instance, in 1991 the 102nd Congress had before it a bill to permit pattern and practice suits against law enforcement officials. After passage in the House, the legislation died in the Senate (see Violent Crime Control and Law Enforcement Act of 1991, 102d Cong. 1st Sess.; and see Conf. Rept. to Accompany H.R. 3371, Report 102-405, 102d Cong. 1st Sess. [Nov. 27, 1991]). That bill provided:

[47] See, e.g., Title VI of the Civil Rights Act of 1960 (voting); Titles II and VII of the Civil Rights Act of 1964 (public accommodations and employment); Title VII of the Civil Rights Act of 1968 (housing); Section 518(c)(3) of the Crime Control Act of 1973 (housing); Section 518(c)(3) of the Crime Control Act of 1973; Section 122(c) of the State and Local Fiscal Assistance Act of 1972 (discrimination in programs receiving federal assistance); and Civil Rights of Institutionalized Persons Act of 1980, 42 U.S.C.A. sections 1997 *et seq.*

police defense attorneys would not concur that this is a weakness in existing law). Under this doctrine a person can defend against liability for denial of a constitutional right by showing he had an objectively reasonable good-faith belief that his actions were lawful (see, e.g., *Harlow v. Fitzgerald*, 1982). Some courts have held that the doctrine of qualified immunity applies to excessive force Fourth Amendment cases, even though finding a violation of the Fourth Amendment already requires that the government prove that the officer acted in an objectively unreasonable manner (e.g., *Finnegan v. Fountain*, 1990: 822; *Brown v. Glossip*, 1989: 873-74; *Thornsted v. Kelly*, 1988: 573; but compare *Holt v. Artis*, 1988: 246 and *Bates v. Jean*, 1984: 1152). Many believe that applying the defense of qualified immunity in excessive force cases confuses jurors and, in effect, invites them to consider the *subjective* good faith of the officer as a defense.

When encountering the good faith defense, jurors are first charged that it is a violation of §1983 if an officer applied force in an objectively unreasonable way. Then they are charged that the officer may defend himself by claiming an objectively reasonable good-faith belief that his actions were lawful. As one senior federal judge explained:

> "If there is some metaphysical difference between the objective reasonableness that determines whether the officer has acted in violation of the Constitution and the objective reasonableness that determines whether the officer is entitled to the defense of qualified immunity (see *Anderson v. Creighton*, 483 U.S. at 639, [1987]) it is safe to say that few jurors understand it, no matter how carefully the trial judge tries to explain it. To most jurors hearing a jury instruction on the defense of qualified immunity, it simply sounds as if the officer should not be found liable if he *thought* [subjectively] he was behaving lawfully, and many jurors will give him the benefit of the doubt on that issue, even if they think his conduct was improper" (Newman testimony 1992: 16; emphasis supplied).

A second deficiency lies in the limited ability

of plaintiffs to sue municipalities for harms caused by police excessive force. Under current interpretation of section 1983, plaintiffs may not hold municipalities liable for an officer's actions under a theory of *respondeat superior*. Ordinarily, when a government employee injures someone, the employee's employer—the township or the county, for example—is automatically liable for the actions of its employees *as employees*. But in *Monroe v. Pape* (1961) the Supreme Court held that Congress did not intend to recognize *respondeat superior* liability in section 1983; Congress intended only to impose liability on persons who personally deprived another of a constitutional right (*ibid.*). Currently, the only way liability can be imposed on a municipality or other local governing body[48] is if it is shown that the municipality maintained, in effect, a policy or custom which caused the violation of plaintiff's constitutional rights (*Monell v. New York City Dep't. of Social Services*, 1978).

The causal connection between a policy or custom and police use of excessive force may be difficult to prove. A single isolated incident of brutality will not be found causally related to the department's policy unless the incident was a "reasonably foreseeable" result of those policies (*Dodd v. City of Norwich*, 1987: 6). Liability has been found where officers act pursuant to an ordinance or written policy (see, e.g., *Monell*, 1978); *Zook v. Brown*, 1989—sheriff's department operating procedures manual), pursuant to unwritten policies where widespread practice would indicate them to be customary (see, e.g., *Bordanaro v. McLead*, 1989—policy allowing breaking down doors to apprehend felons), and in the face of acquiescence to patterns of unconstitutional treatment (see, e.g., *Fundiller v. City of Cooper City*, 1985—use of excessive force allowed to go uncorrected; *Shawn v. California Dep't of Beverage Control*, 1988—continued police harassment). Liability has also been found for inadequate discipline (see, e.g., *Genrile v. County of Suffolk*, 1991) and inadequate training (see, e.g., *Parker v.*

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[48] Suits in *federal courts* requesting money damages against the state government are barred by the Eleventh Amendment (see *Edelman v. Jordan*, 1974); Congress can overcome this immunity by clear and express legislation (see *Pennsylvania v. Union Gas Co.*, 1989).

District of Columbia, 1988; Fyfe, this volume), though the latter has recently been limited to only those cases where failure to train rose to "deliberate indifference" to the constitutional rights of others (see, e.g., *City of Canton v. Harris*, 1989). In addition, liability may also be imposed where actions of heads of municipalities and subdivisions in furtherance of their official duties may in themselves be termed policy (see, e.g., *Pembaur v. City of Cincinnati*, 1986). Unless the municipality is joined in a law suit, juries are often reluctant to impose meaningful damage awards.

3. Limits on Relief

A further deficiency of §1983 suits, from the perspective of plaintiffs, is the nature and scope of relief permitted. There are significant obstacles to recovery of compensatory and punitive damages, and injunctive relief has effectively become a dead letter.

a. Compensatory and Punitive Damages

Under section 1983, plaintiffs may recover compensatory damages for any harm caused by the deprivation of constitutional rights. Plaintiffs may also be entitled to punitive damages if the defendants acted willfully, deliberately, maliciously, or with reckless disregard of the defendant's rights. Punitive damages may represent the only basis for recovery where actual harm was minimal. Punitive damages may be recovered, however, only against individual officers and not against the municipality which employs them (see *City of Newport v. Fact Concerts*, 1981—punitive damages against municipalities not recognized when §1983 first enacted and such liability is not good policy). The explanation for this difference is a matter of history and statutory interpretation. The Supreme Court has held that, when Congress enacted section 1983 in 1871, it did not intend to abolish municipal immunity from punitive damages.

As mentioned, when individual officers are sued, juries may sometimes be reluctant to impose substantial financial liability or even any liability beyond nominal damages. Jurors may not be told that the municipality routinely reimburses the officer for these awards (see, e.g., *Griffin v. Hilke*, 1986: 1056-58); see also Newman testimony, 1992: 16). And, even when the municipality is

joined in the suit, again, a punitive award will not lie against it.

b. Injunctive Relief

Until recently, the United States government could not bring a civil rights action to enjoin patterns and practices of excessive force (the prior law was articulated in *United States v. Philadelphia*, 1980). Even now the scope of the government's pattern and practice suit has not been tested. As an alternative to a government suit, individual plaintiffs could theoretically seek injunctive and other equitable relief. The obstacle here, however, is that the Supreme Court has applied standing requirements so strictly in such cases that, for all practical purposes, they are not viable.

In *Rizzo v. Goode* (1976) the Supreme Court refused injunctive relief requiring a police department to set up formal internal administrative procedures to deal with citizen complaints of police brutality. The Court found that the plaintiff, having shown only 20 instances of abuse in the Philadelphia Police Department, did not have the requisite personal stake to seek an overhaul of police disciplinary procedures (*ibid.*: 372-73 — plaintiff "lacked the requisite 'personal stake in the outcome'," quoting *Baker v. Carr*, 1962: 204). And in *City of Los Angeles v. Lyons* (1983), the Court held that a plaintiff who had been unreasonably subjected to a choke hold could sue for compensatory damage for the harm he actually suffered but that he lacked standing to seek an injunction against use of the practice by the police. The Court set a dramatic and almost impossible threshold for obtaining an injunction in such cases:

> "Lyons would have had not only to allege that he would have another encounter with the police but also to make the incredible assertion either, (1) that all police officers in Los Angeles always choke any citizen with whom they happen to have an encounter, whether for purposes of arrest, issuing a citation or for questioning or (2) that the City ordered or authorized police officers to act in such a manner" (*ibid.*: 105-06).

The consequence of these cases is that individual

plaintiffs do not have effective legal means to enjoin widespread and continuing police violence. (This state of affairs, of course, underscores the importance of police self-control and self-development, discussed so helpfully in Klockars', Fyfe's, Toch's and others' essays in this volume.)

4. Practical Problems

In addition to the problems of qualified immunity, limited employer liability, and limitations on relief, section 1983 actions also present substantial practical hurdles for plaintiffs. Most obviously, the entire idea of a law suit places the burden of going forward with the victim. The victim may be unaware of his rights or discouraged by or unfamiliar with the bringing of a law suit. And, as with criminal cases against police officers, jurors often view the victim unsympathetically. A plaintiff may also face the dilemma of risking criminal prosecution if he pursues his civil action. In many jurisdictions, police and prosecutors have followed "the time honored practice of discharging misdemeanant on condition of a release of civil liabilities" (*Hoines v. Barney's Club, Inc.*, 1980: 635). That is, in return for dropping a civil action against the police for abuse or the use of excessive force, the government agrees to drop a criminal complaint against the citizen (see also Adams, this volume). Frequently the criminal charge arises out of the same circumstances leading to the claim against the police officer, usually the citizen is charged with assault or resisting arrest; and in some percentage of instances, the criminal charge is filed in order to retaliate against the citizen's complaint and to provide the leverage to extinguish it.

In *Town of Newton v. Rumery* (1987), the Supreme Court declined to view these releases as *per se* invalid or presumptively unenforceable in the context of federal civil rights claims against officers. The Court viewed the crucial element as whether or not such agreements were coercive and found that, although they could be, they were not inherently so.[49] The Court would not simply

presume that officials would "trump up" a criminal case in order to escape liability or to deter the filing of civil suits. Indeed, it observed that some civil suits are frivolous and the release-dismissal procedure advanced the public interest.

C. Do Civil Law Suits, Particularly Section 1983 Suits, Effectively Compensate, Punish, Deter, or Trigger Systemic Change?

So great are the gaps in our knowledge about police misconduct litigation that one is left to speculate broadly on their possible effects. As del Carmen (1993: 97) recommends, comprehensive study is needed to elucidate

> "what percent of cases have been amicably settled and for how much;...what percent have been tried and with what outcome; what changes have been made in departmental policies as a direct result of law suits; what has been the effect on officer training and morale; what strategies should be adopted to minimize law suits; what are the emerging areas of litigation; and [has] civil liability led to better policing."

1. Compensation

Law suits are frequently inadequate vehicles for compensation because the complexities and protracted nature of litigation may deter the filing of meritorious claims or claims which do not have a high dollar potential. This inadequacy is exacerbated in excessive force cases by juror unwillingness to saddle individual officers with substantial monetary judgments. Some plaintiffs have obtained quite substantial awards. Others get nothing. If an effective system of compensation is to be devised, two avenues of reform are available. They are not mutually exclusive.

First the civil law suit, §1983, can be reformed by permitting plaintiffs to sue municipalities under a *respondeat superior* theory or by permitting the U.S. government to bring damage

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[49] The Court emphasized the facts of the particular case before it, that is, that the arrestee was not incarcerated at the time of making the release, that he was represented by a lawyer, and that he made a rational

choice to sign the release after reflecting on it for several days.

suits on behalf of plaintiffs.[50] Either or both of these strategies could coax awards out of otherwise reluctant juries. If the officer is not personally at risk or if the plaintiff is not, in effect, "put on trial," then presumably the issue of compensation will be considered more dispassionately. Second, a system of compensation boards might be established to offer a quick and inexpensive way to compensate for any injuries inflicted by the police (see, e.g., Kolts 1992; see also Kerstetter's recommendation, in this volume, of a nonjudicial compensation and reconciliation mechanism). Such a claim system would not preclude a law suit but would be available for victims if they chose to enlist it.

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[50] Judge Newman argues that extending liability under *respondeat superior* to constitutional torts will increase the chances that a victim of police abuse will prevail at trial. A suit against the municipality will remove incentives for many jurors to reject a victim's claim in order to protect individual officers from financial hardship. Newman observes that jurors are not told that municipalities frequently indemnify their police officers for damages under §1983. Thus, when faced with individual officers as the only defendants, they often reject the victim's claim in order to spare the officers. Newman proposes that municipalities or other governmental entities be liable for both compensatory and punitive damages, with punitive damages possibly subject to dollar limits (see Newman testimony 1992: 11-14).

Judge Newman also argues that allowing the U.S. to sue on behalf of victims of excessive force has a number of advantages. Most importantly, it would overcome the problem of the unsympathetic plaintiff. But, in addition, it would send a message to the public that protecting civil rights is a priority for the U.S. government. It would also allow the talent of the U.S. Attorney's Office and the investigative resources of the F.B.I. to be utilized to combat civil rights violations in the civil as well as the criminal arena (*ibid.*: 8-11). Newman's proposal would condition the authority for suit by the U.S. on the consent of the victim (*ibid.*: 19). Finally, if this proposal were implemented along with the *respondeat superior* suggestion, Newman would permit the U.S. to sue only the governmental employers and not the individual officer. He maintains that the victim would be adequately compensated by a recovery against the government alone. In addition, a suit by the federal government against the individual officers might be perceived by the jury as an unfair fight and might actually engender undue juror sympathy for the defendants (*ibid.*: 19-20).

2. Punishment and Deterrence

Although jurors are not informed of this fact, most civil monetary awards against individual police officers are paid by the government on their behalf (see Subcommittee Hearing, Fyfe and Hoffman testimony 1991: 121-22; Newman testimony 1992: 12-13). This reimbursement may be embodied in legislation, bargaining agreements, or custom. Nevertheless, it is a rare case where an officer personally feels the financial sting of a judgment. This is not to deny, however, that being a defendant may exact huge personal and emotional costs on officers; the empirical question is what message officers take from these stresses. Some observers believe that the effect of law suits is not to make the officer an outcast among his peers and not to deter future abuses (see, e.g., Kolts 1992: 63-68). As far as individual officers are concerned, then, some would argue that monetary awards imply no real punishment and offer no real deterrence (for a contrary view, see del Carmen 1993: 94; see also Scogin and Brodsky 1991, reporting the fear of potential future law suits felt by police *recruits* during their initial training).

Awards against municipalities may be a different matter. Although many believe that substantial monetary liability has had little or no effect on reforming police practices (e.g. Cochran testimony 1992; that is, it becomes, in effect, a cost of doing business—Skolnick and Fyfe 1993: 205; see also McCoy 1984, 1987), the evidence presents a more mixed picture (see Kolts 1992: 1-2).[51] Law suits have affected some policy judgments and forced reexamination of some practices. Walker and Fridell (1992) reported that the Supreme Court's 1985 *Tennessee v. Garner* decision resulted in nearly a third of the police agencies they surveyed nationwide having to revise their deadly force policies. It appears, however, that the magnitude of the police misbehavior and the consequent magnitude of the judgment awards must be severe before a cause-and-effect relationship is established. The deterrence effect of civil damage law suits on municipalities remains, therefore, uncertain and perhaps

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[51] Kolts draws a connection between the *L.A. Times* story on liability and interest in reform (see also Fisher 1989: 49).

marginal (compare Schmidt 1985; Moore and Stephens 1991a: 102, 1991b: 52). It is unclear what magnitude of awards or possible legal exposure would prompt systemic reforms (see del Carmen 1993).

3. Remediation

Civil injunctions and other forms of equitable relief offer the most direct means to require local governments and police departments to reform their practices. As of this writing it remains unclear whether new, 1994 legislation granting the federal government authority to bring pattern and practice suits will be a substantial tool of reform. It seems likely that federal civil suits will be limited to the most egregious of cases and will, of course, depend on executive branch willingness to employ this new tool.

Additional legislation will be necessary to permit individual plaintiffs to seek broad-based injunctive relief. Plaintiffs now lack standing to seek such relief except in the most narrow of circumstances (*Lawson v. Oates*, 1992). The new legislation must create or recognize a new right or interest—the interest in being free of "a pattern or practice of conduct by law enforcement officers that deprives persons of rights" (H.R. 3371, 1991)—the deprivation of which gives every injured individual the right to obtain equitable relief to eliminate the pattern or practice. This strategy will not necessarily overcome the Supreme Court's standing objection to individual pattern and practice suits, but a similar strategy has worked in other areas (see *TVA v. Hill*, 1978: 164; *Trafficante v. Metropolitan Life Ins. Co.*, 1972: 212, White, J., concurring; *Gladstone Realtors v. Village of Bellwood*, 1979: 103-07).

Compared to the government, an individual plaintiff may have a greater incentive to bring a pattern and practice suit. At the same time, pattern and practice suits are typically massive undertakings which can deter all but the most well heeled.

VI. RECOMMENDATIONS

Any recommendations for federal action must be sensitive to the view, expressed by many government officials, police personnel, and commentators, that police reforms are more legitimate, more enduring, and more tailored if pursued on a

local level. Yet, the lessons of the civil rights struggles from the 1860s until today show that, in the face of serious deprivations of constitutional rights, the national government may have to provide the impetus for change.[52]

There are at least two actions which can be taken at the national level which would both advance the protection of individual rights and be consonant with federalism interests. First, the federal government should mandate, or encourage through conditional grants, a uniform system of complaints and a system for national reporting of complaints. A complaint system and uniform and detailed reporting about excessive force *incidents* are both the necessary foundation of local awareness (and consequent action) and the essential element for a true federal "backstop" response, should local authorities fail to act.[53]

Second, the federal government should assist and encourage police departments to design and adopt *local outside* oversight of police department handling of excessive force complaints (the civilian monitor model advocated by Perez and Muir in this volume might be an appropriate mechanism). This effort will provide both the basis for local reform and a more refined foundation for a federal backstop role.

Beyond these recommendations the federal government may also consider a variety of steps to invigorate criminal and civil law responses to excessive force incidents. First, even without any legislative action, the executive branch can give excessive force cases a higher criminal prosecution priority. A signal of greater attention can include earmarking more resources and more personnel to the effort. For its part, the legislative branch can act to strengthen the 1983 civil rights action in several ways, including expanding municipal liability and enabling individuals to

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[52] The national landscape encompasses a wide range of police departments, including many with strong, progressive leaders whose own agendas are more rigorous and more effective in protecting officers and controlling excessive force than anything the federal government could impose from a distance.

[53] The 1994 Crime Act's direction to the Attorney General to collect data on excessive force may provoke implementation of a uniform and reliable system of reporting (see Chapter 15 in this volume by Geller and Toch and Chapter 3 by Adams).

pursue injunctive relief against systemic excessive force violations.

The problems of excessive force cannot be solved directly by the federal government. They cannot be solved by criminal and civil remedies. Nevertheless, the federal government can provide support and leadership in helping state and local communities respond. And criminal and civil law suits have a role to play.

14 Police Brutality Abroad

David H. Bayley

Every country has a Rodney King.

Michael Williams and Brian Owen were assaulted and arrested by Anglesey police in Great Britain after a car chase in August 1988. Five officers were charged with brutality when a camera crew filmed the episode and showed it on television (Police Complaints Authority 1988). Richard Culley, a 17 year-old black youth, was attending the Putney Common fun-fair with his sister in May 1983 when British police officers grabbed him and took him between two trailers where he was thrown on the ground and beaten. His allegations were denied by the police until a man came forward with photos showing him being led away and later on the ground with police officers on top (Picardie 1983).

Gary Abdullah was shot several times by police in Victoria state, Australia, in May 1989 after being arrested for involvement in the shooting of a police officer. He was shot at his flat where he had been taken after arrest in order to help the police search for evidence (McCulloch 1989). David Gundy, an Australian Aboriginal, was killed mistakenly during a raid on his home in the Redfern district of Sydney by heavily armed police in the summer of 1989 because he was thought to be sheltering David Porter, the suspected killer of a New South Wales police officer (Cunneen 1991).

Paul Chase was killed in 1983 by the Armed Offenders' Squad in New Zealand during a raid on an alleged gang member's apartment. Chase was believed, wrongly, to have had an iron bar in his hand (Young 1986).

In 1983 the Supreme Court of Japan overturned the convictions of 16 of the original 28 defendants in the 1971 bombings of Nippon Oil Company headquarters in Tokyo and later the residence of a senior police official in which his wife was killed. The court acted on the grounds that the confessions had been coerced. Also on grounds of coerced confessions, the Supreme

Court later the same year released three men who had been held in prison under sentences of death for 31, 30, and 22 years (Novick 1986-88; Igarashi 1983).

In 1980, officers in Bhagalpur police station in India held as many as 30 suspected dacoits (bandits) on the floor and put out their eyes with sharpened bicycle spokes and acid (Amnesty International 1984; *THE TIMES* 1980). The incident was confirmed by the chief minister of Bihar state, as well as by the prime minister, Mrs. Indira Gandhi, who publicly promised a thorough investigation.

The point of these stories is that the United States is not unique among the world's nations in having incidents of police brutality. It is not unique, moreover, in their sickening nature, their blatant lack of justification,[1] the attempts by the police to cover them up, or the accidental manner of their discovery. Wherever such events occur they create, as in the United States, a frenzy of media interest, instantly discredit the police, and generate demands for the police to be made more accountable (see the essays by Flanagan and Vaughn and Klockars, in this volume, discussing the effects of scandal, and public opinion generally, on police reform).

What should Americans make of the fact that police brutality seems to be universal? Should we be relieved because our problems are shared? Should we be resigned because brutality would seem to be unavoidable in policing? Should we be even more dismayed because such terrible acts are so widespread? In short, what does the universality of Rodney King signify?

I shall try to answer this question by examining four subordinate questions: (1) What forms does police brutality take? (2) How much is there? (3) What importance does it have in national life? and (4) What efforts are being made to eliminate it?

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[1] Not all behavior that constitutes police abuse of force stems from wilful, blatant disobedience of professional rules of conduct or criminal prohibitions against assault and battery. See Fyfe's distinction, in this volume, between "brutality" (wilful misconduct) and "unnecessary force" (stemming from ineptness on the part of individuals or their employing organizations); see also Klockars essay in this volume.

I. WHAT KINDS OF BRUTALITY ARE THERE?

Because the Rodney King incident is so much in mind, police brutality in the United States has become synonymous with unjustified force in the making of an arrest. The British, too, are concerned with this. Arrest-related assaults constitute one of the three major categories of complaints against the police (Maguire and Corbett 1991). The other two are driving-related incivility and failure to provide service, neither of which can be considered brutality.[2] The same British study also discovered that most arrest-related assaults took place away from police stations or police cars and usually occurred in confused circumstances where it was not clear who should be arrested. The citizens involved had commonly been drinking. The confusion surrounding such incidents probably explains why 60 percent of people who complained about being assaulted were not subsequently charged with committing an offense. Excessive force in making arrests can extend beyond the use of batons and nightsticks. The police in Queensland, Australia have been criticized for the use of Mace against Aboriginals and for using chokeholds on unruly people being arrested for minor traffic violations (Criminal Justice Commission 1990-91).

But the use of unnecessary force in making arrests is by no means the only form that police brutality takes. Other countries are concerned about very different sorts. At least eight forms can be distinguished, with *arrest-related assaults* being only the *first*.

2. Torture. In the United States this is called the "third degree" and refers to the deliberate application of force to suspects in police detention, usually to elicit information for a criminal investigation or to punish people suspected of criminal activity. In a survey of torture internationally in the early 1980s, Amnesty International concluded that among democratic countries torture did not occur in Australia, Canada, France, Germany, Great Britain, Japan, the Netherlands, and

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[2] But see discussion of the wide range of behaviors that at least some segments of American communities characterize as police brutality in essays in this volume by Worden, Locke, and Flanagan and Vaughn.

Sweden. It did, however, in Israel and India. Torture in Israel appeared to be connected to treatment of Arabs and Palestinians, especially those suspected of being involved in terrorism. Torture by the police in India is considered an open secret. Senior police officers, usually retired, have often admitted knowing or strongly suspecting that it has gone on. The Bihar blindings are only the most gruesome example.

The Japanese police have recently been accused of torturing suspects held in police jails to obtain confessions. After revelations by members of the Tokyo bar, two international jurists were invited, with the approval of the Japanese government, to investigate the charges.[3] They concluded that "Japan engages in widespread physical and psychological torture, cruel, inhuman, and degrading treatment" (Bayley 1991a). The "torture" included prolonged isolation, lack of privacy, interrupted sleep, complete dependence on custodial staff, even for permission to wash or lie down, lights kept on all night, and irregular and unannounced interrogations. Force seems rarely to have been applied, but it was often threatened. Suspects were also denied access to lawyers.

These allegations are part of the larger problem of "substitute prisons." Japanese criminal law requires suspects to be produced before a magistrate within 72 hours of arrest, when charges must be filed or the person set free. However, judges may authorize two successive ten-day periods of detention, at the request of prosecutors. In effect, Japanese suspects can be held in jail for as long as twenty-three days, if a judge agrees, during which investigations can continue without charges being filed. During this period police have ready access to prisoners because, through a loophole in the penal law, they are held in police station lockups rather than prisons run by the Bureau of Corrections. Thus, the term "substitute prisons." In fairness, it should be said that documented cases of abuse are rare; the Japanese lawyers who made the charges about torture had to work very hard to come up with even a handful. Clearly, however, abuses have taken place, and they prompted the Supreme Court, as we saw, to overturn several convictions. My own conclusion, based on research in the late 1980s and

early 1990s, is that "one does not want to minimize a situation where the potential for impropriety is both unlimited and secret. The Japanese criminal justice system has power over suspects that is unique among the world's industrial democracies" (Bayley 1991a).

3. Deaths in custody. People who have been arrested sometimes die in police custody under suspicious circumstances. Because these deaths may be related to injuries sustained during arrest or from physical punishment inflicted in jail, this category overlaps the previous two. The Australian government, for example, created a royal commission in 1988 to investigate what was considered to be a disproportionate number of Aboriginal deaths in custody. The investigations led to many changes in the management of prisoners, including the redesign and outfitting of cells and admission of Aboriginal lay visitors to police lockups (Australia, Royal Commission 1991). In Britain, John Mikkelsen died in police custody during the night of July 15/16, 1985. A coronial inquest blamed the police. After its finding was overturned on appeal, a new inquiry concluded that Mikkelsen had died by "misadventure" and several officers were disciplined (Police Complaints Authority 1986).

4. Police shootings. American interest in this issue peaked in the early 1980s, culminating in the Supreme Court's 1985 *Garner* decision that police were not justified in shooting fleeing felony suspects unless there was an imminent danger to the lives of others (Geller and Scott 1992). In the Netherlands in the mid-1980s a blue-ribbon committee investigated the justified and unjustified use of deadly force by the police. Analyzing 1,383 documented cases of shootings by Dutch police, both municipal and state between 1977 and 1986, it found that 49 percent had occurred while making arrests, 24 percent in self-defense, 15 percent were of animals, six percent occurred during suspicion stops, three percent in altercations with suspects, two percent were accidents, and less than one percent involved people who had escaped from some form of institutional custody (*Use of Violence by the Police* 1987); for comparable typologies of the circumstances in which American police use deadly force, see Geller and Scott (1992) and Fyfe (1981c).

5. Police raids. Accusations have been made in several countries that police have used exces-

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[3] Etienne Jaudel and Karen Parker.

sive force, sometimes resulting in death, while raiding premises where illegal activity is suspected or wanted persons are believed to be. This was the case of David Gundy in Sydney, Australia in 1989, during the police search for a suspected cop-killer. A year later, Darren Brennen, a suspected armed robber, was shot in the face by the Sydney Police tactical response group, acting on what turned out to be a false search warrant. Miraculously, Brennen did not die; the robbery charges against him were dropped (*The Bulletin*, 28 August 1990). In Britain, five-year old John Shorthouse was shot by a West Midlands' police officer during an armed raid in 1985 on his parents' home. Although a crown court found the constable who shot the child not guilty, one officer was admonished and three others "given advice" by the chief constable concerning poor planning and execution of the raid (Police Complaints Commission 1986). Finally, in central India shoot-on-sight orders are commonly issued to heavily armed police tracking rural dacoits (bandits) in the hilly, forested areas of Madhya Pradesh and Orissa (Rustumji 1980). Many people are killed this way, not all of them confirmed as dacoits.

6. Riot and crowd control. Americans have painful memories of the use of excessive force by police against demonstrators during the tumultuous 1960s and early 1970s. In one notorious case, investigators of police efforts to control demonstrators outside the Democratic National Convention in Chicago in 1968 concluded that there had been a "police riot." In Britain, popular concern with police tactics in handling racial unrest in the Brixton area of London in 1980 led to an official investigation by Lord Scarmon and the issuance of a critical report. The London police were also accused of excessive force in the death of Blair Peach who, with others, was demonstrating against the fascism of the National Front in 1979. Charges of excessive force surfaced repeatedly during the prolonged coal miners' strike in 1984-85 (Jefferson and Grimshaw 1984). After a riot growing out of the print workers' dispute in Wapping in January 1987, 122 complaints were immediately filed against the police with another 330 coming later. The director of public prosecutions subsequently filed charges against 26 officers for assault, conspiracy to pervert the course of justice, and perjury (Police Complaints Authority 1988).

In India, riots and demonstrations have been a staple of political life since independence was won in 1947 (Bayley 1969, 1983). For this reason Indian police are organized into separate armed and unarmed units, with the bulk of personnel being in the former. Although Indian police have more experience in handling demonstrating crowds than perhaps any police in the world, their actions are so often criticized that they become part of the politics of whatever struggle is going on. For example, in Tamil Nadu State, not a particularly turbulent place by Indian standards, the police opened fire on 103 occasions between 1986 and 1990, all but 16 of those during riot-control operations. Seventy-two civilians were killed and 189 injured. There were no police deaths, although 302 officers were injured.

7. Intimidation and revenge. Occasionally police take justice into their own hands, punishing people without waiting for the less certain actions of courts. Motives vary. In the Bihar blindings police may have been responding to public pressure to "do something" about rural banditry. Some observers have charged that the police were acting in concert with large landowners because the blinded "dacoits" belonged to low castes who had been agitating for land reform and against the practice of bonded labor. Analysis of data collected in Jamaica, Brazil, and Argentina suggests that police shootings are being used as a form of "social control" (Chevigny 1990).[4] So common are shootings by the police in Brazil that some officers are identified in the media as the "Pistoleiros." In addition, Brazil's notorious "death squads," in which off-duty police are believed to participate, have operated for years, their presumed intent being to deter criminal activity by repeat offenders. Chevigny calls this "police vigilantism" (p. 241).

The motivation for brutality may sometimes be revenge. Gary Abdullah was shot by police officers in Melbourne, Australia, in 1989, after being taken into custody for the alleged murder of an officer. An especially egregious case of revenge occurred in the city of Meerut in the

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[4] This conclusion is based on the ratios of persons killed to wounded in police shootings, police killed to civilians killed, and homicides by police to total homicides.

Indian state of Uttar Pradesh, in May 1987. After several days of rioting between Muslims and Hindus, a contingent of armed police stormed a Muslim ghetto close to the place where a Hindu man had been killed the previous day. They loaded many men into vans, took them out of town, shot several, and threw their bodies into a canal. The following day armed constabulary went to Malyana, a village outside Meerut, and shot at least 90 persons, according to the state government (*Far Eastern Economic Review* 1987).

8. Non-physical brutality. Not everyone considers brutality to be strictly physical. Like beauty, brutality is in the eye of the beholder. For example, is it brutality when the police apply psychological pressure or threaten to use physical force?

The Complaints Review Board of Quebec distinguishes several categories of misuse of force: verbal abuse and discourtesy, improper use of authority or harassment, illegal searches and seizures, excessive force in making arrests, and unjustified use of firearms. If "brutality" and "misuse of force" are synonymous, then Quebec is defining brutality very broadly (Brodeur 1992; see also discussions of definitional issues in this volume by Klockars, Worden, Adams, Locke, and Fyfe). Similarly, the committee on police complaints in Amsterdam reports that most complaints fit into one of 10 categories: rudeness, not being helpful, overreaction, false arrest, misuse of force, handcuffing, refusal to take a report, damage to property, refusal by police to identify themselves, and inadequate detention facilities (1990). Which of these should be included in a tally of complaints about police brutality? Misuse of force, of course. But what about handcuffing? Damage to property? Poor detention facilities? Possibly yes in each case, depending on the circumstances.

This review of the forms brutality takes shows that it is not a simple concept. It covers several quite different police actions, and there is no clear demarcation between brutality and non-brutality. There is little information nationally or internationally about the proportion of brutality of different kinds. Amsterdam, just noted, lists complaints under 33 headings. Complaints about the use of force comprised 6.4 percent. In Britain in 1979-87, 18 percent of all complaints were about assaults related to arrests (Maguire 1989). In 1989, 28 percent of all complaints against the

police outside London were for assault (Maguire and Corbett 1991). In Queensland, Australia, 8.9 percent of complaints in 1990-91 were for harassment, 9.7 percent for assault, and 10.3 percent for incivility and aggressiveness—all three of which might be considered brutality, depending on the circumstances (Criminal Justice Commission 1990-91).[5] In Victoria state in Australia, 43 percent of complaints were about excessive force and demeanor in 1990-91; and in the Northern Territory, 30.3 percent were for assault and aggressive behavior in 1989-90 (Victoria and Northern Territory police 1992).

Not only does concern with brutality focus on different kinds of police conduct from place to place, but concern shifts within countries over time. The United States is a case in point. In the early 1930s, when the Wickersham Commission reported, police brutality connoted the "third degree." In the 1960s it meant excessive force in handling political demonstrations; in the 1970s it referred to unjustified shootings by police; and in the 1990s it brings to mind arrest-related assaults. The comparative study of police brutality requires careful attention to definitions and to the operational inclusions and exclusions that statistical tallies often conceal.

II. HOW MUCH BRUTALITY?

This most basic question is very difficult to answer (see extended discussion of this question as it applies in the United States by Adams, this volume). To begin with, few countries care to find out. Information about police brutality internationally depends on the character of governments. Data are readily available for democratic countries; hardly at all for authoritarian ones. This creates what I shall call the paradox of openness: the best evidence about police brutality comes from countries that probably have the least of it; the least satisfactory information comes from countries that probably have the most of it (compare Adams, in this volume, discussing inter-agency comparisons in the United States).

This claim is not merely a democratic conceit, but is supported by the eloquent testimony of the refugees who have fled authoritarian repres-

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[5] This information covers 30 April 1990 through 30 June 1991.

sion of various stripes. It is also substantiated by the careful documentation of groups like Amnesty International and Americas Watch. During the 1980s, for example, Amnesty International found that torture by police occurred primarily in non-democratic countries, concentrated mostly in Africa, South America, the Middle East, and Southeast Asia (Amnesty International 1984). Authoritarian countries are not called "police states" for nothing (Bayley 1985). The connection between police abuses and the character of government is more than semantic, in the sense that democracy means an absence of repression by official agencies. Cross-national analysis confirms, firstly, that the enjoyment of human rights is related to levels of economic development and, secondly, that democracy is related to economic development (Humana 1983; Huntington 1991; Wright 1992; Banks and Textor 1968). It follows that the countries with the least amount of police oppression will be economically developed democracies. This means that most evidence for police brutality in the world will be anecdotal and impressionistic. The only official estimates of its incidence will come from a handful of democratic countries.

As long as we recognize that analysis of official information about police brutality produces a skewed picture of its distribution in the world, it is worthwhile to compare its incidence among democratic countries. The primary source of information about the amount of police brutality comes from tallies of complaints made to official agencies.[6] While my impression is that many police forces keep such records, only a handful of countries keep national totals. These are the countries with centralized police systems, such as Japan, France, and New Zealand. However, .not all democracies with centralized police publish such figures. Japan does not; nor does France. New Zealand does. In the large federal democracies, such as Australia, Canada, Germany, and the United States, national governments do not assemble countrywide data. Constituent police forces collect and publish information about complaints as they please. All Australian state police forces do, as does the Australian

Federal Police; many forces in Canada do; some American forces do; no German state forces do. Great Britain is the only country with a non-centralized police system that produces yearly reports on complaints made about its forces.[7] Britain also keeps the most extensive set of historical data on complaints, going back to 1964, with detailed breakdowns by the nature of complaints and their disposition back to 1979. Quebec province in Canada has figures dating from 1968. Complaint tallies elsewhere are very recent; few are before 1986.

At the same time, the prospects for comparisons of complaints against the police are improving dramatically because governments are beginning to collect information systematically about their number, nature, and disposition. We are on the verge of an information explosion. Especially commendable efforts are being made in Ontario province, Canada; Amsterdam in the Netherlands; and in eight Australian forces.

For number aficionados, here are some figures about the numbers of complaints against the police for assault and excessive force for several foreign police forces. In 1990 17,409 complaints were filed against 97,223 officers in England and Wales, excluding London. That is one complaint for every 5.6 officers. On investigation 2.6 percent of the complaints were substantiated. Almost half of all complaints were about assaults (7,455) and 1.2 percent of those were substantiated (89). Thus, there was one complaint of assault lodged for every 13 police officers, and one was found to be true for every 1,092 officers (Home Office 1991; Her Majesty's Inspectorate of Constabulary 1991).

For the London police, there were 4,371 complaints of all sorts in 1989, or one for every 9.1 officers; 2,328 were for assault, one for every 17.2 officers (*Annual Report* 1990).[8]

In Australia, information about complaints is collected and published by the various state

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[6] My sample is further limited by language. My information comes mostly, but not entirely, from English-speaking countries.

[7] There has been considerable controversy recently in Britain, stirred by Robert Reiner at the London School of Economics and Political Science, about whether the British police system can properly be characterized as not centralized (Reiner 1988).

[8] Data on the proportion substantiated are not available.

police, as well as the Australia Federal Police, but they are not aggregated for the entire country. In 1990-91 the police of Victoria state recorded one case of assault/excessive force for every 12 officers, with one case substantiated for every 250 officers. In New South Wales, which includes Sydney, there was one complaint of assault for every 15 officers in 1991, with one case substantiated for every 370 officers. In the other Australian states, information is available for the total number of complaints but not for the number substantiated. In South Australia in 1990-91 there was one complaint of assault for every 12.6 officers; in the Northern Territory, there was one complaint of assault/aggressive behavior for every 15.9 officers in 1989-90; in Tasmania in 1990-91, there was one complaint of assault/excessive force for every 16.3 officers; in Queensland in 1990-91, there was one complaint of assault/excessive force for every 38.7 officers; and for the Australian Federal Police in 1990-91, there was one complaint of assault/force for every 37.2 officers.[9]

In Amsterdam in 1990, there were 44 complaints of police misuse of force, or one for every 72.7 officers (Commissie voor de Politieklachten, Amsterdam, 1990). Figures on the proportion substantiated were not given. In New Zealand in 1990-91, there was one complaint of misuse of force for every 30.5 officers; one case was substantiated for every 296 officers.

Finally, in Toronto, Canada, there was one complaint of police brutality for every 17.6 officers during 1990 and in the Quebec Provincial Police there was one of brutality/unjustified force for every 108 officers (Toronto Public Complaints Commissioner; Commission de police du Quebec, *Rapport Annuel* 1990).

These gleanings from police forces on three continents show that rates of complaints about brutality per police officer range from a high of one to 12 in Victoria, Australia, to a low of one to 73 in Amsterdam.[10] The rates for substantiated complaints are too sketchy to compare.

There are many reasons for questioning

whether figures on the numbers of complaints provide a good indicator of the amount of police brutality, even in democratic countries (see essays in this volume by Adams and Perez and Muir). Complaints are reports made to officials. They are subject to unpredictable differences from place to place, as well as over time, in the convenience of lodging complaints, perceptions of the usefulness of complaining, knowledge of complainants about the law, and accuracy in recording complaints. In addition, there are some unique problems with complaints figures that further undercut their value:

(1) A single incident can give rise to multiple complaints, victims, offenders, and infractions. Rules for sorting through these complexities must be established and strictly followed before figures on the number of complaints in one jurisdiction can be compared with another. The British Home Office, for example, has issued guidelines stipulating that cases should be determined by the number of different kinds of misconduct and the number of victims, not by the number of complaints or police officers involved (1985, s. 3.14). The average case has 1.7 complaints, 1.1 complainants, and 2 police officers complained against (Maguire and Corbett 1991). In Toronto in 1990, there were 1.9 allegations of misconduct for every complaint recorded for investigation (Public Complaints Commissioner 1990).

(2) Brutality is not a simple category. It can cover assault, excessive force, harassment, intimidation, even rudeness and discourtesy. Decisions about what offenses to include as police brutality vary with those doing the classifying, including outside researchers.

(3) Numbers of complaints about brutality mask very different degrees of hurt. A single complaint about brutality may arise respectively out of a severe beating, handcuffs fitted too tightly, or unpleasant confinement in a police cell. Complaints about brutality are not graded for seriousness, as are assaults under criminal codes. An accurate picture of brutality would require classification on such a scale. One police force, in Victoria, Australia, is actually trying to do this, using a 12 point scale.

(4) Complaints about the police can be brought to more than one agency—police, prosecutors, civilian complaint tribunals, ombudspersons, and courts (for the United States, see Perez and Muir's and Cheh's essays, in this volume).

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[9] Information was provided by the police forces of each state.

[10] For the latest data on comparable rates for police officers in the United States, see Pate and Fridell (1993); see also Adams (this volume).

It takes hard work to collect them all. In Japan, for example, figures on complaints made to the country's 12,000 civil liberties councilors are published each year. There are very few, less than a hundred. But most complaints come directly to the police, and these totals are not published. Failure to include all sources of information about complaints can produce large differences in the perception of brutality between jurisdictions.

(5) Recording complaints is not an automatic process. Variations in totals over time or from place to place occur because of differences in judgments about whether reports are trivial, frivolous, or malicious; whether complaints should be conciliated or investigated (see Kerstetter, this volume); and whether particular complainants are encouraged or warned off. A study of complaint recording in Britain, for example, found that one in three people was dissuaded from making a complaint by mid-ranking officers, sometimes for justifiable reasons, sometimes not (Maguire and Corbett 1989; see also Perez and Muir, this volume). Complaint recording by police agencies, where most complaints come, is highly responsive to changes in policy, which sometimes change abruptly in the face of widely publicized incidents. Furthermore, scandals do not always have the same effect on the accuracy of reporting: they may encourage strict counting in some jurisdictions and minimization in others. Thus, the very events that complaints are supposed to represent may directly influence the number of complaints that are recorded, and in unpredictable ways.

(6) Complaints magnify the perception of misconduct, since most allegations are found on investigation not to be true. At the same time, using figures on substantiated complaints undoubtedly undercounts the amount of brutality, because the process of substantiation is manipulable and unstandardized (see Adams, this volume). In Britain in 1989, for example, only three percent of all complaints were substantiated, while 24 percent were conciliated and 44 percent were "voluntarily" withdrawn (Maguire and Corbett 1991, Table 3).[11] Among assault complaints, only one percent were substantiated. Moreover, fewer of them were conciliated than other complaints

(seven percent vs. 24 percent), while many more were voluntarily withdrawn (60 percent vs. 44 percent).

In Victoria, Australia, the substantiation rate for assault/excessive force complaints was five percent in 1990-91 as opposed to 15 percent for all complaints (Private Letter from Victoria Police 1992). In the Northern Territory in 1989-90, no complaints for assault were substantiated of 44 filed, as opposed to a general substantiation rate of seven percent (Northern Territory Police 1992). The substantiation rate for complaints of assault against the Australian Federal Police in 1989-90 was 2.5 percent as opposed to 12.7 percent for all complaints (Australian Federal Police 1992).

My general conclusion is that figures on complaints as well as substantiated complaints are very unstable, reflecting self-interest on the part of the police and the public respectively (for further discussion of these issues concerning the United States, see the chapters in this volume by Adams and Perez and Muir).

Besides being subject to challenge on methodological grounds, statistics on police brutality complaints, either alleged or substantiated, do not have meaning in themselves. One country may have two, five, or 20 times the complaints as another, but so what? Obviously the number of complaints varies with the number of police, which is why the ratio of complaints per police officer was calculated in presenting data on different forces. But the number of complaints may also be affected by the size of the population, in which case the relevant ratio is complaints per citizens rather than complaints per officer. An even more revealing calculation might be the number of complaints compared to the number of contacts police have with people. A lazy police force might not generate as many complaints as an active one. Alternatively, since many brutality complaints occur as a result of arrests, perhaps complaints should be compared to arrest rates or, by extension, crime rates.

Chief Daryl Gates was strongly criticized for appearing to minimize brutality in the Los Angles Police Department when he said, after the Rodney King beating, that most officers behaved in a completely professional and acceptable manner most of the time. He was undoubtedly right. Although what he said may have been politically maladroit, it was not intellectually foolish. Police brutality is certainly deplorable, but some com-

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[11] These figures are for all England and Wales, including the London Metropolitan Police.

plaints of it are inevitable and must be evaluated in terms of what police do. For this reason, the British Police Complaints Authority takes pains to point out each year in its annual report that the conduct of most British officers is beyond reproach.

Furthermore, if it is fair to accept complaints from the public as indicators of improper performance, should not compliments from the public be reported as well, especially if they have been tendered as seriously as complaints? Police agencies often call attention to the number of unsolicited letters they receive praising the work of particular officers. In Britain in 1990, the police received twice as many such commendations from the public and from courts as they did complaints (*Home Office Statistical Bulletin* 1991). Are these "attaboys," as they are called in the United States, less informative than complaints? Perhaps what is needed is a ratio, even a weighted ratio, of complaints to commendations. One complaint might equal two attaboys. This may sound silly, but it is not.[12] Figures on complaints, if they are to be used at all, must be related to other things. Mark Twain said there were lies, damn lies, and statistics. The remedy is not to abandon numbers, but to use them intelligently and to educate the public to appreciate when that isn't being done.

Given these problems of multiple sources, partial data, validity, recording errors, and interpretation, can any estimate be made about the quantity of police brutality? Certainly not on a worldwide basis, and very questionably even within single police forces. Data on reported crime are problematic enough, but it will take a great deal more effort to make complaint collection systems anywhere near as good. The game of science will be difficult to play with respect to the comparison of magnitudes and the analysis of trends in brutality complaints for the foreseeable future (compare Adams, this volume).

Indeed, there are two reasons for wondering

whether even in principle scientific rigor will ever characterize the study of police brutality. First, while some uses of force by police, such as torture, are almost universally condemned, many are not. They are matters of judgment, where observers must balance the degree of force employed against exigency. Second, complaints about police brutality are made to the very people who may be guilty of the brutality. It is as if crime reports had to be made by victims to the criminals. Unless mechanisms are created for recording and substantiating complaints that are wholly independent of the police, the reliability of such reports will be questionable.

These impediments are not likely to deter people from analyzing and interpreting complaints statistics about police brutality, spreading over their writing the patina of science. But they should. Perhaps all of us should take the pledge.

III. WHAT DIFFERENCE DOES BRUTALITY MAKE?

Although the objective incidence of police brutality is hard to document and comparisons among jurisdictions are highly questionable, most countries believe police brutality is a problem for them at least from time to time. Police brutality seems to be much more than the sum of actions. It is a category of moral concern. It is a "social fact." That is, it appears to be a problem everywhere regardless of its forms or objective incidence (Gould and Kolb 1964: 654-55). One answer, then, to the question of how serious police brutality is, is that it is as serious as the public believes it to be (see also essays by Locke and Flanagan and Vaughn, this volume).

In this respect police brutality is very much like crime: it has a social significance that is larger than the harm it does to particular individuals. As with crime, perceptions of brutality bear little relationship to the facts—people unlikely to be victimized may fear both; people likely to be victimized may think they are safe.[13]

And just as the fear of crime is a problem in itself, so perceptions of police brutality can be a problem in itself. The fear of crime is thought to

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[12] Geller and Scott (1992) recommend that police managers identify and respond differently to at least four categories of police use-of-force decisionmaking: reasonable and unreasonable uses of force and reasonable and unreasonable restraint (decisions to forgo force or to use lesser force than the circumstances called for).

[13] But see data presented by Flanagan and Vaughn (this volume) on the perceptions of police brutality by subgroups of Americans.

affect the use of public places, property values, psychological stress, and the willingness of people to take collective action (Skogan 1990a). Following a similar line of reasoning, the fear of police brutality might affect calls for police service, readiness to assist the police, levels of emotion in police contacts, avoidance of police contact, latent disrespect, repressed anger, and inclination to believe the worst about the police.

Furthermore, the fear of brutality may actually increase the likelihood of brutality occurring, just as the fear of crime may create conditions that encourage the commission of crime. For example, faced with an uncooperative populace, police may resort to sweeps and searches; suspects who flee rather than talk may be more likely to be considered guilty and to be treated roughly; the anger and resentment fed by perceptions of police brutality may encourage protests and collective violence, reinforcing the police belief that only force will work; and belief in the prevalence of brutality may cause people to criticize the police no matter what they do (see Toch, this volume; Lester, this volume).

Tragically, then, police brutality may feed on the public's belief in it. The lesson for policy makers is that police brutality is more than a matter of numbers. Whatever the documented number of cases, police brutality in any jurisdiction may suddenly, unpredictably, and devastatingly become *a problem.*

Whether police brutality is perceived to be a problem can be determined directly through public opinion surveys. Unfortunately, surveys about the police are rare to begin with and surveys focusing on brutality are almost nonexistent (the existing ones in the United States are discussed by Flanagan and Vaughn, this volume). Furthermore, surveys often ask meaningless questions about whether the public "respects" the police, rather than probing for their evaluations of particular aspects of police conduct. In the United States, a national survey about the public's impression of the frequency of police brutality was asked in 1965 and not again until 1990. During that time the proportion of the populace believing that their local police engaged in brutality jumped from nine percent to 35 percent (*Sourcebook on Criminal Justice Statistics* 1990). In the 1990 survey, 22 percent thought brutality on a national basis occurred frequently, 45 percent somewhat frequently. Five percent thought

their local police frequently were brutal, 15 percent somewhat frequently. Close observers of public opinion in Britain have found a steady decline in respect for the police since the 1950s, and attribute it to publicity about corruption and brutality beginning in the 1970s (Reiner 1991a, 1991b; Skogan 1990b).

Only a few studies have asked about people's personal knowledge of the use of force by police. In a survey I conducted in India in 1965, 1.3 percent to 22.2 percent of respondents, depending on the locale, knew someone personally who had been struck by the police (Bayley 1969). The Australian Institute of Criminology found in 1987 that 12.1 percent to 17 percent of Australians, depending on the state, had personal knowledge of the police using undue force (Australian Institute of Criminology 1988). In London, the Policy Studies Institute reported in the early 1980s that 22 percent of persons who had been arrested said they had been struck or had force used against them. The vast majority, as one might expect, thought the force unjustified (Smith and Gray 1983). The British Crime Survey of 1988 found that only 1.9 percent of the population had tried to make a complaint about the police during the preceding five years. Ten percent said they had been upset by police use of undue force, even though they had not complained. Thirty-six percent reported the police being rude, arrogant, or overbearing (Skogan 1990b).

Minority groups are much more likely to perceive police brutality as a problem (see essays in this volume by Locke and Flanagan and Vaughn, for the patterns in the United States). They believe it is more widespread, and they experience it more often (Skogan 1990b, Smith and Gray 1983, Bayley and Mendelsohn 1968). Divergent perceptions of police brutality are part of the dynamics of social stratification in many countries.

In addition to public opinion surveys, judgments about the importance of police brutality can be drawn from its visibility in media coverage, popular culture, politics, and official concern. Again, the paradox of openness arises—brutality will appear more significant in democratic than nondemocratic countries. Concern about police brutality in Britain, for example, was probably most intense between 1975 and 1985. Popular concern was reflected in the findings of the House Select Committee on Race Relations, 1972;

creation of the Home Office working group on complaints against the police, 1974; creation of the Police Complaints Commission, 1976; the Scarmon Report on the Brixton disturbances, 1982; and the establishment of the Police Complaints Authority, 1985. Since then criticism has shifted from brutality to misconduct in criminal investigations, particularly the fabrication of evidence.

In Australia, concern with brutality achieved the status of "moral panic" in the late 1980s. It was given extensive coverage by the media, riveting public attention and forcing government to respond with a host of special inquiries and commissions: the Royal Commission on Aboriginal Deaths in Custody, the National Inquiry into Racist Violence in Australia by the Human Rights and Equal Opportunity Commission of the Government of Australia, the National Violence Commission, and the coronial inquest into police shootings in Victoria.

In Canada, the issue simmered through the 1980s. In Toronto, a Race Relations and Policing Task Force was established in 1988. In 1990-91, however, police brutality gained prominence across the whole country. There were royal commissions on the police use of force in Manitoba and Nova Scotia, official inquiries in Toronto and British Columbia, and public outrage at the death of Marcellus Francois in Montreal. Francois was shot in the head after being stopped while in a car. The police had mistaken him for another man. Two thousand police officers demonstrated when their chief publicly criticized the officers involved. Several weeks later a black suspect in another case killed himself on a street in Montreal rather than be arrested.

In Israel the media daily charge the police with using excessive force against Arabs, and the Knesset (parliament) regularly discusses the charges. In April 1991, the world's attention was drawn when Israeli police fired upon unarmed Palestinians throwing rocks at people worshipping at the temple Wall.

The situation in certain other countries is very different. Popular concern in Japan, despite the revelations about conditions in the "substitute prisons," seems to be small. There is no crisis of confidence in the police. In the Netherlands, there was a flurry of interest in police shootings during the mid-1980s, but interest died down, especially after the government appointed a

commission to investigate police use of force in the preceding decade (Study Group on Police Violence 1987). New Zealand became concerned about police brutality in the early 1980s, mostly in connection with the handling of demonstrations during the tour of the South African rugby team. Today there is very little concern.

Although documenting the importance of brutality as an issue in police-public relations is difficult to do given the paucity of material, it may contribute significantly to public stereotyping of particular police forces. How people in different countries characterize their police may depend crucially on the way the police are perceived to employ force.

The lack of correspondence between the objective incidence and the subjective importance of police brutality is undoubtedly traceable, at least in part, to public willingness to excuse or even approve of brutality. The plain fact is that the use of excessive force by the police is not universally condemned. After the Bihar blindings, the chief minister of Bihar said that the blindings had "social sanction" (*THE TIMES* December 7, 1980). Many people were outraged when the state government paid compensation to the blinded victims. Indian police officers tell stories of respectable people asking that suspects arrested for crimes against them be given a bit of "third degree" until they confess. An Inspector General of police told me of a High Court judge who demanded that his servant, arrested for stealing the family's jewelry, be beaten, despite the fact that the judge had made a name condemning the police for "third degree" methods.

The numerous shootings of suspected criminals and other "undesirable" people in Argentina, Brazil, and Jamaica, which have been called "police executions," are frequently justified by officials, elected politicians, media commentators, and the public generally. As one commentator has noted, the public's sympathy for police excesses "...creates a grim world of vengefulness in which persons accused of crime are literally outlaws, subject to execution by everyone, official or private" (Chevigny 1990: 412).

Japan's "substitute prisons" have not become a major issue, in part, because the public believes that arrested persons should display contrition and admit their wrongs (Bayley 1991). Although the presumption of innocence is built into Japanese law, it is not strong in popular culture. What the

police do is usually accepted as being right. Excuses and justifications by suspects are seen not only as unconvincing but as unseemly. It is entirely proper, therefore, for Japanese investigators to "pressure" suspects to confess. That is the beginning of social redemption.

In the United States, too, many people see police brutality as righteous conduct, largely on the argument that suspects "got what they deserved." Americans are frequently frustrated at what they perceive to be the procedural niceties of the criminal law. Criminals shouldn't be "coddled"; they should be punished. Remember how shaken people were when presidential candidate Michael Dukakis said he would not be in favor of putting to death a man who had raped his wife. Such movies as "Dirty Harry" and "Death Wish" trade on the public's yearning for vengeance against criminals. Sociologist Donald Black has called attention to the frequency of self-help in righting fancied wrongs (Black 1983). American television has recently portrayed in a sympathetic light abused women and children who have killed husbands and fathers.

The point of all these examples is that the public may excuse in the police what it would excuse in itself. It may, in fact, expect from the police what it would expect in itself. Both public and police frequently blur the distinction between arresting and punishing (see essays in this volume by Flanagan and Vaughn and Lester). The public often agrees with a view attributed to the British police: "[M]ost police officers see it as part of their function to punish, at least in certain circumstances, and this is one of the underlying motivations for their behavior" (Smith and Gray 1983: 76).

Viewing police brutality comparatively, one begins to see that its occurrence is a necessary but not a sufficient condition for its being perceived as a problem. The impact of police brutality on public, as well as official, opinion is unpredictable.

IV. WHAT'S BEING DONE ABOUT IT?

Efforts to reduce police brutality around the world proceed on two fronts. First, disciplinary supervision over the police may be tightened, often by creating special oversight agencies outside the police (Bayley 1991b, 1991c). Second, police forces may change the way they

manage personnel so that brutality is discouraged. These approaches are not mutually exclusive. Here are the recent noteworthy developments on both fronts, based on information drawn primarily from English-speaking democracies.

During the last decade, external supervision of the investigation and discipline of police misconduct has been tightened in many countries. Developments are so varied and so idiosyncratic in detail that they are difficult to compare. The Royal Canadian Mounted Police, for example, recently added two oversight committees. The director of research and communication explained them to me as follows:

> "The RCMP External Review Committee and the RCMP Public Complaints Commission are two distinct, independent bodies, both external to the RCMP. The External Review Committee deals with matters internal to the RCMP. The Public Complaints Commission deals with external complaints from the public."

There, that clarifies things![14]

Two distinctions, however, will help in making comparative generalizations. First, responding to complaints of misconduct may be left in the hands of the police or may be given to others outside the police agency. Second, responding to complaints involves two actions — investigating the facts of the allegation and deciding on appropriate punishment if the allegation is found to be true. This double distinction generates the usual four-celled box so beloved by all social scientists. See Figure 1. Police may be sovereign with respect to both investigation and adjudication or nonpolice may intervene at one or both stages (Perez and Muir, Cheh, and Kerstetter, in this volume, discuss the patterns of internal and external review in the United States).

The clear trend recently has been for those outside the police to play a larger role successively in the investigation of complaints and then in disciplinary hearings. This does not mean that the police automatically cede all authority.

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[14] This explanation is absolutely accurate, but further reading and a bit of thinking are needed before it makes sense.

Commonly, they share responsibility. For example, civilians may review police investigations of misconduct but not undertake investigations themselves. They actually may give specific directions to police investigators but, again, not substitute their own personnel. As far as determining punishment, civilians may be allowed to make recommendations, but the police retain final authority. Finally, civilian authorities may be authorized to take matters out of police hands at either stage.[15]

FIGURE 1
Police Disciplinary
Procedure In Several Countries

	Police	Non-Police
Investigation	United States (1) India Japan	(2) Review New Zealand (3) Supervision Victoria State; Australian Federal Police; Royal Canadian Mounted Police (4) Independent England & Wales
Discipline Action	United States (1) India Japan	(5) Recommendation New South Wales; South Australia; (6) Independent Ontario; Quebec; Queensland State

Figure 1 shows these gradations of civilian intrusion with numbers. The numbers actually constitute a scale, in the sense that civilian intrusion begins with review of investigations and gradually moves into disciplinary determination. I know of no cases where civilians took over

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[15] This scheme is similar to one proposed by Samuel Walker and Vic W. Bumphus, but with refinements of my own. "Civilian Review of the Police: A National Survey of the 50 Largest Cities, 1991." Draft copy (April 1991); see also Kerstetter (1985) and Perez and Muir, this volume.

determining the amount of punishment before they were given oversight over the conduct of investigations. The two cells of the first column are both numbered (1) because they represent the traditional system of police discipline where police control both stages in the discipline process.

In India, Japan, and most of the United States, the police are primarily responsible for investigating and disciplining officers who engage in misconduct. This was also the British system until 1976. This is not to imply that all police forces with this system perform these activities in the same way. They vary in organization, dispersal of authority, specialization of function, and procedural complexity. In the last 25 years investigations have generally become more centralized, carried out by specialists in misconduct investigations. Similarly, procedures at all stages have become more elaborate, both to satisfy the public and to protect accused police officers.

During the last decade police monopolization of the investigation of misconduct charges has been broken in Australia, Britain, Canada, and New Zealand. In New Zealand, a Police Complaints Authority was created in 1989 that reviews all police investigations of complaints. It is also authorized to undertake its own investigations in very serious or controversial cases, but it rarely does so (Quilliam 1992). The model that emerged in Australia during the latter 1980s is for civilian oversight, often exercised by an ombudsman specializing in police affairs, to review all investigations, to make suggestions about the course of an investigation when it is deemed necessary, and to take over investigations occasionally "in the public interest" (Goldsmith 1992; Crumpen 1992). Disciplinary decisions on the facts of a case are made by the police, but they may be appealed to the police minister, who is elected. In Victoria state, the police commissioner may choose not to hear cases himself and refer them to police boards. A police board is a judicial magistrate in each police division throughout the state. When a complaint about the police is made by a member of the public, as opposed to a government official, the board must include another civilian appointed by the police minister (Crumpen 1992).[16] New South Wales

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[16] See Kerstetter's discussion, in this volume, of the

has a similar system, but differences of opinion about disciplinary action between the ombudsman and commissioner of police must go to a police tribunal, consisting of a district court judge. Appeals from the judge go to the police minister.

In Britain, the Police Complaints Authority (PCA), which was established in 1985, is empowered to "supervise" police investigations of misconduct, which means that it may review and also give directions. The PCA is obligated to review all cases in which there has been a death or serious injury to a civilian. Over the years a three-tier system for handling cases has grown up: (1) informal conciliation by the police in minor complaints; (2) passive review by the PCA of moderately serious complaints; and (3) active intrusion by the PCA into the investigation of a few cases that attract widespread public attention (Maguire and Corbett 1991).

In South Australia, the Police Complaints Authority, a civilian body, may review, supervise, and independently investigate complaints of police misconduct. It may also recommend disciplinary action. If the commissioner of police does not accept its advice, the case is decided by the police minister.

External bodies with investigative oversight may often be less powerful than they appear because of the demanding standard of proof employed. The Police Complaints Authority in Britain, for example, must determine whether complaints are proved beyond a reasonable doubt, the criminal standard, rather than on the preponderance of evidence, the civil standard. The investigating boards of the Ontario Police Complaints Commission, on the other hand, need only "clear and convincing evidence." This makes civilian oversight in Ontario much more threaten-. ing to the police than in Britain (see Cheh, in this volume, reviewing the effect of different standards of proof in different control systems in the U.S.).

The British Police Complaints Authority may also displace the police in determining punishments. So it belongs partly in the lower right-hand box of Figure 1. If the PCA believes that the disciplinary decision of the police is inade-

quate, it can refer it to disciplinary tribunals composed of the Chief Constable of the force involved plus two PCA members who have not been involved in the investigation (Maguire and Corbett 1992).

Full civilian authority over both investigations and disciplinary actions was created in 1990 in Ontario and Quebec provinces in Canada and Queensland state in Australia. The Ontario Police Complaints Commission, an outgrowth of the Toronto Police Complaints Commissioner, has authority over investigations and disciplinary determinations in cases of police misconduct throughout the province. It can take over any investigation, and it can refer disciplinary decisions by the police to three-person boards of inquiry, composed of a lawyer appointed by the attorney-general, a nonlawyer appointed by the Police Association, and a nonlawyer appointed by the Association of Municipalities (Ontario Police Services Act 1990; Ontario Ministry of the Solicitor General 1990). The Quebec Ethics Commission may review and independently investigate any complaint against the police throughout the province. Its findings are referred to nonpolice ethics committees, whose decisions about discipline are binding on the police unless an appeal is made to the Provincial Court of Quebec (Brodeur 1992).

The Criminal Justice Commission of Queensland, Australia, which grew out of the celebrated Fitzgerald Commission inquiry into police corruption and misconduct, has power to investigate and impose penalties in any complaint. Reviews and investigations are handled by its Official Misconduct Division. Findings are forwarded to Misconduct Tribunals, which are also part of the Criminal Justice Commission, and are composed entirely of legally trained civilians.

In sum, it is clear that during the last decade there has been an extraordinary extension of specialized civilian authority over police discipline in several of the world's developed democracies. Concern about police conduct has been so keenly felt that leaving discipline exclusively in police hands is no longer an acceptable option. In my view, we have reached a watershed: the principle of civilian oversight at both stages of disciplinary proceedings is well on the way to becoming established.

Police management is the second area in which efforts are being made to respond to the

need for the adjudicatory body to be representative of the interested parties if those parties are to see the process as fair.

problem of police brutality. Some forces, of course, have done very little. Others have been very creative. Their efforts tend to concentrate in the following areas:

(1) Reform of procedures for processing complaints and conducting investigations (Britain, Tasmania).

(2) Larger, more visible, more expert units for processing and investigating complaints (Victoria, New South Wales).

(3) Diversification of recruitment (Vancouver, Toronto).

(4) Redesign of training programs to promote cross-cultural understanding and empathy (Quebec, London).

(5) Training in non-forceful techniques of dispute resolution (The Northern Territory, London).

(6) Encouragement of public complaints through active solicitation, simplification of procedures, and retraining of complaints officers (Japan).

(7) Development of policy guidelines for activities more likely to generate complaints about brutality, such as the use of deadly force, high-speed motor vehicle chases, and armed raids (Britain, Australia).

In general, the philosophical approach to solving the problem of police brutality seems to be changing. Up to now, brutality and other misconduct were blamed on a few "rotten apples." They were seen as matters of individual deviance. Now brutality is viewed increasingly as a matter of institutional facilitation and organizational responsibility.[17] In other words, it can be corrected if police forces are managed better. While misbehaving individuals must continue to be weeded out, efforts are being made to transform management and institutional culture. The

focus of corrective efforts is shifting from individuals to organizations.

Just as brutality is not a problem confined to the countries we know most about—democracies—so, too, solutions are sought to brutality in closed societies as well. The solutions, however, are of an altogether different order. In democratic countries police brutality represents a failure of individual or organizational responsibility. But in authoritarian countries, brutality is often regime-supported. As a result, solutions to brutality become a matter of "high politics," requiring change in regimes and systems of government. Throughout history, rebellions and revolutions have been fueled to varying extents by revulsion to the excesses of the police. The French Revolution, for example, began with the fall of the Bastille, a prison. The crowds clamoring for freedom in Moscow in 1990 converged on Dzershinsky Square, named for the founder of the KGB, defaced KGB headquarters, and pulled down Dzershinsky's statue. In East Germany, the buildings of Stazi, the secret police, were looted, records seized or destroyed, and Stazi agents went into hiding. Military rule was undermined in Argentina in the 1980s by stories about "desparicidos"—people who had been arrested by the police and never seen again—and in Chile by tales of the systematic torture of dissidents. The activities of SEVAK, the secret police in Iran, initially cowed but ultimately strengthened the fundamentalist movement that overthrew the Shah.

Because police brutality is less visible in authoritarian countries, it may seem to be less of a problem. But appearances are misleading. Police brutality is like water running beneath the ground, silently but inexorably eroding the foundations of political legitimacy. Efforts to eliminate police brutality exist worldwide. They are overt or subterranean, depending on the character of the political system.

V. CONCLUSION

What perspective does this review of police brutality internationally give to the problem in the United States?

The United States is among a fortunate few countries where brutality by the police is random rather than systematic. Although some individuals may excuse it, government and dominant

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[17] For discussion of pertinent developments in the United States, see essays in this volume by Fyfe, Locke, Toch, and Worden.

political opinion generally do not. The knowledge Americans have about police brutality, which comes largely from complaints, is on a par with knowledge in other developed democracies. Although it is thin, it is not uniquely so. America's particular weakness is its reluctance to monitor the occurrence of brutality, or even complaints about it, on a national basis (see Geller and Scott 1992; Adams, this volume).

Although police brutality has attracted a great deal of attention recently, it would not be fair to say that the United States has been gripped by a "moral panic," in the sense that brutality has discredited the police beyond repair in affected communities. Certainly the fate of political parties and elected administrations does not seem to be affected by police brutality. American concern with brutality has focused largely on shootings, excessive force in making arrests, and armed raids on residences. There is little concern at the moment with torture, deaths in custody, or crowd control, although all these have been perceived as problems at times in the past.

Reform efforts in the United States seem as strong as in any democracy. They concentrate more perhaps on changing police management rather than on creating new mechanisms of civilian oversight. Perhaps this is because popular, and hence political, pressure for reform is not as great as in other democracies. Police reform in the United States cannot even be characterized as a matter of "half-high" politics, whereas it is in Australia and Canada. Americans seem to be content to allow the police themselves to take the lead in reducing misconduct, Los Angeles being a notable exception. The Rodney King episode shows, however, how quickly public opinion can change. American police would be well advised not to be complacent; it is in their own interest to take the lead in reforming management so that brutality does not occur.

Looking beyond the United States to the world as a whole, police brutality has the status of a "social fact." Every country has it; every country thinks it is important, although not all the time. Rodney King is a universal symbol. Moreover, the significance of police brutality transcends the quantity of hurt that is done to particular individuals. It is a problem of political legitimacy. It affects the respect for law and the standing of governments. It tests the boundaries of trust and consent between government and people. Police brutality, therefore, is consequential everywhere, however rarely it may occur.

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Improving Our Understanding and Control of Police Abuse of Force: Recommendations for Research and Action

William A. Geller
Hans Toch

This chapter summarizes key recommendations for action and further analysis made by the contributors to this volume and by others within and outside of policing. Some of the recommendations that follow also draw on our own studies and our work with police, other government officials, and community organizations over the past several decades.

Even those recommendations that enjoy popularity among practitioners, mayors, city managers, legislatures, the news media, academics and others should not be accepted at face value, however. One of the propositions that has shaped the writing of all the essays in this book is that prudent police administrators and other policy-makers will want to couple new action initiatives with some type of in-house and/or outside research to assess whether the innovations are achieving their intended purposes. Initiatives that worked in one setting and place may need modification in other contexts. Promising ideas that seemed to fall flat elsewhere may work in the new circumstances for a variety of reasons, including the possibility that previously they were not well implemented and therefore did not have a fair test. We have quoted him elsewhere, but Wayne Kerstetter's observation of some years ago bears repeating: "With only slight overstatement, one could summarize the history of police experimentation with innovative ideas in one sentence—'We didn't try it, and it didn't work.'"

Police leaders must experiment, but should

do so responsibly—for the public good and in their own career interests. Change agents cannot simply sit back and expect proof positive of a plausible idea's feasibility under all circumstances before trying it (Schorr 1989). "Where would the aviation industry be today," someone once wondered, "if the Wright brothers had said 'We're not jumping off this hill until you show us a Boeing 727!'?" Part of the reason we compiled this volume is that *responsible* experimentation, to us, means that one *tries* things, but does enough homework beforehand to be able to make *original*—and, therefore, professionally useful—mistakes rather than simply unwittingly replicating others' errors. In deciding whose *successes* to copy, public policymakers will also want to learn what they can about the various factors that may have produced the desired outcomes. Simple comparisons of variables of interest before and after an intervention may miss the real causes of desired changes and prompt the divergence of scarce resources to wasteful replications (Tonry 1995: 84).

On the subtleties of cause-and-effect analysis and many other issues, this chapter is not a substitute for the preceding ones. It highlights suggestions and conclusions but cannot capture the richness of the authors' reasoning nor the nuances of some of their recommendations. Except where we are presenting recommendations not given much or any attention by the preceding chapters, this essay has very limited discussion of the *rationale* for the recommendations. Instead we shall call the reader's attention to places in this volume and other publications where such discussions can be found.

I. DEFINING, EXPLAINING, AND COUNTING POLICE ABUSES OF FORCE

A. Terminology

What determines one's selection of terms among such possibilities as police "abuse of force," "brutality," "use of excessive force," "excessive use of force," "unauthorized force," "unjustified force," "misuse of force," "unnecessary force," "unacceptable force," "wrongful force" and the like? The choice may turn on the political context; the extent of controversy surrounding the conduct at issue; a simple desire for variety in word choice to avoid incessant repeti-

tions of the same term; and uncritical acceptance of whatever phrase others are using. Some see the phrases as synonymous, others as denoting important differences in the officers' intent or the level of societal outrage over the conduct at issue.

Several of the essayists in this volume propose specific terms to represent some of these distinctions. For example, too much force in a given incident is termed "use of excessive force," whereas force used in too many incidents is called "excessive use of force" by Adams and others.[1] Worden (in this volume) discusses situations in which "force preceded the citizen's resistance or continued after the resistance ceased—a case of unnecessary force"—and other situations in which "the force was more than that required to subdue the citizen—a case of excessive force."

Functional definitions are important because the appropriateness, effectiveness, and efficiency of preventive and corrective measures may depend on the officer's intent, the police agency's measure of responsibility for the violent encounter, and whether the force *level* and/or force *frequency* are considered the principal problem. For instance, Fyfe (in this volume) counsels different administrative responses for willful, knowing violations of accepted standards—which he calls "brutality"—and for well-meaning mistakes in the use of force stemming from individual or organizational deficiencies in judgment, tactics, tools, and so forth—which he terms "unnecessary force."

For present purposes, we would urge those concerned with controlling police abuse of force to consider that the aggregate problem is more helpfully defined as a series of subproblems, some of which overlap and sometimes appear

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[1] Klockars (1994: 2) argues that controlling the "excessive use of force" (force used too frequently) is a *strategic* problem (requiring methods to reduce "the need to use force of any type"), while controlling the "use of excessive force" (too much force at a given moment) is a *tactical* challenge (requiring methods to reduce "the amount of force necessary to use when using force becomes necessary"). The most promising opportunities for reducing the problematic police use of force, he argues, lie in the arena of *strategic* innovations, innovations that have in prior years helped police better handle "hostage negotiation, conflict resolution, officer survival..., vehicle pursuits [and] the use of firearms" (*ibid.*).

together. These subproblems include:

- *any* force when *none* is needed
- *more* force than needed
- *any* force or a *level* of force continuing after the necessity for it has ended.[2]
- knowingly wrongful uses of force
- well-intentioned mistakes that result in undesired uses of force
- departmental constraints that needlessly put officers in the position of using more force and/or using it more often, than would otherwise occur (e.g., problems with training, supervision, deployment, assignment practices, equipment, procedures, and policies precluding use of certain tactics or tools)
- frequent use of force by particular officers, particular units or departments, even if each instance seems justifiable

The last subproblem deserves a little discussion at this juncture lest the critical reader think our concept of *problematic* police work is so broad that it encompasses even admirable conduct. Would we want to sweep within the ambit of concern over use of force the officer who uses *legitimate* force often? Isn't this just a hardworking cop—and perhaps a hero at that, for putting himself or herself repeatedly in harm's way?

The officer who uses legitimate force quite often may be a folk hero to many in the organization and the neighborhood but is generally understood by thoughtful, experienced practitioners to be tempting fate. Such an officer risks a mélange of physical, emotional, legal, financial and other career risks to himself or herself, loved ones, colleagues, the department and local government, and those on the receiving ends of the officer's uses of force. Moreover, justifiable force may be seen as illegitimate by some in the community, which may fuel future violence directed at officers or failure of citizens to come to the aid of an officer needing assistance.

Thus, if along with the accolades, we can help frequent force users attain the same or superior results with less force, all the better. Showing—not just in words but in deeds—the opportunities to win compliance with lawful requests without resort to physical coercion can position the police as important public educators for communities that wish to resolve conflicts peacefully whenever possible.

In our experience, good cops don't want to needlessly fight with arrestees. Despite the real frustrations they sometimes feel over the palpable ineffectiveness of many aspects of criminal justice systems, good cops resist the impulse to relieve their stress by resorting to justifiable but unnecessary physical tactics when less violent ones will suffice.

Good cops want to accomplish their myriad missions—crime control, crime prevention, order maintenance, fear reduction, and emergency public assistance—with personal safety, efficiency, effectiveness, and legitimacy. By "legitimacy" we mean that good cops want to work in a manner that can be respected by those to whom they recognize an accountability, including their sworn and civilian colleagues, supervisors, government officials outside the police agency, and the officers' multi-faceted service population.

The American ingenuity that built a better mousetrap, launched a better moon mission, eradicated assorted epidemic diseases, and has begun to "re-engineer" inner city schools so they become safe havens for learning and healthy child development (Schorr 1989) might also produce a few good ideas for helping police work smarter, better, with less risk, and in a fashion that builds bridges between them and the community instead of dynamiting them.

Many of the subproblems listed above are depicted in Table 1. There, the level of force used, if any, is considered in relation to the quality of the officer's decision to use it. We shall elaborate on this table in the balance of this essay. In some instances, the table also notes parenthetically the general types of corrective measures that may reduce the given problem.

B. Beyond Minimum Standards: Defining Expertise in Use of Force

However one defines unacceptable police uses of force, it is strenuously argued in this

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[2] The precise moment when force can be de-escalated or ended may be a matter of reasonable professional disagreement and usually will depend heavily on specific situational factors and officer competencies and resources.

Table 1
Extent of Departmental Attention to Different Types of Use-of-Force Issues

Amount of Force Used	Quality of Officer's Decision		
	A Unreasonable	**B** Reasonable	**C** Highly Skilled
1 *No* force (or very minor force) used	Unreasonable Restraint	Justifiable Restraint	Commendable Restraint
2 *Moderate* force used (isolated incident)	Abuse of Force	Justifiable Use of Force	Commendable Use of Force
3 *Serious* force used (isolated incident)	Abuse of Force	Justifiable Use of Force (guidance to officer)	Commendable Use of Force
4 *Moderate to Serious* force used *Frequently*	Abuse of Force (Violence-prone officer &/or dept. problems)	Justifiable Use of Force (guidance, retraining, dept. changes)	Commendable Use of Force (Dept. strategic &/or tactical changes)

Key: Shaded cells represent police conduct that typically receives attention from most police departments. The behavior noted in unshaded cells receives far less consideration.

volume (by Klockars and Fyfe) and elsewhere (e.g., by Bittner 1970) that little progress will be made in upgrading the skill with which police decide whether to use force, what type of force and how much force to use until we broaden the focus of administrative and other inquiries and interventions. Currently, police managers and other overseers[3] focus primarily on criminal and other grossly substandard officer misbehavior that merits *punitive* responses—some of the unreasonable uses of force depicted in column A of Table 1. But where punishment is not warranted (e.g., column B in Table 1), we must provide guidance to help officers continually hone their expertise.

[3] We use the term "overseers" advisedly. Monitoring behavior is the traditional role of police supervisors and middle managers. Community problem solving and other strategic changes in police roles, missions and methods seek to reduce the counterproductive aspects of the overseer function and strengthen the coaching role for police bosses (see Kelling and Bratton 1993).

Klockars (in this volume) calls for this broadening of focus, using the perhaps needlessly provocative construct that we should define "excessive force" to include all police use of force capable of being improved upon in the future. When Klockars' suggestion is understood properly—he recommends *punishment* only for officers whose conduct is wilful, egregious or repetitive—it becomes less provocative and more commonsensical.[4] As for nomenclature, when the

[4] In a recent journal interview, Klockars made clear that the thrust of his proposal is not to expand the scope of punishable police conduct but to expand efforts to help police pursue excellence:

"Every one of the approaches that police now have for defining excessive force is one that says, 'If you use more force than this, you're going to be punished for it.' Either you'll be punished criminally, or you'll be punished by being sued along with your agency, or you're going to be punished because it's caused a scandal. Well, as long

conduct at issue is lawful and within agency policy but still subject to improvement, perhaps talking in terms of *opportunities for professional development* is less likely to trigger defensive attitudes by officers and their supporters than is employment of such phrases as "excessive force." The recommended approach is also less likely to cause salivation among plaintiffs' attorneys.

If police are to pursue excellence in use-of-force decisionmaking and tactics, to what standards shall they aspire? Klockars' response is direct and practical. Identify the officers in any given department who are "highly skilled" in making arrests and otherwise dealing with potentially (or actually) violent people with minimal force and maximal safety. Every police department contains officers who have an uncanny ability to deal with very frightening people in a way that de-escalates the potential for bloodshed on all sides and often results in the subjects thanking the officers for their restraint and respect in handling the encounter. By the same token, most departments can readily identify their few members who are "experts" at turning parking tickets into riots (Geller 1985a; Geller and Scott 1992). In Klockars' proposal, the "highly skilled" officers (column C in our Table 1) become the benchmarks against whom other officers should be appraised and whose level of expertise should

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as you define the problem of excessive force in this punitive way, you're going to be forced to define excessive force at the lowest possible level, because anything that falls beneath it is going to merit punishment.

It seems to me that the proper approach to the idea of excessive force is to ask, what does really skilled policing consist of? What does policing by the most skilled officer imaginable consist of? Let's try to direct police work toward that standard, rather than constantly engaging in cover-your-ass behavior, or all those kinds of defensive responses that police engage in to avoid the lowest standard. The whole problem in police agencies is that their approach toward the use of force is largely punitive, largely focused toward keeping police officers from violating those low standards, rather than encouraging them to work in ways that highly skilled police officers do to minimize the use of force" (Rosen 1994: 12).

be the object of professional aspiration.[5]

Failure of officers who act reasonably (column B in Table 1) to succeed in emulating the "best in class" is not cause for discipline, any more than one punishes members of a sports team whose work is helpful but not of superstar dimensions. But failure of officers to *try* to bring their performance up to superior levels is cause for supervisory concern and remedial assistance. The process of helping officers seek to continually improve their judgmental and tactical skills for controlling potentially or actually resistant individuals becomes a prime responsibility of training, supervision, and other support systems in police departments. Currently, such support systems are oriented too much in too many jurisdictions around avoiding scandalous, liability-generating, grossly substandard uses of force by officers. As some of our authors point out, one would hardly feel comfortable selecting a family doctor whose claim to expertise is a history of avoiding malpractice suits and charges of criminally assaulting other patients; one wants evidence of superior talent, attested to by satisfied customers and admiring peers.

If another sports metaphor helps, we hope for police departments whose missions are carried out like a football team intent on *scoring*, not simply trying to avoid turnovers and touchdowns by the opposition. We hope for police departments whose tacticians don't precipitously blame the fullback who can't find running room but who explore whether the offensive line is opening the necessary holes. We need leaders who understand that a police officer who misuses force sometimes is like the defensive player who

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[5] Cell 4C in Table 1—the highly skilled officer who frequently is required to use moderate or serious force—represents an officer doing the very best he or she can under circumstances that necessitate violent interventions. Reducing the frequency of force used in such situations by such officers could require a variety of strategic and/or tactical breakthroughs. These innovations may lie in the realms of policy; procedure; deployment; less-than-lethal weaponry; communication skills; incapacitation of offenders whose own criminal violence disproportionately necessitates violence even from very talented officers; enforceable negotiated agreements to reduce violence between police and organized crime-prone groups such as drug-dealing street gangs; and the like.

inadvertently grabs a face mask when trying hard to make a lawful move against an opponent. To be sure, the member who costs his team a five-yard penalty because of such a mistake hasn't advanced the team's cause, but he is not usually shunned by teammates, the fans or the sports commentators as unworthy of being on the field.

Except for a small number of officers who knowingly and wilfully misuse force—and who deserve punishment and probably separation from the agency if the necessary evidence can be compiled—we believe the best results in upgrading the use-of-force decisionmaking and tactical skills of most officers will be obtained through positive incentives rather than through punishment. These incentives include the appeal of officer safety, crime- and disorder-control effectiveness, building rapport with community members who can help prevent crime, etc.

As Table 1 implies, the *practical* importance of defining police abuse of force and its component problems lies in alerting departments and other stakeholders when and what type of remedial intervention is warranted and when exemplary police work has occurred from which others can learn.

What are some of the *research* implications surrounding definitions of police abuse of force? By drawing attention to uses of force that are "excessive" but fall short of transgressing legal standards or constituting sanctionable behavior, Klockars raises the problem that clear lines between appropriate force and excessive force are difficult to draw. He also presents the opportunity of defining the unit of study—improvable uses of force rather than punishable uses of force —in a way that generates much larger data sets for studying the rare phenomenon of police use of undesirable force. By suggesting that researchers within and outside of police departments lower their conceptual threshold for defining problem (or improvable) behavior, Klockars implies a research agenda which can involve high-performing officers—or officers adjudged to behave consistently in exemplary fashion—in evaluating the conduct of other officers.[6] The approach

presupposes that one can analyze behavior to pinpoint deviations from the "highly-skilled officer" standard—itself a researchable proposition.

Klockars' proposal in Chapter 1 goes a long way toward reconciling common sense definitions of police brutality[7] with concerns that police have about police misconduct. It opens up a range of possibilities for interventions that officers might consider helpful and educational rather than unhelpful and punitive. If such interventions were introduced, research could document their impact on the behavior of officers and on the attainment of police missions. Research could document the extent to which a highly-skilled-officer standard, if promulgated, might be understood by officers, and be deemed by them to be translatable into action in specific incidents.

C. Explaining Police Abuse of Force

Various influences, parameters and variables have been shown to affect the use of force and the abuse of force, as Worden illuminates in Chapter 2. In the real world, these influences, parameters and variables work together in different combinations, and this fact has important implications for desirable lines of research (Ross 1994).

The research implications have to do with the fact that different types of data are *correlated* with violent incident rates. Such data range from the macro-level to the micro-level. *Macro-level* data usually encompass facts about police departments as organizations, community characteristics and patterns of crime. Such facts can illuminate differences in incident rates between departments or communities. *Micro-level* research usually has to do with differences—such as among officers or situations encountered by officers—which are related to concentrations of incidents *within* a given police department.

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skills. Toch's and Fyfe's chapters in this volume discuss at some length the contributions that peer assessment and peer assistance can make to helping colleagues improve their judgment and tactics in circumstances when force may be needed.

[6] Kelling and Kliesmet's proposal to resurrect August Vollmer's "Friday Crab Club" (discussed later in this chapter) would invite *all* officers into the discussion of how to continually improve police craft

[7] Also see Locke's and Flanagan and Vaughn's essays in this volume.

An example of a *macro-level* difference would be a finding that cities with large minority populations or pervasive poverty experience more use-of-force problems. Another would be a finding that cities with substantial minority empowerment (e.g., large percentage of elected and appointed government officials, business leaders and others who are persons of color) experience lower rates of abuse of force.[8] An example of a *micro-level* difference would be a finding that younger officers in a given department use excessive force more frequently than older (and more experienced and perhaps more tired) officers.

A recommendation that follows once we recognize the complexity of the problem is that research ought to be conducted that explores the interaction between variables that are usually separately explored, and in particular, relationships of micro-level to macro-level. For example, do young officers working for a department and city administration in which African Americans enjoy substantial clout abuse force less frequently than young officers in other jurisdictions?

The best illustration of a relationship between micro- and macro-level variables is the model that is implicit in the Christopher Commission Report (as explicated by Toch in Chapter 4). That model suggests that a strongly enforcement-oriented agency can enhance the proclivity of aggressive officers to engage in proactive exercises that include uses of excessive force. This would mean that within-group rate differences would increase in agencies that espouse a no-holds-barred enforcement philosophy.

One variable whose existence is illustrated by the Rodney King incident is that of reinforcements that may occur in situations to which *groups* of officers respond. Some group pressures may enhance or support violence; there may also be tempering influences on violence-predisposed officers in other situations. Even officers who are not generally predisposed to excessive force in certain adrenalin-pumping categories of incidents (such as arrests following harrowing high-speed chases), may be inclined, due to the irritants of *particular* encounters, to use too much force. And again the presence of other officers on the scene may be an exacerbating influence or— especially if "intervention" training has been

administered[9]—may be a calming influence on the individual officer. These notions about responsible "bystanderism" (Staub 1989) and other propositions are researchable and have significance for efforts by police administrators and other public officials to explain patterns of police use and abuse of force to officers and the public. Such propositions are relevant as well to the development of intervention training and other effective control systems.

Another research area that looks promising is that of gender differences in officer responses, given systematic modifications (such as through assignments varying by gender) of organizational constraints. This type of analysis would be an example of proactive organizational experimentation to test a plausible hypothesis. The hypothesis is that, if one creates favorable reinforcing conditions, such as greater emphasis in training on the use of interpersonal skills and a reward system that emphasizes successful resolutions of conflicts, female officers will be better able to defuse conflict situations than male officers, or will exercise a tempering influence on male officers.

Similar experimental possibilities could be explored with variables other than gender. Detailed familiarity of officers with their beats might be one such variable. Another variable could be the race or ethnicity of the officer, which we shall consider later in this chapter. Similarly, research may prove valuable in exploring whether prejudice against persons with sexual preferences other than the involved officers' plays any role in shaping use-of-force decisions. If "gay-bashing" by community bullies (Hamm 1993) or lax protection of gays and lesbians by officers seems more prevalent in communities where most officers are unsympathetic to homosexuals (see Dunlap 1994; *Crime Control Digest* 1991), can anything be done to reduce future victimizations?

A final research strategy that may illuminate the factors that partly explain patterns of abuse of force is the systematic study of incidents that culminate in uses of questionable force. This approach to research, proposed by Toch and by Worden (in this volume), depends on written

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[8] This proposition was studied by Mendez (1983).

[9] Intervention training is discussed later in this chapter (see also Geller and Scott 1992: 53, 218, 332-33, 408).

reports and descriptions by observers, or inter-views of officer and civilian participants in incidents. Step-by-step analysis of incidents is particularly useful for preparing training or re-training programs (see chapters 4 and 8), though it is also helpful for understanding how types of situations—or types of approaches by officers to situations—can result in violence.

D. Estimating the Prevalence of Police Abuse of Force

As argued at some length by Adams (Chapter 3 in this volume) and by Geller and Scott (1992) and others they cite, developing the capacity to estimate how *often* police use and misuse force is an important part of the foundation for under-standing and controlling police-civilian violence (see also Ross 1994). The FBI and others regu-larly study how often, with what weapons and (less frequently) *why* fatal and nonfatal assaults are made against police officers. The objective is the important one of better preparing officers to avert such threats.

Equally necessary is research on abuses of force *by* police—incidents which not only harm civilians unjustly but present the involved officers and their colleagues with career and other risks. Such analysis will help reveal whether progress is being made over time and whether particular agencies have developed useful approaches that others may wish to emulate. Valid and reliable data on the incidence of police-civilian clashes can also undergird forecasts of future preva-lence,[10] which in turn can support strategic invest-

ments of resources in training, control systems, deployment, various officer safety and related support programs, community education, and other techniques to forestall the burdens imposed on communities and their police by brutality scandals (Ross 1994). In times of national and local crisis, such as the Rodney King beating, having reliable data on the frequency with which police use force responsibly to protect their communities, and the frequency with which they abuse force, can prove critical in convincing the public and various interest groups that a notorious misuse of force was a rare exception to an other-wise competent departmental record.

1. A National Reporting System

One of the most consistent recommendations by the experts who have written for this volume is to end the substantially self-imposed ignorance of policymakers concerning the prevalence of police use and misuse of force. The recom-mended cure is the establishment of a reliable, efficient national reporting system. Such a sys-tem would have to satisfy a number of require-ments, including permitting police to:

"1. Monitor increases and decreases in their own use of force over time;

2. Analyze and evaluate incidents in which force is used;

3. Assess the impact of changes in strategy or tactics on the use of force;

4. Compare the nature and frequency of use of force in their agency with the use of force in other agencies; and

5. Explore organizational, operational, and environmental correlates of the use of force.

In addition, the...system must:

6. Be applicable in agencies of all sizes;

7. Contain mechanisms of audit and

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[10] Ross (1994: 4-5) argues that useful forecasts of the rate of police-civilian *violence* can be based on trends in five basic factors accounting for police-civilian *interactions*. Police engage citizens, proactively or reactively, he notes, in order to "question, help, charge, intimidate, and arrest" them. "It follows," he opines, "that the greater the potential for questioning, helping, charging, intimidating, or arresting, the higher the number and intensity of" what he terms "proactive or reactive violent police-citizen interactions." And, "as the interaction between police officers and citizens moves from questioning to arresting there is a higher probability of" these violent incidents. "Thus, one must identify the factors which will increase these five precipitants if one is to have a reasonable prediction of the future probability of police violence."

quality control; and

8. Be compatible with practical operational considerations, needs, and limitations" (Klockars 1994: 2).

Devising a useful national reporting system entails understanding with some sophistication the types of data sources that might be tapped on a continuous basis and the methodologies that would be desirable for harnessing these data to estimate prevalence. The chapter in this volume that most rigorously explores these questions of data quality, data accessibility, and methods for estimating prevalence is that by Adams.

A national reporting system was mandated by Congress in the 1994 Violent Crime Control and Law Enforcement Act. Under the Act, the system is intended "for research and statistical purposes," which include a review of trends. The Attorney General is enjoined to "acquire data about the use of excessive force by law enforcement officers" and to "publish an annual summary of the data" (Title XXI, Subtitle D, Sec. 210402 of the Act).[11]

The FBI could play more than an advisory role with respect to the data collection task. The Bureau's long experience in learning which incentives influence police departments to provide timely and accurate crime information would be valuable to any entity charged with carrying out the mandate under the Crime Act. Attorney General Janet Reno and Associate Attorney General John Schmidt in late 1994 assigned responsibility for devising the national reporting system jointly to the National Institute of Justice and the Bureau of Justice Statistics.

NIJ has substantial experience in identifying the needs of practitioners and in mining data sets for policy- and practice-related insights. BJS has equally important expertise in mounting large-scale programs to identify, acquire, and ensure the quality of criminal justice statistics. The Law

Enforcement Management and Administrative Statistics (LEMAS) program, administered by BJS, regularly surveys the more than 17,000 police departments in the nation. LEMAS might be expanded to incorporate the data sought under the 1994 Crime Act.

The availability of a periodic report card about "the use of excessive force by law enforcement officers" offers an enticing prospect, provided we can place statistics into meaningful contexts that help us interpret them. Little is gained if a summary simply records that incident rates have increased in the Northeast but decreased in the Midwest, or that trends differ by size of department.[12]

The identification of departments that have experienced increases in incident rates would be especially troublesome, if information is not simultaneously available that tells us about factors that might account for the increases. A wide array of factors merits consideration, among them:

■ changes in crime rates

■ a rise in unprovoked assaults on officers, such as might result if street gangs encouraged "cop-fighting" as a part of the gang initiation ritual or if abortion abolitionists, environmental extremists or Skinheads used confrontation tactics honed by earlier generations of radicals to goad police into newsworthy overreactions (Ross 1994: 8; Walker 1994: 71; Hamm 1993)

■ intensification of police enforcement efforts, such as with gun sweeps of public housing complexes or narcotics crackdowns (Tonry 1995; Ross

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[11] The challenge would be daunting enough in an environment of policy consistency. To make matters more interesting, the alternative crime bill advocated by the new Congressional majority that assumed office after the 1994 mid-term elections would, as one of numerous proposals, eliminate the earlier statute's establishment of a national reporting system on police use of excessive force.

[12] Related difficulties are manifest in the FBI's annual report on *Law Enforcement Officers Killed and Assaulted*. This document quite helpfully provides basic data on the incidence of police victimization but presents only the most minimal demographic data with which to interpret changing patterns and virtually no analysis or guidance on which of several possible interpretations might be the soundest (Geller and Scott 1992). To be fair, the FBI has done separate studies from time to time of the ways in which police are slain, and it has analyzed the available information for ideas to better protect officers. One example is the 1992 report *Killed in the Line of Duty: A Study of Selected Felonious Killings of Law Enforcement Officers* (FBI 1992).

1994: 17-18), especially those involving "buy-bust" and other high-risk undercover tactics (Geller and Scott 1992)

■ variation in procedures for inventorying incidents

■ sharp increases in the number of sworn personnel[13]

■ manifest decreases in sworn strength (Ross 1994: 6-7), especially if neighboring jurisdictions are enjoying highly-publicized increases or improvements in officers' salaries or other benefits[14]

The issue of methodological artifacts is particularly critical. It would be a risky undertaking to examine trend data before the procedures for gathering and reporting the data have been

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[13] Some departments will experience relatively rapid growth of their sworn ranks as a result of the 1994 Crime Act's "100,000 cops on the beat" program. Although a crime-weary nation obviously hopes that great good will be accomplished by the proposed 20 percent enhancement of local police forces, still it must be recognized that, absent proper safeguards, more officers on the beats are more officers available to engage in beatings.

[14] Police officers who are demoralized by their department's retrenchment relative to other forces in the region may succumb to frustration and cynicism that in turn leads to intemperate encounters and precipitous or unnecessary resort to coercive methods (Ross 1994: 6-7). *Perceived* understaffing (there is little validated scientific basis for determining the right number of officers for a given jurisdiction) could also lead to other conditions that might exacerbate abuse-of-force problems. One of these conditions could be official agency adoption of unduly offensive or coercive methods, technologies, and procedures thought to be cost-effective ways of restoring the "tactical edge" to officers outnumbered by criminals (*ibid.*: 6). Another condition might be increased militancy by unions and other employee associations. While such militancy might be directed at prodding management to accelerate adoption of the kind of officer safety and other recommendations made on these pages (see Kelling and Kliesmet's essay in this volume), thus far the track record generally has been otherwise, and some believe the prognosis for improvement is bleak (e.g., Ross 1994: 10).

standardized. Only then can we reasonably assure that no agency is stigmatized because it has defined excessive force more generously than did other reporting agencies or was more conscientious about gathering statistics. The requisite for a defensible reporting system is a carefully developed system for gathering, recording and classifying the information to be reported.

Given the controversy that could attend efforts to implement this national reporting system, however, care must be taken to ensure that questions about data quality and other procedural concerns are not deployed as a subterfuge by persons who oppose a reporting system *per se*. Those who think they are acting in the best interests of American policing and the public by trying to thwart the acquisition of knowledge about how to reduce police-community tensions advance neither the career interests of good police officers, police morale, nor the capacity of communities to forge more trusting, cooperative relationships with their local police.

Although the 1994 Act requires collection and dissemination of data only on police *misuse* of force ("excessive force"), we think the Justice Department would be well advised to interpret its mission in light of what we take to be the ultimate public policy goals: to help improve policing so that communities are safer places and to reduce the risk of serious injuries to the participants in police-civilian encounters.

With those objectives in mind, a national reporting system ought to maximize the opportunity for police and other interested parties to get a full and accurate picture of the nature, frequency and quality of police use-of-force decisions and the consequences of those decisions. To us, this implies collecting data on the *proper* use of police force as well as on the improper use. Only then will it become clear how infrequently police misuse force. Moreover, this fuller picture will significantly help police study the complex set of circumstances that surround successful and unsuccessful police tactics so that the infrequent but troublesome incidents involving poor use-of-force tactics can be further reduced. It would strain credulity to suggest that, by establishing a national reporting system on the *proper* as well as the improper use of force by police, the Department of Justice would be violating either the Congressional intent in the 1994 Crime Act or the public interest in having safer,

more livable communities.

An early useful step in the development of a national reporting system on police use and abuse of force would be a conclave of representative departments that could consider details of implementation. Another step would be the provision of resources that might make it possible for modestly endowed agencies to gather data called for by the reporting system. Most critically, police representatives should be asked what information they would like about other agencies to make sensible comparisons possible.

We assume that the first recommendation a group of police representatives might make is that the system cover a generous range of data, so that police and others can tell what aspects of the use and misuse of force are being described. A department may turn out to have a high rate of civilian complaints, for instance, and a low rate of arrests that involve conflicts with citizens. Equally important, a department may have high rates on indices such as officers adjudged guilty of deploying excessive force because of its zealousness in addressing the abuse-of-force problem. It would be bad public policy to penalize a department for aggressively identifying its opportunities for continual improvement, just as it is bad public policy—and shoddy journalism—to declare the outbreak of a crime wave when a department, working hard to win greater trust from its community, elicits a higher rate of crime reporting by the public and thus experiences a jump in reported crime.

A use-of-force reporting system should try to cover a wide range of information relating to encounters between officers and civilians and actions taken by departments to reduce unjustifiable conflicts. Intervention-related information can help an agency to demonstrate, for example, that a reform introduced in Year A produced a reduction in incident rates in Year B. Other contextual information can help show whether any such reduction in Year B was accomplished at the expense of other important objectives (officer safety, public feelings of security, crime *reporting* rates, crime *victimization* rates, etc.).

The 1994 crime law specifies that the resulting data should "not contain any information that may reveal the identity of the victim or any law enforcement officer." This prohibition cannot be taken to mean that attributes of conflict participants not be reported, because such data would be

essential to the research mission for which the system is created. A reporting system should be able to tell us, among other things, whether

■ suspects were young or mature;[15]

■ officers involved in incidents were experienced or inexperienced;

■ an incident of apparently precipitous use of force occurred in a geographic area where police had frequently been ambushed or otherwise assaulted; and

■ a particular kind of officer was disproportionately involved with a particular type of citizen.

To be specific, among other information, race/ethnicity data on both officers and the civilian participants in use- and abuse-of-force incidents are necessary in order to shed more light on the perennially debated question whether bigotry taints criminal justice decisions. The mandated national reporting system will not, to be sure, end such debates. But it would be excessively cynical to dismiss the possibility that a well-designed reporting system, in which all the key stakeholders have been consulted and really listened to during the design phase, could play some role in reducing the heat and increasing the illumination on this difficult question. Accurate information about whether bigoted prejudgments taint police treatment of individuals is necessary both to

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[15] Conventional wisdom would suggest that suspects engaged in potentially violent encounters with police will almost invariably be youthful. To be sure, there have been a number of highly publicized, albeit probably aberrant incidents, in which elderly, possibly deranged or suicidal individuals have been injured in violent confrontations with police. Whether 21st Century demographics will modify the police adversary's profile to any significant extent has been pondered by some futurists. Bennett (1989) predicts, for instance, that the me-first Baby Boomers of our century will become the next millennium's "geriatric delinquents," motivated to criminal adventure because at their age they will have nothing to lose (see also Ross 1994: 15). Whether or not one anticipates future crime waves of stalkers with walkers, there can be little doubt that a reporting system that fails to document the suspects' ages would be deficient.

correct any such problem and to defend the police against false accusations. We take it that "key stakeholders" would include at least representatives of police management and rank-and-file groups, public interest groups, civil rights and civil liberties organizations, taxpayers' associations, and the appointed and elected local public officials to whom police report.

The restriction on data that may disclose the victims' or officers' identities also must not be interpreted to inhibit the acquisition of information relating to types of situations in which conflicts disproportionately arose. The availability of such data would permit sophisticated analyses that might reveal interesting patterns involving different types of persons in diverse situations that vary by kinds of communities. Such analyses, when conducted with the active involvement of insightful, experienced practitioners, can be very helpful in devising better procedures, training and other arrangements that improve policing and lessen its risks.

Adams (in this volume) points out that the issue of data availability is crucial, since some agencies are in the technological stone age and others have information systems that are not designed to inventory officer performance. Any department that is asked to supply information must be afforded the means to collect it. This means that a requisite for a national reporting system is the federally-supported development of a standardized information system. This may be expensive, but it has wide-ranging benefits because it would enable police departments to monitor not only deployment of force but also other aspects of service delivery.

To be of maximal value to the police, a national reporting system must annually generate data that permit sophisticated research of the sort often sponsored by the National Institute of Justice (Travis 1994). For instance, research might combine different levels of analysis (e.g., macro and micro), and research that combines multiple levels of analysis must in turn be based on information garnered from different sources. While police departments can supply incident-related data, one needs to draw on census information to describe neighborhoods in which incidents occur. While police can supply arrest data, others must track the dispositions of cases following arrest (at least until such a time when most police departments might determine that

their crime prevention and law enforcement work could benefit from routinely compiling case outcome data and including affected officers in the dissemination loop). A reporting system needed for multi-level research must be omnivorous, multidextrous and interdisciplinary.

The issues of how much standardization of data and what sort of standardization a national system should require are sensitive ones. A foredoomed approach to this issue would be for Beltway bureaucrats in isolation to draft specifications of data sources and definitions of categories with the expectation of reliable compliance by agencies across the country. It is axiomatic that those expected to use a system must have a hand in shaping it.[16] This not only suggests that parti-

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[16] Commenting on the importance of ownership in the context of community policing, former Canadian police leader Chris Braiden is fond of observing that "nobody paints a rented house." Ownership is one thing. Having something worth owning is yet another. The police generally will take pride in owning a system if it proves useful to the police—useful for improving police performance, for helping police defend themselves against inappropriate and uninformed accusations, and for instilling greater public confidence in and cooperativeness with their local police. If the police value the reporting system, they will be more likely to attend to its upkeep. If the system is credible and beneficial, senior and middle-managers in police agencies around the nation are more likely to insist that their staffs submit complete, accurate, and timely information to the federal data repository.

As noted elsewhere in this chapter, it may also become necessary, despite the anticipated support for a national reporting system from various stakeholders, to provide tangible incentives for widespread participation by police departments over time. Tying some federal grant funds to compliance with reporting obligations may help ensure a sufficient level of compliance. Given the ability of police abuses of force to undermine a department's best efforts at community policing and problem-oriented policing, there is some conceptual sense in making compliance with the national reporting system a standing condition of the dispersal of federal funds to support community policing. Another possibility is that the Justice Department bureaus most directly responsible for planning and operating the reporting system—NIJ and BJS— might require their police agency grant applicants— and researchers proposing to study police agencies— to submit as part of the grant application a certificate

cipating agencies be involved in designing the system but that provision must be made for trial implementation, review and revision as part of this process.

The answer to the question "how much standardization?" must be "as much as it takes for data from one department to be comparable to those of another." Only a combination of sound theory, careful planning, and trial and error with a commitment to continual improvement will reveal how much standardization that requires today and in the future.

Appropriate experts within and outside of departments should explain to the police profession the practical benefits of collecting different kinds of information. For instance, potential impediments to the use of specific police tactics may arise because of actual or apparent abuses of force. Use of stun guns to torture confessions from suspects or use of pepper spray for punishment of a non-resistant arrestee, for example, can remove these devices from the tool kits of *all* officers in the agency. Moreover, deaths following use of pepper spray that at first blush seem linked to the chemical could hinder an agency's continued use of this weapon, perhaps on advice of departmental legal advisors. Under such circumstances of actual or perceived misuse of force, if police could draw on data about the normal, successful, legitimate use of such tactics, they might be in a better position to convince the public, politicians, and policymakers that the controversial incidents were aberrations or explainable on grounds other than police misconduct.[17]

In sum, categories of data to be included must be those that the practitioner users of the system find helpful in understanding, defending

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attesting to the police agency's compliance with a reporting system.

[17] On-going research by the National Institute of Justice on the use of pepper spray (e.g., Granfield, et al. 1994) is an example of the kind of data collection that should occur not only for the break-in phase of a new tactic or tool but for the duration of its use by police. Such research has begun to ascertain that in-custody deaths following administration of pepper spray are due not to the chemical but to positional asphyxia (*ibid.*; see also Connell 1994 and subsequent discussion in this essay).

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and, where needed, correcting their own operations. The financial underwriting of this process is essential, but the real incentive to those who contribute to a reporting system must be that they feel that what they and the nation can thereby learn is of value.

2. Improving Data That Can be Used for Research

Adams (in Chapter 3) notes that future studies could profitably rely on *multiple* indicators to arrive at estimates of prevalence of excessive force. In other words, different data sources could be tapped in studies of how much force a police department in a given community deploys, and how the situation in one department compares with those in other departments. Each data source has its own advantages and limitations, and all share the limitation that excessive force is an infrequent (hence, a low base rate[18]) problem.[19]

Data sources that can be tapped in studies of use and abuse of force include officially recorded incident data, which can be drawn from complaints and subsequent official inquiries, initial and supplemental arrest reports, use-of-force reports (where they are used), and civil law suits[20]

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[18] In this sense, excessive force is the equivalent of a rare disease, which is more difficult to study than one that is widely prevalent. The difficulty is compounded by definitional problems, such as would occur if physicians disagreed about symptoms of the disease being researched.

[19] It is infrequent, at least, according to currently used scanning mechanisms. The frequency with which police abuse force, perhaps especially lower level force, varies widely across jurisdictions and neighborhoods within cities. So do perceptions about the propriety of police tactics (see, e.g., Browning, et al. 1994). Public attitudes are discussed later in this essay. Perceptions of frequency depend also on the vantage point of the observer. One instance of alleged abuse per night in a department of several thousand officers may be diminimus to the statistician and to the officers as a group. But to the internal affairs investigators or the police stationhouse reporter or a police watchdog group—all of whom feel obliged to respond to each incident in some fashion—one per night may seem like a lot.

[20] As noted by researcher and expert witness James

or criminal prosecutions initiated against officers and/or their employers. To improve such data sources would enhance not only the quality of research, but also the ability of a department to monitor the quality of its policing. Progress in record-keeping could be made both within a given department and on a regional and national basis. In creating centralized information banks, as the federal government was mandated to do in the 1994 Crime Act, it will be necessary also to accommodate the need for desirable local variations arising from policy preferences, research and development interests, union contracts, police officers' bills of rights,[21] or other legal obligations. Improvements of records could include at least seven elements, all requiring action by police agencies, with technical assistance as needed from experts on management information systems, records and other data systems:

■ standardize *procedures* for the *submission* of civilian complaints, to make complaint data more valid and more comparable;

■ introduce use-of-force reports;

■ improve the quality of arrest reports;

■ record and computerize data relating to calls and field contacts so that incident rates can be calculated;

■ ensure that departmental information systems are capable of combining data on *incidents, officers,* and *suspects*;

■ devise methods for capturing not only individual-level and incident-level data, but problem-level data; and

■ ensure that agency information systems also are capable of identifying arrests by offense charged

These kinds of improvements are discussed below in turn.

1. The standardization of *procedures* for the *submission* of civilian complaints, to make complaint data more valid and more comparable.[22] It has been suggested that one should maximize the ease with which complaints can be submitted, preferably decentralizing the process and simplifying it. Departments could also agree on publicity designed to invite aggrieved citizens to file complaints. If it were desired by local police organizations, federal agencies running a data collection program under the 1994 Violent

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Fyfe, civil lawsuits can reveal alleged abuses that are not tallied in complaints lodged with police departments. This is because plaintiffs' lawyers may refrain from filing administrative complaints lest they reveal their eventual litigation strategy and supporting evidence to opposing counsel sooner than necessary (Fyfe 1994).

It is crucial to remember that records of civil suits *filed* reveal *allegations* rather than *proven* misconduct. A related concern is that tallying abuse-of-force cases *settled out of court* could result in overestimates of actual abuses. This is because of the widespread practice by many municipal attorneys of settling cases to avoid the litigation costs and to avert the risk of a substantial damage award should the case go the trial and the plaintiff prevail. Some city attorneys openly admit that they ignore the merit of the cases in reaching settlements. Not surprisingly, this infuriates many police officers, who interpret settlements as failing to back them and as a tacit admission that their conduct was unprofessional (Nelson 1995a, 1995b, 1995c, 1995d).

[21] The provisions commonly found in police officer bills of rights are enumerated by Leibig (1994).

[22] Comparability can be further enhanced if departments *classify* the complaints that are filed in the same fashion, so that force-related complaints can be distinguished from those that relate to other types of issues. Some of the consequences of not being able routinely to classify complaints against police according to subject matter were illustrated when, in the pressure to produce a federal profile of police abuse of force after the Rodney King beating, the Justice Department's Civil Rights Division compiled data on 15,000 complaints received by various Justice Department units over a six-year period (DeParle 1992). An unknown percentage of these complaints were about matters other than police use of excessive force against citizens (e.g., sexual harassment allegations by police employees against one another). For that and other reasons, the Justice Department was placed in the embarrassing position of resisting dissemination of and reliance on its own study, even in dealing with Congressional oversight committees (see Adams' and Locke's essays in this volume and DeParle 1992).

Crime Act could be tasked to prepare sample language that police departments, at their discretion, could incorporate in public relations and marketing efforts.

Among the reasons to standardize complaint submission procedures is that, as things stand, a community with a low complaint rate can have a high-use-of-force department that discourages complaints. And, as noted earlier, a department with a high complaint rate may have relatively few abuses but be fastidious about identifying allegations. These possibilities make it difficult to draw inferences from differences in complaint rates between types of police departments or between different communities, when one's excessive force data are confined to citizen complaints (Pate and Fridell 1993).

A related service quality-control issue that should be addressed by policymakers, mostly at local levels, is whether anonymous complaints will be accepted. While arguments can be offered for and against this practice, we believe the better practice (where permitted by law and union contract) is to accept anonymous complaints[23] but to conduct investigations in a way that shows due respect for officers and clear awareness that false complaints can be used tactically by criminals to try to neutralize effective and honorable officers.[24]

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[23] A recent survey indicates that 70 percent of Texas police departments accept anonymous complaints, which are "terminated only if there is insufficient information to pursue the investigation" (Texas Law Enforcement Management 1994: 2).

[24] NYPD supervisors recently expressed concern that effective community policing officers would be undercut by drug dealers and other criminals who knowingly filed false brutality complaints against the officers. According to the supervisors,

"[t]he dealers...know that an officer's chances of getting desirable assignments in the future, such as assignments to the Organized Crime Bureau, could be damaged by a record of frequent civilian complaints. In addition, it was suggested that dealers also know that commanding officers are held accountable for the number of civilian complaints registered against members of their commands and are anxious, therefore, to hold that number to a minimum" (McElroy, et al. 1993: 121-22).

If accepting anonymous complaints means that a police agency may be burdened by a lopsided balance between complaints and compliments, one way to respond might be to publicly urge satisfied citizens to "catch and report" officers doing a *good* job. Besides favorable reviews of crime control efforts, one could imagine such an invitation also eliciting citizen reports of officers who used force with commendable skill and who exercised commendable restraint (see Table 1 earlier in this chapter).

Beyond the investigative, operational effectiveness, morale, and other questions surrounding the decision whether to accept anonymous complaints, there are research implications to be considered. The principal question is what implications, if any, the acceptance of anonymous complaints might carry for data completeness and reliability.

As innovative procedures are adopted locally for the reception of citizens' complaints, research should be devised to ascertain whether the intended objectives are being achieved and whether there are unintended consequences that need to be addressed in future modifications. Research that explores the feasibility of standardized complaint reception procedures (as well as standardized approaches to the *classification* of complaints received and investigations completed) is an important foundation for developing multi-jurisdictional and national use-of-force reporting systems that enable responsible inter-agency comparisons.

2. Some departments have **introduced use-of-force reports,**[25] and others should consider doing so. The wide adoption of a force-reporting procedure would make it possible to conduct surveys that cover the gamut of force used (Ross 1994: 3). Pate and Fridell (1993: 153), for instance, complain that

"because of the lack of mandatory reporting for a number of types of force,

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[25] Among others, criminologist Geoffrey Alpert (1993) has suggested it would be advantageous for police departments to call these documents "control of persons" reports rather than use-of-force reports, to emphasize that there is a legitimate police objective entailed in appropriate use of force.

a large number of agencies were unable to respond to [their] survey items requesting information regarding the number of times officers used the various types of force during 1991. Further, several agencies supplied data concerning types of force for which reporting was not mandatory. As a result, those data necessarily came from a voluntary subset of officers."

To be particularly useful, such reports should include both narrative and check-list descriptions of encounters that are detailed enough to be coded and classified. To minimize the waste of police officers' valuable time and services, careful thought should be given to devising forms—paperless if possible—asking only for information whose utility can be justified by operational, training, and research and planning necessities.

Once officers' reporting obligations are clarified, it would be desirable to find a way to make sure that reports are filed as required (Falcone 1994 reports that suburban Chicago officers underreport vehicle pursuits). Monitoring arrest reports is one possible solution. Others include simplifying or eliminating paper work and providing timely and meaningful feedback to employees on the usefulness of their reports.

3. Improvement of the quality of arrest reports is also desirable. This can be done through additional training, review, and feedback on issues of concern to the reporting officers. Narratives in arrest reports must become richer sources of information where they are currently sparse.[26] Where use-of-force reports are not used, arrest reports can include a requirement to note and describe any deployment of force, where it occurs. As with use-of-force reports, to reduce time that officers must spend on paperwork, departments might consider providing technical assistance, including transcription facilities for arrest reporting.[27]

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[26] One way of improving narratives in both arrest and use-of-force reports might be to occasionally get multiple incident descriptions, such as from non-reporting responding officers, witnesses or arrestees.

[27] Since 1985, the St. Louis Metropolitan Police

4. Ideally, a department should consider recording and computerizing data relating to calls and field contacts, so that incident rates can be calculated. Such data are also useful in other connections, such as in assessments of productivity.[28] Any such police-civilian contact record system should be flexible enough, however, to accommodate the information needs of a department engaged in implementing a community- or problem-oriented policing strategy. The nature, frequency, and impetus for police-civilian contacts often are more varied with such a policing approach than under a more traditional incident-oriented mode of policing.[29]

5. Information systems in use by police departments should contain the capability of combining *incident* data with *officer* data and *suspect* data. At minimum, arrests ought to be linkable to the shield number of involved officers, so that arrest data can be retrieved for individual officers and groups of officers. Suspect-level data would help identify (or refute false accusations about) patterns concerning abuse of force against particular civilians or classes of civilians. They might also point to categories of individuals who are most likely to challenge police authority or engage officers in physical altercations. Even

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Department, using its Police Incident Reporting System, has enabled officers to submit their arrest reports by telephone to the Department's centralized word processing center. By 1993, approximately 95 percent of arrest and other reports were submitted by officers in this fashion, from phones at crime scenes, at police substations or at district lockups where prisoners are processed (Jones 1993).

[28] For example, data about calls for service are critical in assessing outcomes of community policing experiments. They are also useful for problem-oriented approaches, in that they can help define problems to be addressed. Criminal investigations can also benefit from computerized data bases.

[29] A largely unexplored, potentially researchable question is what the dynamic interrelationships might be amongst community problem-solving efforts, the tactics a department selects in an effort to prevent abuse of force and safeguard officers, and outcomes concerning service delivery, prudential use of force by officers and officer safety. We will comment further on this later in this essay.

though, under the 1994 Crime Act, a *national data repository* may be precluded from compiling information that precisely identifies the police and civilian participants in use-of-force incidents (see the discussion earlier in this chapter), *individual departments* still should collect whatever detailed data they need to run their organizations professionally.

6. Another data collection challenge on the horizon will be to **devise methods for capturing not only individual-level and incident-level data, but problem-level data.** The latter category of data could pertain, for example, to patterns of use and abuse of force (and officer endangerment) in the course of addressing crime hot spots, high-rate offenders or high-rate victims (see, e.g., Bieck, et al. 1991: 78-79; Spelman and Eck 1989).

7. A final recommendation for improving records is that **information systems also should have the capability of identifying arrests by offense charged.** This is particularly crucial for disaggregation purposes. For example, one ought to be able to separate out arrests made for resisting arrest or assault on officers or other charges (e.g., disorderly conduct) that have been found to be associated with use and abuse of force. As discussed by Locke in this volume, prior studies suggest that it is disproportionately in police encounters with persons over *less serious offenses* that racial considerations may play an inappropriate role in the exercise of discretion to arrest or use force (see also Worden's essay in this volume).

3. Surveys and Observations as Data Sources

a. Surveys

Survey research is also useful in studying police use-of-force issues. Surveys that yield valuable information include civilian surveys and officer surveys.[30] Polls can focus on personal

experiences, observations and involvement, information that a respondent has about incidents involving intimates or peers, and estimates of or opinions about police use of force and its prevalence and/or significance. Surveys might helpfully be framed with the following five considerations in mind:

1. Self-reports should be time-bound, in the sense of specifying a standard interval of relatively short duration. They should call for descriptive detail, so as to minimize vague and unsubstantiated allusions to unspecified transgressions.

2. Neutrality and concreteness or specificity of wording are essential, so as to focus on the use of force rather than the respondent's evaluation of the incident. This is essential in view of a public tendency to define "police brutality" as comprising verbal encounters.[31] If surveys are to include officer restraint in the use of force—ranging from no force used in spite of provocation to lesser force used than might have been justifiable (rows 1 and 2 in Table 1)—then explicit definitions must be provided distinguishing this category of conduct from alleged misuse of force.

3. Officer surveys can tap rank-and-file

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for service, and concentrations of police activity.

A type of survey not discussed in this section is one that is addressed to departmental administrators to solicit information about the extent and nature of the problems experienced by their agencies, and about solutions implemented to address these problems. Such departmental surveys are designed to provide comparative and trend information (especially if repeated over time), but they depend heavily on the completeness and comparability of information available to the respondents and their cooperativeness in completing the survey.

[31] It is well established that coercion through nonphysical means can be powerful and, if misused, can produce long-term harm. But psychological coercion is a phenomenon to be distinguished from and understood in relation to the separate topic of police use of non-negotiable *physical* force against another person. See the discussions of definitional questions in this volume by Klockars, Fyfe, Locke, Worden, and Adams and the discussion earlier in this concluding chapter.

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[30] The cost-effectiveness of citizen surveys can be enhanced through over-representation of citizens "at risk" of police contacts, based on statistics about locus of arrest, identity of persons arrested, origins of calls

expertise about the perceived appropriateness or inappropriateness of uses of force, including the sometimes subtle distinctions presented between adjacent cells in Table 1. To benefit from their expertise, one must start by letting officers describe occasions on which force was used. It is essential in surveys (as opposed to interventions) to ask respondents not to identify any subject(s) of their concern among their peers, so as to ensure frankness and validity of responses.

4. Consistent with appropriate assurances of anonymity, enough information about one's respondents should be gathered to relate their responses—including their estimates—to personal background characteristics and to attitudes about other subjects. Such information is critical if we want to understand who the citizens and officers are who see police departments as pervasively brutal—or as almost invariably professional—and why they should hold such a view.

5. Insofar as possible, surveys should be legitimized and conducted by groups that are respected by the respondents, such as police unions or management groups, and community organizations (Wisby 1995 reports a community-based youth survey). Results should be shared with these sponsoring groups. Surveys can be followed by focus groups to explore connotations of responses. In fact, it is a good idea to use focus groups, both before polls—to check connotations of question wording—and after responses are tabulated—to flesh out their meaning.

b. Field Observations

Field observations are a third source of data besides officer and public surveys. This method is expensive and not cost-effective for studying infrequent events, except under extraordinary circumstances. Given the value of the procedure, however, one could consider modified uses, which could include:

■ **Combining tallies of use of force by observers with inventories of other police behavior.** These inventories might focus on positive contacts with civilians or stops of suspects in public places; community problem-solving efforts that are likely to engage police with suspects; and other proactive enforcement and

peacekeeping activities.[32]

■ **Using participants as observers.** The most obvious way in which this can be done is in police self-study, where participating officers perform data collection as part of a project in which they are engaged. An example would be the study of police-civilian contacts such as the one described in detail by Toch and Grant (1991).

■ **Targeting observations so as to study the behavior of specific *officers* or specific *situations*.** The officers might be individuals who have accumulated strings of use-of-force incidents.[33] The situations might be ones which have shown explosive potential in the past. Perhaps one might even devise an implementable study of police responses to individuals or groups of people who in the past have been—or believe they have been—considerably overrepresented in police use-of-force encounters. Such an approach would build on the learning (from studies of crime patterns) that there are high-rate offenders, high-rate locations, and high-rate victims—what some have termed "ravenous wolves," "dens of iniquity," and "sitting ducks" (Bieck, et al. 1991: 78-79; Spelman and Eck 1989).

Field observation can also be combined with videotaping, which becomes cost-effective when a camera is controlled or invoked by the observer or the subject of observation (e.g., squad car-mounted audio-video recorders; see generally Geller 1993). Videos—and systematic observations generally—also can be deployed in simulation training that addresses issues of use of force. Interactive video training on use of force is discussed in this essay and Fyfe's chapter in this volume, as well as in Geller and Scott (1992).

The preceding section has reviewed some of

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[32] Observations can also be used to cross-validate arrest reports, to provide case material for training purposes, and to assess the effectiveness of training.

[33] Sometimes for better and sometimes for worse, in many departments such officers are still in active operational assignments despite their record of frequently using force and being named in civilian complaints (Nelson 1995a-f; McElroy, et al. 1993: 121-22; Toch, in this volume; Independent Commission on the LAPD 1991; Kolts 1992).

the principal challenges involved in estimating the prevalence of police use and misuse of force. In conclusion, we reiterate the cost of *not* having a centralized data system: The police occupation and the American public are substantially disabled from putting into proper perspective a host of vital considerations. These considerations include the complex challenges of police work; policing's frequent instances of heroism; the profession's capacity to continually improve in ways that garner increased community support; the possible trade-offs, in achieving public satisfaction with the police, between advances in police efficiency, effectiveness, and legitimacy; and the occasional need to remove from certain individual officers the awesome authority that accompanies their badge.[34] Ignorance about the present state of affairs also cripples efforts at responsible prediction of the level of future challenges, thus inhibiting strategic investments of preventive resources (Ross 1994: 3).

Klockars, advocating establishment of a national reporting system on police use of force, told Rosen (1994: 12):

> "Most police agencies in this country can't tell you whether they have used more force this year than last. They have no capacity to analyze the incidents in which they have used force; there's no capacity to compare the levels of the use of force in the Los Angeles Police Department with Philadelphia, with New York, with Baltimore County. That is, there's no capacity to do any inter-agency comparisons because the way those departments record and analyze and handle the record-keeping on use of force makes those comparisons utterly impossible. A major area in which police departments can advance for research purposes is in the analysis of the use of force. From that kind of analysis we can learn, for example, that certain approaches to handling certain types of situations will over the long run produce less injury to citizens and less injury to police officers."

II. VIOLENCE, PUBLIC OPINION, AND PREJUDICE

A. Addressing the Problems of "Problem" Officers

When police abuse of force reaches scandalous proportions—either in a single cataclysmic event or with the revelation of a pattern of misconduct—administrators and others on whose desk the buck stops often tend to characterize the difficulty as stemming from a few "rotten apples." By this, presumably, they mean officers whose deficiencies are entirely their own fault.

We believe, however, that many instances of abuse of force can be addressed and prevented by focusing on *systemic* problems and leadership issues. In our experience, a good many unwanted employee behaviors—in police and other organizations—in reality are not "bad *people*" problems but bad *system* problems. The systemic and leadership issues may involve training, supervision, geographic assignment, partner assignment, equipment, and harmful or mixed messages in policy statements and enforcement demands by agency and other government officials (see also Reiss 1992: 77).

Other aspects of excessive force control may require a more individualized focus on officers with particular proclivities to use force. Regardless of whether one believes a department's problems with abusive force stem from structural or individual deficiencies or both, the result may be that certain officers misuse force considerably more often than others on the same department (column A in Table 1) (Nelson 1995a describes Chicago's recent experience).

Chapter 4 (by Toch) focuses on the "violence-prone" officer, and particularly on the officer for whom use of excessive force means force used more frequently than expected. Such officers, of course, may *both* use *too much* force and use it *too often*. The first research task that is illustrated in studies by the Christopher Commission is the nomination of problem officers through a procedure which is defensible, in the sense of being valid and reliable.[35] Again, the

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[34] On decertification of officers who prove unworthy, see Goldman and Puro (1987).

[35] By "problem officers" we mean those whose use of force with some regularity exceeds the permissible bounds set by the organization. Their behavior merits

requisite for this sort of research is an adequate information system which exhaustively inventories diagnostic incidents (as recorded in descriptions of arrests, uses of force, complaints, and so forth), and identifies officers involved in the incidents. Ancillary data sources—such as peer nominations—can supply other indicators, which increase the reliability of inferences.

Once the officers are identified, one can study patterning of incidents in disaggregate and aggregate fashion[36] by using other information in

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even more departmental attention and guidance than the considerable assistance deserved by any man or woman trying to perform the dauntingly complex tasks assigned to modern peacekeepers.

The diverse challenges facing the police were clear to the American Bar Association's project on the *Urban Police Function Standards*, which initially began drafting in the late 1960s:

"[T]he heart of policing consists of working with difficult human problems—often at a point of crisis. Police officers must handle a steady stream of the most serious, the most unusual, the most deviant, and the most bizarre in human conduct that reflects personal and interpersonal problems of the most aggravated form. Many such problems come to officers' attention because the problems are beyond the capacity of those who are professionally trained to aid in solving them" (ABA 1979: I-188).

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[36] In this context, aggregation and disaggregation are relative terms. Younger problem officers, for example, may use force against younger suspects than older officers do. But some young officers may become disproportionately involved with young suspects who commit a particular kind of offense, or commit the offense in a particular type of context, such as in company with other suspects. The greater the number of incidents and protagonists one has available, the more disaggregation one can attempt in an effort to answer crucial questions such as, *which problem officers get involved in what type of situations under what circumstances and with whom?* Such unpacking of general problems into more discrete and often more manageable subproblems is at the core of problem-oriented approaches that are finding increasing acceptance for addressing crime and disorder (Goldstein 1990) and for upgrading the quality of police craft such as in potentially violent encounters (Toch and Grant 1991).

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the reporting system. Such information would include type of suspect[37] and suspected offense; time and location of incident; and disposition of the charge filed by the subject officer against the person who reportedly has been physically mistreated.

Some pattern information is of particular value is *assessing* the officer, while other information is most helpful in *retraining* the officer. *Assessment*, for example, benefits from information about the quality of an officer's arrests and information about the officer's level of productivity in addressing crime and disorder problems. It also benefits from insight into how officers perform tasks not involving arrest or other enforcement tactics. *Retraining* efforts are enhanced if we know the range of situations, the types of suspects, and the work-place and personal-life pressures that provoke the officer's violence or predispose an officer to be violent.

The most difficult questions to resolve are those that permit us to differentiate officers who must be sanctioned from those who are candidates for retraining (including participatory retraining) approaches.[38] The appropriate organizational responses to the range of circumstances depicted in Table 1 will run the gamut from praise and press conferences honoring heroism to supervisory coaching to peer counseling to formal academy retraining to varying degrees of punishment. Some of the questions that bear on whether to retrain or punish officers are legal and have to do with how well the charges, level of force used,

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[37] A study of how officers handle different kinds of suspects almost inevitably also becomes in part a study of "problem suspects." We have in mind emotionally disturbed persons, drunks, "cop haters," racists, and others who are likely to pose special challenges to officers conducting inquiries, maintaining order, or making arrests.

[38] We accept that many officers, police managers and interested parties outside of police departments might find the distinction between punishment and mandatory retraining a murky one. This confusion speaks to the necessity of changing police and public views about several crucial issues: for example, the value of high-quality training (see chapters 5 and 9); and the positive, nonpunitive opportunities for "lessons-learned" exercises in the wake of unsuccessful—or less successful than desired—police operations.

and other matters are documented.

But there is also a role for research to inform the selection of various corrective interventions. It would seem particularly important to experiment with approaches for "selling" retraining to officers as an employer-provided,[39] skill-building *benefit* rather than as a minor *humiliation* meted out when fines, punitive transfers, termination of employment or other discipline is considered unwarranted. It is also important to experiment with modalities involved in training, variations in assignment, and follow-up and monitoring. Pre-training and post-training inventories of incidents through time series research is critical and must include comparisons with corresponding time series data for officers in equivalent assignments.[40]

Where interventions are targeted solely to officers seen as having behavior problems, it is also desirable to survey nonparticipating officers for knowledge of, and reaction to, interventions. A training effort that is supported by nonpartici-pants is most likely to have its impact reinforced and least likely to have its effects neutralized through locker room influences.

As with other chapters (especially Fyfe's and Kelling and Kliesmet's), Chapter 4 makes a case for peer involvement in retraining, and for officer involvement in the research that is associated with retraining. The recommendation would be that officers in a department participate in research of their own difficulties with violence (through guided self-study), try to invent responses to the problems they believe deserve attention—as Fyfe has helped officers do in the Metro-Dade Department—and evaluate the results of any interventions they can persuade their agencies to deploy.

Peer advisory and retraining programs proved very helpful over a period of years in Oakland,

California (Toch and Grant 1991). Such an approach, we believe, holds considerable promise for reducing abuse-of-force problems while operationalizing the respect for officers' motivations that is inherent in any serious implementation of community policing or problem-oriented policing.[41]

This volume does not devote extended discussion to the nexus between community problem-solving and the reduction of unwanted officer-involved force incidents. This is mostly because there is not sufficient evidence as of the mid-1990s on the operational effects of these promising policing strategies.[42] But we believe that, unless the central values of community problem-solving are honored in departmental responses to alleged abuse of force, the resulting mixed messages from police administrators will undermine the crime-control and the officer-control and protection objectives which professional police departments ardently pursue. We take it that among the central operating principles

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[39] We would separately recommend *peer*-initiated or *peer*-dominated interventions. See our discussion later of intervention training. We also believe that union-sponsored officer craft-mastery programs—including "master classes" for already skilled personnel—deserve creative experimentation. See Kelling and Kliesmet's essay in this volume.

[40] Also valuable would be similar time series studies to compare pre-intervention and post-intervention behavior of officers who are sanctioned but are restored to active duty after they are sanctioned.

[41] In our subsequent summary of recommendations concerning training, we shall return to the benefits of officer involvement in planning and implementing their own extrication from a career-threatening pattern of violent encounters.

[42] While there needs to be far more study of the question, an early finding from New York City suggests that officers actively engaged in community policing strategies and tactics used no more force than other officers. This was despite some initial concerns by NYPD supervisors that the growing attachment of "CPOP" officers to the residents on their beats would fuel growing frustration over the persistence of problems and provoke officers to use extra-legal methods (with the tacit approval of the community) (Weisburd, et al. 1988). Indeed, the early returns suggested that CPOP officers garnered *fewer* citizen complaints than officers on regular patrol (*ibid.*: 46 n. 9), although these results need to be more fully understood than was possible in the analysis to date. For example, it would be useful to explore whether the reduction in complaints was due to better skill in minimizing abuses; to better skill in minimizing *complaints* despite the persistence of abuses; to a difference in the type of incidents handled by CPOP and other officers; to a more favorable general attitude by citizens toward CPOP officers, causing the citizens to refrain from complaining in specific instances that produce complaints toward other officers; or to other factors.

of an organizational culture consistent with community problem-solving are a deep and abiding respect and compassion for officers' and other citizens' talents, interests, hopes and dreams for their families, desire to do good, reasonableness, trustworthiness, and need to feel appreciated.

Does *every* police officer and member of the general public deserve such confidence and respect? Of course not. Our plea to police leaders would be the following: Much more often than our observations suggest currently occurs, you should run your organizations so that cops and communities are given the benefit of the doubt. Make them *acquire your disrespect*, as the Smith-Barney TV commercial says, the old fashion way—make them *earn* it![43]

A final note at this point concerning "problem officers": As we suggest later in connection

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[43] One of the many specific, practical implications of suggesting that use-of-force issues be addressed in a fashion consistent with community problem-solving's fundamental principles would apply to departments that espouse—and actually operationalize—these values in their anti-crime efforts. How does the well-run department respond when a controversial use-of-force incident occurs, and the media, politicians and other pressure groups park outside the chief's office prematurely but insistently demanding investigative details and other answers? Whatever it *does*, such a community policing agency must *not* behave in ways that are perceived by key stakeholders as calling "time out" on the organization's espoused values.

Perhaps the easiest way for a chief to demoralize his or her officers in these stressful circumstances is to precipitously make a scapegoat of the accused officer in order to relieve the external pressure. A close runner up suggestion for how a chief can undo lots of good bridge-building efforts by the department is to rush to judgment in the opposite direction, dismissing as frivolous community claims that the department has abused its authority in the controversial incident.

The "procedural justice" concepts that Kerstetter's chapter in this volume recommends be applied to improve current methods used to air and consider complaints against the police might go a long way toward helping departments achieve desirable consistency in their operating principles. Consistency means adhering to core values in both good times (when it's not that hard to live by your word) and in difficult moments. We will discuss the potential value of procedural justice to policing later in this essay.

with recruit screening, it is of paramount importance for departments to conduct competent background investigations to uncover any clear pattern of inappropriately aggressive *behavior* among candidates earlier in their personal or professional lives. Whether or not psychological experts can divine *future* misconduct from currently available predictive tools, there is little excuse for police investigators not surfacing a *track record* of the kind of misconduct that departments find unacceptable by their employees.

B. Studying and Shaping Public Opinion About Use of Force

Public opinion can be a powerful force indirectly shaping the decisions of policymakers and line police officers for better or worse. As such, methods to try to educate the public concerning the challenges of police work and the ways in which the public can help improve the effectiveness, efficiency and legitimacy of neighborhood policing seem advisable. Five ways, among others, to inform public opinion are through:

■ statements by public officials (in moments of crisis or in calmer times);

■ studies that result in reports available to the media and to the public at large;

■ proactive communications strategies employing a combination of paid and free media coverage (see Schwartz 1973, 1983; Lappé and DuBois 1994: 107-36);

■ training seminars such as "citizen's police academies"; and

■ on-going contact between members of the community and their officers as a by-product of anti-crime and other collaborations.

All such avenues of communication can inform the public about the challenges and opportunities facing police in potential use-of-force situations; about less-than-lethal weapons considerations; about the nexus between community policing and police danger/use of force; and about other topics. If, to the extent possible, such occasions are approached as two-way communica-

tions between the police and the public, the police may glean new insights they need to work with the community more successfully as a respected partner.

Issues of public opinion—including those dealing with questions of race—that have been studied are considered in detail by Flanagan and Vaughn in Chapter 5. The complexity of these issues is illustrated by some of the poll data cited in their chapter. For example, almost half of the African American respondents to surveys over the past 20 years have indicated that they could not imagine a situation in which they would approve of an officer striking an adult citizen. Yet 82 percent of the same (or an equivalent) subpopulation agreed that an officer can strike a citizen who assaults an officer with his fists. In fact, half the respondents said that the officer could strike a citizen attempting to escape from his custody. This last view comports with most case law and statutes, which generally authorize use of serious force to stop a fleeing prisoner regardless of whether the detention was for a felony or misdemeanor and regardless of whether the fleer's guilt has been adjudicated.

The most revealing studies are those that explore public attitudes in depth by questioning persons who hold extreme views or by relating attitudes toward police use of force to other attitudes, or to attributes of the respondents, such as their experience with the police. Such studies are especially useful because they disentangle general attitudes about social problems, policing, social control, or other issues that bear on police proactivity, from reactions to the conduct of local police departments. Moreover, one must be able to distinguish attitudes that derive from personal experience from those that are products of media publicity.[44] Lastly, one must distinguish evanescent or time-bound reactions from views that are more permanent and/or obdurate.

The impact of the Rodney King incident illustrates a dilemma facing the public. Similar

themes emerge from the public's reaction to the Malice Green death in Detroit[45] and the Kim Groves' assassination in New Orleans.[46] Such scandals become enduring emblems of a local community's, if not the nation's, grievances against the police. These widely publicized uses of excessive force by police are statistically rare, and videotaped incidents may be anomalous.[47]

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[44] Brandl, et al. (1994), studying public attitudes in a large Midwestern city, found that respondents' *general* impressions of the police substantially influenced their assessments of police in *particular* incidents, but that assessments made by the respondents in *specific* encounters had far less effect in shaping their *general* impressions of the police.

[45] Malice Green was beaten to death by police officers with heavy flashlights on November 5, 1992 (Levin 1992).

[46] According to charges filed in a federal criminal prosecution in New Orleans, local veteran police officer Len Davis, already under federal surveillance for suspected drug corruption, ordered the contract killing of this 32-year-old African American mother of three on October 13, 1994. The killing allegedly was in retaliation for Ms. Groves having filed an official complaint the day before with the New Orleans Police Department. That complaint charged that Officer Davis and another N.O.P.D. officer, while on duty, punched and pistol-whipped a 17-year-old friend of Ms. Groves' son while questioning the teenager on a street in a destitute part of town. While the federal charges had not yet been adjudicated at this writing, they were unhappily consistent with a string of misconduct scandals facing the New Orleans Police Department in late 1994 (Nossiter 1994; Marcus 1995).

[47] One of the more recent such incidents was the beating on April 14, 1994 by New York City police officers of a handcuffed prisoner on Staten Island "at a spot only a few feet from where another man died while struggling with officers" two weeks later. The video recording was made from a sixth floor apartment by a woman who reported "that she had started an informal watch after what she viewed as aggressive behavior by officers during drug sweeps in recent weeks" (Wolff 1994: B1).

If residents of public housing and others living in high-crime, high-police-activity areas who have time on their hands begin to routinely videotape police-civilian encounters from vantage points such as upper floors of their apartment buildings, videos documenting both excellent and poor police work and everything in between might not be nearly so rare in the future as they are today. If used cautiously with an understanding of their potentially skewed selection of cases, such videos could even provide additional data for more systematic observational studies of policing.

At the very least, videos depicting police-civilian encounters could be helpful discussion starters in focus

But does this mean that the "correct" perception is that these incidents are aberrant and unrepresentative "flukes"? Or would public opinion be best advised to conclude that Rodney King-type incidents are the tips of an iceberg that protrudes deep into society's underclass?

Do some stories garner wide publicity because they seem representative of a problem whose extent is unknown but which is suspected of being pervasive? Does the O.J. Simpson murder trial, which the Associated Press in late December 1994 rated the top news story of the year,[48] hog the news not only because of its celebrity defendant and the real-life soap opera elements but also because it may help us think about the extent to which domestic violence afflicts famous and ordinary American households alike? (Nasser 1995 reports public reactions).

What if research substantiates that sophisticated public opinion rejects both cynical and disingenuous extremes? That is, suppose informed people understand that most cops are neither thugs nor saints. In that event, "educating" the public must differ from transparently

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groups of officers and other stakeholders concerning police tactics. One of the first things that must be acknowledged in such discussions, however, is that videos like this inevitably will leave unanswered potentially crucial questions about what happened before the camera was turned on, outside the field of vision, and beyond the microphone's and audio recording machine's capacity to record. Later in this essay, in connection with our discussion of technological issues, we offer some recommendations for future research and development to overcome some of the limitations of current audio-video recorders.

[48] The *World Almanac and Book of Facts* (Famighetti 1994: 33) was only slightly more restrained, rating the story fourth out of the top ten events. It fell behind the Republican sweep of the mid-term 1994 elections; various events relating to Middle East peace; and the return to power of exiled Haitian President Jean-Bertrand Aristide with the help of 15,000 American soldiers. Still, the *Almanac* rated the Simpson melodrama a bigger news story than, among others, the slaughter of more than half a million Rwandans in ethnic warfare; the multi-racial election that elevated Nelson Mandela to the presidency of South Africa; and the 6.8 Richter-scale Los Angeles earthquake that took 61 lives and caused more than $4 billion in property damage.

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defensive whitewashing efforts and from opportunistic police bashing. It must also eschew gratuitous self-castigation by police representatives who are anxious to appease hostile pressure groups.

Research that undergirds efforts to promote informed public opinion must not only disentangle components of public opinion through studies that transcend simple surveys (as suggested in Chapter 5), but must also inquire into the way the public arrives at views of police departments. This is especially important where corrective efforts might consist of reorientations in the way policing is done or changes in the way police misconduct is monitored. It will be interesting to learn whether, as community policing partnerships involve police and large numbers of civilians in more diversified and frequent contacts, there are appreciable shifts in the information base from which public opinion derives and in public conclusions about the efficacy and legitimacy of police performance and motivations.[49]

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[49] A few studies have begun to paint a relatively uniform picture: While it is not yet certain that police implementation of a community problem-solving strategy significantly influences public perceptions of the nature or frequency of *crime* patterns, it has a favorable impact on public opinions about the quality of police performance. Skogan (1994: 178) summarized the conclusions from studies in Oakland (CA), Birmingham (AL), Baltimore (MD), Madison (WI), Houston (TX), and Newark (NJ). "The most consistent finding of evaluations to date," he noted, "is that community policing improves popular assessments of police performance. This is certainly an accomplishment," he opined, "especially in the African American and Hispanic neighborhoods in which many of these projects took place." Of 14 total project areas across these six jurisdictions, "significant positive changes in views of the police were recorded in nine instances, and in an additional four ... areas ... there were no negative shifts in opinion...." Skogan characterized this result as "a respectable 93 percent success rate" (*ibid*.: 176).

For more specific findings on public opinion in Madison, where attitudes were assessed both over time and across experimental and control areas of the city, see also Wycoff and Skogan (1993: 72, 81-82) and Wycoff and Skogan (1994). For instance, between a first and second survey in Madison's experimental police district, 25 percent more of the respondents thought the police "were very helpful"; in the control

Reiss (1971a) reported that police are less likely to encounter public rejection of their authority when they are summoned by a citizen than when the officers intervene in a situation on their own initiative. On this basis, one might hypothesize that officers who, through community policing or other avenues, become well-known and

areas, there was a *decrease* in public esteem for the police on this issue (Wycoff and Skogan 1993: 69).

The Reno, Nevada, Police Department also reports salutary effects. Having polled a representative sample of Reno residents twice annually since the Department's community policing efforts commenced in the spring of 1987, a powerful trend has emerged. Between the first poll in June 1987 and the tenth in March 1993, the percentage of citizens who had a "positive opinion of the police image" jumped from 41 to 93 percent (Bigham 1993: unnumbered table "Citizen's Opinion of the Police Image, Survey 10"). This positive trend was noted a couple of years earlier in a journal article (Peak, et al. 1992: 38). Moreover, in 1987, 75 percent of the survey respondents held a "positive opinion of police performance"; that figure rose to 95 percent in the 1993 survey (Bigham 1993: unnumbered table "Citizen's Opinion of Performance, Survey 10").

Studies are also available concerning the St. Petersburg, Florida and Baltimore County, Maryland, police departments (Daly and Morehead 1992; Cordner 1988).

Positive effects of community policing have been noted in other nations as well. In Australia, for instance, the Canberra Police (in New South Wales) discovered that 78 percent of their service population was satisfied with their contact with the police in 1990 and 83 percent in 1994 (Canberra Police Department 1994). Further, "[s]ince 1990 there has also been a *steadily rising trend in the Canberra public's willingness to voluntarily assist the ... police*. At the end of 1993, almost seven in 10 people felt that they would go out of their way to help their local police, rather than only helping the police if asked" (*ibid.*). And between 1990 and 1994 there have been "a reduction in the Canberra public's fear of jogging or walking alone in their neighbourhood at night" and modest but notable reductions as well in the public's fear of sexual assault and street assault (*ibid.*).

Going beyond the issue of public *attitudes* to the question whether community policing seems to help protect neighborhoods, Skogan (1994: 180) suggests that, while far more learning is needed, thus far it appears that "[w]here officers have developed sustained cooperation with community groups and fostered self-help, the public has witnessed declining levels of social disorder and physical decay."

trusted by people on their beats, in effect receive standing invitations to intervene when necessary to protect the neighborhood from crime and disorder.

At the opposite end of the spectrum, when a department is held in widespread contempt, as during the publicity attending corruption and brutality scandals, officers may lack legitimacy even when summoned by the community. Following revelation of the alleged police-ordered contract killing of brutality complainant Kim Groves in New Orleans, the public was at pains to know where they might turn for protection. As Nossiter (1994) reported,

"As this city struggles to control ... one of the nation's highest murder rates, the arrests [of officers on drug and civil rights charges] have prompted many residents to ask whether the police department is part of the problem rather than the solution.

Police officials who showed up to talk at a neighborhood meeting one night this week in a church near where Ms. Groves was killed were greeted with hostility and derision.

'With the criminals on the block, I know where they stand,' a neighborhood resident ...[50] told the meeting, his voice rising. 'With the police we don't know.'

He said that he had seen officers rob a drug dealer a year ago. When one of the officials at the meeting asked if he had reported the incident to the police, there were snorts of laughter from the crowd of about 40.

'Who are we going to call?' Mr. ... asked" (compare Steinhauer 1995).

Besides the prospects for community policing to improve public appraisals of police and for

[50] So as not to increase the risk to the neighborhood informant whom the *New York Times* named in its story about witness-killing, we have omitted his name. We do not presume that this volume is more likely than popular media to be read by would-be retaliators, but the principle of protecting witness identity when doing so is consistent with due process requirements is one we wish were more pervasively respected.

corruption to broadly inhibit police work, other questions deserving research arise concerning public opinion:

■ Can reform efforts speak for themselves, and percolate into experiences that inspire favorable attitudes? Or is opinion about policing mediated by gatekeepers—the media, politicians, civil rights and civil liberties groups, and others—who must be involved in reform?

■ How can print media serve a reform chief, and what role can television and radio play? (New York-based communications specialist Tony Schwartz offers guidance that many police executives have found novel and practical; see, e.g., Schwartz 1973, 1983.)

■ How can an angry community group serve a reform chief who feels captive to a tradition-bound union (Moore and Stephens 1991a, 1991b)?

■ How can a reform-minded union capitalize on the support of a reform-minded community group or coalition of groups and the media to overcome the resistance of an antediluvian chief (see discussion in Chapter 10 and in Schwartz 1983)?

■ How can progressive managers and progressive unionists collaborate in ways that a cynical public will not dismiss as collusions against the public interest?

■ How much carryover is there from public relations activities, such as "officers friendly," police dogs and "robots" in schools, to unscheduled activities that impress the public, such as shootings or other injuries of suspects?

■ For that matter, studies might explore how much carry over there is to potentially controversial incidents from core public service activities, such as closing crack houses, catching serial rapists, and solving other crime and disorder problems.

The reason such research matters is that public opinion helps define what is excessive and

nonexcessive force (see Kappeler, et al. 1994b). The Los Angeles public reacted indignantly to the Rodney King debacle. It reacted with equal indignance to the perceived timidity of police during and after the post-trial riots.[51] Similarly, New Yorkers who have expressed outrage at the NYPD's occasional excesses in use of force accused the NYPD of reticence in trying to quell the Crown Heights disturbance.[52] The issue of how much enforcement and how much protection people demand is tied to the question of what means the public accepts in the pursuit of its goals—and, as always, whose ox is being gored. The ambivalence of oppressed people toward

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[51] Alan-Williams (1994) offers one poignant, first-hand account of an African American bystander who selflessly risked his life to save a Japanese American man from the clutches of the mob. As the hero half-carried the critically injured victim away from the mob action, he implored many on-lookers to help him get the man to a hospital. Eventually, a citizen driving a van stopped and furnished the life-saving transportation. But before that help arrived, among the many who turned their backs on the hapless duo were a pair of Los Angeles police officers, one black and one white. They had slowed their patrol car only enough to satisfy their curiosity about why this black man was walking a bleeding Japanese American down the block. That they may have been under orders not to become directly involved in any encounter until superiors figured out a tactical plan for dealing with riot offenders and victims seems little excuse for this dereliction of their highest duty to preserve human life.

[52] This was a disturbance in the Crown Heights neighborhood of Brooklyn during August 1991, in which mostly local African Americans attacked or intimidated mostly Hasidic Jews who live in the same area. The violence came on the heels of an auto accident in which a young African American boy, Gavin Cato, was killed when struck by a car, driven by a Hasidic Jewish community leader. The car had run a red light just prior to the impact. Some witnesses to the accident charged that the critically injured boy was not given emergency medical care as promptly as the less seriously injured occupants of the car. Several of these elements of the story remain hotly disputed years later (*New York Times* 1993: A20). African American youths who were charged with killing a Jewish man during the disturbances in retaliation for the death of the African American child were acquitted of their charges, a verdict which prompted a gubernatorially-commissioned study of the entire affair.

oppression used in their ostensible defense is a powerful factor to be reckoned with.

Of course, strategic decisions and individual police behavior cannot simply be dictated by public pressures and sentiments,[53] but community policing and problem-oriented policing presuppose sensitivity to public opinion and suitable sharing of certain decisionmaking and action responsibilities by officers and the public. Moreover, although public views arguably are most relevant at the neighborhood level, the media make all members of a community—and, in outrageous enough or visually tantalizing enough cases, all the world—spectators and consumers of police-civilian encounters, no matter where they take place.

C. Studying the Relationship Between Race and Use of Force and Reducing the Influence of Racism and Racial Ignorance on Uses of Force

Why does the use of force by American police often invite concerns about racially-motivated conduct? Several possible reasons come readily to mind:

■ the historic role of some police departments (and of individual officers in many departments) in enforcing *de jure* and *de facto* racism in the United States (Williams and Murphy 1990);

■ the use of civil disobedience as a tactic by the civil rights and affiliated social reform movements;

■ the fact that much urban crime in America involves members of minority groups as both victims and perpetrators;

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[53] Former Santa Ana, California, Police Chief Ray Davis—a hero to many community groups—despite his affinity for grassroots community empowerment warned against a "blind pilgrimage to the temples of community control" (Davis 1985). Many talented organizational leaders, presumably Davis included, would credit their success in reforming their agencies partly to their ability to capitalize on community demands that public servants be accountable to the public's values and needs (see, e.g., Moore and Stephens 1991a, 1991b; Lappé and DuBois 1994).

■ the staffing of most police departments predominantly by white officers; and

■ the reality that some police employees make racist remarks, and a few go so far as to display their bigotry not only in words but in deeds.

Sometimes racial hatred or racial ignorance (such as fear of an unfamiliar culture) does play a role in police use and misuse of force. Pinning down how often this happens, except in the most unsubtle cases, is extremely difficult—at least it is difficult to do in a fashion that will enjoy credibility across diverse socio-economic-political groups. Racist policing undoubtedly occurs far less often than many people believe. Yet it occurs more often than we as a body politic can afford to tolerate, given the power of such conduct to trigger both overt riots and the "quiet" riots of despair and alienation observable in many ghetto neighborhoods.

To bolster an environment of racial and class insensitivity, an encounter need not even be racist in its own right. A recent illustration is the community's feelings of vulnerability to both the cops and the crack heads expressed in New Orleans after the Kim Groves killing in October 1994 (Nossiter 1994; Marcus 1995). Both the accused officer and the murder victim in the New Orleans case are African American. But the treatment of lower-class blacks as if they are worthless human beings by anyone wearing a blue uniform simply feeds pre-existing perceptions that the police are selective in their dedication to serve and protect the public.

Many influences are far less dramatic than a videotaped bludgeoning of a black suspect by white officers or the contract killing of a police brutality complainant, but they are equally corrosive of community capacity to work with police constructively to reduce crime and disorder. Prime examples include a steady stream of low-level incivilities, roughness, disrespect, and disregard by police for the fear and criminal victimizations of neighborhood residents.

The police in many jurisdictions have made enormous progress over the past several decades in reducing the alienation between their personnel and community residents, and we do not mean to slight this considerable accomplishment. But we hardly need to lecture to the street officers who,

day after day in community after community nationwide, see the gulf between what they *are* accomplishing and what they *might* accomplish if only they (or their colleagues) and minority community residents trusted and understood one another better (Steinhauer 1995; Sexton 1995).

Because of the capacity of police use-of-force decisions to contribute positively or negatively to police-community rapport and collaboration against crime problems, police must strive continually for methods that allow them to do their difficult work in a way that maximizes the chances of improving race relations. Both research to improve our understanding of the issues and practical steps to help officers and communities avoid racist conduct are recommended by various essays in this volume and by other work that we shall note below.

1. Recommendations for Research

Chapter 6 (by Locke) deals with the issue of race and its relationship to police use and abuse of force. The author comments that "what may appear as obvious or self-evident [concerning policing and bigotry] can, on careful analysis, turn out to be neither." This, he suggests, "forces those who are not content with unproven answers or unprovable propositions to continue probing the hard questions."

Several findings in the literature may seem counter-intuitive. One is that prejudice among officers does not necessarily translate into uses of excessive force. Another is that high rates of use (not necessarily *abuse*) of force against ethnic or racial minorities can be substantially accounted for by disproportions in their criminal involvements.[54] The "unprovable proposition" here is that where force is deployed against a person of color who, in the officer's view, disobeys a lawful police order, it is race rather than the suspect's behavior that elicits the use of force.

Reiner (1992: 478-79), surveying police research in the United Kingdom, argues:

"The problem is that establishing beyond doubt that a 'pure' element of

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[54] Tonry (1995) addresses various aspects of racial disproportion in criminal justice systems, with special emphasis on arrest and sentencing practices.

discrimination exists, which is not based on legally relevant factors, is methodologically impossible. * * * There are certainly many incidents described in observational work that are highly suggestive of discrimination..., but it is almost impossible to establish racial motivation in particular cases. Statistical analyses of decision making have attempted to isolate a factor of 'pure' discrimination in treatment of black suspects, holding constant legally relevant variables. * * * The problem in taking [statistical findings of differential treatment] as unequivocal evidence of discrimination is that the 'legally relevant' variables are themselves connected to race. The likelihood of future offending, for instance, is taken as indicated by factors such as single-parent families, unemployed fathers, or being a latchkey child, all of which are themselves correlated with ethnic group.

This points to the artificiality of trying to pursue an element of 'pure' discrimination. Differential likelihood of offending and of being subject to police prejudice and discrimination are mutually reinforcing aspects of the structural position of groups at the bottom of the socio-economic hierarchy. It is this structural location that is the explanation of a vicious cycle of differential pressures leading to offending and differential risk of apprehension, each confirming the other.... The police are reproducers rather than creators of social injustice, though their prejudices may amplify it."

To be sure, some statistical research in the United States has been characterized as supporting—and may in fact support—the proposition that the race of a suspect sometimes contributes to the decision to misuse force. Examples of such analyses include Fyfe's study of the Memphis Police Department and observations on the patterns of offending by some New Orleans police officers (Fyfe 1982 and Nossiter 1994).

While the weight of studies to date suggests that police enforcement decisions are not systematically driven by racist sentiments, one study

presenting some possibly contrary evidence is Worden's in this volume (Chapter 2). Worden found that even after controlling for the effects of various other factors, suspect race helped explain patterns of police use and abuse of force in the various jurisdictions he examined. For the reasons illuminated by Reiner, Worden does not assert that racist motivations drove these patterns of conduct. But Worden allows the possibility. If race *does* play some systematic role, then measures which reduce animosity and ignorance across racial lines—in police-civilian encounters and in society generally—could pay extra dividends in upgrading decisionmaking by police in potentially violent encounters.

If future studies reveal that ethnicity and suspect behavior (and other incident-related attributes) are not in fact separated in the minds of officers who tend to overreact, the problem may reside in the way such officers respond to a composite stereotype.

The stereotyping can be reciprocal. The officer who intercepts a youth whom he sees as a typical black gang member who is probably engaged in drug trafficking may be seen by the youth as a typical ugly white cop intent on harassing citizens going about their business (see Browning, et al. 1994). The officer is adversely reacted to, which confirms his stereotype and results in a decision to arrest (Lundman 1994). This move confirms the youth's worst expectations and causes him to resist arrest, which invites use—and abuse—of force by the police. The current experience strengthens prior stereotypes and increases the chance that the next prophecies on all sides also will be self-fulfilling (see Wisby 1995 on Chicago youths' views of police).

The reason it may not be obvious that the composite stereotype held by the officer is a central part of the problem is because law-abiding, middle class, minority citizens occasionally are abused by officers, and these incidents, due to their visibility and dramatic attributes, are not recognized as being aberrant. We may better help responsible officials take corrective action if we can reveal the extent to which the misuse of force arises out of a sequence of erroneous assumptions by the officer about the civilian. These assumptions often may be grounded more in misperceptions of the civilian's actions and of the circumstances under which he or she is encountered than in the civilian's skin color.

It is also possible, as pointed out in Chapter 6, that, among others, many minority citizens[55] will never be convinced by statistical studies which suggest that officers do not discriminate against minority suspects. This may be true even if the studies are superior methodologically—and many, admittedly, are not. If such skepticism is likely to persist, researchers and policymakers would be well advised to regard anti-police sentiment and suspicion as a variable that has a life of its own. Thus, resentment and fear of police may merit research treatment like that given to fear of crime. Some may believe that research could not possibly help alleviate misplaced community resentment against police or the various dysfunctions such resentment introduces into crime prevention and crime solving efforts. We are somewhat more optimistic, although hardly confident.

A starting place is that the adverse assumptions of minority citizens about police treatment of minority citizens be better understood. To what extent are these assumptions based on personal experiences? How much of the resentment is based on publicized incidents, such as that of Rodney King, Malice Green or Kim Groves? To what extent are sentiments reinforced by the media or through discussion in groups? What distinctions are drawn between police treatment of suspects and of citizens who are not suspects? To what extent is police behavior seen as a result of an over-readiness to regard people of color as suspects? Is such over-readiness inferred from personal experience or second-hand accounts? Do minorities who are employed by police departments differ appreciably from other minorities in appraisals of officers' readiness to assume criminality based on skin color and other

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[55] It would oversimplify, of course, to assume that persons of color will uniformly persist in seeing criminal justice systems as racist. Compare, for example, *The Myth of a Racist Criminal Justice System* (by William Wilbanks) (1987) with *Unequal Justice: A Question of Color* (by Coramae Richey Mann) (1993); both authors are African American (see also discussion in Tonry 1995 and Wilbanks 1993). Consider, as well, the wide range of opinion one finds within the ranks of black police leadership and black judges and prosecutors.

inappropriate factors?[56]

Exploring other questions may afford a fuller understanding of the nature and derivation of viewpoints. How many minority citizens personally know individuals who are engaged in illegal activities? How do they regard these individuals? How many persons of color know individuals who have been victimized by minority-race offenders? How do the citizens feel police should go about locating and apprehending offenders? Do citizens feel that police are overzealous in their pursuit of offenders, insufficiently proactive, or both?

Does one's appraisal of the suitability of zealousness depend on one's prior victimization or particular interest in the outcome of an investigation? Do minority respondents' appraisals vary depending on the extent of "minority empowerment" in the local community? In jurisdictions where the minority citizenry harbors great resentment of the police, are attitudes toward the *rest of local government* any different—and, if so, what factors, such as the inherent obligation of the police to employ coercion, might account for the difference in view?[57]

Studies that explore such questions are bound to find that responses are not homogeneous and that minority citizens are not of one mind in their reactions to police, any more than are other groups. Dialogue designed to reduce misunderstanding, and programs designed to defuse ten-

sion, may have to make provision for the complexity of the resentment that police misbehavior inspires, and for divisions of views in minority communities.[58]

The same point holds for the definition of the pejorative term "police brutality." Insofar as abuse of force—a very difficult problem, indeed—is confounded in public opinion with gratuitously offensive but *non*physical conduct that can be pinpointed and addressed, the findings of research can undergird modifications of training and retraining that can reduce public resentment. The kind of gratuitous offensiveness that can be delineated as a related but different phenomenon than physical mistreatment includes patronizing interlocutories, ethnic slurs, inadequate explanation of interceptions, unnecessary requests for identification, unnecessary orders and instructions, and so forth.

It is essential to "map" police behavior so as to distinguish officers who react in ways that are acceptable to a broad cross-section of minority citizens from others who do not.[59] This type of exercise—which calls for skilled systematic observation of police-civilian encounters—can supply case material for trainers and supervisors. Additional such material can be suggested by

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[56] A similar set of questions could and should be asked about police responses to homosexuals. There is some evidence, for instance, that violence against gays and lesbians does not command sufficient police attention (Dunlap 1994).

[57] For the view of two community organizers that police are among the most difficult of civil servants for ordinary citizens to work with constructively and respectfully, see Lappé and DuBois (1994: 197-99). Based on their studies of "how citizens are changing their relationship to government and vice versa," Lappé and DuBois report,

> "For many citizens...the biggest challenge is reconceiving citizens' link to law enforcement. For policing is the most intimidating of government functions—the most distant and, especially for many people of color, the most unaccountable" (*ibid.*).

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[58] We will return to this point below in discussing cultural awareness training.

[59] We expect that few experienced police or community leaders would be surprised if such mapping revealed that one group—albeit a small one—of officers who mistreat persons of color with some regularity are officers of the *same* race or ethnicity as the victims of abuse. Such officers' misconduct may be attributable to a variety of factors, not necessarily mutually exclusive. One is garden-variety venality. Another is incompetence which, in turn, breeds imprecise use of police authority and causes officers to "paint themselves into corners" from which they must fight their way out. Problems of insufficient officer skill can, of course, produce many race-neutral difficulties of the sort reflected in columns A and B of our Table 1. *Intra*-racial abuses may also stem from resentment by the officers of the difficulties that minority-race criminals cause for law-abiding minorities in terms of societal standing and myriad other complications of daily life. Or the motivating factor could be the officers' misguided desire to seek the approval of a violent, Caucasian-dominated police subculture, by adopting its behaviors, if not its mores.

officers and civilians through review of critical incidents, or in other brainstorming exercises. As noted earlier, video tapes of encounters showing police work that ranges from exemplary to ambiguous to unprofessional to criminal may be constructive discussion starters in the hands of a skilled instructor.

In inventories of street behavior, attention must be paid to minority officers who demonstrate skills in resolving conflicts with minority citizens, and to the constructive reactions of minority civilians to minority officers. Such information can add payoff to efforts to reduce police-community tension through targeted recruitment of a diverse workforce. Surveys of minority officers that invite their input into policy formulation can improve policy—by grounding it in a broad set of life experiences comparable to the diversity represented in the department's service population. Such surveys can also buttress efforts to improve the assimilation of such officers into their departments—by demonstrating that management cares enough about the views of minority-race officers to have sought their opinions and manifestly valued their responses. For that matter, as Kelling and Kliesmet argue in this volume, management approaches that far more often draw on the expertise of *rank-and-file* officers of *all* races would be a welcome innovation.

2. Recommendations for Action: Workforce Diversity and Cultural Awareness Training

a. Workforce Diversity

Among the practical steps that can be taken to increase police departments' expertise in dealing with black and Hispanic communities and with other cultures less familiar to the majority of officers is to continue the progress most agencies have been making over the years in diversifying their workforce.[60] While increasing the propor-

tion of minority officers in a heterogeneous community is desirable for various reasons, one assumes that this development can produce benefits in the use-of-force area if it is combined with other interventions.

These other interventions include deploying minority officers in a more strategic fashion, such as in community policing and problem-oriented policing. It stands to reason, for example, that many (although certainly not all) minority officers may be better positioned than most white officers to perform linking, enabling, bridging or mediating roles vis-à-vis counterparts in the community (Ross 1994: 16). The same is true for officers of other backgrounds relating to communities they understand intimately.

We hasten to add that we do not advocate systematic race or ethnic matching of officers and communities in police deployment decisions. It is desirable for many reasons that officers be free to work in communities without regard to race, creed, religion or other characteristics. We do, however, urge any officers who are assigned to a given task, including the mission of building bridges with or mediating conflicts within their service population, to get the best, tactically-relevant information they can in support of their objectives. This may mean, for instance, that an African American officer assigned to work in a Polish neighborhood with many recent immigrants will wish to consult with fellow officers, community leaders, or ethnographers in a local community college who know a lot about the backgrounds, hopes, fears, and life-styles of first generation Poles in American cities. Similarly, officers would want appropriate intelligence about the homeland vendettas that refugees from the former Yugoslavia, Russia, Haiti or Cuba might seek to carry out on American soil (Ross 1994: 16).

The roles of officers deployed to assist with interracial police-community partnership-building efforts could be studied (or self-studied) as they evolve, and could be replicated if they prove

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[60] Pynes (1994) summarizes civil rights considerations bearing on recruitment for quality and diversity. Diversification is merely part of the process, of course. Serious effort must be devoted to reducing the causes of friction between officers of different races and ethnicities. Such tensions, allowed to fester, will often

be reflected in racial animus by officers towards *civilians* "because if differences cannot be accepted as an organizational way of life within the police agency, it is unrealistic to believe that those in the community who are different will be accepted" (Stewart and Fisher-Stewart 1990: 4-5).

helpful. On the other hand, more research is needed on the increased risk to which one subjects minority officers assigned to higher-crime neighborhoods.[61]

b. Cultural Awareness Training

Cultural awareness training, particularly if offered as a *positive*, tactically-relevant part of training rather than as perceived *remedial* instruction following a racially tense encounter, can also help officers reduce abuse of force.[62] By enhancing officers' understanding of the backgrounds and life circumstances of people with whom they interact, cultural awareness training can help officers avoid misreading and overreacting to the degree of danger in their encounters with potential opponents (Geller and Scott 1992: 300; Geller and Karales 1981a: 196-97; Geller 1986).

Moreover, if any given police officer does not already show a suitable level of respect to the civilians—of all races and ethnicities—whom he or she encounters in the line of duty, then improvements in this area might result in the officer receiving more respect for his or her authority and humanity in return. Hatred usually is contagious and reciprocal; so are tolerance and respect.

The cultural awareness training offered in any particular jurisdiction must be tailored to the racial, ethnic and cultural makeup of that community. One-size-fits-all training packages that overlook ethnic/racial subgroups in the trainees' work areas are of limited value. As police executives and husband-wife team Robert Stewart and Gayle Fisher-Stewart argue (1990: 2), to excel in police work in the community, police need

"a multi-cultural focus that transcends sex, race, nationality, and ethnicity. Too often, cultures tend to be lumped into races or nationalities. [Ours] is a society that likes nice, neat categories. For example, an officer may be responsible for a specific area within the 'black' community. The question needs to be asked, what constitutes the 'black' community? Within the race, there are many and diverse cultures. Within a particular community, there may be blacks of Hispanic, African-Caribbean, American, European, or Asian descent. Each culture (as opposed to race) within a community brings a uniqueness that has different, while at the same time similar, needs that require serious consideration and must be addressed if police agencies are truly to 'serve and protect'."

By recognizing the sometimes intense differences and tensions between subgroups within a given ethnicity or race, police officers may also become more sensitive to and more effective at countering some of the less obvious forms of hate crimes committed by community members against one another.[63] Improved police skill in this domain can do much to improve the general reputation of the police department for respecting diversity and the rights of minorities.[64] As with

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[61] Geller and Scott (1992: 158-61) summarize the findings on the elevated risks of *shooting* involvement to which minority officers have been exposed by dint of assignment patterns in some large cities. The core of the problem is that, for public relations reasons, black officers are disproportionately assigned to African-American neighborhoods, which often are also low-income, high-crime neighborhoods. The officers of all races who work in high-crime neighborhoods generally are exposed to greater job-related risks than are officers working in less crime-plagued areas. Fyfe (1979b and 1981a) conducted some of the earliest, most important studies on this subject.

[62] Recommendations for other types of violence-reduction training and for the features of such training that make it useful for street officers are summarized later in this chapter. Much of the material that follows on cultural awareness training and the potential for adapting the U.S. military's cultural awareness training to the police arena is taken from Geller and Scott (1992: 300-08).

[63] In an interesting extension of its work with youngsters on understanding and quelling hate crimes, the Brookline, Massachusetts-based non-profit group, Facing History and Ourselves, in 1995 joined forces with the Boston Police Department to devise and deliver a one-week block of instruction to all new recruits of that agency. The training addresses the roots of intolerance and the historical role of police in different societies in either fostering or fighting bigotry (see also Hamm 1993).

[64] Bravely confronting *unsubtle* hate crimes will

all training, training on hate crimes must be sophisticated and tailored to the particular demographics and problems the officer trainees will actually encounter in their work (Stewart and Fisher-Stewart 1990: 3.)[65]

While the tangible benefits of improved rapport between police and community may not always be demonstrably *tactical* (e.g., greater officer safety, efficiency, and effectiveness in dealing with potentially violent street situations), there are at least two good reasons to invest administrative energy and political capital in progress in this domain.

First, useful information—the lifeblood of any police organization—may be easier to obtain from communities (Steinhauer 1995). People who feel the police disrespect them understandably are reluctant to "help the police." Second, the police in an organized society are an important instrument of government policy. If American policy is equal rights under the law, then police work, in its overt and more subtle aspects, must exemplify equal respect for the basic humanity of all people.

It is also important, we believe, to deal with the fact that many members of the public do not show proper respect for police officers. Rather than merely accepting disrespect as an occupational hazard, police might find creative and effective ways to encourage members of the public to come to grips with the fact that respect is a two-way street. Naturally, police cannot afford to behave unprofessionally just because members of the public treat them uncivilly. But the public needs to police itself—parents, teachers, and other adult role models guiding children, adults applying peer pressure and self-restraint—to create an atmosphere in which police are respected and in turn show respect for civil-

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also send a clear signal of what a police agency stands for. The remarkable saga of former Billings, Montana, Police Chief Wayne Inman's death-defying heroism in battling Skinheads in two cities is an inspiring case in point (Rosenblatt 1994; Hamm 1993). Not surprisingly, a film is in preparation on his efforts.

[65] On Latino subgroup rivalries, see Gonzalez (1992); and on Skinheads' dedication to violence against women, persons of color, gays and lesbians, Jews and various political interests, see Hamm (1993).

ians they encounter in trying circumstances.[66]

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[66] Part of such community "self-policing" is presenting programs to help the public—especially young people—develop skills for dealing with other people nonviolently, if not respectfully. Harvard University Professor Deborah Prothrow-Stith and her colleagues have done notable work to help schools and other institutions assist young people in developing nonviolent problem-solving skills (Prothrow-Stith and Weissman 1991). Other school-based programs that seem quite valuable are run by the New York-based program, Resolving Conflict Creatively (Miedzian 1991: 133-44; Moyers 1995); the Washington, D.C.-based Center to Prevent Handgun Violence (Rudd and Bradbery 1992: 8); and the Brookline, Massachusetts-based group, Facing History and Ourselves, which today reaches more than 500,000 students across the nation (Facing History and Ourselves 1994). FHAO takes a slightly different approach than many of the other programs. It provides teachers with curriculum materials that begin with a history lesson showing how seemingly civilized societies allowed hate-mongers in their midst to oppress religious, racial and other minorities. The students are then guided through an exploration of their own responsibilities to intervene against injustice before it grows from precursor behaviors to resilient class, race, religious, and cultural oppression (see also Hamm 1993; Lewis 1995).

Another promising approach to building mutual respect between police and key groups in the community (especially youngsters) lies in police finding ways to communicate their common ground with the community members. The nationally acclaimed, Chicago-based music rap group, "The Slick Boys," made up of three decorated officers still working full-time tactical patrols in public housing, illustrates the potential of this approach. Because young people are excited by the entertainment provided by these officers and consider them celebrities, they will listen to the life counseling the officers provide as part of school concerts.

The counseling is insightful, eloquent, and street-wise. It is also decidedly different in content from so-called "gangster-rap" (and from hate songs of the far right—Hamm 1993), but without whitewashing the irresponsibility of public servants (police, politicians, and others) and community members who shirk their responsibilities to make communities safer, more livable places. The Slick Boys' candid, credible approach causes many young people to seriously rethink some of their simplistic assumptions about what they can be and whether they can leave the world slightly better than they found it. American policing would benefit if it found and unleashed more of those

We do not naively assume that marketing and other public relations techniques—or even dramatically different styles employed by police on the streets—will eliminate *all* disrespectful behavior or violence directed at officers. It is in the nature of police work that officers are summoned when people lose their self-restraint and will not listen to reason. To be blunt, officers who bemoan dealing with such clientele have made an erroneous career choice. Nevertheless, we do believe that police initiatives, taken day by day and beat by beat across the nation, can influence whether mutual recriminations and hostility rise or fall.

Although *American* policymakers and police leaders from time to time have taken such initiatives,[67] *British* government and police officials in

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within its ranks who, like Chicago officers Eric Davis, James Martin, and Randy Holcomb, could serve as excellent role models for young people desperately looking for adults to esteem and emulate.

The work of the Slick Boys on and off-duty has inspired a network television show; has garnered a niche on MTV, the Black Entertainment Network (BET), and other music video networks; and has helped thousands of kids, cops, and school teachers think more clearly about solutions to community problems, including police-civilian violence (see, e.g., Terry 1992; Warren 1992; Kupcinet 1994).

[67] See, for example, Williams and Murphy (1990). Hubert Williams and Patrick V. Murphy angered a great many police leaders in their 1990 essay, which suggested that the first *organized* police agencies in the United States were not the large Northern agencies generally cited as the pioneering bodies but rather were the Southern "slave patrols." If their argument is overstated for emphasis, they nevertheless point to a sordid legacy of American enslavement of black people that cannot be ignored by modern public officials. Indeed, to this day as we travel the country working with police managers, we occasionally hear about middle- and upper-level managers in police departments who are members of such groups as the John Birch Society and the Ku Klux Klan (see also Hamm 1993).

When matters reach such extremes that agencies discover they are employing individuals who belong to groups that perpetrate—or at least create a climate conducive to—hate crimes and other atrocities, measures well beyond sensitivity training are warranted. Although citizens have a right to peaceably assemble for any nonviolent obnoxious purpose they choose, creative police administrators should be able to find

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the past decade or so have been mobilized to action as a result of street rioting in multi-ethnic communities (Scarman 1981). After a decade of research and developmental work, British authorities have fashioned a program for training that nation's police on "ethnic relations." The principal lessons of the British experience during the 1980s were summarized by Oakley (1990: 55-56) and have direct application throughout America despite the many years' head start that our nation has had:

> "(1) Training on ethnic relations (except for specialist training) is most effective when conducted not in distinct, freestanding courses, but when integrated into existing professional training curricula.
>
> (2) Training on ethnic relations should not address knowledge or attitudinal objectives in isolation from behavioural objectives but should address all three together, with ultimate emphasis on skills and performance.
>
> (3) The rationale of conducting training on ethnic relations should not be to criticise or condemn personal attitudes, but to enhance *professionalism* in working in multi-cultural situations.
>
> (4) Methods used in training on ethnic relations should be diverse and capable of attaining different levels of objectives, but in all cases an essential requirement is to acknowledge and then work with course participants' own experience.
>
> (5) Training on ethnic relations should balance the need to address issues of racism and ethnicity directly with the need to subsume these issues within a

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ways to make it clear that the values espoused by hate groups have no place in an agency whose highest mission is to enforce the letter and the spirit of the Constitution. People on police payrolls whose views conflict with the basic tenets of a free society should be weeded out of the organization lawfully but hastily.

broader understanding of community relations and equal opportunity issues generally.

(6) Outside contributors should be involved in both the design and delivery of training on ethnic relations, and training design should provide maximum opportunity for controlled learning on ethnic relations from first-hand experience.

(7) Training on ethnic relations requires firm management and should form part of an explicit strategy to implement organisational (and, where appropriate, government) policy on ethnic relations and equal opportunities."

If training and personnel decisions can help reduce any racial and ethnic bigotry that police officers may feel or practice, then in addition to other tangible and intangible benefits, one might expect a reduction in abuse of force. One reason the reduction might be expected is because some abuses of force are probably motivated in part by disregard for the humanity of members of different racial groups. Another reason is because improved relations between police and civilians of different races might help reduce violence by civilians against police.[68]

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[68] Former Deputy Chief James Griffin of the St. Paul, Minnesota Police Department, then the highest ranking black officer in that agency's history, offered the opinion that, throughout the nation, a fair number of the shootings of police by minorities can be attributed to fear on the part of the assailants. That is, the assaulters fear that, during and after apprehension, they will be physically mistreated by the arresting officer(s). Sometimes this fear may be justified, in which case administrators have to address the employees responsible for such intimidation and abuse. Much more often, however, fear of mistreatment upon arrest is misplaced. Accordingly, police agencies might gain from focusing research and development resources on the question of how arresting officers can ease suspects' fear during apprehension (Griffin 1990; compare Muir 1977).

The Justice Department's National Institute of Justice and Bureau of Justice Assistance have supported valuable research and training concerning problems of *officer* fear (e.g., International Association

One way that cultural awareness training may help avert abuse of force is by focusing attention on whether race, ethnicity or culture is a contributing factor in *preliminary* decisions made by officers in early "phases" of a potentially violent encounter. Such officer decisions may set in motion a sequence of escalating actions and reactions (Scharf and Binder 1983).

Another contribution that cultural awareness training may make to the skill with which police handle street confrontations is sharpening officers' ability to distinguish harmless verbal sparring from what the courts in free speech cases have termed "fighting words." Fighting words, as that term has been used in First Amendment rulings, essentially are words that, for most reasonable people, would be an almost irresistible provocation to physical conflict. The term, as defined by the U.S. Supreme Court decades ago, also included words that "by their very utterance inflict injury" (*Chaplinsky v. New Hampshire*, 315 U.S. 568 [1942]), presumably psychological injury or injury to reputation (Walker 1994: 70-72). The fighting words doctrine over time has been limited as an exception to the First Amendment's protection of offensive speech (Walker 1994: 72).

What police need to remember is that, regardless of the legal standing of the fighting words doctrine, the words that actually "tend to incite an immediate breach of the peace" (*Chaplinsky v. New Hampshire*, 315 U.S. 568 [1942]) differ in different cultures. For instance, as Kochman (1981) and others have discussed, in many black communities it is common for people to verbally spar without any reasonable likelihood of a physical fight resulting. Such playful combat ("woofing") or a slightly more serious verbal encounter ("signifying") *could* lead to a physical fight, but typically does not. Weaver (1992: 4-5) notes a similar Mexican-American tradition with death threats.[69] However, the same words used in

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of Chiefs of Police 1990a; see also Snell (1992a). Policing might also benefit from a parallel examination of the tactical benefits of reducing fear on the part of arrestees and other actual or potential adversaries of the police.

[69] Does Weaver (1992: 5) perpetuate an overgeneralization or offer practical assistance in the following passage?

a different cultural group may have a far greater chance of producing a steady escalation of emotions and actions until a physical fight results. The same may be said of *sub*cultural groups within communities of color. A stark contemporary example is the urban street gangs which empty Uzis at one another because of the slightest, sometimes unintended affront by one of the flock.

Like the misreading of harmless verbal sparring in some black communities, police may also misread the meaning of certain other culturally-connected behaviors or may miscalculate the ways that certain standard police techniques might be interpreted across different cultures. For instance, as Philadelphia Police Commissioner Richard Neal observed, in some Hispanic and Asian cultures, it is a sign of *respect* for a youth to avert his or her eyes when conversing with an elder or a person in a position of authority (*New York Times* 1992n; see also United Way 1992). Weaver (1992: 3-4) reports a similar custom among Nigerians. An officer unaware of this may read the lack of eye contact not as politeness and deference to authority but as rudeness, deception, or guilt in the face of the officer's inquiries or accusations.

The meaning of eye contact in the dominant American culture is reflected clearly in a popular booklet titled *Life's Little Instruction Book*. Its "instruction 7" reads simply: "Look people in the eye" (H. Brown 1991). An illustration with even clearer *tactical* relevance is that, in certain Southeast Asian cultures, for a person to be ordered by police to kneel on the ground and clasp his hands

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"Each culture presents arguments differently. For example, Anglo-Americans tend to assume that there is a short distance between an emotional, verbal expression of disagreement and a full-blown conflict. African-Americans think otherwise. For black Americans, stating a position with feeling shows sincerity. However, white Americans might interpret this as an indication of uncontrollable anger or instability, and even, worse, an impending confrontation. For most blacks, threatening movements, not angry words, indicate the start of a fight. In fact, some would argue that fights don't begin when people are talking or arguing, but rather, when they stop talking."

behind his head would be taken as a *prelude to assassination*. An American police officer unaware of this could suddenly find himself or herself in a life-and-death struggle with a suspect whom the officer matter-of-factly instructed to assume this position to be handcuffed.[70]

At the same time, detailed familiarity with subcultural norms will help officers more quickly identify potential conflagrations. Urban gang ritual violence is one obvious illustration. A sophisticated understanding will help street officers more perceptively delineate harmless, if annoying, manifestations of normal adolescent development from impending bloodshed that calls for decisive, preventive interventions.

Obviously, there are no off-the-shelf, surefire formulas that police can use to predict when a verbal confrontation is likely to escalate to physical violence; whether a suspect's behaviors are intended to convey respect or disrespect[71] for the officer's authority; or how discretion needs to accommodate a suspect's idiosyncratic fears in deciding what arrest and custodial techniques to employ. But the hope is that, through high-quality, tactically-oriented cultural awareness training, police might improve their chances of making the proper judgments during encounters with people of different cultural traditions.

The more familiar officers are with persons of different races and ethnicities, the more likely they also are to pick up skills of observation and communication that will help them describe with

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[70] Many other examples could be developed collaboratively by police and representatives of different cultural groups of how certain police standard operating procedures may unwittingly impede police work because they show disrespect for cultural or subcultural norms. For example, although integrity considerations may prove dispositive, Stewart and Fisher-Stewart 1990: 8, call attention to the difficulty that Washington, D.C. officers had establishing rapport with certain Asian groups when they complied with Department rules forbidding the exchange of gifts with citizens.

[71] We are reminded of a scene in a Mae West film, in which she is on the witness stand in a courtroom being characteristically sarcastic. The judge stops the proceedings, turns to her and asks sternly, "Young lady, are you trying to show disrespect for this court?" "No, your honor," she replies, "I was trying to *conceal* it."

some precision wanted persons whose races or ethnicities differ from the officers'. Goldstein (1991) and others have noted the pervasive problem of white police employees (officers, "911" call takers, and dispatchers) accepting and disseminating overly general descriptions of minorities who are wanted by the police: "Be on the look out for a black male, about six feet tall, between the ages of 25 and 40, wearing a red jacket and high-top sneakers. Suspected of armed robbery and pistol whipping the victim" (see also Nelson 1995e).

In many cities, such a description, in the absence of details (if available) about the suspect's complexion, facial features, obvious scars, hair style and length, style of walking, and other distinctions that two African Americans—police or nonpolice—would use to describe another black person, could fit a fair number of the men police would see when cruising through a black neighborhood.

Use of such vague descriptions can result in field personnel making unwarranted stops and needlessly engendering resentment among those stopped and questioned (*New York Times* 1992v; Blackwell 1992: 20; Wisby 1995)[72] Sometimes, the consequence may be more dire: an injury or death arising out of a mistaken-identity confrontation (Geller and Scott 1992). Goldstein (1991) suggests preparing training films and other materials and exercises to help police learn to describe with greater precision suspects of various races and ethnicities. Acumen in furnishing such descriptions is one of the many dimensions on which we might draw a line between merely passable and highly skilled police work such as

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[72] Compounding the problem of sloppy identifications of minority-race suspects may be differential patterns among citizens of different races and ethnicities of summoning the police for different types of problems. Skogan, et al. (1994: 5/60) report that in at least some Chicago neighborhoods, "blacks were significantly more likely than others to contact the police to report a suspicious person, noise or event." If we can assume that the suspects reported by black callers typically are also African Americans, then police face the dilemma of disproportionately being directed by black communities to black suspects in precisely the kind of low-level crime situations that many believe are unduly likely to give rise to police-civilian friction.

we have represented in Table 1.

One of the largely unexplored potential resources for helping police develop a comprehensive approach to fostering respect for cultural diversity is the American military. Although this may seem an ironic suggestion in light of the thrust toward policing strategies and styles that are less militaristic (e.g., community-oriented policing), many astute observers have noted that the military is one public institution that has made exemplary strides in combating prejudice and discrimination. Pulitzer Prize winning author David Shipler (1992), in an Op-Ed piece in the *New York Times*, wrote that the military uses four basic approaches to preventing and remediating racism within its ranks:

■ *"Command Commitment."* Annual performance appraisals "include a judgment of the officer's or noncom's support for equal opportunity," and personnel have "gradually come to understand that a record of racial slurs and discrimination can derail a career."

■ *"Training."* The Defense Equal Opportunity Management Institute (DEOMI),[73] located at Patrick Air Force Base in Cocoa Beach, Florida, puts personnel from all branches of the armed forces through intensive multi-week, professionally facilitated encounter groups and workshops to prepare them to serve as Equal Opportunity Advisors in their respective units. In addition, every military recruit gets at least one hour of training on "race relations." This is a reduction from the training time devoted to this subject several years ago but, as Shipler observes, it is still more than many police officers get.

Although we are not sure to what extent DEOMI has already been tapped for training police trainers or police equal opportunity specialists, we know of at least one police executive, Charlotte Police Chief Dennis Nowicki, who in the early 1980s (when he was a senior official in the Chicago Police Department) sent several sergeants to DEOMI. Their mission was to pick up pointers for designing the Chicago Police Department's cultural awareness training.

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[73] We also discuss DEOMI briefly in this chapter in summarizing recommendations concerning recruit screening.

■ *"Complaints and Monitoring."* Equal Opportunity Advisors, after training at DEOMI, both serve as passive recipients of complaints about racial and gender bias and also proactively visit units throughout the armed services and inquire about the quality of race and gender relations in the work group. Shipler reports: "Surveys are done and informal discussions are held to take the temperature of racial tensions. This is practically unknown in police departments."

■ *"Promotions and Assignments."* According to Shipler, "Although test scores tend to steer blacks toward some specialties like food service and supply, military promotion boards are under orders to strive for representative numbers of people from minority groups and women. The result has been uneven, but it has often meant that whites are supervised by blacks, which breaks down stereotypes" (1992: A15).

In the end, it may be, as Locke suggests in this volume, that one of the most productive, practical approaches to reducing the inappropriate influence of race in police use-of-force decisions (and the appearance of this problem) is to pursue essentially race-neutral methods for reducing police-civilian violence. If needless bloodshed can be averted across the spectrum of police encounters, problems of racism and perceptions of racism should also be reduced, since in many jurisdictions people of color represent a disproportionate segment of those with whom the police become engaged in potentially violent situations. One such approach to stemming police-civilian violence, adverted to earlier, is *conflict management* training for officers. Recommendations for such training are summarized in more detail later in this essay in connection with other training issues. Another approach is attempting to prevent unduly aggressive people from being hired as police officers, to which we turn next.

III. REDUCING THE PREVALENCE OF ABUSE OF FORCE

A. Screening In and Screening Out

In Chapter 7 Grant and Grant review studies of efforts to address the abuse-of-force problem by screening out high-risk officer candidates at

intake, relying on measures such as personality inventories or clinical ratings. The results of such studies prove less than encouraging. While we think a dramatic change in practice probably would not be warranted based on the available evidence, most of the studies to date would support abandonment (at least for purposes of predicting *force abusers*[74]) of a strategy that is in wide use. In a recent national survey, 71 percent of the responding police psychologists reported that one of their core functions is conducting preemployment screening of candidates (Scrivner 1994a: 8; Scrivner 1994b). This does not mean that better *screening-out* psychological tools cannot be devised, but that current learning does not support great optimism on this front. As Scrivner concludes,

"Although significant strides have been made, psychologists are generally respectful of how the complexity of human behavior, and all its contingencies, limits the accuracy of scientific prediction.[75] This caution was reflected in this

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[74] Scrivner (1994a: 16) observes that "preemployment screening is designed to prevent the occurrence of several kinds of problem police behavior, only one of which is the use of excessive force."

[75] Scrivner (1994a: 16) sees John Monahan's research as possibly laying a foundation for better predictions of violence in various contexts. She cautions against uncritical acceptance of the conventional wisdom that early studies by Monahan (1981a) conclusively demonstrate that "mental health professionals are unable to predict dangerous behavior" (*ibid.*: 28). Scrivner notes Monahan's comment on "how quickly and uncritically his findings were accepted (Monahan 1988)" (*ibid.*).

Monahan had concluded that *short-term* predictions by mental health professionals who are faced with agitated patients have a good chance of being accurate. But he doubted the efficacy of longer-term predictions. More recently, however, Monahan (1994) reported that two factors have softened his skepticism.

First, data from mental health studies in New York City and Israel revealed that "current psychotic thinking"—identified through responses to several questions—is a relatively good predictor of future behavioral problems. At least 50 percent of the adult male interviewees found currently to be thinking psychotically either fought physically or threatened to commit

study by the fact that psychologists were able to describe profiles from clinical data[76] but were less conclusive on how well preemployment screening data successfully predicted violence on the job. Although followup data are collected by most of the psychologists, for the most part the results remain inconclusive with respect to the use of excessive force. For all of these reasons, psychologists' efforts have been directed to broad standards of police effectiveness rather than to a use-of-force crite-

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serious violence within six months of the prediction that they would do so.

The second factor influencing Monahan's reassessment is that, in his early work, he employed a high threshold of accuracy for predictions of dangerousness. Justice, he argued, demanded success rates of 90 percent or better before a person could be deprived of liberty for even a brief period. But then the Supreme Court ruled that an accuracy rate of 30 percent in predicting future violence was sufficient for *executing* people. In that light, Monahan reasoned that violence predictions with accuracy rates of 50 percent or better could justify such lesser infringements as involuntary hospital confinement for 72 hours for a mental competency evaluation (*ibid.*).

[76] Scrivner (1994a: iii) reports that

"Five different profiles of officers with excessive-force problems emerged:
- Officers with personality disorders such as lack of empathy for others, and antisocial, narcissistic, and abusive tendencies.
- Officers with previous job-related experiences, such as involvement in justifiable police shootings.
- Officers who experienced early career stage problems having to do with their impressionability, impulsiveness, low tolerance for frustration, and general need for strong supervision.
- Officers who had a dominant, heavy-handed patrol style that is particularly sensitive to challenge and provocation.
- Officers who had personal problems such as separation, divorce, or perceived loss of status that caused extreme anxiety and destabilized job functioning" (also reported in Scrivner 1994b: 2-4).

rion" (1994a: 17; see also Scrivner 1994b).

Among the innovations in preemployment psychological screening that may prove more effective than current paper-and-pencil tests and psychological interviews are "automated assessment systems, interactive video testing, assessment centers, job simulations, and role playing exercises" (Scrivner 1994a: 18; Scrivner 1994b; see also Hogue, et al. 1994; Booth 1989; Kolpack 1991). Such methods may strengthen screeners' ability to consider a candidate's capabilities on dimensions such as the following:

"■ How police candidates make decisions.
- How they process information under stressful conditions.
- How they solve problems consistent with community policing.
- How they interact with people.
- How they control situations" (Scrivner 1994a: 18; Scrivner 1994b: 1; see also Pugh 1985a; Baltzley 1991).

Of potential value in this regard might be group exercises in which police job applicants, under the watchful eyes of people with police and psychological expertise, role play in scenarios designed to surface hostilities or prejudices that might not normally be apparent using other assessment methods. "Situational tests" of this sort have been deployed for a number of years (Booth 1989; Chenoweth 1961; England and Miller 1989; Hogue, et al. 1994; Johnson 1983; Knowles and Peterson 1973; Pugh 1985a). Perhaps reasonably efficient and affordable screening techniques might be suggested by the group training conducted at the military's Defense Equal Opportunity Management Institute, discussed earlier in this chapter.

But rating systems for behavior during such exercises will still need to be well conceived and validated. Scrivner (1994a: 18) cautions:

"Before new instrumentation can be used [to predict policing capabilities], there must be support for the extensive research needed to develop a job-related data base to show how well new assess-

ment techniques can predict perfor-
mance. Moreover, continued evaluation
will be required so that a longitudinal
validation of the testing process can take
place."

Scrivner's findings and those of Grant and
Grant in this volume do not lend much support to
recent, high-profile recommendations for more of
the traditional preemployment psychological
screening. Such recommendations have been
made by the Christopher Commission (focused on
the Los Angeles City police) and the Kolts Com-
mission (focused on the Los Angeles County
sheriff's department), among other blue-ribbon
panels. Says Scrivner (1994a: 20-21):

> "Prediction was strongly emphasized by
> the Christopher Commission and the
> Kolts Report in their focus on psycho-
> logical testing.... However, those rec-
> ommendations make the assumption that
> psychologists will be given the resources
> to conduct the rigorous research that is
> necessary to strengthen predictive accu-
> racy of psychological testing beyond its
> current rudimentary level. Since the
> commitment of time and money for
> important test validation research has not
> materialized in the past, it may be unre-
> alistic to assume that departments will
> now be able to devote scarce resources
> to more extensive validation efforts.
> Consequently, police policymakers could
> be faced with the choice of either reli-
> ably *predicting* use of excessive force
> for a *limited* number of officers or *man-
> aging* use of excessive force for *all*
> officers. The more balanced approach
> encourages attending to the front end of
> the system (selection) while building in
> safeguards   throughout   (monitoring,
> training, supervision)" (emphasis added).

Some of the requirements of the Americans
with Disabilities Act, not yet fully clarified by the
federal Equal Employment Opportunity Commis-
sion, may give impetus to innovations in preem-
ployment screening techniques, particularly since
it appears that such widely-used written screening
tools as the MMPI (Minnesota Multiphasic Per-
sonality Inventory) will no longer be usable to

screen candidates before they are offered police
employment (Scrivner 1994a: 17; Scrivner
1994b).

But all the news is not pessimistic concerning
the utility of currently available screening tools.
There seems to be more opportunity than is now
being tapped for police departments to identify
future problem officers not by exposing them to
a battery of psychological tests but by conducting
competent background investigations of the sort
well within the capability of detective units. We
have been surprised over the years to hear from
police practitioners in many jurisdictions how
little effort and resources are put into background
checks to explore whether the job applicants have
a history of violent behavior either as civilians or
as police officers or security guards employed in
other jurisdictions. Considering the career finan-
cial investment that a local government incurs in
hiring a single officer, not to mention the huge
damage awards that can attend civil liability for
abuse of force, trying to cut costs by skimping on
background investigations is pennies wise and
pounds foolish.[77]

Another avenue deserving further exploration
as a prevention against so-called "gypsy cops"—
officers who wear out their welcome in depart-
ments and get hired by police agencies in other
jurisdictions—is a national certification and
decertification system. Some experience with
decertification of officers (removing their license
to practice police work) has accumulated at the
state level (see Goldman and Puro 1987).

The research findings questioning the predic-
tive value of psychological *screening-out* methods
do not, moreover, impugn the value of non-force-
related *screening-in* approaches. The latter center
on personal attributes that are demonstrably
related to the demands of present-day police
assignments (for desirable attributes of problem-
solving recruits, see Goldstein 1990).

There is also promise in continued monitor-
ing of recruit performance, especially during the
probationary period in police academy simulations

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[77] A typical way in which background checks are
hampered is by preventing an investigator from travel-
ing to the home town of the job applicant to conduct
the background check. It may be very difficult to
learn enough about the applicant through telephone and
mail inquiries.

and in the field.[78] One recommendation that bears on performance monitoring is to include civilians in the process. Another is to widen the scope of what is studied to encompass socialization experiences of the recruit, including peer influence and the influence of systematically selected training officers. Again, the suggestion is made that self-study procedures involving recruits as monitors of their own socialization could be used in assessment centers or other monitoring arrangements.

Any screening-*in* approach to quality recruiting must be grounded in at least two strategic elements: (1) a sound process for selection that key stakeholders find credible; and (2) a clear articulation of the competencies and character that the employer has determined are necessary to do the job well.

In grappling with questions of individual and unit character, departments would do well to consider Delattre's argument (1994: 227) that police recruits can and should be *better* than the community from which they are drawn:

"Fatalism insists that police departments are no more than microcosms of society itself. Since the general public includes a great range of excellence, mediocrity, and depravity, every police department must be expected to include the same characteristics. In the broad society are to be found brutality, incompetence, excessive consumption of alcohol and drugs, financial corruption and other forms of lawbreaking, and racism, sexism, and other forms of bigotry. Therefore, the argument runs, a roughly proportionate incidence of such attitudes, ineptitude, and misconduct will inevitably find its way into police departments. The brutal beating of King reflects this 'fact.' * * *

The most obvious flaw in the microcosm argument is that most people become members of society, citizens or subjects, simply by being born. * * *

[D]eprivation of citizenship as punishment for a crime [has been ruled by the Supreme Court to be] cruel and unusual punishment.... In a police department, however, no one has a right to membership by virtue of birth, and no one has a right to remain a police officer irrespective of criminal misconduct.

A police department *is* selective—the more selective, the better."[79]

B. Training Approaches

1. Desirable Attributes of Training

Chapter 7 views training as a stage of *assessment* (and vice versa). In Chapter 8, James Fyfe deals with training as a vehicle for inculcating habits and attitudes that reduce the likelihood of excessive force being used by trainees and by those they influence. Recommendations in Chapter 8 focus on desirable attributes of training. Several principles emerge as paramount from that chapter and other work in the field:

1. Training must be realistic, non-artificial and truthful.[80]

2. Training must be tailored to the problems officers will encounter in their particular work environments. These problems pertain to

- the community which is being policed;

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[79] See also Carlson (1994b), reporting on work by the Josephson Institute of Ethics and the Southwestern Law Enforcement Institute's Center for Law Enforcement Ethics. Another institution that has prepared many helpful materials on ethics in policing is the John Jay College of Criminal Justice in New York City.

[80] Most training programs that use live "opponents" in role playing sessions have police personnel assume the roles of the offenders and bystanders. The Tampa police have found that enlisting local actors and other civilian volunteers to play the bystander and suspect roles in police tactical training adds an additional element of realism, without, apparently, creating offsetting liabilities or other problems (Korzeniowski 1990). Geiger, et al. (1990) describe the beliefs of FBI personnel about the value of using civilians to assist with certain types of training.

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[78] Too often, we are told by personnel experts in police departments, the screening out that is done during probationary periods is aimed more at eliminating cowards than at dropping brutes.

■ the staffing of the agency and its effects on officer deployment and workload;

■ the reputation of the department for professionalism[81] and for sensitivity to community concerns, as well as the opportunities that reputation creates or forecloses for minimizing uses of physical force by police;[82]

■ the sophistication and accessibility of equipment that officers might use to restrain their use of force; and

■ the climate of the region in which the jurisdiction is located, which has implications for choice of tactics and equipment insofar as their effectiveness may depend partly on temperature, humidity, and other environmental factors.[83]

3. Training must guard against unintended

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[81] We do not use "professionalism" in the sense that Kelling and Kliesmet (in this volume) use the term to refer to a stage of police evolution. Here, the term is used to reflect high standards of integrity and elements of quality policing.

[82] The Detroit Police Department, in the view of Coleman Young when he ran many years ago for his first term as mayor, was sufficiently abusive in dealing with civilians that a standard police device—the common baton or nightstick—was removed from the police tool kit. This left officers with virtually nothing to resort to, when they needed to defend themselves and control uncooperative people, other than their wit and their handguns. The fatal Malice Green beating, discussed earlier, proved they could also deploy their flashlights as weapons.

Elsewhere in this chapter, we provide additional discussion of the impact of an agency's *general reputation* on public acceptance of *particular* police tactical options. See, for instance, the earlier section highlighting the chapter on public opinion and our later discussion of less-than-lethal weapons.

[83] For instance, a violence-reducing weapon such as oleoresin capsicum (pepper spray), to work properly, must be sprayed at a suspect's eyes, nose, and mouth. It may be ineffective during the winter in a ski-resort town, where many people could be expected to wear wool face masks (Granfield 1993).

messages that reinforce paranoia[84] and other subcultural themes; and

4. Training must be continuous.

Each of these recommendations, explained in more detail by Fyfe in this volume, implies research studies that enhance the effectiveness of training and monitor its impact.

2. Research Recommendations

The need for such studies is particularly urgent, given that most conventional training research—which largely gauges academic success or failure, or the trainee's feelings about training—does not tell us about the relevance of training to the prevention of violence. Five types of studies which could be done and would be of practical value include:

1. Reviews of incidents in which force is used to identify lessons about successful and unsuccessful tactics taught in training. Such lessons could be learned about key decisions that lead to or avert violence.

2. Use of focus groups, observation, and other techniques to compare how identical training content is conveyed using different modalities. Among the modalities worth assessing are live role-play skits; virtual reality simulations; lectures; discussion; self-paced individualized learning as opposed to group sessions; task-oriented training as distinguished from general preparatory training; field-based rather than academy-based training; and so forth.

3. Measures of officers' comprehension and retention of training content over time. This

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[84] There is a fair amount of misinformation amongst officers concerning the hazards of police work. To be sure, different realities in different assignments and different jurisdictions necessitate particularized information. But many officers have exaggerated the dangers of particular types of encounters (e.g., domestic disturbances, non-felony traffic stops and even some types of knife threats) and the prevalence of assaults on officers (see generally, Geller and Scott 1992).

line of research could encompass the extent to which training content can be applied to actual situations (critical incidents). It could also study the influences (peer pressure, supervision, etc.) that undermine or bolster the information and skills imparted during training.

4. Measures of attitudes and changes in attitude that are relevant to the deployment of violence (see also Lester's essay in this volume).

5. Tracking of the performance of trainees who have been variously influenced by training or have been exposed to systematic variations in training content. Such studies can include longitudinal research tracing the impact of "refresher" training or changes in training content instituted at known points in time.

Fyfe (in this volume) also recommends that, in evaluating the effectiveness of violence-reduction training, it is crucial to focus more on what officers subsequently do in the field than on how their potentially-violent encounters turn out. "To do otherwise," Fyfe argues,

"is to overlook inappropriate conduct until it results in disaster and to discourage officers whose best and most appropriate efforts were unable to prevent violence because of decisions made by their adversaries."

Chapter 8 concludes that the experience of officers can be used and systematized in designing training programs. It follows that experienced officers can be involved in training research, and that such involvement can enhance the relevance of such research to police work.

3. Specific Types of Training: Conflict Management and Intervention Training

a. Conflict Management Training

Conflict management training essentially helps officers enhance their oral communication skills and use their mouths and minds as the

primary tools for controlling potentially violent people.[85] Naturally, nonviolent tactics will not always work, and police must be competently trained in how and when the panoply of physical coercive techniques should be employed. We make no effort here to summarize recommendations in the literature concerning unarmed physical control tactics. There is a vast literature on the topic that is reasonably well integrated into standard police training academy curricula (for a summary of some of the highlights of this literature, see Geller and Scott 1992).

We noted earlier that, to ease police-community tensions, particularly between majority-race officers and minority-race residents, agencies may wish to provide officers with sophisticated conflict management instruction (it is a central feature of New Orleans Police reform—Marcus 1995). Toch (this volume; 1969; Toch and Grant 1991) calls attention to the problem that some police officers engage repetitively in violent encounters with suspects because they are poor at communicating through nonphysical means. These officers, knowingly or unconsciously, escalate adversarial situations to the level at which they are proficient in "communicating."

One of the popular training programs that attempts to strengthen officers' proficiency in staying calm under potentially stressful circumstances and in generating voluntary compliance from very difficult people is "verbal judo" (*Crime Control Digest* 1992; see also Jamieson, et al. 1990: 24; Krier 1990; Thompson 1983; Verbal Judo Institute, no date; Reyes 1992). Although the "judo" terminology may appeal excessively to officers' combative tendencies, the messages delivered in this training are consistent with the literal translation of the word "judo" as "the gentle way" (Grossman 1994).

One promising conflict management tactic, noted earlier in this essay, entails recognizing and, in appropriate cases (Muir 1977), *reducing* the fear that officers induce in suspects. A related point is that citizens need convincing reassurance

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[85] Much of the material that follows on conflict management training is from Geller and Scott (1992: 308-33). Readers interested in more details can find in that source extended discussion of these topics and references to numerous publications addressing conflict management training.

that they will not be physically retaliated against—especially not by the police (Nossiter 1994)—if they officially report officers who seem to need refresher training in conflict management techniques.

Tactical conflict management or "violence reduction" exercises have been developed in New York City, Chicago, Dade County (Florida), Tampa, and many other jurisdictions.[86] These teach officers through role playing how to control a potentially violent encounter and how to de-escalate rather than exacerbate tensions between themselves and their "clientele."

These tactical exercises allow officers safely to experiment with a variety of techniques to reduce the risk of violence in dangerous encounters (see Fyfe 1978, 1989a; Margarita 1980a: 71, 1980b: 229; Geller 1986). Not all officers will attain the same level of proficiency in violence reduction, just as officers' talents differ in general. But through opportunities to safely explore their strengths and weaknesses, officers will gain a "working knowledge of their skill limitations" (Schofield 1990: 77) and will learn to overcome some deficiencies and to compensate for those they cannot change.

A common theme in many of the violence-reduction and officer survival training programs is to help officers devise safe ways of *approaching* the scenes of possible confrontations, making maximum possible use of cover, concealment, communication skills, and other tactics.[87] Fyfe

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[86] See discussions of some of these initiatives in Korzeniowski (1990) (describing the Tampa Police Training Academy's "Survival City"); Katz (1991) (discussing the Los Angeles County Sheriff's Department's "Laser Village"); Geller and Karales (1981a) (describing "The Apartment," constructed at the NYPD's outdoor firing range in the late 1970s); Pledger (1988: 6-7) and Slahor (1992) (reporting the expansion of the FBI's famed "Hogan's Alley" to a full-blown "Hoganville"); (Nielsen 1990) (describing the Provo, Utah, Police Department's outdoor range replication of actual street circumstances); and Schrader (1988) (discussing initiatives in the Anaheim, California, Police Department).

[87] A survival course compiled by the U.S. Border Patrol with assistance from Police Executive Research Forum staff and other training experts is premised on strengthening officer skills in utilizing "the five

(1989a) has hypothesized that reductions in violence between the police and civilians will come primarily from improvements in officers' *approaches to* (i.e., *entry* into) potentially violent encounters, rather than from any changes in the officers' actions *during* the encounter (see also Hayden 1981; Scharf and Binder 1983; Bayley and Garofalo 1989: 20). This suggestion is in line with observations made more than two decades earlier by Bristow (1963), after examining officer injuries during vehicle stops.

By focusing on officer decisions made prior to arrival in the immediate presence of the subject, trainers and analysts have begun over recent years helpfully to debunk the myth of the "split-second decision." This myth or, as Fyfe has called it, the "split-second syndrome," holds that the only key decisions within the control of most police officers in most potentially violent confrontations will be those that can be made in an instant. Such instantaneous choices include whether to pull the trigger or make some other rapid last-ditch maneuver.

While much of the discussion of split-second decisions has centered on averting needless uses of *deadly* force by police, many of the principles that have emerged have direct application to the control of *non*lethal uses of force as well. The split-second syndrome is associated with various fallacious assumptions, as Fyfe (1989c: 474-75) observes:

> "The split-second syndrome...assumes that, since no two police problems are alike, there are no principles that may be applied to the diagnosis of specific situations. Thus, no more can be asked of officers than that they respond as quickly as possible to problems, devising the best solutions they can on the spur of the moment. * * * Second, because of [the] stresses and time constraints [of most police encounters], a high percent-

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C's—cover, concealment, control, containment, communications" (P. Smith 1990: 111). Albrecht (1989) has written insightfully about the "contact and cover" method of approaching a potentially dangerous person or scene, in which one officer makes initial contact while the second officer provides cover to protect his or her partner (see also Albrecht and Morrison 1992).

age of inappropriate decisions should be expected, but any subsequent criticism of officers' decisions...is an unwarranted attempt to be wise after the event. * * * Finally,...assessments of the justifiability of police conduct are most appropriately made on the exclusive basis of the perceived exigencies of the moment when a decision had to be taken. So long as a citizen has, intentionally or otherwise, provoked the police at that instant, he, rather than the police, should be viewed as the cause of any resulting injuries or damage, no matter how excessive the police reaction and no matter how directly police decisions molded the situation that caused those injuries or damages."

What the concept of the split-second decision overlooks is the string of decisions that an officer can and typically does make—albeit sometimes unconsciously—minutes or much longer in advance of any decision to use deadly (or nondeadly) force. To say that decisions may be made "unconsciously" reflects at least two phenomena. First, officers may genuinely be unaware of choices they are making instinctively, based on their training, or for other reasons. Second, officers may not be accustomed to *conceptualizing* a use-of-force incident as beginning at the moment when it was only a *potentially* violent encounter.

Among the most important work done in debunking the myth of the split-second decision is that by Scharf and Binder (1983). They characterized five key decision phases in a potential or actual *deadly* force encounter: anticipation; entry and initial confrontation; dialogue and information exchange; final frame decision; and aftermath (see also Geller 1985a: 157-58). Geller and Scott (1992) supplemented that model with a phase involving nonlethal tactics—in between the dialogue/information exchange and final frame decision points. Much more work needs to be done by researchers and innovative police trainers to explore how abuse of *non*lethal force by police can be averted through examination of and experimentation with tactics in pre-confrontation stages of potentially violent police-civilian encounters.

Training that is not reinforced in the field by supervisors and peers is of little value. Reiss (1980) began to lay a groundwork for restructur-

ing police decision making in a wide array of potentially violent encounters so as to involve the supervisor as a key player. He recommended involving supervisors in critical decisions that would shape police responses, so that decisions to use serious force need not be made in "split seconds" (also see Binder and Scharf 1980: 116-19; Fyfe 1986). Parallel developments concerning the control of high-speed pursuits have been occurring in many departments, which have required that supervisors participate, via radio communication, in the decision whether to continue or cease an in-progress high-speed chase (see Alpert 1987a; Alpert and Anderson 1986; Fyfe 1989b; Alpert and Fridell 1992). Still another activity in which there may be potential for violence reduction through supervisory involvement is stake-outs. Some agencies have been criticized for allegedly lying in wait for armed offenders, allowing them to menace or even injure their crime victims, and then engaging the culprits in gunfights as they attempt to flee the scene (see, e.g., Freed 1989; Stolberg 1990; Connelly 1992).[88]

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[88] The LAPD's Special Investigations Section, "an elite surveillance squad that gathers evidence against dangerous criminals by watching them commit crimes and attempts to arrest them afterward" (Stolberg 1990: A1), has been a target of considerable criticism. A *Los Angeles Times* exposé reported that

> "teams of well-armed SIS detectives had, for years, tailed career criminals but often ignored opportunities to prevent armed robberies and burglaries by legitimately arresting suspects beforehand on lesser crimes or outstanding warrants. Instead, records showed, the officers routinely stood by until the suspects they were watching had committed violent crimes. Many suspects were shot when they returned to their getaway cars" (Freed 1989: B1).

Between 1967 and June 1990, the SIS reportedly killed more than 25 suspects and wounded another 24 (Stolberg 1990: A1; see also Meyer and Connelly 1992). Granting—perhaps with excessive charity—the benefit of the doubt concerning the motivations and competencies of the members of the SIS, the need to change outcomes by altering *strategies* illustrates the problem represented by cell 4C in our Table 1.

Planning confrontations with suspects in ways de-

Another critical area in which supervisory attention may help reduce police-civilian violence is in the handling of emotionally disturbed people. The NYPD took a progressive initiative in this regard in 1988. It adopted a policy that instructs officers to summon a supervisor and establish a flexible zone of safety around potentially violent, emotionally disturbed persons. Among the express purposes was to lower the risks of shootings and other inappropriate uses of force.

Whether dealing with highly volatile, emotionally disturbed persons or other potential adversaries, police officers must increasingly understand and harness the *positive aspects* of their fear. We mean, as noted earlier, the fear that they, as human beings—despite any training and machismo organizational culture—will inevitably feel in dangerous encounters. And officers must better learn to understand and control the *counterproductive aspects* of their own fear in tense situations.

Some of the most important insights on the problem of officer fear and the ways it can shape officer safety come from Washington State Patrol departmental psychologist Roger Solomon. Solomon (1990) suggests six critical stages to be understood by officers so that they can better control themselves and others with whom they must deal in potentially violent situations. The stages are:

1. Awareness of danger or trouble (which Solomon labels "Here comes trouble");

2. Vulnerability awareness (represented, as the author observes, in myriad human experiences by the nearly universal exclamation "Oh shit!");

3. Threat acknowledgment and shift of focus from personal risk to the conditions producing the threat (which Solomon captures in the phrase "I've got to do something");

4. Selecting a tactic or tactics for survival;

5. Making a mental commitment to the survival plan and summoning "survival resources" (which Solomon places under the heading "Here goes!"); and

6. Response (the attempted physical implementation of the survival plan).

As with the use-of-force decision phases discussed earlier, the "stages" delineated by Solomon may be compressed into seconds. Moreover, in many circumstances officers will not consciously progress in a linear way from one stage to the next. At any point from stage 3 (acknowledgment of and focus on the details of the threat) through 6 (attempted response), an officer's inability to accomplish the desired objective may "loop" him or her back to an earlier point in the effort to resolve the problem at hand.

Whether called conflict management training, violence-reduction training, or officer-survival training, substantial and growing evidence exists to recommend such administrative interventions to help officers handle potentially difficult people with a minimum of physical force. The anticipated payoff is reducing problems that impede effective policing, unjustly harm members of the public, and threaten police careers.

b. Intervention Training

Another, related training development in recent years aims to harness peers to help officers who are at risk of losing their self-control. The objective is that the officers at risk regain their composure and avoid using force inappropriately. Sometimes called "intervention training," this development, as noted earlier, has roots in work done over the past several decades by scholars such as Ervin Staub on "bystanderism." That scholarship explores whether, when, and why individuals, groups, or even entire nations who are "bystanders" to injustice will intervene to

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signed to maximize the opportunity for the police to find justification for killing them—and thus to short-circuit the adjudicatory role of the criminal justice system—is related to another, undoubtedly more pervasive practice. We have in mind police failing to avert preventable crimes in the hope of catching suspects in the act so that—rather than administering summary execution—they might get the evidence needed to file serious felony charges. Kelling (1991) has criticized the latter approach on the ground that it uses crime victims as "bait to feed the criminal justice system."

attempt to stop it (see, e.g., Staub 1989).[89]

The Rodney King beating during March 1991 provided a powerful stimulus for efforts to design and provide intervention training. Shortly after that infamous encounter, for instance, the Sacramento Police Department developed simulation training in which the King incident was replicated and officers were guided on how to intervene to stop the swinging batons and gratuitous kicks. On August 27, 1991, the Los Angeles Police Commission amended the Department manual to clarify that officers are required "to report and intercede if a colleague is involved in misconduct" (*Crime Control Digest* 1991: 9). But such mandates, to be effective, must be supported with the kind of "how to" training being developed by Sacramento and other agencies. This kind of training is what helps trainable, reasonably proficient officers (column B in Table 1) excel (column C). One hopes as well that it can help upgrade deficient work (column A) to proficient and beyond.

Another organization engaged in the design of intervention training is the Joliet, Illinois, Police Department. There, at the request of then-Chief Dennis Nowicki and with the continuing

support of Chief Joseph Beazley, a mostly first-line-officer committee was convened and undertook the challenge of designing training to help officers help their colleagues in potentially aggravating encounters. When this design task was viewed through the eyes of rank-and-file officers, it was conceived not as a top-down control program but as a "buddy system" in which officers would help one another avoid blowing their cool and maybe their careers. A planning challenge considered important was devising methods of *non*verbal communication between officers. The point was that, without calling to the suspect's (and potential future plaintiff's) attention the problem that an officer is on the verge of losing self-control, a colleague could remind the officer to repress his or her aggression.

Several reasons support intervention training: the minimization of harm to civilians and officers in potentially violent encounters; the protection of officers' careers and police departments' reputations; avoidance of civil liability; and long-established legal obligations for officers who witness colleagues' misdeeds to intervene and enforce agency rules and criminal laws prohibiting assault and battery.[90] "It is now well settled law," a police legal advisor wrote,

> "that a police officer who fails to intervene to prevent a constitutional violation may be held liable under 42 U.S.C. section 1983. The leading case followed by every circuit hearing this issue is *Byrd v. Brishke*, 466 F.2d 6 (7th Cir. 1972)" (Spector 1992).

Because the resurgence of administrative interest in intervention training was stimulated by the Rodney King, Malice Green, and other beatings, the facts of *Byrd v. Brishke* are noteworthy. Taken as accurate for purposes of the decision, the plaintiff's allegations were

> "that he was surrounded by approxi-

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[89] Staub has helped the California Commission on Police Officer Standards and Training to develop a training curriculum on police officer intervention to thwart abuse of force.

Schwartz (1973: 145-46) explores why 37 good citizens watched Kitty Genovese being murdered in a New York City neighborhood in the late 1960s without intervening, even to telephone the police for assistance. Very likely some of them were the same people, Schwartz observes, who "angrily call the network's switchboard if a football game is interrupted, or telegraph a message of protest to the FCC if Johnny Carson tells a slightly off-color joke" (*ibid.*: 146). Schwartz suggests that most people inside their apartments (where the observers were during the fatal attack) avoid engagement whenever possible with events on what are seen as hostile streets. They operationalize this avoidance, he explains, by defining street sounds and sights as outside their communications environment. Sometimes the comfort zone even excludes common areas of one's apartment building. As one possibly hard-bitten but practical New York City police officer told Schwartz during an interview some years ago, "If you're ever attacked in a hallway, don't yell 'Help,' yell 'Fire'" (*ibid*: 145).

[90] It may prove fruitful to explore whether techniques fashioned in private corporate settings under the rubric of "compliance programs" carry implications for strengthening police intervention training. Compliance programs are designed to "foster compliance with the law by the company's workers" (Herman 1994).

mately a dozen Chicago police officers and struck repeatedly. Because he could not identify the individual officers who struck him, the plaintiff's theory of liability was that even if the officers didn't participate in the beating, they should be held liable for 'negligently or intentionally failing to protect the plaintiff from others who did violate his rights by beating him in their presence'" (Spector 1992, citing the ruling at p. 10).

The court concurred. Later case law has clarified that

"an officer's mere presence at the scene of a constitutional violation will not be sufficient to prove liability. The officer must have knowledge of or deliberate indifference to the action that violates constitutional rights. *Masel v. Barrett*, 707 F. Supp. 4 (D.D.C. 1989); *Wilson v. City of Chicago*, 707 F. Supp. 379 (N.D. Ill. 1989). In an excessive force case, an officer will be held liable if he was present when the plaintiff was beaten or knew that such force was being used and failed to stop the officers from using such force. *Peterson v. Dept. of Navy*, 687 F. Supp. 713 (D.N.H. 1988). A plaintiff must also prove that the officer had a realistic opportunity to prevent the use of force" (Spector 1992).

A recent federal district court decision in Wisconsin underscores earlier case law on the topic. An arresting Milwaukee officer, after transporting the unruly arrestee to the local jail, saw but failed to prevent her partner from beating the prisoner in the jail elevator. She was held liable for ignoring her duty to stop other officers from punishing an individual in her presence (*Diehitz v. Arreola*, 834 F. Supp. 298, 1993; see case description in *National Bulletin on Police Misconduct* 1994a). State courts also have held officers liable for failing to intervene to stop physical abuse of a prisoner by fellow officers (e.g., *Commonwealth v. Adams*, 624 N.E. 2d 102 [Massachusetts, 1994], summarized in *National Bulletin on Police Misconduct* 1994b).

Not only is *civil* liability a possibility, but

"an officer may be arrested under 18 U.S.C. sections 241 and 242 for failure to prevent a constitutional violation, *United States v. McKenzie*, 798 F.2d 602 (5th Cir. 1985)" (Spector 1992). This was the basis for the federal prosecution of the LAPD sergeant who let his subordinates allegedly violate Rodney King's civil rights in the March 1991 beating (Reinhold 1992a). We will discuss police civil and criminal liability more generally later in this essay.

C. Psychological Support Services for Officers

Scrivner (1994a: 21) argues:

"While research findings describe what psychologists can offer to a police agency, departments do not appear to have used psychologists as a constant resource. Rather, they seem to use them on an 'as needed' basis and as protection against liability from charges of negligence. The range of organizational safeguards that can be applied by psychological services has thus not been fully exploited. Police administrators should rethink how they are using psychologists. Clearly, screening out potential violators, counseling problem officers, and evaluating them for fitness to perform the police function are critical activities. However, there is a strong need for ongoing prevention activities that lead to early identification of, and intervention in, police problems. It is here where psychologists can have a strong impact, but these activities are pursued with less diligence than the other ones" (see also Scrivner 1994b).

One of the fundamental ways in which psychologists and psychologically-trained social workers can help officers is in better understanding their own contributions to undesirable incident outcomes and their capacities to help alter these outcomes (Toch and Grant 1991 summarize one such effort). In her national survey of a sample of police psychologists, Scrivner (1994a: 19; 1994b) discovered that these clinicians placed higher importance on their involvement in training than on traditional psychological counseling as

methods to help officers reduce their problems with force. Further, psychologist-assisted training and counseling, along with supervisory monitoring of officer *behavior*, were seen as potentially better control mechanisms than was periodic psychological testing of incumbent officers, a practice that prompts opposition from many rank-and-file groups.

Police psychologists, if they have sufficient opportunity to get to know a given police force, may be able to help police departments collect "human resource information that is relevant to policy" (Scrivner 1994a: 21). By profiling officers who tend to become involved too often in using too much force, psychologists can help police administrators and others to better understand the complex interaction of personal and systemic factors—some of which are controllable—that contribute to abuse of force problems.

Mental health clinicians can also help departments devise and improve existing "early warning systems" that try to alert supervisors and peers to an officer's impending problems with use of force. In any event, basic counseling services of the sort provided by many agencies under "employee assistance programs" (Nowicki, et al. 1991) need to be available to individual officers and their families to address a range of job- and home-related problems that could manifest in inferior use-of-force decisions.

Creating the conditions that encourage both employees and their supervisors to use early warning systems and counseling can be difficult. A recent study of frequent-force users in the Chicago Police Department, for example, found 196 officers (out of 12,500) with 10 or more excessive force complaints. Of these 196, only 35 were monitored or serviced by the Department's "Behavioral Alert System" or its "Personnel Concerns Program" over a five-year study period (Nelson 1995f).

Among the many tragedies one hopes competent psychological intervention might reduce would be officer suicides—the self-infliction of abusive force. In a stunning development, the New York City Police Department in 1994 lost 12 members due to suicide. By contrast, *two* NYPD officers were feloniously killed in the line of duty over the same period (*New York Times* 1994; National Broadcasting Company 1994).

D. Technology to Help Police Reduce Violence By and Against Officers

Over the years, technologists and police have experimented with a wide array of less-than-lethal weapons. These include impact weapons, electrical devices, chemicals, and other tools (an extensive listing, including discussion of their advantages and disadvantages, is offered in Geller and Scott 1992).[91] We do not endeavor to summarize here the rapidly evolving body of knowledge that has accumulated about less-than-lethal weaponry. Rather we would call attention to one innovation that is fast gaining popularity among police (pepper spray); mention a few other items that are still on the drawing board; and note the pressing need for more research and development concerning the role technology can play in reducing police-civilian violence.

Pepper spray (oleoresin capsicum or OC) is a recent weapon *for police*. As noted earlier, however, it is not new for at least some government employees. For instance, postal carriers have used the substance for more than two decades to fend off hostile animals. Some sizable agencies (e.g., the Kansas City, Missouri, Police Department) now have more than three years experience of extensively using pepper spray. The early experiences have been very positive: effective and rapid control of resistant subjects; fewer lasting injuries to suspects; fewer injuries to police officers; and fewer complaints about police abuse of force (Granfield 1993; National Institute of Justice 1994a; Hunter 1994; see also American Civil Liberties Union 1993).

The principal questions surrounding OC spray do not seem at present to be *whether* police should incorporate the tool on their utility belts, but a plethora of subsidiary training and technical issues. Among them are the type of liquid carrier with which the pepper oil should be mixed; the kind of spray that works best (fog, stream, etc.); design of delivery systems that enable officers to apply the spray from a safe distance; and the like.

The conclusion is widespread among police

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[91] This section is based partly on information assimilated by Geller over the past several years through his membership on technology advisory panels to the U.S. Justice Department's National Institute of Justice.

practitioners that Rodney King probably could have been subdued quickly and without the serious injuries he incurred in March 1991 if only the LAPD officers had at the time been authorized to use pepper spray (see also Kappeler, et al. 1994b). As Klockars (1994: 5) put it, "A $5 canister on the belt of every LAPD officer would have easily saved taxpayers $50 million on the evening of March 3, 1991 alone."

It is possible as well that pepper spray might have proven useful in another, more recent, high-profile case: the U.S. Park Police fatal shooting on the White House sidewalk of a homeless man armed with a knife (Labaton 1994; Stone 1994; Castaneda 1994a, 1994b). The facts of that incident are not sufficiently known at this writing to offer more than the question whether OC might have altered the—for everyone[92]—tragic outcome.

As noted earlier, concerns arose during the early 1990s that pepper spray might be a causal factor in a number of in-custody deaths of prisoners who had been sprayed with OC during their arrest. But a close analysis of the available autopsy data as of early 1994 revealed that it was positional asphyxia—suffocation due to body position—rather than pepper spray that produced the loss of life (Granfield, et al. 1994; see also Connell 1994). Continuous monitoring and assessment of pepper spray are clearly required—as are preventive measures for positional asphyxia. The National Institute of Justice, which has administered the research and development process thus far, seems committed to sponsoring and conducting the necessary on-going evaluations (Travis 1994). These inquiries must not only help refine the technology for deploying pepper spray but also help guard against the temptation, especially in staffed-strapped departments, for officers to use the chemical precipitously or unnecessarily. Retrenchment-inspired temptations to short-cuts and other trespasses on the Constitution, of course, may apply to technologies other than chemical devices (Ross 1994: 6, 12-13).

The prospects for other technological innovations that may enhance the capacity of police to

work effectively and with less violence derive in part from efforts to invest the "peace dividend" in domestic security. There has developed, beginning in 1993, an unprecedented level of cooperation between military, intelligence community, Department of Energy, NASA and other technologists, on the one hand, and police administrators on the other hand (Lancaster 1994). This collaboration was largely brokered and maintained by the National Institute of Justice and various grantees (one of the most successful is Burkhalter Associates in the District of Columbia). As a result, cautious optimism is developing that, as one police weapons expert has noted, the same expertise that figured out how to put a man on the moon and bring him home safely can now divine how to put a criminal suspect on the ground and bring him to jail safely (Meyer 1993a, 1993b).[93]

One technology that nonviolently could help persuade police opponents to surrender without a fight is laser sights on police weapons. These place a harmless red dot of light on the target at which they are aimed. In cases where a culprit's daring results not from insanity, alcohol or drugs, but from poor judgment about his odds of besting the police in a confrontation, the red dot appearing over his heart can make a powerful appeal to rational reasoning. Such laser sights have been available for several years for use with rifles (Geller and Scott 1992). But recently the New York City Transit Police began field testing a new, miniature version of the laser sight that fits on a handgun (Associated Press 1995).

As with all technological aids, policy and training must guide the proper use of these handgun sights. In our view, it should still be improper, for example, for a police officer to place the laser dot on a suspect against whom deadly force is not justified because doing so means pointing the barrel of the weapon at the opponent. Moreover, the persistent problem of police weapons firing accidentally (Geller and Scott 1992) heightens the caution about pointing a weapon at a person whom officers are not prepared to slay.

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[92] Studies have discovered that officers involved in justified killings of adversaries had a great likelihood of retiring from their departments prematurely (see studies cited in Geller and Scott 1992: 5, 237, 239, 289, 294).

[93] Not everyone is sanguine about the implications of the new alliances. Ross (1994: 22 n. 17) reports on a transnational "private activist organization that monitors the growth of police coercive technology" and has warned against the perils of a growing "police-industrial complex" (see also Ross 1994: 12-13).

Among the other technologies that may hold promise for helping police handle challenging encounters with minimal violence are a variety of intelligence-gathering, communications and information management tools. Specifically, some of these tools may help officers better appraise potential danger as they approach a known location, vehicle, or suspect and better summon colleagues and secure other expert assistance in a timely fashion. Surveillance tools such as miniaturized microphones and video cameras—some so small they look like and can "walk" like a spider under a closed door—may also help in certain kinds of situations. Hostage/barricade situations are an obvious example.

The more police know ahead of time, the more likely they are to be able to anticipate and avert danger that otherwise could lead them to use serious force. Still, of course, there will be the necessity to use serious nonlethal and lethal force for the foreseeable future. But technology may help reduce the prevalence of incidents calling for such methods. One of the more intriguing communications breakthroughs is a device that allows the user to "aim" an amplified audio message specifically at a single individual standing in a crowd. No receiving equipment, other than the targeted person's ears, is needed. Thus, for example, police facing an unruly crowd could "narrowcast" specific instructions to different individuals, perhaps using confusion as a control tactic.[94]

Some high-tech breakthroughs—such as the automated fingerprint identification system (AFIS), DNA analysis of trace evidence, and voice printing—may obviate cruder methods to gather incriminating information, including overbearing interrogation techniques (Ross 1994: 12). Other methods, such as the videotaping of suspect interrogations, can constrain any tendencies investigators might have to excessive methods (Geller 1993).

Technological training aids also show prom-

ise. The realism of training is emphasized as a value (Fyfe, this volume). That realism may in some instances be achievable not through the physical construction of true-to-life training settings but through the use of virtual reality techniques. Allowing officers to engage in high-speed chases and to crash their vehicles so they can learn lessons about what works and does not work is both cheaper and safer in the virtual reality mode than in training using real cars, streets, and people posing as suspects, victims, and bystanders.

Virtual reality techniques, which in the mid-1990s have become increasingly familiar to the general public because of their use in various consumer video games, depend on a realistic depiction of events as they might appear in the real world. A lower-tech challenge with which the police industry could use some assistance stems from the problem that video cameras used by police or civilians to document incidents in progress often omit key information. An illustration is the widely broadcast video of U.S. Park Police officers fatally shooting a knife-wielding opponent on the sidewalk outside the White House on December 20, 1994. The viewing public and investigators were left to speculate about what happened before the video recording commenced and where the camera could not see nor the microphone hear (Labaton 1994; Stone 1994; Castaneda 1994a, 1994b).

Probably little can be done, other than by deploying wide-angle and telephoto lenses, to capture information beyond the camera's field of vision. And presumably nothing technological can be done to overcome the common problem that a video camera was not turned on at an earlier stage of events of interest.[95]

But there probably is more that technologists could do to help solve *audio* problems commonly found in field video recordings. Microphone and audio recorder limitations include the familiar problems of sounds so soft that they are not

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[94] Imagine the possibilities, with a barricaded religious cult, of being able to speak to a single member of the group as if the instructions were the voice of God. "Narrowcasting" is a term coined in a different context by communications and advertising maven Tony Schwartz (see, e.g., Schwartz 1973, 1983).

[95] In an NIJ-sponsored study of police videotaping of stationhouse interrogations, there was a wide divergence of opinion among police, prosecutors, defense lawyers and judges on the question of when in the interrogation process the videotaping should begin. The attitudes did not simply array along institutional lines (Geller 1993).

picked up and sounds masked by other loud sounds. Such problems can be addressed by more sensitive microphones and, among other ways, by high- and low-tech noise filters, including the simple ear pieces used by rock and rap concert attendees and airport ground crews to get through their activities with minimal hearing loss.

But audio deficiencies associated with video recordings of police-suspect encounters also include the less familiar problem that extremely loud, close-range, sudden sounds of short duration, such as a gunshot, overwhelm the capacity of all but the most sophisticated devices capable of recording extremely high "sound pressure levels." The result on the kind of audio-video recording equipment most police departments and consumers use is that a nearby gunshot or similar sound does not record, not even as an undecipherable loud distortion. The audio playback is simply silent at the time of a sound that may prove central to understanding why people involved in the incident behaved as they did.

The increasingly distinguished technology development and assessment program of the Justice Department's National Institute of Justice might do well to consider a line of inquiry on the cost-effectiveness of police-useable video cameras with audio components that can accommodate higher sound pressure levels. One attraction of such equipment would be that no harm would come from selling it in a mass consumer market. A market of that size would help manufacturers more easily recoup research and development costs while still keeping the selling price reasonable.

The panacea technological breakthrough that science fiction writers have imagined for many generations—a hand-held nonlethal device that instantly freezes a culprit in his or her tracks and allows police to safely approach and take the person into custody—seems still a distant dream as this book is written. Potentially more attainable than the "Phaser" of Star Trek fame is some sort of chemical that can be administered either to a single individual at close quarters or to a large group from a distance. The substance would induce very rapid sleep or lethargy and leave no lasting injury.

Overzealous use of such technologies, of course, could be among the next set of problems in excessive use of force (Ross 1994: 12-13). To try to anticipate and address such issues before

they produce costly experiences, the National Institute of Justice has recently convened an advisory panel on the public acceptability of various current and potential police technologies.[96]

It is essential, if the next generation of police officers is to have more effective, less harmful tools than this one does, that current police and community members demand that a serious investment be made in research and development. As heads of the National Institute of Justice have pointed out for many years, the nation's formal investment in police R&D is woefully inadequate to accomplish the desired results. The investment pales by comparison to the proportion of resources devoted to research and development by the military, the space program, and successful private sector manufacturers. Several initiatives taken during the Clinton administration to transfer technological expertise and resources from the military and other arenas to the nation's police technologists deserve widespread popular support and expansion.

E. Studying and Shaping Police Attitudes About Use of Force

While the nation should devote far more resources than it presently does to *technological* innovations that reduce police-civilian violence, we must never forget that policing is, and probably always will be, a *low-tech* enterprise—people dealing with people. It may sound silly, but public perceptions and the framers of public policy do not always seem to appreciate that police officers are unique, thinking individuals and not robots who can be programmed for unreflective behaviors. Because police deserve more respect in this regard, researchers and administrators must pay due attention to the attitudes that officers hold on a variety of issues that impact on the propriety of use-of-force decisions.

There are commonalities between research about *civilian* attitudes toward police use of force (Chapter 5) and the studies, discussed by Lester in Chapter 9, of *police officer* attitudes toward use of force. In fact, one can envision studies that compare civilian and officer attitudes using the same scales or other research tools. Such studies

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[96] Geller serves on this panel.

might be framed by the police and civilian participants in "citizens' police academies" and then administered to representative samples of the two populations.

A type of instrument that has proved particularly valuable for police research is a critical incident inventory, in which officers are asked how they would respond to a set of hypothetical situations. Citizens can also be presented with critical incidents and asked for their reactions. One reason this approach is helpful is because it partly bridges the gap between attitudes toward excessive force in the abstract and behavior on the street. In the case of both officers and citizens, it is also important to study how relevant attitudes develop over time, and what sorts of experiences enter into the formation and change of attitudes.

Another commonality in research is the question of whether respondents who favor aggressive tactics differ from other respondents. Whereas some correlates of attitudes toward force are specific to the public and to officers, others may tap more general attitudinal differences. An example of a specific correlate is the finding that officers who are relatively tolerant of excessive force see more danger in police work, are more oriented toward bread-and-butter issues (see Chapter 10), and are more inclined to socialize with colleagues. Whether, in a department robustly implementing community policing, officers' definitions of "partner" would be likely to expand to the point where residents of an officer's beat are considered professional collaborators and sometimes even personal friends will be interesting to explore.[97]

Several types of research questions have special applicability and importance. One is whether officers might be willing to report other officers who use excessive force, or whether they stand ready to take other action (such as might be taught in intervention training) that discourages such behavior.[98] A second, related question is whether the justifications for use of excessive force that are offered by perpetrators are accepted by other officers.

What kind of considerations would officers weigh in deciding whether abuse of force is a serious enough problem to justify violating rank-and-file norms of peer solidarity? Among other things, officers might consider whether they see a connection between colleagues' mistreatment of suspects and their own future safety in potentially violent encounters. The dangers to officers in subsequent incidents might grow if suspects, enraged or afraid due to stories they have heard about police brutality, become "cop fighters" and if bystanders, who could assist an officer in need (at least by calling 911 for back-up), decline to offer such help.

Another research area that might prove important is officer estimates of what other officers think about the abuse of force. These intra-group appraisals may be consequential since some estimates can discourage officers from expressing their concerns about uses of force in public. The phenomenon is that of pluralistic ignorance, which consists of a liberal majority laboring under the misapprehension that most people's views are hard-bitten and cynical (Toch and Klofas 1984).[99] The possibility of pluralistic ignorance among police is reinforced by the finding in some studies that officers often privately express disdain for perpetrators of exces-

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[97] Occasionally, there may be distinct advantages to the police socialization process and the concomitant estrangement of recruits from their prior friends and associates. It is generally believed, for instance, that systematic drug corruption among Latino recruits to the Miami Police Department several years ago arose in part from an overloaded field training program. Straining under the pressure of a recruit class many times the normal size, the training could not sufficiently induct these recruits into the police culture and distance them from some prior civilian-world associates suspected of assorted drug-law violations. Rather than hang out a "cop bars" after work, these recruits consorted with their old drinking buddies, who enlisted the officers in drug dealing and nonenforcement

schemes.

[98] As implied earlier, we believe officer acceptance of intervention training and related efforts will turn in part on whether the innovations are viewed by them as peer assistance programs (buddy systems) or as administrative initiatives to catch cops breaking rules.

[99] The concept may also help explain the oddly wholesale dismissal of crime *prevention* as a public policy objective in recent speeches by some politicians debating crime-control policy (but compare Herbert 1995 and Alschuler 1995).

sive force.

Studies of attitudes toward efforts to *control* excessive force can show that such attitudes are independent of attitudes about excessive force. Officers who disdain *both* excessive force *and* control measures may view the particular control methods as onerous, ineffective, counterproductive, inequitably applied, or a chink in the armor of officer autonomy. Or these officers may distrust those who proposed the controls and may stand to gain personal advantage—such as through election to local political office—by making a name for themselves as "police reformers."

It is important to enlist officers who disapprove of unprofessional conduct in initiatives to discourage such behavior. To do so, one must find measures these officers see as fair and effective. One must also involve officers in the enactment of the interventions. Sometimes, the measures that officers see as meritorious are seen that way more because the rank-and-file were allowed to participate in framing the programs than because police managers have struck some inherently ingenious balance among competing interests. This insight leads us to summaries of the recommendations made by Kelling and Kliesmet (Chapter 10), Perez and Muir (Chapter 11), and Kerstetter (Chapter 12). In various ways, each of these essays builds on the perception that one's degree of participation in processes and decisions affects one's perception of their legitimacy.

F. Police Unions and the Police Culture

Many efforts to recommend ways for reducing police abuse of force over the years have proceeded from the articulated or implicit assumption that rank-and-file officers' associations are inherently opposed to interventions that upgrade the quality of police use-of-force decisions. Kelling and Kliesmet challenge that assumption in Chapter 10. They conclude that unions *could* play a constructive role in addressing use-of-force problems, but that they now frequently are part of the difficulties that need to be solved. One reason for rank-and-file complicity in the situation is that unions have a stake in bureaucracy, with its legalistic or authoritarian approach to controlling misbehavior. Moreover, they are committed to represent or defend members accused of mis-

conduct. Such a role makes it difficult for unions (and their membership) to become involved in collaborative efforts to solve the problem. These efforts could mobilize the ingenuity and expertise of police officers to promote more skillful policing.

Chapter 10 notes that research on police unions as they affect use of force has never been done. This deficit implies that one would have to start with inventories of union membership and activism. Questions can then be asked about how union activists and others feel about several matters—the abuse of force; the measures taken to address misuse-of-force problems; and the involvement of unions and/or their membership in these solutions. Such questions presuppose more general questions about whether unions can promote professionalization, which typically represents an expansion of their role (see Bouza 1985 and Kliesmet 1985).[100]

Most surveys of officers we have discussed are relevant to the concerns raised in Chapter 10. Of special interest would be questions about the envisaged role of the police (especially in community policing), the preferred level of enforcement and civil rights for suspects, and the desired management style and pattern of supervision. One would expect ambivalence in officers about the way they are managed, and it would be interesting to ascertain whether there is a relationship between attitude toward management, enforcement philosophy, and attitude toward use of force.

Chapter 10 details a "mini-survey" of union affiliates. The responses to this survey suggest that unions advise members to follow rules about use of force, while expressing reservations about the arbitrariness of these rules. The survey shows also that unions complain that officers have no input in the formulation of policy but simultaneously assert that this is not the union's business. Under these circumstances, survey findings

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[100] Union sponsorship of national conferences on the value of community policing, in which Kliesmet's union has taken a leadership role, attests to the potential contributions of unions to professionalization. In the Joliet, Illinois, Police Department's committee designing intervention training, one of the most enthusiastic and effective participants was the police union president.

could be reported back and used as a basis for discussion and planning. This approach is especially inviting where sentiments expressed—such as those noted above—are logically inconsistent because the underlying issues have not been confronted.

Kelling and Kliesmet's essay also suggests the potential of survey feedback in efforts to implement community policing. Such efforts must be reconciled with entrenched views about civilians being "outsiders" who seek to corrupt and endanger the "thin blue line." Officers who view outsiders as unwelcome may nevertheless be receptive to other core attributes of community policing. Enhanced officer discretion, more flexible work schedules and conditions, and the use of officers as "problem solvers" come readily to mind.

If community problem-solving is to be intensively and extensively established as the police *modus operandi*, there is a clear role for research in evaluating it. As others have noted, the evaluation process must document the acceptance of values, strategies, tactics, programs, and work methods by officers and civilians and the integrity of all these elements (that is, the extent to which they live up to the theory). In addition to such inquiries, research must also explore the impact of officer activities on the quality of policing, including the reduction of incidents in which force, and excessive force, are used (see McElroy, et al. 1993).

Among the practical recommendations offered by Kelling and Kliesmet is that modern police departments should go back to the future and resurrect appropriate versions of the Berkeley Police Department's "Friday Crab Club." This was a weekly meeting of primarily rank-and-file officers presided over earlier this century by the agency's august chief, August Vollmer. The participants reviewed with candor and a spirit of mutual assistance highlights and lowlights of the police work they had done the prior week.

This weekly meeting was a forerunner by several decades of the sort of peer assessment and peer retraining mounted successfully in Oakland in the late 1960s (Toch and Grant 1991). Police executives whom we briefed on Vollmer's Friday Crab Club expressed a range of reactions. Some felt enthusiasm about trying the approach. Others voiced skepticism that liability-conscious officers would be willing to candidly relate their successes

and difficulties in such a forum. Still other executives were reluctant to emulate Vollmer's empowerment of officers to participate in constantly assessing and revising their work methods.

If a police administrator takes seriously the unleashing of human potential—officers' and civilians'—that lies at the core of community policing and problem-oriented policing, he or she should find little to fear in a group such as the Friday Crab Club. Indeed, such a discussion group would look virtually indistinguishable from the rank-and-file staffed "problem advisory groups" that a number of departments implementing problem-oriented policing have established (Couper and Lobitz 1991).

Creative efforts to address legitimate concerns about liability exposure when officers speak candidly in such meetings surely can be devised by competent police legal advisors.[101] By "competent" we mean lawyers who are equipped to and allowed to play a problem-solving role. Among other things, this implies helping police executives figure out how to accomplish what they need to accomplish, rather than simply telling police about all the trouble they can get into if they do the wrong things.

The energizing effects of showing officers respect by inviting them to describe what works, what doesn't, and how to improve their policing methods are potentially very powerful in strengthening police service capacity. The possible benefits are so powerful, in fact, that we believe high priority should be given to removing any administrative or legal barriers that might inhibit the development of peer assistance programs.[102]

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[101] Some form of confidentiality guarantee would seem to be fundamental if such discussions are to be specific and candid enough to be valuable. Klockars (1994: 3), citing Toch, et al. (1975), argues: "[E]lements of the police subculture [present] such obstacles to candid post-incident assessment that confidential assessments by highly skilled peers [seems] to offer the only reasonable approach."

[102] One potential source of legal expertise, beyond that represented by departmental legal advisors and local government corporation counsel (a group that varies widely in professional acumen), might be the American Bar Association. In 1994-95, the ABA considered whether to attempt to update its *Urban Police Function Standards*, first drafted by Herman

G. Administrative Monitoring and Responses to Misconduct

Any police organization in which employees seriously strive for continual improvement of agency effectiveness and public acceptability will need to remain open to external suggestions for progress. Sometimes (not often enough in the experience of most departments) these suggestions arise out of positive experiences. At other times they are complaints of substandard service. Chapter 11, by Perez and Muir, focuses on systems for receiving and handling such complaints.

1. The Current State of the Art

Perez and Muir cite three attributes that distinguish most defensible procedures for monitoring police misconduct. They term these attributes integrity, legitimacy and learning. Each attribute is a dimension along which review bodies can vary, and research can be done to gauge the extent to which a review body demonstrates integrity, legitimacy and learning. Studies can also be done to track the success of efforts to enhance a review system on these dimensions.

Integrity has to do with whether the process achieves what it is designed to achieve. To start with, this means success in inviting and attracting complaints, and a penchant for investigating them dispassionately and thoroughly. It also means arriving at appropriate and defensible dispositions. Moreover, it means, as the title of this volume implies, identifying and adjudicating allegations about police misuse of force in way that regularly does justice for all interested parties—including police, complainants, and the public at large.

Legitimacy means being perceived by a wide array of others—including the public, rank-and-file officers, and their union leaders, police managers, local government officials, and the media—as having integrity, and as arriving at

dispositions that are fair and dispassionate.

Learning (or impact) means having an effect on future behavior, via externally-motivated compliance or internalization of department rules. Learning has to do with how officers perceive the monitoring body and its work—and in this regard is closely related to the authors' conception of legitimacy. Most importantly, learning is focused on how these perceptions affect the officers' behavior. Learning could also include impact on the department as an organization. It can refer as well to increased effectiveness in anticipating use-of-force problems and preventing them, so as to reduce the prevalence of incidents that call for review.

Legitimacy (perceived image) is the easiest area to research because it can be studied by including questions on police review procedures in public and officer opinion polls. Such surveys can be supplemented by group interviews and other means of fleshing out the responses. Survey sample sizes must be large enough to permit disaggregation, so that segments of the community or police workforce whose opinions are of interest can be separately studied. Alternatively, those segments of the survey population must be oversampled to permit the same exploration. Special surveys must be done to gauge the sentiments of complainants who are the customers of the process. And reforms of the process must be evaluated through before-and-after surveys. The kind of reforms meriting study include increasing the amount of feedback to the public at large and interested parties about complaints and dispositions and especially increasing complainant input into review hearings (see Chapter 5).

Before-and-after questions would be particularly interesting where civilian review boards are introduced. Most people who favor such interventions[103] see them as a means to enhance the legitimacy of the monitoring process among members of the public. Some of these advocates acknowledge that police managers might have to accept a trade-off in terms of reduced legitimacy

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Goldstein, attorney Sheldon Kranz and others in the late 1960s and early 1970s. A number of advisors to the ABA urged that one of the best public services the ABA could render would be an exploration and reduction of some of the legal barriers that impede police departments from candidly identifying and overcoming their weaknesses concerning use of force and other matters.

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[103] We generally do not favor exclusively civilian review boards, for reasons set forth by Perez and Muir's, Klockars', Kerstetter's and others' chapters in this volume. Reiss (1992: 76-77) discusses the structural reasons why civilian review boards are unlikely to prove very effective in constraining police excesses.

accorded to the proceedings by rank-and-file officers (Skolnick and Fyfe 1993). The prediction would be that in the short run, as officer resistance arises, public acceptance could make up for the deficit, and that in the long run officers would become reconciled to the board. Deviations from this model might be found in studies of monitoring bodies that are seen as anti-police by the police or as pro-police by the public.

Research on behavior impact or learning can also include surveys of rank-and-file officers. These can be run by the police department, with the proviso that respondents must be guaranteed anonymity. Surveys that explore learning effects should gauge perceptions of the review process; of the behavior that the process reviews; and of the officers who are disciplined or retrained. More specifically, among the issues it is important to explore concerning both legitimacy and learning/behavior impact are:

1. whether misbehavior is seen as patterned or habitual, in the sense that some officers are seen as having special difficulties, which they manifest over and over again;

2. whether officers who are suspected of using excessive force acquire a good or bad reputation among important constituencies—their peers, supervisors, neighborhood crime prevention groups, and civil rights and civil liberties organizations;

3. whether the review process is seen as one that distinguishes between good and bad officers;

4. whether disciplining is viewed as discouraging productivity;

5. whether officers who have been disciplined garner sympathy or support from other officers; and

6. whether the process is seen as excessively legalistic or politically tainted.[104]

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[104] Since officers respond differently to processes they see as legitimate and illegitimate, surveys concerned with learning must also be concerned with legitimacy. A process seen as illegitimate may pro-

Other research can include behavior inventories, such as changes in arrest patterns following actions of the review body, or changes in the way it operates.

Integrity (meaning, as the term is used by Perez and Muir, achieving intended goals) is the most difficult area to research. This is primarily because assessment may require normative judgments about the quality of monitoring and adjudication procedures and of dispositions. A review process can be partly described by gathering statistics about numbers of complaints; numbers of actions taken (witnesses interviewed, hearings held, etc.); duration of proceedings; energy, person-hours, and expense consumed by the process; and types of disposition. Such inventories can be supplemented with observations and interviews of staff assigned to the monitoring process.

Summaries of findings, however, that rate the process as high or low in integrity, presuppose independent criteria of justice, accuracy, and other dimensions of quality that are evaluative in nature. Presumably government officials could field an "integrity test" of a review system, in which officially manufactured instances of clearly abusive or appropriate uses of force are presented without warning to the review system for processing. Such a test would deploy undercover operatives as both police officers and the recipients of force. Absent an integrity test or some functional equivalent, it is difficult to conceive of a methodology for assessing the quality of the system that will avoid the problem of normative judgments. Still, it may be worth exploring whether multidisciplinary expert panels might be used productively to evaluate the soundness of different review mechanisms.

Chapter 11 exemplifies a comparative research approach because it compares departments that use different monitoring bodies. One problem with this approach, however, is that of collinearity. For example, different political climates

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duce behavior change via compliance (as opposed to change via internalization). Such change is likely to be of lower magnitude and of shorter duration than the learning produced by a process that is seen as legitimate. A process that is viewed as illegitimate also invites resistance and efforts to circumvent or sabotage its intent.

arising in different types of communities can inspire different approaches to the monitoring of police conduct. Those political climates may have as much or more to do with impact on variables of interest as do the different monitoring methods.[105] The collinearity problem can be reduced by confining comparisons to equivalent steps in the process, such as the way complaints are investigated, or centering on innovations adopted in one department that can be transplanted to others. An example is the "Toronto model" cited by Perez and Muir, in which groups of civilians and officers are assigned to review complaints.

Whether officers or civilians are involved in reviewing complaints, or only senior police officials participate in the process, a prerequisite for any fair and effective system of conduct review is the specification in advance of the performance standards to which employees will be held. This includes reasonably clear policy statements, given meaning through training that relates the policies to the kinds of problems officers will actually encounter in their daily work (see Fyfe, this volume).

As Fyfe, Worden and others in this book discuss, much of the success enjoyed over the years in reducing police abuse of force (and injuries of officers, as well as complaints about police excesses) through *policy* innovations has come in dealing with *deadly* force rather than with the more pervasive, lower-level force problems that are the main focus of this volume. Indeed, one might argue persuasively that even innovations in supervision, control and monitoring options have proven their effectiveness mostly in reducing the use of *deadly* force (see generally Fyfe 1979a and Geller and Scott 1992).

Part of the reason policy, supervision, monitoring and other systems have heretofore shown limited effectiveness when directed at lower-level uses of force is because such incidents are hard to predefine in policy directives and because transgressions are relatively difficult to establish and document. To counter the detectability challenges

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[105] For instance, Mendez (1983), researching patterns of police use of deadly force in big cities, hypothesized that jurisdictions with substantial black empowerment in civic life would have lower levels of police-involved shootings.

involved in dealing with *non*lethal force abuses, the suggestion is made by several of our chapter authors that departments could experiment with varying degrees of rank-and-file involvement in the monitoring and disciplining process, up to and including the use of peer review panels (see Toch, this volume, and Toch and Grant 1991). This sort of suggestion invites experimentation that includes systematic variation of monitoring/control procedures within and across departments, as well as comparisons of outcomes.

Perez and Muir, having considered the strengths and weaknesses of existing forms of complaint reception and investigation structures, recommend as the best practical approach what they term the civilian monitor system (see also Perez 1994 and Kerstetter 1985). The civilian monitor approach retains the strength of internal investigations because police know better than outsiders how to ferret out substandard police work just as surgeons are better than laypersons at detecting inappropriate surgical procedures. But the civilian monitor approach also provides for periodic audits of the internal investigative process by outsiders who have broad credibility in the community and among police of all ranks.

2. Toward Procedures that Foster Justice for All

In Chapter 12, Wayne Kerstetter discusses a particular approach to dispute resolution—treating a complaint of excessive force as a dispute between the complainant and the accused officer(s)—that engages the disputants actively in the presentation of evidence and the understanding of dispositions. In short, the aim of a "procedural justice" model of dispute resolution is to maximize the degree to which the disputants see the process as just—and the outcomes as justly derived—regardless of who prevails.

Thus, procedural justice research is concerned with participants in the process (complainants, witnesses, accused officers, and so forth) and explores the extent to which they see the process as fair and responsive. Such research suggests strongly that active involvement of affected parties enhances the perception of fairness, and that a problem-solving approach—resulting in non-punitive dispositions—can increase satisfaction with the outcome (see also

Bianchi 1994[106]). The area offers tantalizing opportunities for studies which gauge the reactions of participants to systematic variations in process and outcome. It is possible, as we noted in this volume's introduction, that a popular Japanese corporate credo—"Fix the problem, not the blame"—holds valuable insights for improving police conduct review systems.

Given existing variations in procedures used for monitoring police behavior, and given the large numbers of administrative complaints filed and their dispositions, a quasi-experimental research design might be used. It would permit follow-up studies in jurisdictions that offer review system participants different opportunities for involvement, and that present them with systematically different outcomes. The strategy for such a study would require interviews to take place contemporaneously, which assumes that research teams can be fielded on short notice. This strategy is not unprecedented, since it has been used in areas such as disaster research. An alternative would be a coordinated, guided self-study model, in which several departments can follow the same procedure (arrived at by consensus) for doing the requisite interviewing.[107]

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[106] Viewing current criminal justice approaches as inefficient, unjust, and malevolent, Bianchi (1994) proposes an approach to crime control based on conflict resolution rather than exclusively on punishment. The core of his proposal is an opportunity for victims and offenders to resolve their conflicts and to reach nonpunitive solutions.

[107] Officers may learn much of value from studying other departments' review systems and doing so from the perspective of a potential citizen user of the systems. Police managers attending a recent "command college" at the Southwestern Law Enforcement Institute near Dallas, Texas, discovered how police complaint reception systems can look to civilians. As an exercise, they were sent individually, in civilian clothes, to various Dallas-area police departments simply to inquire what the procedure is for filing a complaint about police work. They found that a substantial percentage of the agencies were, in various ways, unreceptive to civilians wanting to know how to complain (Carlson 1994a). The practice of subtle or unsubtle discouragement of citizens from complaining was highlighted by the Christopher Commission in its review of the Los Angeles Police Department (Independent Commission on the Los Angeles Police

While the lessons of procedural justice research set forth by Kerstetter in this volume have not yet been applied in their full richness to police complaint reception and investigation systems, we find the prospect of experiments with this innovation very interesting and promising. The potential inherent in procedural justice approaches is to significantly increase citizen satisfaction and officer satisfaction with police complaint review systems (neither audience holds these systems in very high regard right now), regardless of which party prevails at the end of the adjudicative process.[108] The ripple effect of trust and satisfaction or distrust and hostility spreading from citizen complainants throughout their communities via the media and other avenues deserves serious attention by police administrators and local government officials. They may find a procedural justice variation on current approaches helps, even if indirectly, increase citizen willingness to collaborate with police against neighborhood crime problems. Surely the opposite can be learned as well. Many citizens in New Orleans concluded, after brutality witness Kim Groves was allegedly murdered on orders from the accused officer, that it does not pay to call the police (Nossiter 1994; Marcus 1995).

H. Studying, Modifying, and Using Legal Remedies

The promise of resolving a fair number of controversies and concerns over police use of force through nonadversarial or at least relatively informal processes does not, of course, eliminate the need for adequate, formal legal remedies when egregious wrongs have been committed. Civil and criminal court remedies are the least

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Department 1991; see also Nossiter 1994).

[108] If a satisfied loser seems counter-intuitive, consider the observation, made earlier in this chapter, that every police department has in its ranks officers who can arrest people (almost invariably an outcome the arrestee dislikes) but handle the processing in such a way that the arrestee expresses understanding and appreciation for the fairness and respect with which the arrest was handled. Although the analogy has limitations, we wonder whether, if individual officers can treat people this way, review systems can also treat the parties to disputes this way.

desirable, last resort for controlling abuses that will not yield to such other mechanisms as officer self-control, peer control, supervisory control, administrative policy and review systems. Still, it becomes necessary to consider how, for appropriate cases, these formal legal remedies might be used more effectively.

In Chapter 13 Cheh deals with the judicial review of police misconduct, and notes that "criminal prosecutions and other kinds of lawsuits have not played a major role in addressing the problem of excessive force by the police" (see also Robinson 1992). The precise role that such lawsuits have played—and will continue to play—is open to empirical inquiry. Studies might explore the impact of both specific litigation and litigation (or the threat of litigation) in general. Such research is especially inviting because it is almost axiomatic in police circles that policy decisions are heavily driven by concerns about litigation. Specifically, many officers ascribe such concerns to their superiors. Police survey research can explore the extent to which litigation is seen as a factor in determining police leadership decisions. It can also examine the extent to which police managers and officers claim to take the threat of litigation into account in arriving at decisions.

Another set of researchable issues of some weight includes whether arrest patterns change in the wake of a court decision; whether such rulings have reinforcing effects on rates of complaints; and whether and in what ways the judicial outcomes influence the initiation of additional law suits. In studying the topic, it might be desirable to classify the court rulings and the litigation experiences on several dimensions: the prevailing party; the severity of any criminal or civil penalty imposed on the losing party; and the "transaction costs" associated with the litigation. Such costs include the duration of litigants' uncertainty over the outcome; litigation expenses; adverse publicity for the litigants and their families, friends, and coworkers; disruption of normal community and departmental functioning; and the like.

The incidence of law suits itself is subject to study. Chapter 13 notes that the number of excessive force complaints generated by different departments varies considerably. If numbers are large enough and sufficiently discrepant, it may be possible to isolate correlates of differences in the number (and rate) of initiated suits. However,

such research may be precluded, as the chapter notes, if in fact there is "no comprehensive source of statistics on the number of criminal prosecutions brought against police officers." Given this deficit, and a comparable problem in inventorying civil suits, the first order of business must be to set up a statistical base which can tell us how many suits are initiated, pursued and won or lost—or won or lost partially—in various jurisdictions. The data base must also enable us to calculate rates for numbers of officers and civilians over time. Such a data base would permit sophisticated time series research relating rates of law suits to antecedent events and tracking the impact of law suits on the police and the community.

Among the recommendations for action steps that Cheh offers are to employ federal civil rights statutes to underscore the importance of designing and providing intervention training, "to hold officers liable for failure to prevent other officers or municipalities from using excessive force against a victim or lying to cover it up."

For those circumstances in which local authorities do not adequately control police abuses, a more pervasive federal "backstop" role will only be possible, she argues, if national reporting systems are implemented. Such systems must be able to reveal, through trends in numbers of complaints and other methods, whether local authorities are taking responsible actions to correct problems that surface in legitimate allegations of abuse.

Among the methods Cheh recommends to maintain a reporting system's information flow is one discussed earlier in this essay: conditions attached to federal grants (e.g., to support technological or strategic innovations) that require grantee agencies to participate in the reporting system. Cheh also observes that litigative remedies are available under federal voting rights and housing legislation for persons discriminated against by local agencies funded by the federal government. The civil rights statutes, by contrast, do not authorize actions to remediate discrimination by police departments on the basis of federal financial support. The 1994 Crime Control Act's authorization of "pattern and practice" suits against police departments (discussed in Chapter 13) helps correct this deficit.

Any such federal remedies—if they are to be of lasting value and not create as many problems as they solve—should be cast as part of a well-

conceived, comprehensive program of federal assistance to state and local police agencies. One goal of such a comprehensive support program would be to help police reduce the corrosive effects of abusive officer conduct so that good police and communities can more effectively collaborate against crime problems.

I. Learning from Other Countries

Our penultimate chapter deals with efforts by countries other than the U.S. to reduce the use of excessive force by their police departments. Such efforts have included instituting new systems for collecting data about the use of force by officers and new procedures for controlling the problems that involve civilian input.

Research about police innovations worldwide is relevant to American policing. It may also be possible to use standard procedures in cross-cultural research to allow comparisons of police behavior and attitudes, and public behavior and attitudes, across different cultures. Insight concerning attitudes toward police and treatment by police of racial or ethnic minorities may also be gained from international comparisons. For instance, Reiner (1992: 474) reports that throughout the United Kingdom racial minority groups hold a less favorable view of the police than do other citizens, are disproportionately on the receiving end of involuntary police contacts, and are less likely to have their complaints against police sustained than are majority-race complainants (*ibid*: 478). Reiner attributes the low sustension rate to the fact that minority-race complainants disproportionately are seen by decisionmakers as "discreditable" (*ibid.*).

Of particular value may be examinations of the design and establishment of democratic policing in newly emerging democracies around the world (Ross 1994). In almost every one of the democratization efforts outside this country, the prior tradition of policing was characterized by systematic brutality of a sort that would shock the conscience of most Americans. Police assassination squads, some employing private citizens as the assassins are emblematic of the atrocities (see, e.g., Lewis 1995).

Despite significant differences in the nature and extent of police misconduct problems in many other countries and in the United States, some of the corrective techniques used by change

agents abroad may be instructive to on-going professionalization efforts here. Offensive practices abroad may be a reminder of how American police and community leaders must *not*, despite the pressures of a fearful public and guileful politicians, let crime control and fear reduction ends justify antidemocratic means. Finally, the dismal state of affairs elsewhere may be of some solace to those patriotic Americans who, constructively, are frustrated at the pace of progress here and are willing to lend a helping hand.

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